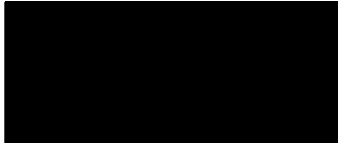






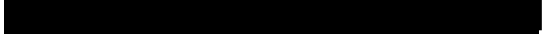
Our reference: FOI 071/12/13




Via email: 

Dear 

1. I refer to your email of 17 August 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"copies and letters and submissions made by a  of Victoria to the  at the Navy Seapower Centre (over the period 2005 to 2009 I believe) and to the Cole Commission of Inquiry that are not exhibited at the following weblink:

<http://www.defence.gov.au/sydneyii/Index%20to%20Davison%20P%20Submissions.htm>

Documents referenced by  (in submissions on the above link) but otherwise omitted from the same, as per below:

A letter and photograph that was sent to  in early 2008, (described in) http://www.defence.gov.au/sydneyii/CORR/CORR.001.0126_R.pdf

Letter submitted, described in the opening sentence found at: http://www.defence.gov.au/sydneyii/SUBM/SUBM.005.0058_R.pdf

A book extract that he had previously sent (described at): http://www.defence.gov.au/sydneyii/SUBM/SUBM.008.0154_R.pdf

Background

2. We have interpreted your request as stated in the terms set out immediately above, but with the removal if possible, of any duplicated documents.

3. Following the receipt of your email, your request was registered under the FOI Act. Therefore, the statutory deadline for you to receive a response to your request was due to expire on 16 September 2012.

4. The processing of your request was suspended on 23 August 2012, when we provided you with an estimate of FOI charges for the administration of your request, and resumed on 20 September 2012, when you paid the required deposit. Accordingly, the statutory deadline was then due to expire on 15 October 2012.

5. By email of 11 October 2012, we advised you that there was requirement to consult with a third party, under section 27A [Consultation – documents affecting personal privacy] of the FOI Act. Our letter also informed you that the statutory deadline had been extended by 30-days to allow for the conduct of third party consultations, and that the new deadline for providing you with a decision expires on 14 November 2012.

6. The purpose of this letter is to provide you with the decision in relation to your request.

FOI decision maker

7. Captain S J Bateman, Royal Australian Navy Director Navy Communications and Coordination, is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

8. Captain Bateman identified 23 documents incorporating 81 pages as matching the description of your request. The details of the documents are listed in the schedule of documents at Enclosure 1.

Decision

9. Following examination of the documents and third party consultation, Captain Bateman decided to:

- a. release six documents in their entirety; and
- b. release 18 documents 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 section 47F [Public interest conditional exemptions – personal privacy] of the FOI Act.

10. Captain Bateman's decision in respect to each document is listed in the schedule of documents.

11. A copy of the documents in the form approved for release is at Enclosure 2.

Reasons for decision

Material taken into account

12. In making his decision, Captain Bateman had regard to:

- a. The parameters of the request;
- b. the relevant provisions of the FOI Act;
- c. the *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* (the Guidelines);
- d. the *Principles on Open Public Section Information* issued by the Information Commissioner; and
- e. responses from the consulted third party.

Exemption claim - Section 47F of the FOI Act

13. Upon examination of the documents, Captain Bateman found that they contained the name, signatures, private address and telephone number belonging to people other than you. In accordance with subsection 47F(2), in determining whether the disclosure of the signatures, addresses and telephone number would involve the unreasonable disclosure of personal information, Captain Bateman 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. the consultation process.

14. Against these three criteria, Captain Bateman found:

- a. the specific personal information listed is not well known;
- b. very few people outside of those to whom the information relates are known to be associated with the matters dealt with in the documents; and
- c. the information is not readily available from publicly accessible sources.

15. Based on the assessment of the above criteria, Captain Bateman considered that the release of the private address and telephone number would be an unreasonable disclosure of personal information and therefore conditionally exempt under section 47F of the FOI Act.

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

Public interest considerations – section 47F

17. In assessing whether the disclosure is on balance, contrary to the public interest, Captain Bateman considered the factors set out in section 11B(3) of the FOI Act [Public interest exemptions – factors], which favours access to a document. Captain Bateman noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, the disclosure of this information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

18. While Captain Bateman noted that release of this information may be of interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of the information would not promote oversight of public expenditure.

19. Captain Bateman also 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. Captain Bateman advised that none of the factors taken into account in arriving at his decision, were listed in subsection 11B(4) of the FOI Act.

20. Accordingly, Captain Bateman considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the documents that match the scope of your request. Therefore, Captain Bateman decided it would be contrary to the public interest to release the information considered exempt under subsection 47F of the FOI Act.

21. The FOI Act can be found at <http://www.comlaw.gov.au/Details/C2012C00231>

Payment of FOI charges

22. In our letter dated 23 August 2012, the Department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay the charges for the administration of your request and paid the preliminary deposit of [REDACTED] on 20 September 2012. Accordingly, on 25 September 2012, our office advised you that the charges associated with your request had been imposed.

23. At the completion of your request, the actual amount for processing was calculated to be [REDACTED]. Therefore, the remaining balance is the difference between the preliminary assessment of charges ([REDACTED]) and the deposit you have already paid ([REDACTED]).

24. Accordingly, you are required to pay [REDACTED] in order to finalise your request. Please complete and return the form at Enclosure 2 to the FOI Directorate, this form is an agreement to pay outstanding charges. Upon receipt of the form an invoice will be generated, noting this can take up to 3 business days. Details about payment of the invoice are on the form.

25. Once the outstanding charges have been finalised, we will provide you with a copy of the documents in the form approved for release.

FOI Disclosure Log

26. 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.

Review rights

27. 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.

Further information

28. All action on your request is now complete. If you have any questions, please contact me, either on telephone number (02) 6266 2096, or via email to FOI@defence.gov.au.

Yours sincerely



Andrea Sansom
Assistant Director
Freedom of Information

30 Oct 2012

Enclosures:

1. Schedule of documents
2. FOI Payment Authorisation Form
3. Fact sheet "Freedom of Information – Your Review Rights"