

**STATEMENT OF REASONS UNDER SECTION 40(5) OF THE  
ARCHIVES ACT 1983- INCLUDING DECISION ON ACCESS**

Record Series: A6119	Control symbol: 5646
Title: SMYTH, John Andrew Volume 1	Total number of folios (i.e. equivalent separate pages) on the record: 188

*Caveat: This Statement of Reasons does not reveal which subsection under Section 33 of the Archives Act 1983 has been invoked for each partially or wholly exempted folio. To reference exemptions in this manner would invoke Section 40 (7) as each reference itself would also be deemed to be exempt under Section 33.*

**1. Internal Reconsideration Decision**

Following an application for an internal reconsideration, I have reviewed the previous access decision made on 19 June 2013. I have not released any additional material; the previous access decision is maintained. This record is open with exception.

**2. Basis for decision**

I have taken into account:

- the content of the record requested
- the relevant provisions of the *Archives Act 1983 (the Act)*
- policy and guidelines of National Archives of Australia that relate to the access examination of Commonwealth records
- information provided by ASIO which I have relied upon in formulating my decision
- information derived from my own enquiries

**3. Material withheld:**

Category of material withheld	Number of total folios per category
Partially exempted folios (certain parts of the text have been expunged)	54
Wholly exempted folios	133

#### **4. Findings of fact and reasons for decision**

##### **A. Findings of fact**

In Table A in Annexure 1, I have provided a summary of my findings of fact where I have invoked specific provisions under s 33 of the Act. By invoking these provisions, I have relied on material listed in part 2 above in order to arrive at my decision.

##### **B. Reasons for decision**

In Table A in Annexure 1, I have provided the reasons for my decision for each folio exempted and those reasons are derived from the findings of fact.

#### **5. Appeal rights**

National Archives undertakes careful examination of a record before making a decision to exempt any part of a record. As part of that process we may consult with other agencies which have expertise on specific national and international matters.

For more information about appeal rights, please read the **National Archives Fact Sheet 12-What to do if we refuse you access.**

Decision maker	Sandra Burkett
Designation	APS 6, Access Examination
Date	29 July 2013

## Annexure 1 Table A: Material exempted and grouped by the application of exemption provisions

Relevant legislative provision invoked under s33 of the Act	Finding of facts	Reasons for Decision
<p>S 33(1) (a) – information or matter the disclosure of which under this Act could reasonably be expected to cause damage to the security, defence or international relations of the Commonwealth.</p>	<p>Certain folios are exempt as they each contain one or more of the following references:</p> <ol style="list-style-type: none"> <li>1. Details of operational procedures and techniques used by ASIO which may still be relevant today.</li> <li>2. Details of individuals or organisations of security interest which may still be relevant today.</li> <li>3. Details of intelligence services of security interest which may still be relevant today.</li> <li>4. Details which would lead to the public identification of an ASIO officer or employee, past or present.</li> <li>5. The identity of the ASIO officer or employee, past or present, has not been officially released by ASIO.</li> <li>6. Information or material that could reasonably be expected to disclose, or enable a person to ascertain, the existence or identity of a confidential ASIO source or agent.</li> <li>7. Details which could impact on the Commonwealth's relations with the current government of a foreign country.</li> <li>8. There are real and substantial grounds to conclude that the release of the information would pose a risk to the security and defence of Australia.</li> </ol>	<p>The public disclosure of these procedures and/or techniques, most of which are still in use, and other relevant details could be used by organisations or individuals of national security interest to take counter measures against ASIO security operations. Such action would impair ASIO's capacity to fulfil its statutory responsibilities and would reasonably be expected to cause damage to the security of the Commonwealth.</p> <p>The public release of names and other identifiers of officers and employees of ASIO, either past or present, would enable the identification of ASIO staff. Once identified these staff could be targeted by persons or organisations interested in obtaining the information they possess to use in espionage, sabotage or threats to Australia's security. Such disclosure would reasonably be expected to cause damage to the security of the Commonwealth.</p> <p>ASIO guarantees the identity of its sources remains confidential and protected. In order to carry out its statutory responsibilities under the <i>Australian Security Intelligence Organisation Act 1979</i>, it is necessary for ASIO to rely extensively on confidential sources of information.</p> <p>There is clearly an established confidential relationship between ASIO and its sources. These sources have indicated that they would not be prepared to continue providing information to ASIO if their role was ever to be publicly revealed at any stage in the future.</p> <p>Any diminution of ASIO's ability to obtain information from confidential sources would restrict ASIO's capacity to carry out its statutory responsibilities and, as a consequence, cause irreparable damage to the security of Australia.</p> <p>Failure by ASIO to protect any information supplied by a foreign country from disclosure would threaten any future exchange relationships.</p>

<p>S 33(1)(d)- information or matter the disclosure of which under this Act would constitute a breach of confidence</p>	<p>Certain folios are exempt as they each contain one or more of the following references:</p> <ol style="list-style-type: none"> <li>1. The name or signature of an officer or employee of ASIO.</li> <li>2. The identity of the ASIO officer or employee, past or present, has not been officially released by ASIO.</li> <li>3. The document contains the name or information that could be used to identify an ASIO source.</li> </ol>	<p>Disclosure of this information could identify past or present ASIO officers or employees or sources. Their identities are understood to only be known by ASIO.</p> <p>There is a mutual understanding between ASIO and its staff and its sources of information that the anonymity of officers, employees and sources should be protected.</p> <p>Section 92 of the <i>Australian Security Intelligence Organisation Act 1979</i> also prohibits the publication of the identities of present and former ASIO officers and employees.</p> <p>The public disclosure of this information would constitute a breach of confidence.</p>
<p>S 33(1) (e) information or matter the disclosure of which under this Act would, or could reasonably be expected to: (ii) - disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law.</p>	<p>Certain folios are exempt as they each contain information concerning the existence, identity or management of an ASIO source.</p>	<p>Release of the information exempted could reasonably be expected to disclose the existence or identity of a confidential source of information to ASIO. The confidential source provided the information on the condition that their identity would always remain confidential and protected. The relationship between ASIO and its confidential sources is based on trust and that includes protecting the existence and identity of confidential sources of information.</p> <p>A breach of trust would give rise to concern amongst ASIO's existing or potential sources they would be identified at a later date. Such concerns could lead to a loss of confidence in ASIO which would adversely affect ASIO's ability to obtain information from confidential sources.</p>
<p>S 33(1) (e) information or matter the disclosure of which under this Act would, or could reasonably be expected to: (iii) - endanger the life or physical safety of any person.</p>	<p>Certain folios are exempt as they each contain information concerning the existence, identity or management of an ASIO source.</p>	<p>Release of the information could result in disclosure of the existence or identity of a confidential source in particular areas of security interest which may in turn endanger the life or safety of this source.</p>
<p>S33 (1) (g) - information or matter the disclosure of which under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).</p>	<p>Folios 11, 12, 13, 14, 15, 16, and 17 are partially exempt as :</p> <ol style="list-style-type: none"> <li>1. They contain the passenger movement records of persons not subject of the record.</li> <li>2. These parties were not the focus of intelligence gathering activities by ASIO.</li> </ol>	<p>The information exempted on these folios relates to persons not the subject of ASIO intelligence gathering activities. It is considered unreasonable to disclose this information. Other information relating to the subject of the file who was the focus of ASIO activities has been released.</p> <p>The information was collected by another agency. It is not likely that, if given the opportunity, the subjects would consent to the release of their personal information on an ASIO record.</p> <p>There is no evidence in the record to suggest that when the information was gathered, the subjects expected it to be made publicly known or that it has become publicly known in the intervening years.</p>



Australian Government



NATIONAL ARCHIVES OF AUSTRALIA

**STATEMENT OF REASONS UNDER SECTION 40(5) OF THE ARCHIVES ACT 1983- INCLUDING DECISION ON ACCESS**

Record Series: A6119	Control symbol: 5647
Title: SMYTH, John Andrew Volume 2	Total number of folios (i.e. equivalent separate pages) on the record: 115

*Caveat: This Statement of Reasons does not reveal which subsection under Section 33 of the Archives Act 1983 has been invoked for each partially or wholly exempted folio. To reference exemptions in this manner would invoke Section 40 (7) as each reference itself would also be deemed to be exempt under Section 33.*

**1. Internal Reconsideration Decision**

Following an application for an internal reconsideration, I have reviewed the previous access decision made on 19 June 2013. I have not released any additional material; the previous access decision is maintained. This record is open with exception.

**2. Basis for decision**

I have taken into account:

- the content of the record requested
- the relevant provisions of the *Archives Act 1983 (the Act)*
- policy and guidelines of National Archives of Australia that relate to the access examination of Commonwealth records
- information provided by ASIO which I have relied upon in formulating my decision
- information derived from my own enquiries

**3. Material withheld:**

Category of material withheld	Number of total folios per category
Partially exempted folios (certain parts of the text have been expunged)	51
Wholly exempt folios	62

#### **4. Findings of fact and reasons for decision**

##### **A. Findings of fact**

In Table A in Annexure 1, I have provided a summary of my findings of fact where I have invoked specific provisions under s 33 of the Act. By invoking these provisions, I have relied on material listed in part 2 above in order to arrive at my decision.

##### **B. Reasons for decision**

In Table A in Annexure 1, I have provided the reasons for my decision for each folio exempted and those reasons are derived from the findings of fact.

#### **5. Appeal rights**

National Archives undertakes careful examination of a record before making a decision to exempt any part of a record. As part of that process we may consult with other agencies which have expertise on specific national and international matters.

For more information about appeal rights, please read the **National Archives Fact Sheet 12-What to do if we refuse you access.**

Decision maker	Sandra Burkett
Designation	APS 6, Access Examination
Date	29 July 2013

**Annexure 1 - Table A: Material exempted and grouped by the application of exemption provisions**

Relevant legislative provision invoked under s33 of the Act	Finding of facts	Reasons for Decision
<p>S 33(1) (a) – information or matter the disclosure of which under this Act could reasonably be expected to cause damage to the security, defence or international relations of the Commonwealth.</p>	<p>Certain folios are exempt as they each contain one or more of the following references:</p> <ol style="list-style-type: none"> <li>1. Details of operational procedures and techniques used by ASIO which may still be relevant today.</li> <li>2. Details of individuals or organisations of security interest which may still be relevant today.</li> <li>3. Details of intelligence services of security interest which may still be relevant today.</li> <li>4. Details which would lead to the public identification of an ASIO officer or employee, past or present.</li> <li>5. The identity of the ASIO officer or employee, past or present, has not been officially released by ASIO.</li> <li>6. Information or material that could reasonably be expected to disclose, or enable a person to ascertain, the existence or identity of a confidential ASIO source or agent.</li> <li>7. Details which could impact on the Commonwealth's relations with the current government of a foreign country.</li> <li>8. There are real and substantial grounds to conclude that the release of the information would pose a risk to the security and defence of Australia.</li> </ol>	<p>The public disclosure of these procedures and/or techniques, most of which are still in use, and other relevant details could be used by organisations or individuals of national security interest to take counter measures against ASIO security operations. Such action would impair ASIO's capacity to fulfil its statutory responsibilities and would reasonably be expected to cause damage to the security of the Commonwealth.</p> <p>The public release of names and other identifiers of officers and employees of ASIO, either past or present, would enable the identification of ASIO staff. Once identified these staff could be targeted by persons or organisations interested in obtaining the information they possess to use in espionage, sabotage or threats to Australia's security. Such disclosure would reasonably be expected to cause damage to the security of the Commonwealth.</p> <p>ASIO guarantees the identity of its sources remains confidential and protected. In order to carry out its statutory responsibilities under the <i>Australian Security Intelligence Organisation Act 1979</i>, it is necessary for ASIO to rely extensively on confidential sources of information.</p> <p>There is clearly an established confidential relationship between ASIO and its sources. These sources have indicated that they would not be prepared to continue providing information to ASIO if their role was ever to be publicly revealed at any stage in the future.</p> <p>Any diminution of ASIO's ability to obtain information from confidential sources would restrict ASIO's capacity to carry out its statutory responsibilities and, as a consequence, cause irreparable damage to the security of Australia.</p> <p>Failure by ASIO to protect any information supplied by a foreign country from disclosure would threaten any future exchange relationships.</p>

<p>S 33(1)(d)- information or matter the disclosure of which under this Act would constitute a breach of confidence</p>	<p>Certain folios are exempt as they each contain one or more of the following references:</p> <ol style="list-style-type: none"> <li>1. The name or signature of an officer or employee of ASIO.</li> <li>2. The identity of the ASIO officer or employee, past or present, has not been officially released by ASIO.</li> <li>3. The document contains the name or information that could be used to identify an ASIO source.</li> </ol>	<p>Disclosure of this information could identify past or present ASIO officers or employees or sources. Their identities are understood to only be known by ASIO.</p> <p>There is a mutual understanding between ASIO and its staff and its sources of information that the anonymity of officers, employees and sources should be protected.</p> <p>Section 92 of the <i>Australian Security Intelligence Organisation Act 1979</i> also prohibits the publication of the identities of present and former ASIO officers and employees.</p> <p>The public disclosure of this information would constitute a breach of confidence.</p>
<p>S 33(1) (e) information or matter the disclosure of which under this Act would, or could reasonably be expected to: (ii) - disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law.</p>	<p>Certain folios are exempt as they each contain information concerning the existence, identity or management of an ASIO source.</p>	<p>Release of the information exempted could reasonably be expected to disclose the existence or identity of a confidential source of information to ASIO. The confidential source provided the information on the condition that their identity would always remain confidential and protected. The relationship between ASIO and its confidential sources is based on trust and that includes protecting the existence and identity of confidential sources of information.</p> <p>A breach of trust would give rise to concern amongst ASIO's existing or potential sources they would be identified at a later date. Such concerns could lead to a loss of confidence in ASIO which would adversely affect ASIO's ability to obtain information from confidential sources.</p>
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**STATEMENT OF REASONS UNDER SECTION 40(5) OF THE  
ARCHIVES ACT 1983- INCLUDING DECISION ON ACCESS**

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Decision maker	Sandra Burkett
Designation	APS 6, Access Examination
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**Annexure 1 Table A: Material exempted and grouped by the application of exemption provisions**

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<p>S 33(1) (e) information or matter the disclosure of which under this Act would, or could reasonably be expected to: (ii) - disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law.</p>	<p>Certain folios are exempt as they each contain information concerning the existence, identity or management of an ASIO source.</p>	<p>Release of the information exempted could reasonably be expected to disclose the existence or identity of a confidential source of information to ASIO. The confidential source provided the information on the condition that their identity would always remain confidential and protected. The relationship between ASIO and its confidential sources is based on trust and that includes protecting the existence and identity of confidential sources of information.</p> <p>A breach of trust would give rise to concern amongst ASIO's existing or potential sources they would be identified at a later date. Such concerns could lead to a loss of confidence in ASIO which would adversely affect ASIO's ability to obtain information from confidential sources.</p>
<p>S 33(1) (e) information or matter the disclosure of which under this Act would, or could reasonably be expected to: (iii) -endanger the life or physical safety of any person.</p>	<p>Certain folios are exempt as they each contain information concerning the existence, identity or management of an ASIO source.</p>	<p>Release of the information could result in disclosure of the existence or identity of a confidential source in particular areas of security interest which may in turn endanger the life or safety of this source.</p>