



**Australian Government**


**Department of Defence**

Office of the Chief Operating Officer

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Our reference: FOI 013/12/13



By email: 

Dear 

1. I refer to your email, dated 11 July 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*"1. the ministerial submission or equivalent document provided to the Defence Minister, Stephen Smith, regarding the meeting between Syren and the Chief of the Defence Force, General David Hurley; and,*

*2. the "Overall Program and Order of Arrangements" booklet produced as part of Syren's visit (for an example of such a booklet please see this image: <http://images.smh.com.au/2011/11/17/2780375/art-353-589460425-200x0.jpg>)."*

**FOI Statutory Deadline**

2. The purpose of this letter is to provide you with the decision on your request. I note that the statutory deadline for a response to your request was originally 13 August 2012. However, you were advised by email, dated 7 August 2012, of the requirement to consult a foreign entity in accordance with subsection 15(7) [requests for access] of the FOI Act. Accordingly, the statutory deadline was extended by 30 days to 12 September 2012.

**FOI decision maker**

3. Mr Andrew Craig, Director Executive, International Policy, is the accredited decision maker, under the FOI Act, in relation to your request.

### **Identified documents**

4. Mr Craig identified two documents, being a 10 page meeting brief provided to the Minister for Defence on 4 July 2012 (Document 1), and a 57 page 'visits book' which outlined the overall program and order of arrangements for General Syren's visit to Australia (Document 2). For ease of reference and for the purposes of processing this request, I have annotated the documents with the FOI request number and document reference.

### **Decision**

5. Mr Craig decided to release the two identified documents with material deleted, 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 sections 33 [documents affecting national security, defence or international relations] and 47F [public interest conditional exemptions – personal privacy] of the FOI Act. Mr Craig's reasons are set out below.

6. Copies of the documents in the form approved for release are at Enclosure 1.

### **Material taken into account**

7. In making his decision Mr Craig had regard to:

- The content of the identified documents in issue;
- Relevant provisions in the FOI Act;
- The guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines); and
- The view of the European Union, particularly with regard to information provided by its members.

### **Exemption claims**

#### **Section 33**

8. In reviewing the documents requested, Mr Craig found that they contained material which has the potential to harm the positive working relationship that Australia has with other governments and international organisations. In this light, some of the material in the documents pertains to information which was officially communicated in confidence by foreign government officials to Australian officials. If this information were to be released it would be likely to create a position where other nations were less willing to enter into frank discussions with Australian interlocutors or cooperate with Australian agencies in the future. Additionally, the documents contained information which touches on third party nations and/or sensitive international issues, which could reasonably be expected to damage internal relations if it were released. Mr Craig was satisfied that the identified material is exempt under section 33 of the FOI Act, specifically paragraph 33(a)(iii) and subsection 33(b).

9. Moreover, in reviewing the document Mr Craig found that they contained some text pertaining to current Australian Defence Force (ADF) operations. To release this information publicly would divulge key ADF strategy (including techniques, tactics and procedures) which could be used to advance 'unfriendly elements' causes. Mr Craig noted that this in turn threatens to place the safety of deployed personnel at risk. Mr Craig was satisfied that this information meets the threshold for exemption under paragraph 33(a)(ii) of the FOI Act.

#### **Public interest conditional exemptions**

##### **Section 47F**

10. After examining the documents Mr Craig found that they contained personal mobile telephone numbers that would involve the unreasonable disclosure of other peoples personal information.

11. In accordance with subsection 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, Mr Craig had regard to:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates are known to be, or to have been, associated with the matter dealt with in the documents; and
- c. the availability of the information from publicly accessible sources.

12. Against the above criteria, Mr Craig found that:

- a. while the matter referred to in the documents was reported in the media, the specific personal information he considered to be exempt is not well know to the general community; and
- b. the specific information is not readily available from publicly accessible sources.

13. Noting the above findings, Mr Craig decided that the disclosure of this information would be an unreasonable disclosure of personal information belonging to other people. Accordingly, Mr Craig considered the material to be conditionally exempt under section 47F of the FOI Act.

#### **Public interest consideration – section 47F**

14. Subsection 11A(5) [access to documents on request] of the FOI Act required Defence to allow access to conditionally exempt documents unless, in the circumstances, access to the documents, would, on balance, be contrary to the public interest.

15. In assessing whether the disclosure is, on balance, contrary to the public interest, Mr Craig considered the relevant factors set out in section 11B(3) [public interest exemptions – factors] of the FOI Act, which favours access to the documents. Mr Craig noted that disclosure of the identified documents may promote the objects of the FOI Act, as information held by the government is a national resource. However, Mr Craig considered that disclosure of personal mobile telephone numbers would not promote greater public participation in government processes, promote better-informed decision making or promote effective oversight of public expenditure, it would also not inform debate on a matter of public importance or provide the applicant with their own personal information. For these reasons, Mr Craig decided to exempt personal mobile telephone numbers under section 47F of the FOI Act.

16. The FOI Act can be accessed online at: <http://www.comlaw.gov.au/Details/C2011C00138>

### **Payment of Charges**

17. In our letter, dated 13 July 2012, after deducting the free decision making time, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request and paid the preliminary assessment amount in full on 16 July 2012.

18. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be in excess of the original estimate. However, as explained in paragraph 9 of the abovementioned letter, the amount payable can only be more than the preliminary assessment if the decision is to release all of the requested documents in full.

19. In light of the above, there is no further amount payable in respect to processing.

### **Rights of review**

20. The FOI Act provides for rights of review of decisions. A copy of fact sheet “Freedom of Information – Your Review Rights” setting out your rights of review is at Enclosure 2.

### **FOI Disclosure Log**

21. 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 two working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions. Therefore, publication of documentation relating to this request will occur on Tuesday 11 September 2012.

**Further advice**

22. Should you have any queries in regards to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can also be contacted on the details at the top of this letter.

Yours sincerely



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

7 September 2012

Enclosures:

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