



Australian Government
Australian Submarine Agency

ASA FOI 003/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 5 August 2023 by the Australian Submarine Agency (ASA), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

1. *The total cost that Defence has spent on AUKUS related travel from 16 September 2021 to date. Note I am only requesting a single number.*
2. *With respect to each overseas trip of Vice Admiral Mead from the period 16 September 2021 to date.*
 - a. *The final itinerary documentation (reflecting the travel as actually undertaken) supplied by Defence's travel agent to Defence, including cost information.*
 - b. *The total cost of each trip, including transport, accommodation and allowance. Note I am only requesting a single number for each trip.*

Background

2. On 16 August 2023, with the applicant's written agreement ASA extended the period for dealing with the request from 4 September 2023 until 19 September 2023 in accordance with section 15AA [extension of time with agreement] of the FOI Act.

3. On the 16 August 2023, the applicant clarified point (1) of the scope to only seeking AUKUS related travel information regarding nuclear powered submarines – Pillar 1.

FOI decision maker

4. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

5. I have identified eleven (11) documents as falling within the scope of the request.
6. The decision in relation to each document is detailed in the schedule of documents.

Exclusions

7. PMKeyS numbers and loyalty numbers contained in documents that fall within the scope of the FOI request.

Decision

8. I have decided to:
 - a. generate one (1) document in accordance with subsection 17(1)(c)(i) of the FOI Act to satisfy the description of the request. This was done on the basis that a

written document could be produced containing the information in discrete form by the use of a computer ordinarily available to ASA for retrieving or collating stored information;

- b. partially release eight (8) documents in accordance with section 22 (access to edited copies with exempt or irrelevant matter deleted] of the FOI Act on the grounds that the deleted material is considered exempt under section 33(a)(i) [documents affecting national security, defence or international relations] of the FOI Act; and
 - c. release two (2) documents in full.
9. In making my decision, I have had regard to:
- a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions of the FOI Act;
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
 - e. advice received from subject matter experts within ASA Chief Operating Officer Group.

REASONS FOR DECISION

Section 17 – Requests involving use of computers etc.

10. Section 17(1) of the FOI Act states:

(c) the agency could produce a written document containing the information in discrete form by:

(i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or

.....

(2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its operations.

11. The documents were produced containing information by using ‘a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information’ s17(1)(c)(i).

12. Producing the document did not substantially or unreasonably divert resources of the agency from its other operations s17(2).

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

13. Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to an exempt document or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access.

14. The documents contain exempt material and that does not relate to the request. I have also decided to remove irrelevant information from some documents, for example itineraries with pages referencing terms and conditions (cancellation fees, booking changes, ticketing policy).

15. I am satisfied that it is reasonably practicable to remove the exempt and irrelevant material and release the documents to you in an edited form.

Section 33(a)(i) – Document affecting national security, defence or international relations

16. Section 33(a)(i) of the FOI Act states:

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:*
 - (i) the security of the Commonwealth*

17. In regard to the terms ‘would, or could reasonably be expected to’ and ‘damage’, the Guidelines provide:

5.16 The test requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of a document.

5.17 The use of the word ‘could’ in this qualification is less stringent than ‘would’, and requires analysis of the reasonable expectation rather than certainty of an event, effect or damage occurring. It may be a reasonable expectation that an effect has occurred, is presently occurring, or could occur in the future.

...

5.31 The meaning of ‘damage’ has three aspects:

- i. that of safety, protection or defence from something that is regarded as a danger. The AAT has given financial difficulty, attack, theft and political or military takeover as examples.*
- ii. the means that may be employed either to bring about or to protect against danger of that sort. Examples of those means are espionage, theft, infiltration and sabotage.*
- iii. the organisations or personnel providing safety or protection from the relevant danger are the focus of the third aspect.*

18. In regard to 'security of the Commonwealth', the Guidelines provide at paragraph 5.29:

The term 'security of the Commonwealth' broadly refers to:

- (a) the protection of Australia and its population from activities that are hostile to, or subversive of, the Commonwealth's interests*
- (b) the security of any communications system or cryptographic system of any country used for defence or the conduct of the Commonwealth's international relations (see definition in s 4(5)).*

19. Upon examination of the documents, I identified information which, if released, could reasonably be expected to damage security of the Commonwealth. Specifically, I find that material in the identified document is exempt under section 33(a)(i) of the FOI Act because its release would, or could reasonably be expected to disclose patterns of travel. Further, release of this information could reasonably be expected to allow anticipation of future patterns of movement, thereby placing at risk the personal safety of employees of the Commonwealth. It is reasonable to expect that these individuals may be targets of adverse action and therefore, disclosing their patterns of travel would increase any potential threat to these individuals. Additionally, threat actors may seek to identify and target locations frequented by Commonwealth employees, in a way that poses a safety and security risk to other persons (including members of the public) and property at those locations. This would adversely impact and cause damage to the security of the Commonwealth.

20. Accordingly, I am satisfied that material in the document is exempt under section 33(a)(i) of the FOI Act.

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Accredited Decision Maker

Australian Submarine Agency