



Mr Adam Presnell

via email: foi+request-3219-0dd0154a@righttoknow.org.au

Dear Mr Presnell

I refer to your email, received by the department on 30 March 2017, in which you requested a waiver or reduction of the charges for your request under the *Freedom of Information Act 1982 (FOI Act)*, on the grounds of financial hardship and public interest reasons. You contended that you considered the estimate to be excessive and that you are *'only asking for 2 documents two documents really:*

- 1) *The Tax Invoice/s*
- 2) *The Cost Benefit Analysis'*.

The department responded to your email on 6 April 2017 asking that you provide evidence to support your claim for financial hardship, and providing further information to you on information that you could submit in support of a public interest waiver. On 21 April 2017 you provided further comments that related to your concerns about the APVMA's handling of a matter in which you were involved.

Decision on charges contention

I am authorised under the FOI Act to make decisions in relation to FOI requests submitted to the department, including requests relating to charges.

On 24 March 2017, the department decided to impose a charge of \$101.30 for processing your request.

I have considered how the charges were calculated and the matters in your emails. I have also had regard to the objects of the FOI Act, Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (**FOI guidelines**), and the *Freedom of Information (Charges) Regulations 1982*.

I have decided not to waive or reduce the preliminary assessment of charges. The amount you are liable to pay in respect of your request for access is **\$101.30**. I consider that this is a reasonable and not excessive amount to process this request.

Would payment cause financial hardship to the applicant?

Section 29(5)(a) of the FOI Act requires me to consider *'whether the payment of the charge, or part of it, would cause financial hardship to the applicant'*. Given the information you have provided, I do not consider there to be satisfactory grounds for a reduction or waiver of the charges imposed due to financial hardship. Even if you have experienced financial loss in your business capacity, you have not provided evidence of hardship to support your claim. You have also not provided any information about how the documents you have requested about the relocation of APVMA would have any relevance to your experience.

Would giving access to the documents be in the public interest?

Section 29(5)(b) of the FOI Act requires me to consider 'whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public'. You have requested the charge be either waived or reduced in the public interest and made the following contention:

'it is in the public interest to know the true costs of the Minister moving the APVMA to his electorate out of Canberra. The costs of the Cost Benefit analysis should be taken into consideration of the true cost and the true benefit of such costs.'

Context of release

Part 4.56 of the FOI guidelines set out some examples of when it might be appropriate by an agency to reduce or waive a charge. This includes whether the documents relate to:

- *'a matter of public debate, or a policy issue under discussion within an agency, and disclosure of the document would assist public comment on or participation in the debate or discussion*
- *an agency decision that has been a topic of public interest or discussion, and disclosure of the document would better inform the public as to why or how the decision was made, including highlighting any problems or flaws that occurred in the decision making process'.*

Is giving access in the public interest?

I have taken into account the comments in your contention and extent to which the documents requested would further inform public debate. The department has released and published the Cost Benefit Analysis and information about expenditure on the cost benefit analysis. The Cost Benefit Analysis is available in the department's website at <http://www.agriculture.gov.au/ag-farm-food/ag-vet-chemicals/apvma-cost-benefit-analysis>. The department has also released further information about the expenditure on the Cost Benefit Analysis in its submission to the Senate Inquiry on 'The operation, effectiveness, and consequences of the *Public Governance, Performance and Accountability (Location of Corporate Commonwealth Entities) Order 2016*. The department's submission is number 125 in the list of submissions at:

[http://www.aph.gov.au/sitecore/content/Home/Parliamentary_Business/Committees/Senate/Finance and Public Administration/PublicGovernance/Submissions](http://www.aph.gov.au/sitecore/content/Home/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/PublicGovernance/Submissions).

While the relocation of the APVMA is a matter for public debate and there may be interest in the amount spent on the cost benefit analysis, I consider the information that has been made publicly available appropriately addresses this public interest. To the extent there is any public interest in the release of further details about the expenditure for the review, I consider it is of a much lesser order and payment of the assessed charges is appropriate.

Assessment of the amount of the charge

You have commented that the documents would be easily produced and provided electronically. The estimate you have received under search and retrieval is \$21.30. I consider this to be reasonable and not excessive. The remainder of the charge is for document preparation and decision making, and I also consider this estimate to be conservative. The documents requested involve financial affairs of a third party, that third party must be consulted on release of the documents, and any comments they make must be carefully considered by the decision maker. This process can take significant time.

Once a decision on access is made, the department is required to calculate the final charge. An agency can only increase a charge where it gives access to documents requested.

Next steps in processing your request

If you would like the department to continue processing your request, you must pay the assessed charges or deposit to the department within **30 calendar days** after receiving this notice. Please refer to the charges letter dated 24 March 2017 for information regarding options on how to pay the charge.

If you do not respond within 30 calendar days, your request will be taken to have been withdrawn and no further action will be taken by the department.

Review rights

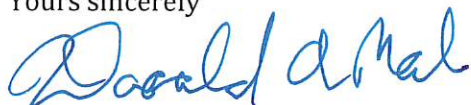
If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to foi@agriculture.gov.au.

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.

Contact details

Should you wish to discuss any issues arising from this letter, please contact FOI Officer Melissa Nickols by telephone on 02 6272 3537 or email foi@agriculture.gov.au.

Yours sincerely



Donald Ward
A/g Assistant Secretary
Ag Vet Chemicals Branch

April 2017