



**Australian Government**  
**Department of Defence**

Freedom of Information  
CP1-6-001  
PO Box 7910  
CANBERRA BC ACT 2610  
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Fax: 02 626 62112  
FOI@defence.gov.au

Our reference: FOI 143/15/16

By email: [REDACTED]

Dear [REDACTED]

**NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST**

1. I refer to your correspondence, dated 10 November 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“...the 34 Squadron catering profile for Malcolm Bligh Turnbull and his spouse Lucinda Mary Turnbull.”*

**Background**

2. On 23 November 2015, our office informed you that the decision maker had determined that there was a requirement to consult with third parties under section 27A [Consultation – documents affecting personal privacy] of the FOI Act, before finalising the decision. As such, in accordance with section 15(6) [extension of processing period to comply with requirement of section 27A] of the FOI Act, the statutory timeframe was amended to 9 January 2016.

3. I note that the above mentioned due date is a Saturday. In accordance with the FOI Guidelines issued by the Australian Information Commissioner, if the last day for notifying a decision falls on a Saturday, Sunday or a public holiday, the timeframe will expire on the first day following which is none of those days. As such, the due date for you to receive a response is 11 January 2016.

4. 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**

5. Group Captain CM Wallis, Director of Corporate and Community Relations – Air Force, was the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

## Documents identified

6. Group Captain Wallis identified one document as matching the description of your request. The document in the form approved for release is at Enclosure 1.

## Decision

7. Following examination of the document, Group Captain Wallis decided to partially release it 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 exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

8. Group Captain Wallis also found that the document contained some material which is considered out of scope as it does not relate to the individual catering profile sought by you. Group Captain Wallis decided to remove this material in accordance with section 22(1)(a)(ii) of the FOI Act.

## Reasons

### Material taken into account

9. In making her decision Group Captain Wallis had regard to:
- a. the terms of the request
  - b. the content of the document in issue
  - c. relevant provisions in the FOI Act
  - d. paragraph 6.29 the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines)
  - e. principles on open public sector information issued by the Information Commissioner
  - f. the response from a third party as a result of consultation.

### Exemption claim - Section 47F of the FOI Act

10. Upon examination of the document, Group Captain Wallis found the document contained the names, and other identifying information as well as personal information relating to food and drink preferences of persons other than you. Group Captain Wallis considered the disclosure of this information would constitute an unreasonable disclosure of personal information of persons other than you.

11. The Guidelines note that *'the personal privacy exemption is designed to prevent 'unreasonable' invasion of third parties privacy'*. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, Group Captain Wallis 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 document
- c. the availability of the information from publicly accessible sources
- d. any other matters that the agency considers relevant.

12. Against those criteria, Group Captain Wallis found that:

- a. while the information may be known to certain elements, Group Captain Wallis was satisfied that the specific personal information is not well known
- b. Group Captain Wallis noted that the persons to whom the document relates are known to be associated with the use of Special Purpose Aircraft, however, she did not believe the specific information is generally known.
- c. the specific personal information is not readily available from publicly available sources
- d. the material considered to be exempt is information that the individuals would reasonably be expected not to have disclosed to a third party without their consent.

### **Third party consultation**

13. The document that was subject to this request contained information of individuals other than you. As part of the decision making process, Group Captain Wallis directed the FOI Directorate to undertake consultation with the parties named in the document in accordance with section 27A of the FOI Act.

14. As a result of the consultation process, Group Captain Wallis considered the response received when making her decision.

### **Right of access – section 11A**

15. Subsection 11A(5) 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.*

### **Public interest considerations**

16. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Group Captain Wallis considered the range of relevant factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. While disclosure may promote some of the objects of the FOI Act, she did not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

17. While release of the information may be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of this specific information would not promote oversight of public expenditure. Group Wallis acknowledged that the use of the Special Purpose Aircraft is taxpayer funded, however, she did not consider that the likes and/or dislikes of the users of the aircraft had any effect on the costs associated with such use. She also noted that the costs associated with the use of the aircraft are tabled in parliament and the identified documents, in her opinion, do not add any valuable information to that process.

18. Group Captain Wallis noted that disclosure would not allow access to your own personal information. Further, she considered that the protection of an individual's right to privacy outweighs any public interest there may be in the release of this material.

19. Therefore, Group Captain Wallis decided that it would be contrary to the public interest to release the information considered exempt under section 47F(1) of the FOI Act.

### **FOI Disclosure Log**

20. 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 five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions. Publication will occur on 15 January

### **Your Review Rights**

#### ***Internal Review***

21. Under the provisions of section 54 of the FOI Act, you are entitled to request a review of this decision. You must request a review, in writing, within 30 days of the date of this letter, or the date you receive the documents. Requests can be sent to:

Email: [FOIRReview@defence.gov.au](mailto:FOIRReview@defence.gov.au)  
 Fax: 02 626 62112  
 Post: Freedom of Information Directorate - Reviews  
 Department of Defence  
 CP1-6-029  
 PO Box 7910  
 CANBERRA BC ACT 2610

***Australian Information Commissioner***

22. Under the provisions of section 54 of the FOI Act, you are also entitled to request an external review of this decision by the Australian Information Commissioner. You have 60 days to lodge such a request, using one of the contact methods below:

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
 Phone: 1300 363 992  
 Fax: 02 9284 9666  
 Post: GPO Box 2999  
 Canberra ACT 2601

***Complaints***

23. You may complain to Defence, the Information Commissioner or the Commonwealth Ombudsman about an action taken by Defence in the exercise of its power or the performance of its functions under the FOI Act. There is no fee for making a complaint. Should you wish to complain to the Department of Defence, your complaint can be addressed to Mr Tony Corcoran using the contact details below:

Email: [tony.corcoran@defence.gov.au](mailto:tony.corcoran@defence.gov.au)  
 Post: Tony Corcoran  
 Assistant Secretary Information Management and Access Branch  
 CP1-6-14  
 PO Box 7911  
 CANBERRA BC ACT 2610

24. Contact details for the Commonwealth Ombudsman are below:

Phone: 1300 362 072)  
 Fax: 02 6276 0123  
 Post: Commonwealth Ombudsman  
 GPO Box 442  
 CANBERRA ACT 2601

25. Contact details for the Information Commissioner are above.

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

Yours sincerely



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

8 January 2015

Enclosure:

1. Document in the form for release