NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your correspondence dated 15 January 2016, in which you requested access, on behalf of [REDACTED] under the Freedom of Information Act 1982 (FOI Act), to the following revised scope:

   Item 1 - a brief in January 2008 advised the Chief of Air Force (CAF) that Caribou availability was satisfactory but there was doubt about future Caribou viability due to asbestos within the aircraft.

   Item 2 - Ministerial submission, titled Disposal strategy for Caribou capability - encompassing aircraft, associated spares and inventory, dated 15 Dec 15


   Item 4 - Australian Air Publication 7001.059B2 (AM1) Section 8 Chapter 2 - 'Electronic Aviation Maintenance Management Manual.'

   Exclude the personal details of Defence officers, such as names, signatures and mobile telephone numbers.

   Exclude duplicates of documents, and documents sent to, or received from the applicant.

   Background

2. I note that our office has been working with you since 6 October 2015 to revise the scope of your request in order to get the best possible outcome for your client.

3. The purpose of this letter is to provide you with the decision relating to the documents that are the subject of your request.
FOI decision maker

4. Group Captain Catherine Wallis, Director Corporate and Community Relations, Air Force is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

5. GPCAPT Wallis identified four documents as matching the description of your request. A schedule of documents is at Enclosure 1. Documents in the form approved for release are at Enclosure 2. The decision maker has added an FOI Item number to each of the documents, which corresponds with the schedule.

Decision

6. GPCAPT Wallis has decided to:
   a. release three documents in full with deletions made in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted]; and
   b. partially release one document with deletions made 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 sections 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

Material taken into account

7. In making her decision, GPCAPT Wallis had regard to:
   a. the terms of the request;
   b. the content of the identified documents in issue;
   c. relevant provisions in the FOI Act; and
   d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for decision

Irrelevant matter - Section 22(1) of the FOI Act

8. Section 22(1)(a)(ii) of the FOI Act states the following:

   (1) This section applies if:

      (a) an agency or Minister decides:

      (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access ...
9. Upon examination of the documents, GPCAPT Wallis found that some documents contained material regarding matters that do not relate to the scope of the request. She considered that the material would disclose information that would reasonably be regarded as irrelevant to the scope of the request. As such, in accordance with subparagraph 22(1)(a)(ii) of the FOI Act, GPCAPT Wallis decided to remove or redact the material outside of the scope of the request.

Exemption claim - Section 47F of the FOI Act

10. Upon examination of the documents, GPCAPT Wallis identified a signature of a person other than you. She considered that the disclosure of this information would constitute an unreasonable disclosure of personal information of a person other than you.

11. The Guidelines note that 'the personal privacy exemption is designed to prevent 'unreasonable' invasion of third parties privacy'. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, GPCAPT Wallis had regard to:

   a. the extent to which the information is well known;
   
   b. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
   
   c. the availability of the information from publicly accessible sources; and
   
   d. any other matters that the agency considers relevant.

12. Against those criteria, GPCAPT Wallis found that:

   a. the specific personal information is not well known;
   
   b. the personal information is not readily available from publicly available sources; and
   
   c. the material considered to be exempt is information that the individuals would reasonably be expected not to have disclosed to a third party without their consent.

Rights of access – section 11A

13. Subsection 11A(5) of the FOI Act provides that conditionally exempt matter must be released unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest. The Guidelines state (at 6.8-6.9):

   ...The term 'public interest' is necessarily broad and non-specific because what constitutes the public interest depends on the particular facts of the matter and the context in which it is being considered...
   
   To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The decision
maker must analyse, in each case, where on balance the public interest lies, based on the particular facts of the matter at the time the decision is made.

Public interest considerations – section 47F

14. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, GPCAPT Wallis considered the range of relevant factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. While disclosure may promote some of the objects of the FOI Act, she does not consider it would increase public participation in government processes, now would it increase scrutiny or discussion of government activities. However, GPCAPT Wallis does consider that disclosure of a person’s signature could reasonably be expected to prejudice the protection of an individual’s right to privacy.

15. In this case, she considers the disclosure of the signatures of other people would be an unreasonable disclosure of personal information. Accordingly, GPCAPT Wallis considered that on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the document. Therefore, she decided that it would be contrary to the public interest to release the information considered under subsection 47F of the FOI Act.

16. In coming to the above decision, GPCAPT Wallis had regard to subsection 11B(4) [irrelevant factors] of the FOI Act, which lists factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. She did not take into account any of the factors listed under subsection 11B(4) of the FOI Act.

Declassification of documents

17. A number of the documents matching the scope of this request were classified. The decision maker has declassified the versions of the documents that are approved for release.

FOI Disclosure Log

18. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.
Your Review Rights

Internal Review

19. Under the provisions of section 54 of the FOI Act, you are entitled to request a review of this decision. You must request a review, in writing, within 30 days of the date of this letter, or the date you receive the documents. Requests can be sent to:

   Email: FOIReview@defence.gov.au
   Fax: 02 626 62112
   Post: Freedom of Information Directorate - Reviews
        Department of Defence
        CP1-6-029
        PO Box 7910
        CANBERRA BC ACT 2610

Australian Information Commissioner

20. Under the provisions of section 54 of the FOI Act, you are also entitled to request an external review of this decision by the Australian Information Commissioner. You have 60 days to lodge such a request, using one of the contact methods below:

   Email: enquiries@oaic.gov.au
   Phone: 1300 363 992
   Fax: 02 9284 9666
   Post: GPO Box 2999
        Canberra ACT 2601

Complaints

21. You may complain to Defence, the Information Commissioner or the Commonwealth Ombudsman about an action taken by Defence in the exercise of its power or the performance of its functions under the FOI Act. There is no fee for making a complaint. Should you wish to complain to the Department of Defence, your complaint can be addressed to Mr Tony Corcoran using the contact details below:

   Email: tony.corcoran@defence.gov.au
   Post: Tony Corcoran
        Assistant Secretary Information Management and Access Branch
        CP1-6-14
        PO Box 7911
        CANBERRA BC ACT 2610

22. Contact details for the Commonwealth Ombudsman are below:

   Phone: 1300 362 072
   Fax: 02 6276 0123
   Post: Commonwealth Ombudsman
        GPO Box 442
        CANBERRA ACT 2601

23. Contact details for the Information Commissioner are above.
24. Should you have any questions in regard to this matter please contact this office.

Yours sincerely

Matthew Ashauer
Case Manager
Freedom of Information

2 February 2016

Enclosures:
1. Schedule of documents
2. Documents in the form for release