Dear [Name],

1. I refer to your letter of 3 November 2011 in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

   "1. List of Names of people and organisations who provided written submissions.

2. List of Names of people who provided oral testimony and/or briefings who were not members of the Defence Organisation as per Appendix 2 to the DHAAT final report.

3. Based upon deduction from the list of Witnesses, Written Submissions from the following people and organisations:

   a. Department of Defence (ADF), authored by Lieutenant General David Hurley AO, DSC, formerly Vice Chief of the Defence Force, former Commanding Officer 1 RAR, OP SOLACE.

   b. Department of Defence, Directorate of Honours and Awards. Author unknown.

   c. Department of Defence, Nature of Service Review Team. Author unknown.

   d. Further requests for written submission will be made when the list as per point 1 above is received by the APPVA.

4. Oral Testimony and Briefings given by the following people:


   b. General David Hurley, former Commanding Officer 1 RAR, OP SOLACE. Briefing/testimony to DHAAT on 9 Jul 2009.

Defending Australia and its National Interests

d. Brigadier Andrew Sims, Director General – Support, HQJOC. Briefing/testimony to DHAAT on 10 Jan 2010.


f. General David Hurley, former Commanding Officer 1 RAR, OP SOLACE. Briefing/testimony to DHAAT on 6 Apr 2010.

g. Tony Sillcock, Policy Adviser, Department of Defence, Directorate of Honours and Awards. Briefing/testimony to DHAAT on 6 Apr 2010.

The above mentioned oral briefings and testimonies are believed to be stored on CD.

5. Other documents Referenced by DHAAT - these are all Defence Records:

a. Notes from the Army Meritorious Unit Citation (MUC) Committee relating the awarding of the 1 RAR group a MUC. The recommendation was denied by the CDF in December 2007. The document(s) should be located with the Army MUC Committee.

b. 93/26619 - Operational Awards-Somalia

c. 2004/1064143/2 - Meritorious Unit Citation- nominations and correspondence

d. 92/34426 Part 2 - Australian Service Medal (ASM) Somalia

e. 2004/1068280/1 - Ministerial Representations- eligibility for service awards

f. 93/14609 - Ministerial Representations- Australian Active Service Medal Clasp- Somalia

g. OPS 92/35053/1 - Operation Solace-Somalia

h. PE 99/19274 Part 1 - Operation Solace-Meritorious Unit Citation

i. 93/16302 part 1 - Operational Awards- Operation Solace"
Background

2. After correspondence with the FOI Directorate, on 6 December 2011 you provided a final revised scope for your request, as seeking access to:

"3. Based upon deduction from the list of Witnesses, Written Submissions from the following people and organisation:
   a. Department of Defence (ADF), authored by Lieutenant General David Hurley AO, DSC, formerly Vice Chief of the Defence Force, former Commanding Officer 1 RAR, OP SOLACE.
   b. Department of Defence, Directorate of Honours and Awards. Author unknown."

FOI charges

3. On 12 December 2011, you advised that you wished to proceed with processing of the request. Accordingly, on 12 December 2011, the charges associated with processing your request were imposed.

4. 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

5. Mrs Helen Gouzvaris, Assistant Director, Honours and Awards, is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

6. In relation to part a of your request, Mrs Gouzvaris identified one document as matching the description of your request.

7. In relation to part b of your request, Mrs Gouzvaris has not identified documents as matching the description of your request.

Decision – Part A of your request

8. Mrs Gouzvaris has decided to release the document in full.

Decision – Part B of your request

9. Mrs Gouzvaris has decided to refuse access under section 24A [documents cannot be found or do not exist] of the FOI Act. A copy of section 24A of the FOI Act is at Enclosure 1.

Reasons

Material taken into account

10. In making her decision, Mrs Gouzvaris had regard to:
   a. the specific parameters of your request;
   b. relevant provisions in the FOI Act; and
   c. the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines).
Exemption claim - Section 24A of the FOI Act

11. Mrs Gouzvaris advised that it is general practice for the Directorate of Honours and Awards (DH&A) to coordinate and prepare Defence submissions to the Defence Honours and Awards Appeals Tribunal (Tribunal), for signing by the Vice Chief of the Defence Force (VCDF). As such, DH&A do not author any Defence submissions.

12. Mrs Gouzvaris found that in this case, DH&A prepared a submission relating to the Tribunal’s Inquiry into recognition of Australian Defence Force service in Somalia between 1992 and 1995 for the signature of then Chief of the Defence Force (CDF), Air Chief Marshal Angus Houston rather than the then VCDF, Lieutenant General David Hurley. Furthermore, the submission was signed by the then CDF due to the personal involvement of then VCDF in operations in Somalia.

13. Taking the above into account, Mrs Gouzvaris is satisfied that the requested document cannot be found or does not exist.

Documents to be released administratively

14. Mrs Gouzvaris has identified one document which she believe matches the “intent” of part b of your request.

15. As these documents do not technically match the scope of your request and as a gesture of goodwill, Mrs Gouzvaris has decided to release these documents to you administratively, outside the provisions of the FOI Act.

Payment of Charges

16. In our letter dated 12 December 2011, the department estimated the cost associated with processing your request to be [REDACTED]. However, as the estimated charge for your request was minimal we advised that you were not required to pay a deposit. As mentioned at paragraph 3, on 12 December 2011, you agree to proceed with processing of the request. The actual cost for processing of your request was [REDACTED], however as previously advised you are only required to pay the lesser of the two amounts which is [REDACTED].

17. Accordingly you are required to pay [REDACTED] in order to finalise your request. Cheques or money orders should be made payable to the Department of Defence, and forwarded to the address at the top of this letter.

Rights of review

19. 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 ten working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further advice

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

Yours sincerely

Joanne Kopec  
Case Manager  
Freedom of Information  

6 February 2012

Enclosures:
1. Section 24A of the FOI Act
2. Fact Sheet: Freedom of Information – Your Review Rights