



14 October 2019

Mr Stuart McCarthy

By email to: foi+request-5627-0c3a7851@righttoknow.org.au

Dear Mr McCarthy

Request under the *Freedom of Information Act 1982* for access to documents

1. I refer to your request under the Freedom of Information Act 1982 (FOI Act), in which you sought access to documents in relation to a wreathlaying ceremony conducted on 12 September 2019 for the Australian Federation of Totally and Permanently Incapacitated (TPI) Ex Servicemen and Women, including:

1. *List of invitees.*
2. *List of attendees.*
3. *Programs or order of service.*
4. *Transcripts or recordings of speeches.*
5. *Photographs and videos of the event.*
6. *Financial records of costs for catering and additional staffing.*

Authority to make this decision

2. I am the authorised decision-maker for the purposes of s23 of the FOI Act and this letter gives notice of my decision.

Material taken into account

3. In accordance with Section 26(1)(a) of the FOI Act, the findings on any material question of fact, referring to the material on which those findings were based and the reasons for my decision follows.

4. I have taken the following material into account in making my decision:

- the terms of your request
- the document relevant to the request
- sections 24A and 47F of the FOI Act
- the Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)

Decision

Section 24A of the FOI Act

5. Section 24A of the FOI Act states:

(1) An agency or Minister may refuse a request for access to a document if:

- a) all reasonable steps have been taken to find the document; and*
- b) the agency or Minister is satisfied that the document:*

Here is their spirit in the heart of the land they loved; and here we guard the record which they themselves made. C.E.W. Bean

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- (i) *is in the agency's or Minister's possession but cannot be found; or*
- (ii) *does not exist.*

6. In processing your request, I have made enquiries with the relevant officers of the Australian War Memorial. These enquiries have revealed that the some documents falling within the scope of your request are not in the Memorial's possession or do not exist, as described below:

1 List of invitees and 2 List of attendees

Invitations for the wreathlaying ceremony conducted at the Memorial on 12 September were issued directly by the Australian Federation of Totally and Permanently Incapacitated (TPI) Ex Servicemen and Women. However, the Memorial maintained an attendee list for VIPs and other guests with a formal role in the ceremony.

3 Programs or order of service

Document available.

4 Transcripts or recordings of speeches

Documents do not exist; there was no transcription or recording of the event.

5 Photographs and videos of the event

Documents do not exist; there was no film footage of the event. Event photographs, in addition to those images published on the Memorial's social media sites, are available.

6 Financial Records of costs for catering and additional staffing

Documents do not exist; there was no catering component of the ceremony nor additional staffing costs.

Taking all factors into account, it is my decision that some documents within your request are refused in accordance with s24A(1)(b)(ii) of the FoI Act.

Section 47F of the FOI Act

Section 47F of the FOI Act provides a conditional exemption where disclosure would involve the unreasonable disclosure of personal information of an individual. In determining whether disclosure of this information is unreasonable, I have had regard to the Guidelines issued by the Office of the Australian Information Commissioner (the OAIC Guidelines) which state that the following must be taken into consideration when determining if disclosure of the information would be considered unreasonable. These factors are:

- (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 or minister considers relevant

Under some circumstances it is possible and practicable to redact certain information with a document, enabling release of the document without compromising personal information.

Having regard to the definition of 'personal information' contained within the *Privacy Act 1988* from which the FOI Act draws its meaning, and to the specifics of your application, and having examined the documents contained within the scope of your request, I have determined that such redactions are possible in this case.

Taking all factors into account, it is my decision that some documents within the scope of your request are partially exempt under s47F.

Reasons for decision

I am satisfied that all reasonable steps have been taken to locate documents relevant to your request and I am satisfied that some of those documents do not exist.

I have therefore decided to partially refuse your request in accordance with s24A(1)(b)(ii) of the FOI Act.

Charges

7. Section 29 of the FOI Act allows for the imposition of charges for providing access to a document. These charges may be applied or waived at the discretion of the agency.
 - On this occasion, I have exercised my delegation to waive all charges associated with this request.
8. The decision to exercise this delegation on this occasion in no way forms a precedent for any future requests for access to documents. Any future requests for access to documents under the FOI Act will be assessed independently, on its merits, and in accordance with the FOI Act and any request for or contemplation of waiver of fees will be taken without reference to this application.

Review Rights

9. Under the FOI Act you may seek a review of my decision through:
 - a) an internal review that is conducted by the Australian War Memorial – see Part VI of the FOI Act; or
 - b) a review by the Information Commissioner - see Part VII of the FOI Act.
10. I also direct your attention to the online information published by the Office of the Australian Information Commissioner (OAIC): <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Internal Review

11. If you wish to seek an internal review, you must apply to the Australian War Memorial within 30 days after the day you are notified of this decision.
12. An application for internal review of the decision made must be made in writing. No particular form is required but it is helpful if you set out in the application the grounds on which you consider that the decision should be reviewed. Your application for internal review should be sent to:
foi@awm.gov.au
Attn: Ms Leanne Patterson
Assistant Director, Branch Head Corporate Services

Review by the Information Commissioner

13. Alternatively, you may seek a review of my decision by the Information Commissioner.
14. The option to seek an internal review (see above) does not prevent you from seeking a review by the Information Commissioner at a later stage - this is because the Information Commissioner can also review an internal review.
15. If you wish to seek a review of my decision by the Information Commissioner you must apply within 60 days after the day on which notice of this decision was given to you or after the day on which notice of the internal review decision was given.
16. Your application must be in writing and must provide details of how notices may be sent to you and include a copy of this decision letter. The Information Commissioner also suggests that your application sets out why you are objecting to the decision. Your application can be lodged in one of the following ways:
Online: www.oaic.gov.au
Post: GPO 5218, Sydney NSW 2001
Email: enquiries@oaic.gov.au

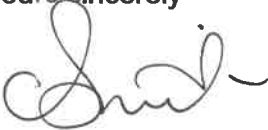
Complaints

17. You may also make a complaint to the Information Commissioner if you have concerns about how the Australian War Memorial has handled this part (or any part) or your request under the FOI Act.

Further assistance

I can be contacted on 02 6243 4211 or by email at foi@awm.gov.au for any assistance with your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Catriona', with a small flourish at the end.

Catriona Smith
Executive Officer
Authorised decision maker under subsection 23(1) of the FOI Act