Dear [Name],

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

"...the HMAS SUCCESS monthly reporting of procedures (ROP) from the ship to fleet for period Jul 1990 - Mar 1991."

2. On 9 December 2011, our office advised you of the preliminary assessment of charges associated with processing your request. As such, you agreed to pay these charges and on 15 December 2011 we received your payment of the FOI charges in full ( ). Accordingly, on 15 December 2011, the charges associated with processing your request were imposed.

3. On 20 December 2011, you kindly agreed to an extension of 30 days to action your request in accordance with section 15AA [Extension of time with agreement] of the FOI Act. Accordingly, the deadline for you to receive a response to your request expires on 11 February 2012. As this day falls on a weekend the next working day, Monday, 13 February 2012, is the due date.

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. 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

6. Captain Bateman identified nine documents as matching the description of your request, which are listed in the attached schedule of documents at Enclosure 1.

Defending Australia and its National Interests
Decision

7. Captain Bateman has decided to:
   a. release Serials 1, 4, 6 and 9 intact;
   b. partially release Serial 2 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 to be exempt under
      section 47F [public interest conditional exemptions – personal privacy] of the FOI
      Act;
   c. partially release Serials 3, 5 and 8 with deletions made in accordance with
      section 22 of the FOI Act, on the grounds that the deleted material is considered
      to be exempt under subparagraph 33(a)(iii) [documents which would, or could
      reasonably be expected to, cause damage to the international relations of the
      Commonwealth] of the FOI Act; and
   d. partially release Serial 7 with deletions made in accordance with section 22 of the
      FOI Act, on the grounds that the deleted material is considered to be exempt
      under subparagraph 33(a)(iii) and section 47F of the FOI Act.

8. A copy of the documents in the form approved for release are at Enclosure 2.

Reasons

Material taken into account

9. In making his decision, Captain Bateman had regard to:
   a. the content of the documents in issue;
   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 – subparagraph 33(a)(iii) of the FOI Act

10. Where access has been denied under subparagraph 33(a)(iii) of the FOI Act,
    Captain Bateman considered that the material would, or could reasonably be expected to, harm
    the international relations of the Commonwealth.

11. In applying this exemption, Captain Bateman considered the likelihood of damage
    occurring as a result of release of the material he considered to be exempt under
    subparagraph 33(a)(iii) of the FOI Act. In regards to the terms ‘could reasonably be expected to’
    and ‘damage’, the Guidelines provide:

    5.13 The test requires the decision maker to assess the likelihood of the predicted or
      forecast event, effect or damage occurring after disclosure of the documents.

    5.14 The use of the word ‘could’ in this qualification is less stringent than ‘would’, and
    so requires no more than a degree of reasonableness being applied to deciding whether
    disclosure would cause the consequences. Therefore, the reasonable expectation refers to
    activities that might reasonably be expected to have occurred, be presently occurring, or
    could occur in the future.
5.25 'Damage' for the purposes of this exemption is not confined to loss or damage in monetary terms. The relevant damage may be intangible, such as inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government or agency. In determining whether damage was likely to result from disclosure of the document(s) in question, a decision maker could have regard to the relationships between individuals representing respective governments...

12. Captain Bateman found material that he considers exempt under subparagraph 33(a)(iii) of the FOI Act, could cause damage to the international relations between the Commonwealth and other foreign governments as it details foreign governments' defence capabilities and strategy. Captain Bateman is of the view that if this information was disclosed, it could inhibit future negotiations and cooperation between the Australian Government and these governments.

Mosaic Effect

13. In deciding which material was exempt under subparagraph 33(a)(iii) of the FOI Act, Captain Bateman had regard to the 'mosaic effect'. In relation to the mosaic effect, the Guidelines state that:

5.33 Normally when assessing the potential harm in releasing a document, a decision maker looks at the contents of the document in question. But when evaluating potential harmful effects of disclosing documents that affect Australia's national security, defence or international relations, decision makers may take into account the intelligence technique usually known as the 'mosaic theory'. This theory holds that individually harmless pieces of information, when combined with other pieces, can generate a composite—a mosaic—that can damage Australia's national security, defence or international relations. Therefore, decision makers may need to consider other sources of information when considering this exemption.

14. Captain Bateman found that material considered exempt under subparagraph 33(a)(iii) of the FOI Act could or would cause harm if read in conjunction with other material contained in the documents or available from public sources.

15. Accordingly, Captain Bateman is satisfied that this material falls within the exemption provision of subparagraph 33(a)(iii) of the FOI Act.

Exemption claim – Section 47F

16. Where access has been denied under section 47F of the FOI Act, Captain Bateman considered that the material would constitute and unreasonable disclosure of personal information of a member of the HMAS Success ship's company.

17. 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, 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 documents; and
c. the availability of the information from publicly accessible sources.
18. Against those criteria, Captain Bateman found that:

a. the specific personal information is not well known to the general community, and
b. this specific information is not readily available from publicly accessible sources.

19. Noting the findings against the above criteria Captain Bateman has decided that the disclosure of this information would be an unreasonable disclosure of personal information belonging to another person. Accordingly, Captain Bateman considers this material to be conditionally exempt under section 47F of the FOI Act.

20. Subsection 11A(5) [Access to documents on request] of the FOI Act requires Defence 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 – section 47F

21. In assessing whether disclosure is on balance, contrary to the public interest, Captain Bateman considered the relevant factors set out in section 11B(3) (Public interest exemptions – factors) of the FOI Act, 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 the exempt information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

22. While Captain Bateman noted that 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.

23. In coming to the above decision, Captain Bateman also considered subsection 11B(4) of the FOI Act. 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 the request. Therefore, Captain Bateman has decided that it would be contrary to the public interest to release the information considered exempt, under section 47F of the FOI Act.

24. Copies of the relevant sections of the FOI Act are at Enclosure 3.

Payment of Charges

25. In our letter dated 9 December 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 full amount of the preliminary assessment of [Redacted] on 15 December 2011.

26. The actual cost for processing of your request was [Redacted]. However, as advised at paragraph 9 of our letter, you are only required to pay the lesser of the two amounts which is [Redacted]. As you have already paid this amount, there are no outstanding charges to be paid.

Rights of review

FOI Disclosure Log

28. 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.

Further advice

29. 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

Joanne Kopec
Case Manager
Freedom of Information

13 February 2012

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