



Mr Dick Smith AC
via Right to Know

Email: foi+request-3534-d378a49f@righttoknow.org.au

Dear Mr Smith

Freedom of Information Request No. 170516
Decision on Access

I refer to your request of 26 May 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:

[Item 1] *Information relating to a nomination or approval for the Marree Man to be added to the National Heritage List between 2005 and 2010? I was told that the person who nominates it has to put a history of where it came from and they are sure this was attached to the nomination.*

[Item 2] *Could we also know the reasons given by the nominators for Marree Man to be put on the National heritage List?*

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

I have decided to **refuse** your request for access to documents as all reasonable steps have been taken by the Department to find the documents and I am satisfied that they do not exist.

However, I have decided to administratively release three documents outside of the FOI Act, so that they may inform you of the status of Heritage List nominations related to the Finnis Springs pastoral station and mission, where the Marree Man is located.

ATTACHMENT A contains information regarding your review rights, should you wish to seek review of my decision.

The documents are at **ATTACHMENT B**.

Material considered in making my decision

I had regard to:

- the scope of the FOI 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

Request refused under section 24A(1)(b)(ii)

Documents do not exist

Under subparagraph 24A(1)(b)(ii) of the FOI Act, the Department may refuse access to a document if:

- all reasonable steps have been taken to find document; and
- the Department is satisfied that it does not exist.

Item 1 of the request seeks information related to a nomination for an approval for the Marree Man to be added to the National Heritage List, whilst Item 2 seeks the reasons given by the nominators as to why the Marree Man should be added to the list.

If the Department held these files, they would usually be held by the Heritage Strategies Section, whom manage the nominations for the National Heritage List. To locate the documents, officers of this area conducted searches of their National Heritage List database in addition to electronic and physical files that may have held relevant documents. As a result of these searches, no documents falling within the scope of Items 1 or 2 were identified.

I am satisfied that all reasonable steps have been taken to find documents that fall within the scope of Items 1 or 2, and that they do not exist.

As of the date of writing, the Marree Man has not been nominated to be added to the National Heritage List. However, the greater area in which it is situated, the Finnis Springs Mission and Pastoral Station, has been nominated to the list and subsequently assessed several times. These nominations were unsuccessful and the area currently remains unlisted.

We reviewed the nominations and the assessments for the Finnis Springs Mission and identified two documents that make reference to the Maree Man. The documents do not amount to a nomination for the Marree Man, nor contain submissions or recommendations about the heritage value of the Marree Man, falling outside the scope of your request.

Although these documents technically fall outside the scope of your request, I have decided to release them administratively, outside of the FOI Act. Please note that I have decided to de-identify the documents to protect the privacy of the nominators, researchers and government staff identified in the documents. Further, please be aware that the document drafted in 2007 was based on information provided by the nominator to the Department at the time.

I have also enclosed a recent media release, which announced that the Australian Heritage Council is to conduct new assessments of the Finnis Springs mission and pastoral station. The Marree Man will receive the protections afforded by heritage listing, if the Council approves the listing for the Finnis Springs mission and determines that the Marree Man is part of it's heritage values.

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.

Yours sincerely

David Williams
Assistant Secretary
Heritage Branch

June 2017

ATTACHMENTS:

- A.** Information sheet "Your Review Rights"
- B.** Administrative release of documents



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

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