



Our reference: FOI 323/14/15



By email: 

Dear 

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

1. I refer to your email, dated 14 April 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“Regarding Defence invitees to the MORNING TEA IN HONOUR OF AFP AND ADF PERSONNEL held by the government in Parliament House on October 26<sup>th</sup> 2014, would Defence please provide the following information*

1. *The list of all ADF invitees to the event.*
2. *Details on how ADF invitees were selected to attend the event.*

2. 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**

3. Ms Linda McCann, Director, Freedom of Information, was the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

### **Identified document**

4. Ms McCann identified one document as being relevant to the scope of your request, being an email dated Friday 24 October 2014 14:56:00 with the subject ‘*Army Numbers - \*\*URGENT\*\* - PM’s Morning Tea [SEC=UNCLASSIFIED]*’.

5. Ms McCann noted that she was advised that the Office of the Chief of the Defence Force (CDF) received advice from the Prime Minister's Office with regard to the morning tea, and subsequently took the lead in inviting ADF members.

6. Ms McCann also noted that in regards to Item 1 of your request, there is no list of invitees. However, the identified document explains that the then Chief of Staff to the CDF sent an email to his fellow chiefs of staff in the offices of the Vice Chief of the Defence Force, the Chief of the Navy and the Chief of the Air Force requesting that the invitation be promulgated through the chain of command. Ms McCann considered that the identified document also addressed Item 2 of your request as it sets out that the event was open to all ADF personnel and all ADF families in the ACT region.

### **Decision**

7. Following examination of the document, Ms McCann decided to partially release it 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 exempt under section 47F [public interest conditional exemptions – personal privacy] of the FOI Act.

8. The document in the form approved for release is at Enclosure 1.

### **Material taken into account**

9. In making her decision, Ms McCann had regard to:

- a. the terms of the FOI request;
- b. the content of the documents in issue;
- c. relevant provisions in the FOI Act,
- d. Defence guidance material on the FOI Act and the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines); and
- e. advice provided by the area whose duties relate to the requested documents.

### **Reasons for Decision – section 47F**

10. After examining the identified document, Ms McCann found that it contained the personal information of Defence employees such as names, email addressees and some contact details. While she considered that this information satisfied the definition of personal information, the only personal information contained in the documents that she considered would constitute an unreasonable disclosure of personal information is the mobile telephone numbers.

11. In order to determine whether disclosure would be unreasonable, Ms McCann considered the following factors:

- 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;

12. Ms McCann was satisfied that the mobile telephone numbers listed in the identified document were not well known. While the identity of the person who was the then Chief of Staff to the CDF may be known, she considered that the mobile telephone number would not be. Further, the information is only available to Defence staff on internal telephone lists and therefore is not available from any publicly accessible sources. Ms McCann did not consider any other factors as she was satisfied that the identified personal information would be unreasonable to release, and was therefore conditionally exempt under section 47F of the FOI Act.

13. Section 11A(5) of the FOI Act requires agencies to allow access to a conditionally exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

#### **Public interest considerations**

14. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Ms McCann 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 did not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

15. While Ms McCann noted that the release of this information may be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of this specific information would not promote oversight of public expenditure, nor would it allow the applicant further access to their personal information. Further, she considered that the protection of an individual's right to privacy outweighs any public interest there may be in the release of this material.

16. Therefore, Ms McCann decided, on balance, that it would be contrary to the public interest to release the personal information and considered it to be exempt under subsection 47F(1) of the FOI Act.

#### **Rights of review**

17. 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 2.

#### **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. This request will be published on 21 May 2015.

**Further information**

19. The FOI Act can be accessed at: <http://www.comlaw.gov.au/Details/C2015C00013>.
20. 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



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

14 May 2015

Enclosures:

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