



Concerned Citizen

Email: foi+request-8061-d13e2b11@righttoknow.org.au

13 December 2021

Dear Concerned Citizen,

Freedom of Information Request - FOI 232/2021

I refer to your email of 2 November 2021 seeking access under the Commonwealth *Freedom of Information Act 1982* (the FOI Act) to:

'documents relating to the international Ministerial meeting on sovereign digital technology chaired by Australia sometime between May and August 2020.'

Please provide:

- the agenda,*
- minutes,*
- any briefing documents prepared in the lead-up to or following the meeting.'*

I am an authorised decision-maker under section 23 of the FOI Act. This letter sets out my decision on your request for access.

Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from departmental officers with responsibility for matters relating to the documents to which you sought access.

Decision

Following agency searches, I have identified eight documents relevant to your request. I have decided to exempt these documents in full under section 33 of the FOI Act

Reasons for My Decision

FREEDOM OF INFORMATION ACT 1982 – Section 33

Section 33(a)(iii) of the FOI Act-documents affecting international relations

Section 33(a)(iii) of the FOI Act provides that:

A document is an exempt document if disclosure of the document under this Act:

(a) would, or could reasonably be expected to, cause damage to:

...
 (iii) the international relations of the Commonwealth; or

Paragraph 5.28 of the FOI Guidelines states that:

'Damage' for the purposes of this exemption is not confined to loss or damage in monetary terms. The relevant damage may be intangible, such as inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government or agency.'

Paragraphs 5.36 to 5.37 of the FOI Guidelines also state that:

The phrase 'international relations' has been interpreted as meaning the ability of the Australian

'Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them ...

The mere fact that a government has expressed concern about a disclosure is not enough to satisfy the exemption, but the phrase does encompass intangible or speculative damage, such as loss of trust and confidence in the Australian Government or one of its agencies. The expectation of damage to international relations must be reasonable in all the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship. There must also be real and substantial grounds for the exemption that are supported by evidence. These grounds are not fixed in advance, but vary according to the circumstances of each case.'

I am satisfied that the material contained within the documents is exempt under section 33(a)(iii) of the FOI Act, on the basis that disclosure of the material in question would, or could reasonably be expected to, cause damage to Australia's international relations.

Review rights

If you disagree with my decision, you can request an internal review made by the DTA or an external review conducted by the Office of the Australian Information Commissioner.

If you wish to seek an internal review of the decision, you must apply for the review in writing within 30 days of receiving this notice

An internal review will be conducted by a different officer from the original decision-maker. No particular form is required to apply for review although it is helpful to set out the aspects of the decision you disagree with and any reasons.

Alternatively, you can seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of you receiving this notice via their website.

If you are dissatisfied with the way the DTA have handled your FOI request, you can make a complaint to the Office of the Australian Information Commissioner (OAIC). The OAIC encourages complaints to

be made directly to the agency first so if you have any concerns please consider raising these with our agency in the first instance.

More information about FOI reviews and complaints is available on the Office of Australian Information Commissioner's website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>

Contacts

If you have any queries about this notice, please contact the FOI team by email foi@dta.gov.au.

Yours sincerely

Anthony Warnock
Government Technology