



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Ref: LEX-76740

Cathy Minnucci

Via email: foi+request-11281-6413e1dd@righttoknow.org.au

Dear Cathy Minnucci

Decision on your Freedom of Information request

I refer to your request, dated and received by the Department of Climate Change, Energy, the Environment and Water (**department**) on 27 March 2024, for access under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) to the following documents:

‘Could I please obtain a copy of the Airservices Australia (ASA) referral and Environmental Impact Assessment (as laid out in the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) undertaken in the Primrose Sands TAS area in particular Carlton Bluff.

As no flights existed over Primrose Sands pre flight changes of 2017, this would have been a mandatory requirement as it triggered ASA's own referral thresholds for locations newly overflowed.’

My decision

I have decided to refuse your request for access to documents under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the documents you have requested and I am satisfied that they cannot be located or do not exist.

Please see **Attachment A** for the reasons for my decision.

You can ask for a review of my decision

If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to foi@dcceew.gov.au.

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the department handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website www.oaic.gov.au or phone the OAIC on 1300 363 992.

T +61 2 6274 1111
F +61 2 9094 2221

John Gorton Building
King Edward Terrace
Parkes ACT 2600

GPO Box 3090
Canberra ACT 2601

dcceew.gov.au
ABN 63 573 932 849

Further assistance

If you have any questions, please email foi@dcceew.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rachel Short', with a stylized flourish at the end.

Rachel Short
Branch Head
Environment Assessments (Vic & Tas) and Post Approvals
Nature Positive Regulation Division

16 April 2024

REASONS FOR DECISION

What you requested

On 27 March 2024, the Department of Climate Change, Energy, the Environment and Water (**department**) received your request for access under the *Freedom of Information Act 1982* (**FOI Act**) to the following documents:

‘Could I please obtain a copy of the Airservices Australia (ASA) referral and Environmental Impact Assessment (as laid out in the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) undertaken in the Primrose Sands TAS area in particular Carlton Bluff.

As no flights existed over Primrose Sands pre flight changes of 2017, this would have been a mandatory requirement as it triggered ASA's own referral thresholds for locations newly overflown.’

What I took into account

In reaching my decision, I took into account:

- your original request dated 27 March 2024;
- information about:
 - the nature of the documents; and
 - the department’s operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**); and
- the FOI Act.

Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (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.

The Environment Assessments VIC & TAS & Post Approvals (**Branch**) has conducted searches of the department’s case management systems, records management systems, electronic documents, hard copy files and relevant portals. This search did not identify any copies of the

'Airservices Australia (ASA) referral and Environmental Impact Assessment undertaken in the Primrose Sands TAS area in particular Carlton Bluff' to which you refer in your request.

As such, the department is not in possession of any documents within the scope of your request.

The primary reason as to why the department is not in possession of any documents within the scope of your request is because the project was never referred to the department.

On the basis of these reasonable searches, I am satisfied, in accordance with section 24A of the FOI Act, that all reasonable steps have been taken to find the documents and the documents cannot be located or do not exist.