



## **DEFENCE FOI 018/22/23 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:

*“Details of the cargo transported on board UR-82072 from RAAF Base Amberley bound for Rzeszow Poland which departed on 05/05/2022 08:42AM AEST.*

*<https://australianaviation.com.au/2022/05/antonov-124-carries-bushmasters-to-ukraine/>”*

### **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 as matching the description of the 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 sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

### **Decision**

5. I have decided to 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 deleted material is considered exempt under section 33 [Documents affecting national security, defence or international relations] 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. advice received from Headquarters Joint Operations Command.

## Reasons for decision

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

7. Section 33 of the FOI Act states:

*A document is an exempt document if disclosure of the document under this Act:*

*(a) would, or could reasonably be expected to, cause damage to:*

- i. the security of the Commonwealth;*
- ii. the defence of the Commonwealth; or*
- iii. the international relations of the Commonwealth...*

8. In regards to the terms ‘would or could reasonably be expected to’ and ‘damage’, the Guidelines state:

*5.16 The test requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of a document.*

*5.17 The use of the word ‘could’ in this qualification is less stringent than ‘would’, and requires analysis of the reasonable expectation rather than certainty of an event, effect or damage occurring. It may be a reasonable expectation that an effect has occurred, is presently occurring, or could occur in the future.*

*5.28 ‘Damage’ for the purposes of this exemption is not confined to loss or damage in monetary terms. The relevant damage may be intangible, such as inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government or agency. In determining whether damage is likely to result from disclosure of the document(s) in question, a decision maker could have regard to the relationships between individuals representing respective governments. A dispute between individuals may have sufficient ramifications to affect relations between governments. It is not a necessary consequence in all cases but a matter of degree to be determined on the facts of each particular case.*

9. Upon examination of the document, I identified information including operationally sensitive information for ongoing Australian Defence Force (ADF) operations, the release of which could compromise the safety and security of personnel within the ADF and allied forces. This information is consistent with the advice received from Headquarters Joint Operations Command.

10. Based on the above considerations, I found the material to be exempt under section 33(a)(i) and section 33(a)(ii) of the FOI Act.

### Further Information

11. The document matching the scope of this request was classified. I have declassified the version of the document that is approved for release.

**John.Metzl**  
 Digitally signed by  
 John.Metzl  
 Date: 2022.08.02 09:07:09  
 +10'00'

John MetzI  
 Accredited Decision Maker  
 Joint Capabilities Group