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## AUSTRALIAN DEFENCE FORCE

Afghanistan Inquiry Response Task Force

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**Hon Martin Hamilton-Smith**

Chairman

The Australian Special Air Service Association

Dear Hon Hamilton-Smith

I write to follow up my response of 8 March 2023 to your correspondence dated 8 February 2023 to the Chief of the Defence Force. I seek to provide an update on developments in the response to allegations of war crimes in Afghanistan contained in the Inspector-General of the Australian Defence Force (IGADF) Afghanistan Inquiry report (the Afghanistan report).

As you will be aware, on 20 March 2023, the joint investigation between the Australian Federal Police (AFP) and the Office of the Special Investigator (OSI) resulted in the first charge against a former member of the Australian Defence Force (ADF). The former member has been charged with one count of War Crime – Murder, under subsection 268.70(1) *Criminal Code Act 1995* (Cth). I reiterate that criminal investigations and any potential prosecutions are being conducted independently of Defence by the OSI, the AFP and the Commonwealth Director of Public Prosecutions.

During the bail hearing at the Downing Centre Local Court on Monday 27 March 2023, the individual applied for his name to be suppressed through non-publications orders. The next day the court granted bail and a non-publication order was made but only over his address and locality. The order did not extend to suppressing his name or that of his wife. I am aware this decision may have caused concerns for current and former members of the Special Air Services Regiment.

Defence Protected Identity status, also known as PID status, is a Defence policy afforded to some current serving ADF members to protect current sensitive Defence capabilities and effects, our operations, the partners we operate with, as well as to safeguard the security of individuals and their families.

Defence Protected Identity status applies to current serving members of Special Operations Command and Special Forces qualified members who are likely to return to a position within Special Operations Command. Personnel within Special Operations Command who hold public facing positions are not afforded Defence Protected Identity status. Similarly, former ADF members are not covered by Defence Protected Identity status policy.

Irrespective of a person's identity status, protected or not, it is Defence policy and practice to only release official content, or make public comment, that will not compromise an individual's privacy in accordance with the *Privacy Act 1988*.

I have enclosed a copy of a statement regarding Defence Protected Identity status and its application which was recently published on Defence's website.

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I want to again highlight that support services are available to participants and other individuals and their families who were involved in or affected by the Afghanistan Inquiry and the current developments, whether they are current or former serving ADF members or their families. I would, therefore, commend to your members the full list of welfare support services available and ready to assist available on the Defence Afghanistan Inquiry website at: <https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry/welfare-support>.

In the spirit of transparency, it would be extremely helpful if you could publish your letter to the CDF of 8 February 2023, my response of 8 March 2023 and this letter on the Association's website or pass all the correspondence to your members. I am happy to discuss this further. Additionally, I intend to publish the Defence correspondence on the Defence Afghanistan Inquiry website, which is 'public facing'. If you object or have any concerns with publication on that website, please raise with me in writing by close of business 5 May 2023. Your members, and the Australian public, have a legitimate interest in both the concerns raised by you and Defence's response.

Yours sincerely



**Brett Wolski, AM, RAN**  
Rear Admiral  
Head Afghanistan Inquiry Response Task Force

13 April 2023

**Enclosure:** Statement regarding Protected Identity Status, April 2023.

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## **ON THE RECORD CORRECTION**

### **DEFENCE PROTECTED IDENTITY STATUS AND ITS APPLICATION**

Factually incorrect information about Defence Protected Identity status and its application, in relation to the Afghanistan Inquiry, has recently circulated on social media.

Following the charge, and subsequent naming, of a former ADF member it has been claimed that it is Defence policy that individuals afforded Defence Protected Identity status will have their identity made public if they appear in court accused of a crime. This is incorrect.

Defence Protected Identity status, also known as PID status, is a Defence policy afforded to some current serving Australian Defence Force (ADF) members. This is to protect current sensitive Defence capabilities and effects, our operations, the partners we operate with, as well as to safeguard the security of individuals and their families.

In practice, Defence Protected Identity status applies to current serving members of Special Operations Command and Special Forces qualified members who are likely to return to a position within Special Operations Command. Once these personnel fall outside these categories, they no longer hold Defence Protected Identity status.

Personnel within Special Operations Command who hold public facing positions are not afforded Defence Protected Identity status. Similarly, former ADF members are not covered by Defence Protected Identity status policy.

Importantly, Defence will take steps to protect from public disclosure the identity of its members who do have Protected Identity status.

It is not Defence's position, nor has it ever been, to publish details of individuals with an active Protected Identity status. In the context of civil and criminal court cases this includes the Commonwealth, on behalf of Defence, applying for suppression orders to prohibit the disclosure of information in certain circumstances. However, decisions regarding disclosure will be a matter for the courts.

If Defence Protected Identity status is not applicable, but another national security requirement to protect an individual's information is identified, Defence will make an application to the court to protect such information. The final decision on such an application is a matter for the courts.

Irrespective of a person's identity status, protected or not, it is Defence policy and practice to only release official content, or make public comment, that will not compromise an individual's privacy in accordance with the *Privacy Act 1988*.

Defence continues to provide welfare support and legal assistance to ADF personnel who participated in the Afghanistan Inquiry and/or are now participating in criminal investigations or proceedings relating to matters arising from the Afghanistan Inquiry. [Welfare](#) and other support services, along with [information on legal assistance](#), is available.