



Australian Government

**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

Our reference: FOI 24-377

Terence McMahon

By email: foi+request-11297-de86aa5d@righttoknow.org.au

Dear Mr McMahon

Decision on your Freedom of Information Request

I refer to your request of 5 April 2024, to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department), seeking access to documents under the *Freedom of Information Act 1982* (FOI Act).

1 Your request

Your request was for documents containing the following information:

- a) The number of reported engine failures by way of cracked pistons (unsafe product reports) you have received for Toyota Prado 120 and 150 models.
- b) The number of reports of fires caused by LG solar storage batteries.

1.1 Clarification of scope of request

On 11 April 2024, the Department emailed you to seek clarification of part b) of your request and advise that we intended to interpret part a) of your request as follows:

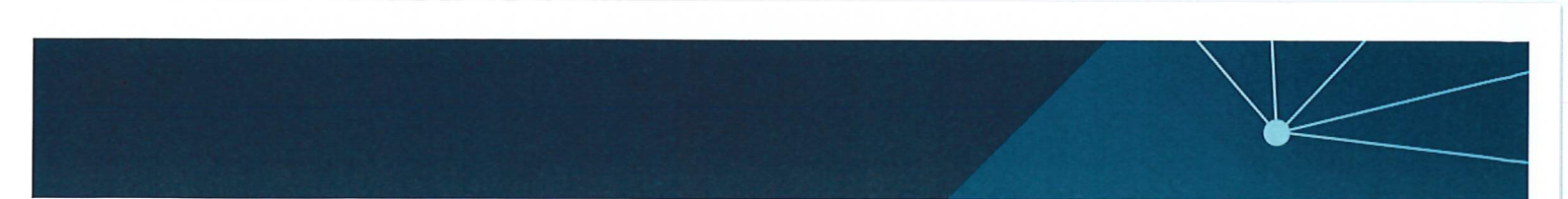
As part of its work administering the Road Vehicle Standards legislation, the Department maintains databases of reports submitted relating to vehicle safety and non-compliance since 2016. We have interpreted part a) of your request to be solely for the number of reports registered in these databases.

On 23 April 2024, you responded to advise:

For clarification I seek information about LG batteries used for solar storage that encompass your recall release number 128/23 located at this web address:

<https://www.accc.gov.au/media-release/proposed-compulsory-recall-of-dangerous-lg-solar-storage-batteries>

As you did not raise any concerns with our interpretation of part a) of your request, we have limited searches for part a) of your request to reports contained within the Department's vehicle safety and non-compliance databases.



2 Authority to make decision

I am authorised by the Secretary to make decisions in relation to Freedom of Information requests under section 23(1) of the FOI Act.

3 Decision

3.1 Part a) of your request

You have requested access to data that is held in computer systems ordinarily available to the Department. Pursuant to section 17 of the FOI Act, the Department has used its computer systems to produce a written discrete document that contains the information you are seeking to access.

I have decided to grant access in full to 1 document in response to part a) of your request

3.2 Part b) of your request

The right of access under the FOI Act is limited to a document in the possession of the Department.

A 'document of an agency' is limited to a document in the possession of the Department, whether created in the Department or received in the Department (section 4 of the FOI Act refers).

Section 24A of the FOI Act provides that the Department 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 business area responsible for the subject matter of your request has conducted searches of the Department's information holdings, including vehicle safety databases. No documents matching the description in part (b) of your request were identified as being in the possession of the Department.

Advice from Departmental officers with responsibility for the subject matter of your request also indicates that the Department does not track safety incidents associated with batteries that are not reported as part of a vehicle safety incidents. In particular, noting that you are seeking documents relating to a recall issued by the ACCC, you may wish to direct any requests for this information to the ACCC.


I am satisfied that all reasonable steps have been taken to find documents which would be relevant to your request and that documents cannot be located or do not exist.

I have therefore decided to refuse part (b) of your request in accordance with section 24A of the FOI Act, on the basis that the Department does not hold a document in its possession that meets the terms of that part of your request.

4 Material taken into consideration

In making my decision, I had regard to the following:

- the terms of your request
- the data captured by your request
- the provisions of the FOI Act

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- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
 - advice from departmental officers with responsibility for the subject matter captured by your request.

5 Legislative provisions

The FOI Act, including the provisions referred to in my decision, are available on the Federal Register of Legislation website: www.legislation.gov.au/Series/C2004A02562.

6 Your review rights

If you are dissatisfied with my decision, you may apply for a review of it.

6.1 Internal review

You can request an internal review within 30 days of receiving this decision. An internal review will be conducted by a different departmental officer from the original decision-maker.

No particular form is required to apply for review although it will assist the Department if you are able to set out the grounds on which you believe that the original decision should be changed.

Applications for internal review can be sent to FOI@infrastructure.gov.au.

If you choose to seek an internal review, you will also have a right to apply for Information Commissioner review (IC review) of the internal review decision once it has been provided to you if you remain dissatisfied with the decision.

6.2 Information Commissioner review or complaint

An application for IC review must be made in writing to the Office of the Australian Information Commissioner (OAIC) within 60 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

More information about the Information Commissioner reviews and complaints is available on the OAIC website here: www.oaic.gov.au/freedom-of-information/foi-review-process.

7 Publication of material released under the FOI Act

Where I have decided to release documents to you, we may also publish the released material on our Disclosure Log. We will not publish personal or business affairs information where it would be unreasonable to do so.

For your reference our Disclosure Log can be found here: www.infrastructure.gov.au/about-us/freedom-information/freedom-information-disclosure-log.

Further information

If you require further information regarding this decision, please contact the Department's FOI Section at FOI@infrastructure.gov.au.

Yours sincerely



Amanda Milczarek
A/g Assistant Secretary
Vehicle Safety Operations Branch
Road and Vehicle Safety Division

Date: 15 May 2024