

Applicant: CR

By email: foi+request-10612-c1e3688c@righttoknow.org.au

Internal Review of FOI Request: Freedom of Information Request No. LEX5527

I refer to your email of 24 November 2023 in which you requested internal review of the decision notified to you on 25 September 2023 and 24 October 2023 about your FOI Request LEX4640.

I am an authorised decision-maker under section 23 of the *Freedom of Information Act 1982* (FOI Act).

This letter is to notify you of my decision and the outcome of my internal review.

Your FOI Request

1. On 25 August 2023 you wrote to the Australian Electoral Commission (**AEC**) seeking access under the *Freedom of Information Act 1982* (the FOI Act) to:
 1. *All documents pertaining to the design of the 2023 referendum ballot paper. This includes, but is not limited to, internal and external communications, drafts, memos, guidelines, and any other pertinent materials. I am particularly interested in any communication between the AEC and external bodies concerning the design, layout, or content of the ballot paper.*
 2. *All documents, reports, evaluations, or assessments carried out by the AEC or external parties concerning the "YES/NO" voting method for the 2023 referendum ballot paper. This specifically includes materials exploring the use of "YES/NO" as opposed to traditional methods such as marking, ticking, or crossing boxes.*
 3. *All documents pertaining to the application of savings provisions concerning 'ticks' and 'crosses' on the ballot papers. This extends to legal advice, guidance, memos, and any other relevant material.*
2. On 31 August 2023, you consented to an extension for your request until 25 October 2023.
3. On 25 September 2023, Andrew Johnson, Chief Legal Officer, provided you with a decision letter in response to Item 3 of your FOI request.
4. On 24 October 2023 Andrew Johnson, Chief Legal Officer, provided you with a decision letter in response to Items 1 and 2 of your FOI request.

Documents considered under FOI Request LEX4807

2. 101 documents were identified to be within the scope of your initial FOI request. As the FOI request was dealt with in two Parts, I have continued to deal with it in two Parts to ensure consistency of numbering of documents.
3. References in my decision to:
 - **Part 1** of the FOI Request refer to the decision made on 25 September 2023 with respect to Item 3 of your request.
 - **Part 2** of the FOI Request refer to the decision made on 24 October 2023 with respect to Items 1 and 2 of your request.

The scope of your internal review request

4. Your internal review request outlined a number of contentions regarding the application of exemptions to the 101 documents identified. I have considered those contentions, the retrieval process and each of the documents retrieved.
5. Following additional searches an additional document was retrieved. This is provided as **Document 82** to Part 1.

Decision

6. I have decided to provide:

Part 1 (Attachment A.1)

- Grant access in full: Document Nos. 2, 6a, 7a, 39, 56a, 57, 61, 81
- Grant access in part: Document Nos. 1, 3-18a, 20-38, 40-44, 47-56, 58, 59, 60, 62-63a, 67a, 67b, 67c, 70f, 71, 72, 73, 76, 80, 82
- Refuse in full: Documents Nos. 19, 45, 45a, 45b, 46, 64-67, 68-70g, 74, 75, 77-79A.

Part 2 (Attachment A.2)

- Grant access in full: Document Nos. 17, 19a, 19b
- Grant access in part: Document Nos. 1, 1a, 3, 5, 6, 7, 18, 19, 20
- Refuse in full: Documents Nos. 1b, 1c, 2, 3a, 4, 4a, 4b, 5a, 6a, 6b, 6c, 6d, 7a, 7b, 8-16

7. The reasons for this decision are outlined in **Attachment B – Reasons**.
8. I have identified where I have differed from the initial decision-maker in the schedules to be found at **Attachments A.1 and A.2**.

Review and other rights

9. I explain in **Attachment C** to this letter your right to seek a review of my decision by the Information Commissioner and your right to complain about the way the AEC has processed your FOI Request.

Yours sincerely



Joanne Reid

Assistant Commissioner

Disclosure, Party Registration and Distribution

19 December 2023