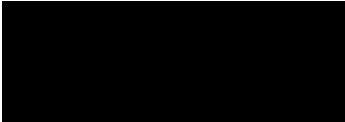





Australian Government
Department of Defence

Freedom of Information
CP1-6-001
PO Box 7910
CANBERRA BC ACT 2610
Tel: 02 626 62200
Fax: 02 626 62112
FOI@defence.gov.au

Our reference: FOI 229/15/16



By email: 

Dear 

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your correspondence dated 3 February 2016 in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

A copy of any ministerial submission held by the Directorate of Ministerial and Parliamentary Liaison Services containing the word 'Musgrave Park' and '4ZZZ' in the title.

2. The statutory deadline for you to receive a response to your request is 21 March 2016.

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. Colonel (COL) MRC Kennedy, Director Personnel Policy – Army is authorised under section 23 of the FOI Act to make decisions in respect of requests under the FOI Act.

Documents identified

5. COL Kennedy identified one document matching the description of your request.

Decision

6. COL Kennedy decided to release the identified 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 deleted material is exempt under section 47F [personal information] of the FOI Act.

7. A copy of the document in the form approved for release is at Enclosure 1

Material taken into account

8. In making his decision, COL Kennedy had regard to:
- a. the terms of the request;
 - b. the content of the documents in issue;
 - c. relevant provisions in the FOI Act; and
 - d. the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act.

Reasons for Decision

Personal information of third parties

9. COL Kennedy noted that the document contains personal information of individuals other than you. Therefore, it was appropriate for him to consider whether this information is exempt from release under the FOI Act.

Exemption claim - Section 47F(1) of the FOI Act

10. On examination of the document, COL Kennedy noted that it contains the signature of an ADF person, and also contains details on administrative action taken against an ADF member. This information could be used to reasonably ascertain the identity of an individual and therefore satisfies the definition of personal information in section 4 of the FOI Act. To determine whether the disclosure of the identified personal information was unreasonable, I had regard to the criteria specified in section 47F(2) of the FOI Act.

11. Section 47F(2) states:

47F Public interest conditional exemptions – personal privacy

General Rule

- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
- (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 publicity accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant.*

12. Against these criteria, COL Kennedy found:
 - a. the specific personal information listed is not well known;
 - b. the individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the documents; and
 - c. the information is not readily available from publicly accessible sources.
13. With reference to the assessment above, COL Kennedy considered that the release of the signature of ADF person and administrative action taken against an ADF member would be an unreasonable disclosure of personal information and conditionally exempt under section 47F(1) of the FOI Act.
14. Section 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless access to the document would be contrary to the public interest.

Public interest considerations – Section 47F

15. When assessing whether the disclosure of the personal information is contrary to the public interest, COL Kennedy considered the factors that favour access to a document set out in section 11B(3) of the FOI Act [Public interest exemptions – factors]. COL Kennedy advised that none of the factors listed in section 11B(4) [Irrelevant Factors] of the FOI Act, were taken into account when making his decision.
16. In relation to section 11B(3)(a) of the FOI Act [Promote the objects of this Act (including all the matters set out in sections 3 and 3A)], information held by the Government is a national resource and release of the personal information would promote the object of the FOI Act specified in section 3(1)(b) of the FOI Act.
17. However disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).
18. Paragraph 6.29 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factor COL Kennedy found particularly relevant to this request is that disclosure of the document could reasonably be expected to prejudice the protection of an individual's right to privacy.
19. COL Kennedy found that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the identified personal information and deemed the information exempt under section 47F(1) of the FOI Act.
20. Therefore, COL Kennedy decided that it would be contrary to the public interest to release information considered exempt under section 47F of the FOI Act.

FOI processing charges.

21. The charges for processing your request have been capped at the amount already paid.

FOI Disclosure Log

22. 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***

23. 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: FOIRReview@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

24. 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

25. 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

26. Contact details for the Commonwealth Ombudsman are below:

Phone: 1300 362 072)

Fax: 02 6276 0123

Post: Commonwealth Ombudsman

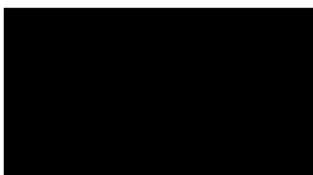
GPO Box 442

CANBERRA ACT 2601

27. Contact details for the Information Commissioner are above.

28. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



John Peterson
Case Officer
Freedom of Information

18 March 2016

Enclosure:

1. Documents in the form for release