



LS5827 – File 16/932.

Cail Young

Email to: <mailto:foi+request-2712-e7494214@righttoknow.org.au>

Dear Cail Young

**Your Freedom of information request no. LS5827**

I refer to your email of **16 November 2016, 10:27am**, to the Australian Electoral Commission ('AEC') in which you request (your 'FOI Request') access under the *Freedom of Information Act 1982* (the 'FOI Act'), to documented procedures for enrolling itinerant electors.

2 I am writing today to give you a decision about access to documents that you requested in your FOI Request.

**Summary**

3 I, Owen Jones, Senior Lawyer of the AEC, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

4 I have identified your FOI Request as seeking access to:

- (a) *Copies of any documented procedures for enrolling electors with no fixed address, including procedures for notifying state electoral bodies of such enrolment*
- (b) *Copies of any procedures for polling-place staff in processing itinerant electors on polling day, especially as it relates to voting out-of-state.*

5 I identified 18 documents that fell within the scope of the first limb of your FOI request as outlined in paragraph 4(a) of this letter. I did not identify any documents that fell within the scope of the second limb of your FOI request as outlined in paragraph 4(b) of this letter.

6 I did this by directing inquiries to:

- (a) The AEC's Roll Management Branch.

7 The schedule of retrieved documents in Attachment A provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

8 With regard to the documents you requested (set out in Attachment A), I have decided to:

- (a) grant access to 9 documents; and
- (b) refuse access to the remaining 9 documents.

9 More information, including my reasons for my decision, is set out below.

10 A decision is due on your FOI Request by **16 December 2016**

### ***Decision and reasons for decision***

#### **Decision**

11 With regard to the documents identified in Attachment A, I have decided:

- (a) to grant access in full to Document Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9; and
- (b) to refuse access to Document Nos. 10, 11, 12, 13, 14, 15, 16, 17 and 18 for the reasons given in Attachment A which are set out below.

#### **Material taken into account**

12 I have taken the following material into account in making my decision:

- (a) the content of the documents that fall within the scope of the FOI Request;
- (b) the FOI Act, specifically sections 3, 3A, 4, 11A, 11B and 15; and
- (c) the guidelines ('FOI Guidelines') issued by the Australian Information Commissioner under section 93A of the FOI Act, specifically sections 1.13 - 1.17 and 2.52.

#### **Reasons**

13 Attachment A indicates each document to which access is refused. My reasons for refusing access are given below.

#### **Retrieved Documents**

##### ***Documents out of Scope of an FOI Request***

14 Section 15 of the FOI Act enables a person to seek access, among other things, to a document of an agency. The AEC is an agency for the purposes of the FOI Act.

15 In so far as is material subsection 15(1) of the FOI Act provides:

##### **15 Requests for access**

###### *Persons may request access*

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

16 Section 15A of the FOI Act makes provision with respect to requests for access to personnel records and has no relevance to the FOI Request.

17 The expression 'document of an agency' is defined by subsection 4(1) of the FOI Act and depends on the definition given by that subsection to the word 'document'.

18 In so far as is material, subsection 4(1) of the FOI Act provides:

#### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

**document of an agency:** a document is a **document of an agency** if:

- (a) the document is in the possession of the agency, whether created in the agency or received in the agency; or
- (b) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document.

**document** includes:


- (a) any of, or any part of any of, the following things:
  - (i) any paper or other material on which there is writing;
  - (ii) a map, plan, drawing or photograph;
  - (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
  - (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;
  - (v) any article on which information has been stored or recorded, either mechanically or electronically;
  - (vi) any other record of information; or
- (b) any copy, reproduction or duplicate of such a thing; or
- (c) any part of such a copy, reproduction or duplicate;

but does not include:

- (d) material maintained for reference purposes that is otherwise publicly available; or
- (e) Cabinet notebooks.

19 Document Nos 10, 11, 12, 13, 14, 15, 16, 17 and 18 are material maintained for reference purposes by the AEC that is publicly available at the AEC's website. The description of each of these documents in Attachment A indicates the URL for that document by which it may be accessed.

20 It follows that the carve out in paragraph (d) of the definition of 'document' provided by subsection 4(1) of the FOI Act applies to Document Nos 10, 11, 12, 13, 14, 15, 16, 17 and 18 with the outcome that neither of those documents is included in the expression 'document of an agency' and thus cannot be requested under subsection 15(1) of the FOI Act.

21 For this reason, I have decided to refuse access to Document Nos 10, 11, 12, 13, 14, 15, 16, 17 and 18. 

## **Your review rights**

- 22 If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

### **Internal review**

- 23 Under section 54 of the FOI Act, you may apply in writing to the AEC for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.
- 24 Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

### **Information Commissioner review**

- 25 Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	<a href="https://forms.business.gov.au/aba/oaic/foi-review/">https://forms.business.gov.au/aba/oaic/foi-review/</a>
email:	<a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
post:	GPO Box 52189, Sydney NSW 2001
in person:	Level 3, 175 Pitt Street, Sydney NSW

## **QUESTIONS ABOUT THIS DECISION**

- 26 More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to [www.oaic.gov.au/freedom-of-information/foi-reviews](http://www.oaic.gov.au/freedom-of-information/foi-reviews).
- 27 If you wish to discuss this decision, please contact me:

email:	<a href="mailto:owen.jones@aec.gov.au">owen.jones@aec.gov.au</a>
fax:	02 6293 7657
post:	Locked bag 4007, Canberra ACT 2601
telephone:	02 6271 4758

Yours sincerely



Owen Jones  
Senior Lawyer

15 December 2016

### **Attachments**

Attachment A (Schedule of documents)  
LS5827 Released Document No. 1-9.

**SCHEDULE OF RETRIEVED DOCUMENTS**

Attachment A

**LS5827 - CAIL YOUNG**

Request for:

1. copies of any documented procedures for enrolling electors with no fixed address, including procedures for notifying state electoral bodies of such enrolment;
2. copies of any procedures for polling-place staff in processing itinerant electors on polling day, especially as it relates to voting out-of-state

Document No.	Description	Date
1	Extract from the General Enrolment Manual – "Itinerant (No Fixed Address) Electors"	5/12/2016
	<b>RECOMMENDATION/DECISION</b>	
	1.1 Release in full.	
	1.2 I have decided to give access to Document No. 1.	
2	Extract from the General Enrolment Manual – "Processing Itinerant Applications"	5/12/2016
	<b>RECOMMENDATION/DECISION</b>	
	2.1 Release in full.	
	2.2 I have decided to give access to Document No. 2.	
3	Extract from the General Enrolment Manual – "State and Territory Legislation Itinerant Enrolment"	5/12/2016



Document No.	Description	Date
	<p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>3.1 Release in full.</p> <p>3.2 I have decided to give <b>access</b> to Document No. 3</p>	
4	<p>Extract from the General Enrolment Manual – "Address Categories for Special Provisional Enrolment"</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>4.1 Release in full.</p> <p>4.2 I have decided to give <b>access</b> to Document No. 4.</p>	5/12/2016
5	<p>Extract from the General Enrolment Manual – "Enrolment Applications for Itinerant Electors"</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>5.1 Release in full.</p> <p>5.2 I have decided to give <b>access</b> to Document No. 5</p>	5/12/2016
6	<p>Extract from the General Enrolment Manual – "Additional Information for Itinerant Enrolment"</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>6.1 Release in full.</p> <p>6.2 I have decided to give <b>access</b> to Document No. 6.</p>	5/12/2016
7	<p>Extract from the General Enrolment Manual – "Checking the Address Category"</p>	5/12/2016



Document No.	Description	Date
	<p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>7.1 Release in full.</p> <p>7.2 I have decided to give <b>access</b> to Document No. 7</p>	
8	<p>Extract from the Enrolment Systems Guide – “General Detail Part 7 4”</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>8.1 Release in full.</p>	
9	<p>Extract from the Enrolment Systems Guide – “Special Category RMANS Codes Part 7 4”</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>9.1 Release in full.</p>	
10	<p>Extract from the AEC website – “Enrolment for people with no fixed address”</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>10.1 Document No. 10 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/Special_Category/Enrolment_with_no_fixed_address.htm">http://www.aec.gov.au/Enrolling to vote/Special Category/Enrolment with no fixed address.htm</a></p> <p>10.2 Document 10 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>10.3 I have decided to <b>refuse access</b> to Document No. 10.</p>	
11	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in New South Wales</p>	



Document No.	Description	Date
	<p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>11.1 Document No. 11 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-nsw-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-nsw-0416.pdf</a></p> <p>11.2 Document 11 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>11.3 I have decided to <b>refuse access</b> to Document No. 11.</p>	
12	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in Victoria</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>12.1 Document No. 12 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-vic-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-vic-0416.pdf</a></p> <p>12.2 Document 12 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>12.3 I have decided to <b>refuse access</b> to Document No. 12.</p>	
13	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in Queensland</p> <p align="center"><b>RECOMMENDATION/DECISION</b></p> <p>13.1 Document No. 13 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-qlld-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-qlld-0416.pdf</a></p>	





Document No.	Description	Date
	<p>13.2 Document 13 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>13.3 I have decided to <b>refuse access</b> to Document No. 13.</p>	
14	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in Western Australia</p> <p><b>RECOMMENDATION/DECISION</b></p> <p>14.1 Document No. 14 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-wa-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-wa-0416.pdf</a></p> <p>14.2 Document 14 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>14.3 I have decided to <b>refuse access</b> to Document No. 14.</p>	
15	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in South Australia</p> <p><b>RECOMMENDATION/DECISION</b></p> <p>15.1 Document No. 15 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-sa-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-sa-0416.pdf</a></p> <p>15.2 Document 15 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>15.3 I have decided to <b>refuse access</b> to Document No. 15.</p>	

Document No.	Description	Date
16	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in Tasmania</p> <p><b>RECOMMENDATION/DECISION</b></p> <p>16.1 Document No. 16 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-tas-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-tas-0416.pdf</a></p> <p>16.2 Document 16 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>16.3 I have decided to <b>refuse access</b> to Document No. 16.</p>	
17	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in the Australian Capital Territory</p> <p><b>RECOMMENDATION/DECISION</b></p> <p>17.1 Document No. 17 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-act-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-act-0416.pdf</a></p> <p>17.2 Document 17 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>17.3 I have decided to <b>refuse access</b> to Document No. 17.</p>	
18	<p>Extract from the AEC website – Form – Enrolment for persons with no fixed address in the Northern Territory</p>	



Document No.	Description	Date
	<p style="text-align: center;"><b>RECOMMENDATION/DECISION</b></p> <p>18.1 Document No. 18 is publicly available at the AEC website at:  <a href="http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-nt-0416.pdf">http://www.aec.gov.au/Enrolling_to_vote/pdf/forms/no-fixed-address/er016nfaw-nt-0416.pdf</a></p> <p>18.2 Document 18 is outside the scope of that which may be requested as a document under section 15 of the FOI Act.</p> <p>18.3 I have decided to <b>refuse access</b> to Document No. 18.</p>	



