



Our reference: FOI 322/14/15



By email: 

Dear 

## **NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST**

1. I refer to your email, dated 22 March 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“wish to obtain ASOR material; any internal Defence emails, or emails to and/or from external agencies (the ATSB for example); any investigative reports; any material held on the Defence Aviation Hazard Reporting and Tracking System (DAHRTS); any material held on the Closed Loop Hazard/ASOR Review and Tracking System; imagery from the actual Situational Data Displays (SSD); primary radar system test results; general opinions and conclusions of RAAF officers; logs of phone calls made regarding the incident; etc., relating to documents you obtained from the Australian Transport Safety Bureau (ATSB).”*

### **Background**

2. I also refer to the correspondence between this office and yourself to prepare a valid request. On 14 April 2015, you agreed to the following scope:

*‘Item 1 - a copy of Air Safety Occurrence Report(s) (ASOR) on 21 March 2014 for an air safety incident that occurred near RAAF base Williamtown; including any email in relation to this ASOR and/or any email resulting from the ASOR;*

*Item 2 - Any Defence correspondence with the Australian Transport Safety Bureau (ATSB) in relation to the above ASOR and/or any email resulting from the ASOR;*

*Item 3 - Any RAAF reports coming from investigations of the unusual events that occurred on 21 March 2014 at RAAF base Williamtown;*

*Item 4 - Any material related to the incident held on the Defence Aviation Hazard Reporting and Tracking System (DAHRTS);*

*Item 5 - Any material related to the incident held on the Closed Loop Hazard/ASOR Review and Tracking System.*

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 (GPCAPT) Catherine Wallis, Director Corporate and Community Relations, Royal Australian 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 three documents as matching the description of your request for Item 1, 4 and 5. Documents in the form approved for release are at Enclosure 2. For ease of reference and for the purpose of processing this request, 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 in full three documents; and
- b. refuse access to items 2 and 3, under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] 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;
- d. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines); and
- e. the Principles on open public sector information issued by the Information Commissioner.

## Reasons for decision

### Section 24A(1) of the FOI Act

8. Section 24A(1) of the FOI Act states:

*24A Requests may be refused if documents cannot be found, do not exist or have not been received*

*Document lost or non-existent*

*(1) An agency or Minister may refuse a request for access to a document if:*

*(a) all reasonable steps have been taken to find the document; and*

*(b) the agency or Minister is satisfied that the document:*

*(i) is in the agency's or Minister's possession but cannot be found; or*

*(ii) does not exist.*

9. Paragraph 8.41 of the Guidelines also gives guidance as to what is required to be included within this statement of reasons to refuse a request under section 24A(1);

*8.41 The statement of reasons given to the applicant should sufficiently identify the document and give reasons as to why it cannot be found or why it is known that it no longer exists. The statement should describe the steps the agency took to search for it.*

10. A search of all documentation held by Number 44 Wing Headquarters in Objective and within emails was conducted and no documentation matching Items 2 or 3 was found.

11. I am satisfied that “all reasonable steps” have been taken to locate documents matching Items 2 and 3. I am satisfied that the documents cannot be found or do not exist, and refuse access to these Items under section 24A(1) of the FOI Act.

### Rights of review

12. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, “Freedom of Information – Your Review Rights”, setting out your rights of review is at Enclosure 3.

### FOI Disclosure Log

13. 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.

**Further information**

14. The FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2015C00013>.
15. All departmental action on your request is now complete. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Andrea Sansom  
Assistant Director  
Freedom of Information

12 May 2015

Enclosures:

1. Schedule of documents
2. Documents in the form for release
3. Fact Sheet: Freedom of Information – Your Review Rights