



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request FA 15/05/00055

File Number ADF2015/17751

Scope of request

all correspondence between the Secretary/Secretary's office and Minister Dutton/Minister Dutton's office regarding the timing, location, and any other considerations for the public release of the Moss Report and the press conference to announce same.

Documents in scope

1. Departmental document – Email dated 5 March 2015 – containing 2 folios.
2. Departmental document – Email dated 17 March 2015 – containing 2 folios.
3. Electronic record – copy of text messages – containing 1 folio.

Department advice in relation to your request

In relation to dates being considered to release the Moss Report, as it was commissioned by the Department, the Minister thought it appropriate that both the Secretary and the Minister be present at its public release.

With regards to finding a date that both the Secretary and Minister were available, the afternoon of 13th March was considered as the Minister was returning from PNG into Brisbane that day. The Secretary, however was not able to make suitable travel arrangements to attend. The next available opportunity for both the Secretary and the Minister to jointly attend a press conference was the afternoon of Friday 20th March.

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records.

Information considered

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental documents (identified above); and
- The Australian Information Commissioner's guidelines relating to access to documents held by government.

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Reasons for decision

I have considered the documents within the scope of your request and applied deletions to irrelevant material in accordance with s.22 of the FOI Act.

Deletion of exempt or irrelevant material under s.22 of the FOI Act

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

I have considered the documents subject to your request and I have identified material that would be irrelevant to the scope of your request. This material relates to other administrative matters and is not about *the timing, location, and any other considerations for the public release of the Moss Report and the press conference.*

Further, on 1 May 2015 the Department advised you of the policy to exclude non-SES staff personal details and SES telephone and contact details from the scope of requests. This information has been deleted as irrelevant.

My decision is to delete irrelevant material under s.22(1)(a)(ii) of the FOI Act.

Authorised decision maker
Department of Immigration and Border Protection

Email foi@immi.gov.au

July 2015



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 15/05/00055
File Number ADF2015/17751

Document	No. Folios	Description	Decision	Legislation
1	2	Email dated 5 March 2015 Subject: Moss Report	Released in part	s. 22(1)(a)(ii)
2	2	Email dated 17 March 2015 Subject: CPO, Brisbane	Released in part	s. 22(1)(a)(ii)
3	1	Copy of text messages	Released in part	s. 22(1)(a)(ii)

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Attachment C – Extract of relevant legislation

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an *edited copy*) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the

regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
 - (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

 - (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
 - (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii);including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

From: [Michael PEZZULLO \(ACBPS\)](#)
To: [Steve INGRAM](#)
Cc: [Rachel NOBLE \(ACBPS\)](#); [Peter SPELDEWINDE](#); [Charlotte TRESSLER](#); [Stephen HAYWARD \(ACBPS\)](#); [Jan DORRINGTON \(ACBPS\)](#); [Kate POPE](#); [Matthew WARDELL \(ACBPS\)](#); [John CAHILL](#)
Subject: RE: Moss Report [SEC=PROTECTED, DLM=Sensitive]

Steve

s. 22(1)(a)(ii)

– we might still yet get there for tomorrow, but it will need to be handled sensitively and with regards to local conditions.

Thanks,

MP

Michael Pezzullo
Secretary
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

The Government has announced that the Department and the Australian Customs and Border Protection Service will merge on 1st July 2015, when the Australian Border Force will be established within the Department to deal with the enforcement of immigration and customs laws, and associated matters. As part of this change, we will create a single departmental IT network. Until we have done that, my emails will be directed to, and sent from, the following email account: s. 22(1)(a)(ii)

From: Steve INGRAM s. 22(1)(a)(ii)
Sent: Thursday, 5 March 2015 11:23 AM
To: PEZZULLO Michael
Subject: Moss report [SEC=PROTECTED, DLM=Sensitive]

PROTECTED, Sensitive

Secretary

Minister understands the sensitivities we discussed and will accept your advice on timing.

Steve Ingram
Chief of Staff
Office of the Minister Immigration and Border Protection
Parliament House – Canberra

s. 22(1)(a)(ii)

PROTECTED, Sensitive

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s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Tuesday, 17 March 2015 1:20 PM
To: s. 22(1)(a)(ii); WARDELL Matthew
Cc: s. 22(1)(a)(ii)
Subject: CPO, Brisbane - Friday 20th March [SEC=UNCLASSIFIED]

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Freedom of Information Act 1982

Hi [redacted s. 22(1)(a)(ii)]

I understand there will be a press conference at lunch time on Friday 20th March at the CPO in Brisbane (time TBC). The Secretary will attend.

[redacted s. 22(1)(a)(ii)]

Thanks

[redacted s. 22(1)(a)(ii)]

[redacted s. 22(1)(a)(ii)]

Executive Assistant to the Secretary
Department of Immigration and Border Protection

[redacted s. 22(1)(a)(ii)]

The Government has announced that the Department and the Australian Customs and Border Protection Service will merge on 1st July 2015, when the Australian Border Force will be established within the Department to deal with the enforcement of immigration and customs laws, and associated matters. As part of this change, we will create a single department IT network. Until we have done that, my emails will be directed to and sent from the following email account: [redacted s. 22(1)(a)(ii)]

Text Messages

On 13/03 11:42am from MIBP to Sec:

s. 22(1)(a)(ii)
[REDACTED] I am doing this presser in moss at 1315 although that can be moved. I think it looks odd if you are not at the presser given the report said was to you. Do you share that view? If so would it be possible for you to jump on the next flight to BNE which I suspect is in the next hour?

On 13/03 11:55am from Sec to MIBP:

Minister – earliest ETA 1530 Brisbane local. Might be late for presser on eastern seaboard.

On 13/03 11:58am from Sec to MIBP:

I'd be pushing to make next VA flight from Belconnen. I'm happy to do media i/v after your presser. M