Dear [Redacted],

1. I refer to your email of 25 February 2012 in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

   "... all minutes, memoranda, letters or other documents including electronic correspondence sent by the Secretary, Department of Defence, to the Chief Security Officer, Defence Security Authority (DSA), or any other DSA personnel, that relate to the investigation of allegations of an unauthorised, covert investigation into Defence Minister Joel Fitzgibbon and his relationship with Ms Helen Liu."

Statutory Deadline

2. On 2 April 2012, our office sought your agreement, in accordance with section 15AA of the FOI Act to extend the deadline by 18 days to 30 April 2012. By email, dated 2 April 2012 you kindly agreed to the requested extension.

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 Rod Dudfield, Director Freedom of Information is the accredited decision maker, under the FOI Act, in relation to your request.

Identified documents

5. Mr Dudfield identified 10 documents, and a list of the documents is below:


Defending Australia and its National Interests
Decision

6. Mr Dudfield has decided to release the identified documents with material deleted, in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47F [Public interest conditional exemptions - personal privacy] of the FOI Act. Further, some material has been removed in accordance with section 22(1)(a)(ii) [Information reasonably regarded as irrelevant to the request] of the FOI Act. Mr Dudfield’s reasons are set out below. The relevant sections of the FOI Act are available via the following link: http://www.comlaw.gov.au/Details/C2012C00231

Material taken into account

7. In making his decision Mr Dudfield had regard to:
   - The content of the identified 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)
   - Responses from former senior Defence officials and third parties outside the Department of Defence.

Section 22

8. Upon examination of one of the identified documents Mr Dudfield found that it contained material regarding matters which did not relate to the ‘investigation of allegations of an unauthorised covert investigation into the Defence Minister and his relationship with Ms Helen Liu’. Mr Dudfield considered that the material would disclose information that would reasonably be regarded as irrelevant to the scope of the request. As such, in accordance with section 22(1)(a)(ii) of the FOI Act, Mr Dudfield decided to remove the material.

Exemption claim

Section 47F

9. After examining the documents Mr Dudfield found that they contained personal contact information including personal addresses and mobile telephone numbers that would involve the unreasonable disclosure of other people’s personal information.
10. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, Mr Dudfield had regard to:

a. the extent to which the information is well known;
b. whether the person to whom the information relates are known to be, or to have been, associated with the matter dealt with in the documents; and
c. the availability of the information from publicly accessible sources.

11. Against the above criteria, Mr Dudfield found that:

a. while the matter referred to in the documents was reported in the media, the specific personal information Mr Dudfield considered to be exempt is not well known to the general community; and
b. this specific information is not readily available from publicly accessible sources.

12. Noting the findings of the above criteria, Mr Dudfield decided that the disclosure of this information would be an unreasonable disclosure of personal information belonging to other people. Accordingly, Mr Dudfield considered the material to be conditionally exempt under section 47F of the FOI Act.

Public Interest considerations — section 47F

13. Subsection 11A(5) [access to documents on request] of the FOI Act requires Defence to allow access to conditionally exempt documents unless, in the circumstances, access to the documents would, on balance, be contrary to the public interest.

14. In making his decision, Mr Dudfield had regard to the material contained in the identified documents that is already in the public domain. He noted that the reports detailing the outcome of the investigation into this matter can be found online at:


15. In assessing whether the disclosure is, on balance, contrary to the public interest, Mr Dudfield considered the relevant factors set out in section 11B(3) [public interest exemptions — factors] of the FOI Act, which favours access to the documents. Mr Dudfield noted that disclosure of the identified documents may promote the objects of the FOI Act, as information held by the government is a national resource. However, Mr Dudfield considered that the disclosure of personal contact information including personal addresses and mobile telephone numbers would not promote greater public participation in Government processes, promote better-informed decision making or promote effective oversight of public expenditure, it would also not inform debate on a matter of public importance, nor does it provide you with your own personal information. For these reasons, Mr Dudfield has decided to exempt personal contact information including personal addresses and mobile telephone numbers under section 47F of the FOI Act.
Payment of Charges

16. In our letter dated 5 March 2012, 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 preliminary assessment deposit of [REDACTED]. The remaining balance is the difference between actual charges [REDACTED] and the deposit you have already paid [REDACTED].

17. Accordingly you are required to pay [REDACTED] in order to finalise your request. Please complete and return the form at Enclosure 1 to the FOI Directorate, this form is an agreement to pay the remaining charges and will enable to FOI Directorate to continue processing your request without delay. Upon receipt of the form an invoice will be generated, noting this can take up to 3 business days. Details about payment of the invoices are on the form.

Rights of review


FOI Disclosure Log

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 two 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

Elliott Bator
Case Manager
Freedom of Information

30 April 2012

Enclosures:
1. Freedom of Information Payment Agreement form.
2. Fact Sheet: Freedom of Information – Your Review Rights