



29 June 2017

Mr Richard Smith

Via email: [foi+request-3271-26ec005b@righttoknow.org.au](mailto:foi+request-3271-26ec005b@righttoknow.org.au)

**In reply please quote**

FOI Request FA 17/03/00899

File Number ADF2017/32361

Dear Mr Smith

**Access Decision – Freedom of Information (FOI) request**

1. This letter refers to your Freedom of Information request received on 21 March 2017 seeking access under the *Freedom of Information Act 1982* (the Act) to the following:
  1. *Documents describing how the Department of Immigration and Border Protection's Immigration Detention Centre located on a Commonwealth area and adjacent to National Park land in Christmas Island manages and reduces its impact on threatened species as per the Environment Protection and Biodiversity Conservation Act 1999.*
  2. *Documents describing how the Department of Immigration and Border Protection has undertaken an inventory of listed threatened species and ecological communities existing in and around the Immigration Detention Centre, being a Commonwealth area as per the Environment Protection and Biodiversity Conservation Act 1999.*
  3. *Documents describing how the Department of Immigration and Border Protection complies with the recovery plan for each of the listed threatened species and ecological communities present in and around the Immigration Detention Centre and*
  4. *Documents detailing the death or injury of threatened species in the Department of Immigration and Border Protection's Immigration Detention Centre on Christmas Island, being a Commonwealth area, in the period 2012 to 2016.*

**2. Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

### 3. Information considered

In reaching my decision, I have considered the following:

- the terms of your request;
- the *Freedom of Information Act 1982*;
- consultations with relevant Departmental business areas; and
- the Australian Information Commissioner's guidelines relating to access to documents held by government.

### 4. Decision on access

My decision is to refuse access under section 24A of the FOI Act. My reasons are set out below.

### 5. Reasons for Decision

Section 24A of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document either cannot be found or does not exist.

The Christmas Island Immigration Reception and Processing Centre and associated infrastructure is exempt under s303A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Please see the link below for a copy of the exemption dated 3 April 2002:

<http://epbcnotices.environment.gov.au/exemptionnotices/exemptionnotice/?id=5d089832-6c62-e511-b4b8-005056ba00ab>

As such, I am satisfied that no documentation as specified in your request that relates to the EPBC Act exists.

### 6. Legislation

A copy of the FOI Act is available for your reference from [www.legislation.gov.au/Browse/ByTitle/Acts/InForce/0/0/Principal](http://www.legislation.gov.au/Browse/ByTitle/Acts/InForce/0/0/Principal)

### 7. Review Rights

#### Internal review

If you disagree with the decision, you have the right to apply for an internal review of the decision. If you wish to make a request for internal review this must be sent within 30 days of being notified of the decision. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

Freedom of Information  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

Or by email to: [foi.reviews@border.gov.au](mailto:foi.reviews@border.gov.au)

Review by the Office of the Australian Information Commissioner

You may apply directly to the Australian Information Commissioner for a review of the decision. You must apply in writing within 60 days of this notice. For further information about review rights under the FOI Act please see FOI fact sheet 12 'Freedom of information – Your review rights', available online at [www.oaic.gov.au](http://www.oaic.gov.au).

**8. How to make a complaint about the handling of your FOI request**

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. Information about how to submit a complaint is also available at [www.oaic.gov.au](http://www.oaic.gov.au).

**9. Contacting the FOI Section**

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Authorised Decision Maker  
Freedom of Information Section  
Department of Immigration and Border Protection  
Email [foi@border.gov.au](mailto:foi@border.gov.au)