Dear [Redacted]

1. I refer to your email, dated 7 November 2011, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

   "...I am seeking documents produced in the last 18 months showing information about all 'hot issues briefs' (including the information in the brief) produced within the ADF (army/navy/airforce) or received by the (navy headquarters/land command/air command) outlining any incidents or issues in the past three years.

   I am also interested in any correspondence from or to the minister of defence detailing, listing, or discussing any 'hot issues brief'."

2. By email dated 8 November 2011, you agreed to proceed with the following clarified scope:

   access to Hot Issues Briefs sent by the ADF (Army, Navy, Air Force) to the Minister for Defence for the period 1 July 2010 to 8 November 2011.

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. Mr Paul Mellifont, Director Ministerial and Parliamentary Liaison Services is the authorised decision maker, under the FOI Act, in relation to your request.

   Documents identified

5. Mr Mellifont identified 138 documents as matching the scope of your request. A schedule of documents, separated by service, is at Enclosure 1.

Defending Australia and its National Interests
Decision

6. Mr Mellifont decided to partially release 130 of the identified documents with material removed, in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, as the material is considered exempt under section 47F [public interest conditional exemptions – personal privacy] of the FOI Act. Mr Mellifont decided to release the remaining 8 documents intact. Copies of relevant sections of the FOI Act are at Enclosure 2.

Material taken into account

7. In making his decision, Mr Mellifont had regard to:
   - the content of the 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
   - advice from representatives from each of the services.

Section 47F of the FOI Act

8. On review of the identified documents Mr Mellifont found that 130 of them contained personal information, namely mobile telephone numbers and identifying information (including rank, names, posting location and position etc) of current and/or former Defence personnel. Mr Mellifont considered that this information accorded with subsection 47F(1) of the FOI Act as disclosure of the information would be considered unreasonable.

9. Subsection 47F(2) of the FOI Act requires that the decision maker consider the following:
   - the extent to which the information is well known;
   - whether the person to who the information relates is known to be (or have been) associated with matter dealt with in the documents;
   - the availability of the information from publicly accessible sources; and
   - any other matters that the agency or Minister considers relevant.

10. Against the above criteria, Mr Mellifont found that:
    - the specific personal information contained in the identified documents is not well known;
    - the majority of the personal information appears in the documents due to their associations with the creation of them. Further, some peoples information which appears in the documents is not publicly known to have been associated with the matters; and
    - this information is not readily available from publicly accessible sources.

11. Based on the above, Mr Mellifont was convinced that the personal information contained in the identified documents was conditionally exempt under section 47F of the FOI Act.
Sections 11A & 11B of the FOI Act

12. Subsection 11A(5) [access to documents on request] of the FOI Act provides that conditionally exempt matter must be released unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest. The guidelines state (at 6.8-6.9):

   The term 'public interest' is necessarily broad and non-specific because what constitutes the public interest depends on the particular facts of the matter and the context in which it is being considered...

   To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The decision maker must analyse, in each case, where on balance the public interest lies, based on the particular facts of the matter at the time the decision is made.

13. In assessing whether disclosure of the material is, on balance, contrary to the public interest Mr Mellifont considered the range of factors that favour access to a document as set out in subsection 11B(3) [public interest exemptions - factors] of the FOI Act. Mr Mellifont noted that disclosure may promote the objects of the FOI Act, as information held by the government is a national resource. However, the disclosure of the specific personal information contained in the identified documents would not increase public participation in Government processes.

14. Mr Mellifont acknowledges that some of the 'issues' discussed in the HIBs may be of interest to the public. However, he was not convinced that the disclosure of the personal information would inform debate on matters of public importance in any meaningful way. Mr Mellifont considered that the need to maintain the personal privacy of Defence personnel outweighs the public interest in the disclosure of the personal information.

15. Finally, Mr Mellifont noted that disclosure of the personal information does not promote effective oversight of public expenditure.

16. Accordingly, he concluded that, on balance, the disclosure of the personal information would be contrary to the public interest.

Payment of Charges

17. In our letter dated 9 November 2011, 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 estimated amount in full on 14 November 2011.

18. Upon completion of your request, the actual amount for processing exceeded the preliminary assessment of charges. However, as explained in our letter dated 9 November 2011 the amount payable can only be more than the preliminary assessment if the decision is to release all of the documents requested in full. Accordingly, you are not required to pay any further processing charges in relation to this matter.
Copies of documents

19. Copies of the documents in the form approved for release are at Enclosure 3.

Rights of review


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.

Statutory deadline

22. In an email, dated 13 December 2011, I sought your agreement to extend the FOI statutory deadline, in accordance with section 15AA of the FOI Act, to 16 December 2011. By email, dated 14 December 2011, [REDACTED] advised that you agreed to an extension and also requested that the matter be finalised on 9 January 2012.

23. As required by section 15AA of the FOI Act the Office of the Australian Information Commissioner was notified of the above mentioned extension in an email dated 19 December 2011.

Further advice

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

Yours sincerely

Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

9 January 2012

Enclosures:
1. Schedule of documents
2. Relevant sections of the FOI Act
3. Copies of documents in form approved for release