



## DEFENCE FOI 573/21/22 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act) for access to:

*“Please provide the following details relating to CN3647316 Joint Adversarial Training and Testing Services (JATTS) contract awarded to Raytheon Australia.*

*1. Total number of hours flown for the periods: 1 January 2020 - 31 December 2020, 1 January 2021 - 31 December 2021, and 1 January 2022 - 30 June 2022.*

*2. For the same periods, how many hours were flown by Raytheon Australia Learjet 35 aircraft and how many hours were flown by Air Affairs Australia Learjet 35 aircraft. Please break this out by service (RAN, RAAF, Army) and if possible, who the end user was, eg. 77 Sqn at RAAF Base Williamtown, Ex PITCH BLACK etc.”*

### 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. One document was generated under section 17 of the FOI Act matching the description of this request. In accordance with section 17 of the FOI Act:

- a. A written document was produced containing the information by using a ‘computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information’ (section 17(1)(c)(i)); and
- b. Producing the written document did not ‘substantially and unreasonably divert the resources of the agency from its other operations’ (section 17(2)).

4. I have added the FOI reference number to the document.

### Decision

5. I have decided to:

- a. partially release one document in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the redacted material is considered exempt under section 33(a)(ii) [documents affecting defence of the Commonwealth] 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); and
- e. input provided by the Capability Acquisition and Sustainment Group (CASG).

## Reasons for decision

### Section 33 – Documents affecting national security, defence or international relations

7. Section 33(a)(ii) of the FOI Act exempts a document from release if its disclosure would, or could reasonably be expected to, cause damage to the security, defence or international relationships of the Commonwealth.

8. Paragraph 5.34 of the Guidelines state:

*Defence of the Commonwealth*

*The FOI Act does not define ‘defence of the Commonwealth’. Previous Administrative Appeals Tribunal (AAT) decisions indicate the term includes:...*

- *Protecting the Defence Force from hindrance or activities which would prejudice its effectiveness*

9. Having regard to the Guidelines relating to what could reasonably be expected to cause damage to the defence of the Commonwealth, I consider that the hours flown broken down by Learjet operator, Service and end user falls within this category. Specifically, providing intelligence on Australia’s preparedness and training battle rhythm will infer a level of capability either in isolation or when aggregated with other information.

10. In making this decision, I have taken into account the intelligence technique known as ‘mosaic theory’. Paragraph 5.39 of the Guidelines states:

*“This theory holds that individually harmless pieces of information, when combined with other pieces, can generate a composite – a mosaic - that can damage Australia’s national security, defence or international relations.”*

11. I have also considered the nature of the information within the document, including CASG advice on potentially compromising information related to Defence capabilities and preparedness, and I have decided that the release of the number of hours broken down by Learjet operator, Service and end user could reasonably be expected to cause damage to the Commonwealth.

12. In evaluating the potential harmful effects that the release of the information may have, I considered the current strategic security environment within which the Australian Defence Force operates. By releasing this information, an adversary may be able to assemble a more detailed and nuanced picture of the Australian Defence Force’s operational and capability posture, thereby reducing its capacity and capability to secure and defend the Commonwealth. It is for those reasons I have decided that the material identified within part 2 of the scope of this request is exempt under section 33(a)(ii) of the FOI Act.

**Further Information**

13. The document created under section 17 of the FOI Act, has been redacted to provide the total number of hours flown by Joint Adversarial Training and Testing Services (JATT) Contract CON10103 for the periods 01 January 2020 to 31 December 2020, 01 January 2021 to 31 December 2021, and 01 January 2022 to 30 June 2022.

14. I have declassified the document and redacted the material exempt under sections 33(a)(ii) [documents affecting national security] of the FOI Act.

**Clarification Statement**

15. An incorrect contract number was referenced in the application. The correct contract number for JATTS is CON10103/3.

**Elyssa**  
**COMER**



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Accredited Decision Maker  
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