



Australian Government

Department of the Prime Minister and Cabinet

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Freedom of Information (FOI) request

Notice of Decision

Reference: FOI-2024-267

To: s 22(1)(a)(ii)

Email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

I refer to your request of 15 August 2024 to the Department of the Prime Minister and Cabinet (the Department), for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

Scope of request

You set out your original request in the following terms:

1. *Submissions, briefings and/or correspondence provided to the Prime Minister, the Hon Anthony Albanese MP, that relate to the Continuity of Executive Government Plan (CoEG); and;*
2. *The Continuity of Executive Government Plan (CoEG) (most recent version).*

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Material taken into account

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- the Guidelines issued by the Information Commissioner¹ (the FOI Guidelines)

Decision

In accordance with section 25 of the FOI Act I have determined that I can neither confirm nor deny the existence of documents subject to your request.

¹ s 93A of the FOI Act

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This decision is being made on grounds that if such documents exist, they are subject to an exemption under section 33 of the FOI Act.

Reason for decision

My findings of fact and reasons for deciding that certain information is exempt is set out below.

1. Section 25 – Information as to the existence of documents

Section 25 of the FOI Act provides:

(1) Nothing in this Act shall be taken to require an agency or Minister to give information as to the existence or non - existence of a document where information as to the existence or non - existence of that document, if included in a document of an agency, would cause the last - mentioned document to be:

- (a) an exempt document by virtue of section 33 or subsection 37(1) or 45A(1); or*
- (b) an exempt document to the extent referred to in subsection 45A(2) or (3).*

(2) If a request relates to a document that is, or if it existed would be, of a kind referred to in subsection (1), the agency or Minister dealing with the request may give notice in writing to the applicant that the agency or the Minister (as the case may be) neither confirms nor denies the existence, as a document of the agency or an official document of the Minister, of such a document but that, assuming the existence of such a document, it would be:

- (a) an exempt document by virtue of section 33 or subsection 37(1) or 45A(1); or*
- (b) an exempt document to the extent referred to in subsection 45A(2) or (3).*

(3) If a notice is given under subsection (2) of this section:

- (a) section 26 applies as if the decision to give the notice were a decision referred to in that section; and*
- (b) the decision is taken, for the purposes of Part VI, to be a decision refusing to grant access to the document in accordance with the request referred to in subsection (2) of this section, for the reason that the document would, if it existed, be:*

- (i) an exempt document by virtue of section 33 or subsection 37(1) or 45A(1);*
or
- (ii) an exempt document to the extent referred to in subsection 45A(2) or (3).*

I have determined that if documents subject to your request were to exist they would be exempt documents under section 33 of the FOI Act.

2. Section 33 – Documents affecting national security, defence or international relations

Section 33 of the FOI Act provides:

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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;*
 - (ii) the defence of the Commonwealth; or*
 - (iii) the international relations of the Commonwealth; or*

Section 33(a) 'requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of a document'.² At a minimum, a decision maker must be satisfied that the identified damage could reasonably be expected to occur³.

In my role as Assistant Secretary National Preparedness, which includes responsibility for security matters relating to national preparedness, I am satisfied there are real and substantial grounds for expecting damage, and that the Department can neither confirm nor deny the existence of documents relating to this matter, as should these exist, any disclosure of the kind would reasonably be expected to cause damage to national security.

I am satisfied an exemption applies to the related matters under section 33 of the FOI Act.

Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days from the date it is received.

Applications for review should be sent to foi@pmc.gov.au.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days after the date of this letter.

More information about Information Commissioner review is available [here](#).⁴

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing.

More information about complaints is available [here](#).⁵

² 5.16 of the Guidelines

³ 5.17 of the Guidelines

⁴ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>

⁵ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>

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If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

s 22(1)(a)(ii)

Michael Crawford
Assistant Secretary
National Preparedness Branch
Department of the Prime Minister and Cabinet
16 September 2024



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Department of the Prime Minister and Cabinet



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Freedom of Information (FOI) request

Notice of Revised Decision under s 55G of the FOI Act

Reference: FOI/2024/267IC

To: s 22(1)(a)(ii)

s 22(1)(a)(ii)

cc: Office of the Australian Information Commissioner

foidr@oaic.gov.au

Dear s 22(1)(a)(ii)

I refer to your request under the *Freedom of Information Act 1982* ('the FOI Act') to the Department of the Prime Minister and Cabinet ('the Department') of 15 August 2024 seeking access to documents in the following terms:

1. *Submissions, briefings and/or correspondence provided to the Prime Minister, the Hon Anthony Albanese MP, that relate to the Continuity of Executive Government Plan (CoEG); and;*
2. *The Continuity of Executive Government Plan (CoEG) (most recent version).*

On 16 September 2024, the Department issued an access refusal decision and, under section 25 of the FOI Act, neither confirmed nor denied the existence of documents responsive to your request (the original decision). The original decision explained that, if the documents existed they would be exempt under section 33 of the FOI Act.

On 29 September 2024, you made a request for internal review of the original decision. On 25 October 2024, the Department issued an affirmation of the original decision restating that if the documents were to exist then they would be exempt under section 33 of the FOI Act (the internal review decision).

On 5 December 2024, the Office of the Australian Information Commissioner ('OAIC') notified the Department that you applied for Information Commissioner ('IC') review of the internal review decision.

The purpose of this letter is to provide you with a revised decision in relation to your FOI request and explain that material in the documents causes them to be exempt under section 33 of the FOI Act.

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Section 55G of the FOI Act

Section 55G(1)(a) of the FOI Act provides that after an application is made to the IC for review, an agency or Minister may (at any time during IC review) revoke or vary an access refusal decision to favour the applicant by giving access to a document in accordance with the request.

Section 55G(2) of the FOI Act provides that an agency must notify the IC of the new decision, and that the revised decision will then be treated as the decision under review.

Authorised decision-maker

I am authorised to make this revised decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

I have reviewed this matter, and consider that I am in a position to grant access in part to documents responsive to your request made under the FOI Act. Accordingly, I have decided to make this revised decision under section 55G of the FOI Act.

Documents in scope of request

I have identified 7 documents responsive to your request. I have determined that one document is suitable for disclosure in part, with redactions under section 33(a)(i) of the FOI Act. The remaining documents are exempt in full under section 33(a)(i) of the FOI Act. A schedule detailing my decision on access for each document is provided at [Attachment A](#).

Material taken into account

In reaching my decision, I referred to the following:

- the terms of your request for internal review;
- the original FOI request;
- a review of document searches undertaken by the Department in the original FOI request;
- advice from relevant agencies;
- security materials;
- the FOI Act; and
- the Guidelines issued by the Information Commissioner (the FOI Guidelines).¹

Revised decision and reasons

I have decided to grant access in part to one document, with certain material exempt under section 33(a)(i). The Department has decided to declassify one document which demonstrates the nature of

¹ FOI Act, s 93A.

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the documents you have sought. The remaining documents remain exempt in full under section 33(a)(i).

Section 11(1)(a) of the FOI Act provides a right of access to a document of an agency unless that document is an exempt document.

The term 'exempt document' is defined in section 4(1) to include 'a document that is exempt for the purposes of Part IV (exempt documents) (see section 31B)'. Section 31B provides that a document is exempt if it is an exempt document under Division 2.

Relevantly, section 33(a)(i) in Division 2 of Part IV 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:*
 - i. The security of the Commonwealth...*

As stated in the original decision, and affirmed on internal review, I am satisfied that the disclosure of these documents would cause damage to the security of the Commonwealth.

The Department is responsible for a number of crisis management plans, such as the [Australian Government Crisis Management Framework](#),² that outline arrangements and capabilities to support whole-of-government and national coordination in response to crises, as well as ensuring that the Government can continue its essential operations in times of catastrophic events. As some of these plans are linked to national security, the Department is not able to disclose further details.

Section 33 is not subject to any overriding public interest test.

Publication of documents

Under section 11C of the FOI Act, the Department will make arrangements to publish the documents released to you on the Department's FOI Disclosure Log.³

Interaction with IC review

The FOI Guidelines state that:

A revised decision does not automatically conclude the IC review. The revised decision will be the decision under review (s 55G(2)(b)). The OAI will generally consult the applicant as to whether they wish to continue the IC review on the basis of the revised decision.⁴

² <<https://www.pmc.gov.au/resources/australian-government-crisis-management-framework-agcmf>>.

³ Department of the Prime Minister and Cabinet, *FOI Disclosure Logs* (webpage)

<<https://www.pmc.gov.au/about-us/accountability-and-reporting/information-and-privacy/foi-disclosure-logs>>.

⁴ FOI Guidelines, [10.79].

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Therefore, consistent with section 55G(2)(b) of the FOI Act, this decision is now the decision under review by the IC. If you wish to discontinue your review following this decision, please advise the OAIC and the Department of this view.

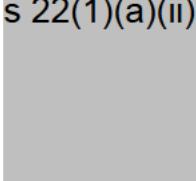
Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the IC must be made in writing. More information about complaints is available [here](#).⁵

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely

s 22(1)(a)(ii)



Jason Dymowski
Assistant Secretary
Resilience, Recovery and Response Branch
Department of the Prime Minister and Cabinet

21 August 2025

⁵ Office of the Australian Information Commissioner, *Make a Freedom of Information Complaint* (Webpage) <<https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>>.



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Attachment A

Freedom of Information (FOI) request

Schedule of Documents

Reference: FOI/2024/267IC

Document number	Date	Description (document reference)	Decision on release
1.	4 June 2024	Plan	Exempt in full s 33(a)(i)
2.	11 July 2024	Guide	Exempt in full s 33(a)(i)
3.	2 July 2024	Attachment B	Exempt in full s 33(a)(i)
4.	22 July 2024	Reference sheet 1	Exempt in full s 33(a)(i)
5.	24 July 2024	Reference sheet 2	Exempt in full s 33(a)(i)
6.	23 June 2024	Scenario	Exempt in full s 33(a)(i)
7.	30 July 2024	Coversheet	Partially exempt s 33(a)(i)

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