



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

*Objective Reference: AHQ/OUT/2021/BQ30216722*

**DEFENCE FOI 174/21/22 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT**

1. I refer to the application by Mary-Ann Martinek under the *Freedom of Information Act 1982* (FOI Act) for access to:

*“(A) my ADF civilian accreditation for whole of career and ADF sponsored undergraduate courses completed by me between 1981 to 2001.*

*(B) your ADF responses to me in relation to my civil accreditation requests (made in 2000, 2019 and 2021) for recognition of my ADF training and experiences.”*

**FOI decision maker**

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

**Documents identified**

3. I identified one document, totalling two pages, as matching the scope for Item A of this request.

**Exclusions**

4. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents and documents to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

**Decision**

5. I have decided to:

- a. release one document in full for item A of the request
- b. refuse access to documents for Item B of the request under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act
- c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

**Material taken into account**

6. In making my decision, I had regard to:

- a. the terms of the request

- b. the content of the identified document in issue
- c. relevant provisions in the FOI Act
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines)
- e. advice provided by Army Personnel Operations, Army Parliamentary Business and Defence Archives.

### **Reasons for decision**

#### **Section 22 – Edited copies with exempt or irrelevant matter deleted**

7. Section 22 of the FOI Act provides that if an agency or Minister decides:

*(i) to refuse access to an exempt document; or*

*(ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access*

and it is reasonably practicable to prepare a copy of the document modified by deletions, the agency or Minister must give the applicant access to the edited copy.

8. The document provided contains information (signatures of other members) that do not relate to the scope of the request. I consider this information as outside the scope of this request.

9. Considering all of the above, I decided that it was reasonably practicable to remove the material that did not fall within scope of this request and release the documents in that form.

#### **Section 24A(1) - Requests May Be Refused**

10. Section 24A(1) of the FOI Act states:

*Requests may be refused if documents cannot be found, do not exist or have not been received*

*Document lost or non-existent*

*(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:*

*(i) is in the agency's or Minister's possession but cannot be found;*  
*or*

*(ii) does not exist.*

11. The Guidelines, at paragraphs 3.85 to 3.94 provide guidance on the steps that should be taken by Agencies to find a document and the considerations for refusing a request if documents cannot be found or do not exist.

12. To ensure that 'all reasonable steps' have been taken in this request, every reasonable avenue of locating the documents has been exhausted. The details of these searches are outlined below.

13. The Defence Records Management system *Objective* was searched for files containing the word 'Martinek' for the years 2000, 2019 and 2020. The applicant's Career Management file and Unit Personnel Records were obtained from Defence Archives and reviewed. Army personnel reviewed the applicant's service record and career management file. Army personnel also reviewed Ministerials in relation to the applicant. Only one document was found matching the scope of the applicant's request.

14. I am satisfied that 'all reasonable steps' have been taken to locate the documents sought by the applicant. I am satisfied that any additional documents cannot be found or do not exist, and refuse access to this request under section 24A(1) of the FOI Act.

**JJ Gillman**  
COL  
Accredited Decision Maker  
Army