



**DEFENCE FOI 206/24/25**

**STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982**

1. I refer to the request by Bick Rurr, Right To Know (the applicant) to the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*"I would like to request a summary listing for the military rank at the time of award for those that have now had medals rescinded by Defence Minister Richard Marles.*

*Could I also please get the number that are still serving as SERCAT 7.*

*For example...*

*Major x 2*

*Captain x 5*

*Still in service = 3 out of 11."*

**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 have identified no documents falling within the scope of the request.

**Decision**

4. I have decided to refuse the request under section 24A [requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

**Material taken into account**

5. In making my decision, I have had regard to:
  - a. the terms of the request;
  - b. relevant provisions of the FOI Act; and
  - c. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

**REASONS FOR DECISION**

**Section 24A – Requests may be refused if documents cannot be found, do not exist or have not been received**

6. Section 24A(1) 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:*
      - (i) *is in the agency's or Minister's possession but cannot be found; or*

(ii) does not exist.

7. Paragraph 3.94 of the Guidelines advises the detail that this statement of reasons should include to refuse a request under section 24A(1):

*...the statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...*

8. Personnel from the Afghanistan Inquiry Response Task Force, Special Operations Command, Army Headquarters and Defence Honours and Awards were tasked to conduct searches. Searches were conducted in the following systems: the Defence Records Management System 'Objective' (which includes all filed email correspondence), the Parliamentary Document Management System 'PDMS', and electronic mail 'Outlook' folders for documents related to the scope of the request.
9. The key words used in the document search included "Rank", "revoked", "Marles", "PMKEYS", "medal", "medals", "award", "decoration", and "summary of rank". No documents were identified that matched the scope of the request.
10. In relation to providing the military ranks, advice from Defence Honours and Awards is that Defence generally holds documents that indicate the rank of ADF personnel awarded medals at the time of conferral of the award. However, as the applicant has not provided the names of the personnel for whom they are seeking the rank, and document searches have not located any documents that list the names, a search for this category of documents is unable to be completed.
11. I am satisfied that all reasonable steps have been taken to locate the documents sought by the applicant. There is no evidence that the Department was provided a copy of these documents by the Minister's office. I am satisfied that the documents do not exist, and refuse the request under section 24A(1) of the FOI Act.

**catherine.wallis**

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**Catherine Wallis, CSM**  
Air Commodore  
Accredited Decision Maker  
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