Dear [Name],

1. I refer to your email, dated 3 February 2012, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

   "...requesting information (both data sets and written documents and publications) relating to surveys conducted within the ADF - specifically the RANavyPulse survey conducted during the period Jan 2011-now, the Defence Attitude Survey for the period 1999-2012, and all Navy Organisational Self Assessment documentation."

Revised scope

2. Following discussions with the FOI Directorate with regard to the scope of your request, on 28 February 2012 you agreed to proceed with the following revised scope:

   Access to the RANavyPulse final report (Report III).

Background

2. The purpose of this letter is to provide you with the decision relating to the document that is the subject of your request.

FOI decision maker

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

Documents identified

4. Captain Bateman identified one document, titled “RANavyPulse 3 Report January 2012” as matching the description of your request.
Decision

5. Captain Bateman decided to partially release the document identified in response to your request with exempt matter removed, in accordance with section 22 [deletion of exempt matter] of the FOI Act as the deleted material is considered exempt under section 47E(c) [public interest conditional exemptions – certain operations of agencies] of the FOI Act. Captain Bateman's reasons are set out below.

6. The FOI Act can be found online at:

Material taken into account

7. In making his decision, Captain Bateman had regard to:
   
   • the content of the document in issue;
   • relevant provisions in the FOI Act;
   • the third parties response to formal consultation; and
   • the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Section 47E(c) of the FOI Act

8. Upon examination of the document Captain Bateman identified information that would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth. Specifically, Captain Bateman identified data relating to:

   a. percentage response rates;
   b. names of units;
   c. candid comments made by survey respondents; and
   d. gender balance.

9. Captain Bateman considered paragraph 6.105 of the Guidelines which states that if documents are to be exempt under section 47E(c) of the FOI Act, they must relate to the management of personnel – including the broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassments and occupational health and safety. Captain Bateman stated that he believed the identified document meets these criteria.

10. Captain Bateman noted that personnel participate in these surveys in a voluntary basis. He noted that they would have a reasonable expectation that the source and content of their information would remain confidential. Captain Bateman considered that public release of this information could result in deterring future respondents from providing honest and candid feedback.

Public interest considerations

11. 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. He 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 exempted information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.
12. 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.

13. In coming to his decision, Captain Bateman also considered subsections 11B(4) and 11B(5) of the FOI Act. Specifically, section 11B(5) which states he must have regard to the information commissioner guidelines. In particular, Captain Bateman referred to the following public interest factors against disclosure which are detailed in paragraph 6.29 of the Guidelines:

   (h) could reasonably be expected to prejudice an agency's ability to obtain confidential information.

   (i) could reasonably be expected to prejudice an agency's ability to obtain similar information in the future.

   (m) could reasonably be expected to prejudice the management function of an agency.

14. Accordingly, Captain Bateman considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the identified document. Therefore, he decided it would be contrary to the public interest to release the specific information considered exempt under subsection 47E(c) of the FOI Act.

Consultation with third party – business documents

15. Following examination of the document, Captain Bateman decided to consult in respect to business information belonging to a third party under section 27 Consultation – business documents of the FOI Act.

16. Upon consultation, the third party objected to the release of some business information contained within the documents. However, Captain Bateman considered the third party’s comments, and decided to release the documents with deletions, as set out in paragraph 5 above.

Release of documents

17. In accordance with subsection 27A(5) Decision to give access of the FOI Act, Captain Bateman is required to advise the objecting third party of his decision to release the material.

18. Although, Captain Bateman decided to release the document with deletions, he is prevented by paragraph 27A(6) of the FOI Act, from providing any material subject to review to you, until it becomes apparent that either the third party does not propose to exercise its right to seek review of his decision, or until the review process has been completed. Accordingly, the third party has until 21 June 2012 to appeal Captain Bateman’s decision.

Payment of Charges

19. In an email, dated 13 March 2012, the department provided a revised estimated cost associated with processing your request of You agreed to pay charges for the administration of your request and paid the preliminary assessment amount in full on 27 March 2012.
20. Upon completion of your request, the actual amount for processing your request exceeded the original estimate. However, as explained in our letter, dated 5 March 2012, the amount payable can only be more than the preliminary assessment if the decision was to release all of the documents in full. As such, you are not required to pay any further processing charges associated with this request.

21. Once the third party review process is completed our office will dispatch the document approved for release without further delay.

Rights of review


FOI Disclosure Log

23. 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. To clarify, publication will not occur until the third party review process is complete and the document is dispatched to you.

Further advice

24. Should you have any questions in regard to this matter please contact me directly on (07) 3332 6359.

Yours sincerely

Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information
21 May 2012

Enclosures:
1. Fact Sheet: Freedom of Information – Your Review Rights