



Mr Richard Smith

Email: [foi+request-3270-aaa56939@righttoknow.org.au](mailto:foi+request-3270-aaa56939@righttoknow.org.au)

Dear Mr Smith

**Freedom of Information Request No. 170312**

**Decision on access**

I refer to your request of 21 March 2017 to the Department of the Environment and Energy (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**). Your request seeks access to the following information on the Abbotts Booby (*Papasula abbotti*) - an endangered bird that breeds only on Christmas Island:

- [Item 1] Documents describing the latest Department of the Environment and Energy's assessment of efforts undertaken to protect, restore and enhance the breeding habitat of the Abbott's Booby;*
- [Item 2] Documents describing the latest Department of the Environment and Energy's assessment of efforts undertaken to manage threats posed by the Yellow crazy ant to the Abbotts Booby;*
- [Item 3] Documents describing the latest Department of the Environment and Energy's assessment of efforts undertaken to monitor and assess the likely impact of developing fisheries in the Christmas Island;*
- [Item 4] Documents describing the last population count of Abbotts Booby (Papasula abbotti) undertaken by the Department of the Environment and Energy, including number of birds, date the count was undertaken and methodology of the population count;*
- [Item 5] Documents describing the Department of the Environment and Energy's Abbotts Booby population monitoring program;*
- [Item 6] Any Document assessing the impact on the population of Abbotts Boobys of the construction of the Immigration Detention Centre on and adjacent to National Park land on Christmas Island in 2002; and*
- [Item 7] Any Document assessing the impact on the population of Abbotts Boobys of the subsequent operation of the Immigration Detention Centre on and adjacent to National Park land on Christmas Island between 2002 and 20 March 2017;*
- [Item 8] Documents describing the latest Department of the Environment and Energy's assessment of efforts undertaken to identify feeding habitat of Abbotts Booby adults and juveniles and develop appropriate management responses to any threats identified; and*
- [Item 9] Documents regarding the Department of the Environment and Energy's most recent activities in relation to assessing the appropriateness of revising the 2004 Abbotts Booby Recovery Plan.*

## Authority

I am authorised by the Secretary of the Department under section 23 of the FOI Act to make a decision in relation to your request.

## Decision

The Department has identified 12 documents relevant to the scope of your request.

I have decided to:

- **refuse access** to documents subject to Item 3 of your request under section 24A(1)(b)(ii) of the FOI Act, as they do not exist.
- **grant access** to the 12 documents subject to the rest of your request in full.

A schedule describing these documents and my decision in respect of each is at **ATTACHMENT A**. **ATTACHMENT B** contains information regarding your review rights, should you wish to seek review of my decision.

The documents are at **ATTACHMENT C**.

## Material considered in making my decision

I had regard to:

- the scope of the FOI request
- the content of the documents subject to your request;
- the relevant provisions in the FOI Act;
- advice from subject matter experts within the Department; and
- the *Guidelines issued by the Australian Information Commissioner under s93A of the Freedom of Information Act 1982* (the **FOI Guidelines**).

## Reasons for decision

### Item 3 refused under section 24A(1)(b)(ii)

*Documents do not exist*

Section 24A(1)(b)(ii) of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable searches have been taken to find the document and the Department is satisfied that it does not exist.

Item 3 seeks "Documents describing the latest Department of the Environment and Energy's assessment of efforts undertaken to monitor and assess the likely impact of developing fisheries in the Christmas Island".

To locate these documents the Department conducted exhaustive searches of our electronic records. As a result of these searches, the Department was unable to locate any documents that fell within the scope of Items 3 of your request. Further, the relevant line area has advised that the Department does not assess the impact of potential fisheries, only actual fisheries and is not aware of any fishery that has developed in the area in question.

Consequently, I am satisfied that all reasonable searches have been undertaken to locate the documents within scope of Item 3 and that they do not exist. I therefore refuse access to this Item under section 24A(1)(b)(ii) of the FOI Act.

### **Disclosure Log**

Pursuant to section 11C of the FOI Act, the Department will publish the documents at **ATTACHMENT B** on their website within 10 days of providing you with this decision.

### **Further assistance**

The FOI Contact Officer in the Department can be contacted by telephone on 02 6274 2098 or by email at [foi@environment.gov.au](mailto:foi@environment.gov.au).

Yours sincerely



Paul Murphy  
Assistant Secretary  
Wildlife Trade and Biosecurity Branch

19 April 2017

### **ATTACHMENTS:**

- A.** Schedule of documents
- B.** Information sheet "Your Review Rights"
- C.** Documents subject to your request



# Australian Government

## Department of the Environment and Energy

## ATTACHMENT A

### FOI 170312 Schedule of Documents

Request Item No	No	Description	Decision
Item 1	1	REPORT ANNUAL REPORT FOR THE CHRISTMAS ISLAND MINESITE TO FOREST REHABILITATION PROGRAM -2015-16	Release in full
Item 1	2	REPORT ANNUAL REPORT FOR THE CHRISTMAS ISLAND MINESITE TO FOREST REHABILITATION PROGRAM -2014-15	Release in full
Item 2	3	APPLICATION APPLICATION TO RELEASE THE MICOHYMENOPTERAN PARASITOID <i>Tachardiaephagus somervillei</i> FOR THE CONTROL OF THE INVASIVE SCALE INSECT <i>Tachardina aurantiaca</i> ON CHRISTMAS ISLAND	Release in full <a href="http://www.environment.gov.au/resource/crazy-ant-biocontrol">http://www.environment.gov.au/resource/crazy-ant-biocontrol</a>
Item 5	4	PUBLICATION MARINE ORNITHOLOGY 40: 99-103 (2012) - AN ISLAND WIDE SURVEY OF ABBOTT'S BOOBY <i>PAPASULA ABBOTTI</i> (Boland, CRJ., Smith, MJ., Maple, D., Tiernan, B., & Napier, F. 2012)	Release in full <a href="http://www.marineornithology.org/PDF/40_2/40_2_99-103.pdf">http://www.marineornithology.org/PDF/40_2/40_2_99-103.pdf</a>
Item 4, Item 5	5	REPORT -EXTACT THE PRESENCE/ABSCENCE AND DISTRIBUTION OF NATIVE AND INTRODUCED FAUNA OF CHRISTMAS ISLAND: A COLLECTION OF BIENNIAL ISLAND WIDE SURVEY RESULTS FROM 2001 TO 2013 AND OTHER SOURCES	Release in full
Item 8	6	PUBLICATION Hennicke, J.C., & H. Weimerskirch (2014). Coping with variable and oligotrophic tropical waters: foraging behaviour and flexibility of the Abbott's booby <i>Papasula abbotti</i> . <i>Marine Ecology Progress Series</i> . 499:259-273.	Release in full <a href="http://www.int-res.com/abstracts/meps/v499/p259-273/">http://www.int-res.com/abstracts/meps/v499/p259-273/</a>

Request Item No	No	Description	Decision
Item 8	7	PUBLICATION Hennicke, J.C., & H. Weimerskirch (2014a). Foraging movements of Abbott's Boobies during early chick-rearing and implications for a marine Important Bird Area in Christmas Island waters. <i>Raffles Bulletin of Zoology</i> . Page(s) 60-64.	Release in full <a href="http://www.cebc.cnrs.fr/publipdf/2014/HRBZ30_2014.pdf">http://www.cebc.cnrs.fr/publipdf/2014/HRBZ30_2014.pdf</a>
Item 9	8	Draft Christmas Island Biodiversity Conservation Plan - Appendix J - Review of existing recovery plan	Release in full <a href="http://www.environment.gov.au/system/files/resources/fad62818-2f56-454c-9848-a291d24996a8/files/christmas-island-biodiversity-conservation-plan.pdf">http://www.environment.gov.au/system/files/resources/fad62818-2f56-454c-9848-a291d24996a8/files/christmas-island-biodiversity-conservation-plan.pdf</a>
Item 6, Item 7	9	s158 exemption notice for the construction of the Detention Centre on Christmas Island	Release in full <a href="http://epbcnotices.environment.gov.au/entity/annotation/a14b44b2-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103">http://epbcnotices.environment.gov.au/entity/annotation/a14b44b2-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103</a>
Item 6, Item 7	10	statement of reason for s 158 exemption	Release in full <a href="http://epbcnotices.environment.gov.au/entity/annotation/e12e88d2-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103">http://epbcnotices.environment.gov.au/entity/annotation/e12e88d2-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103</a>
Item 6, Item 7	11	s303a exemption notice for the construction of the Detention Centre on Christmas Island	Release in full <a href="http://epbcnotices.environment.gov.au/entity/annotation/0169c0e5-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103">http://epbcnotices.environment.gov.au/entity/annotation/0169c0e5-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103</a>
Item 6, Item 7	12	statement of reason for s 303a exemption	Release in full <a href="http://epbcnotices.environment.gov.au/entity/annotation/61b272f3-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103">http://epbcnotices.environment.gov.au/entity/annotation/61b272f3-7462-e511-9099-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1491368753103</a>





## YOUR REVIEW RIGHTS

You may seek review of this primary decision either internally by the Department (Internal review), or externally by the Information Commissioner (Information Commissioner review).

### Internal review

An Internal review is a review of the decision conducted by a senior officer within the Department. The reviewing officer will not be the same person whom made the primary decision.

If you wish to seek an internal review, you must submit a written application to the Department within 30 days after the day you are notified of this decision. Whilst there is no required form for the written Internal Review application, it is recommended that you include your reasons as to why the primary decision should be reviewed.

The decision on the Internal review will be provided to you within 30 days of the Department receiving your application.

You can submit your written Internal review application to the below addresses:

**Email:** [foi@environment.gov.au](mailto:foi@environment.gov.au)

**Post:** FOI Contact Officer  
General Counsel Branch  
Department of the Environment  
GPO Box 787  
Canberra ACT 2601

### Information Commissioner review

An Information Commissioner review is a review undertaken by the Information Commissioner (IC). The IC will make a decision on the disclosure of the documents, giving regard to any submissions from the Department, yourself as the applicant, and any third parties consulted as part of this decision.

There is no statutory timeframe for a decision on an IC request.

If you wish to request a review by the IC, you must apply to the IC within 60 days after the day you received it. Further details on how to request an Information Commissioner review can be obtained from the Office of the Australian Information Commissioner:

**Online:** <https://www.oaic.gov.au/freedom-of-information/foi-review-process>  
**Post:** GPO Box 5218, Sydney NSW 2001  
**Fax:** 02 9284 9666  
**Phone:** 1300 363 992  
**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)