



## **Statement of reasons made under the *Freedom of Information Act 1982***

Decision and reason for decision of Carl Murphy, Chief Operating Officer.

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**Applicant:** Ben Fairless  
**Decision date:** January 2018  
**FOI reference number:** 18-052  
**Documents:** Out of Office message

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## Summary

1. I have made a decision that documents in scope of your request do not exist.

## Authority to make this decision

2. I, Carl Murphy, Chief Operating Officer, am an officer authorised by the Secretary of the Department of Infrastructure, Regional Development and Cities (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (FOI Act).

## Background

3. On 26 December 2017, you made a request for access to documents in the possession of the Department. Your request was received in the follow terms:

*Your auto-reply for the Christmas break this year says this:*

*If you have chosen to make an FOI request during this Christmas holiday period, you are taken to also agree to provide the Department a 30 days extension of time under s15AA of the FOI Act.*

*I would like all documents which relate to the decision to set this automatic reply.*

## Decision

4. My decision under subsection 24A (1) of the FOI Act is made on the basis that all reasonable steps have been taken to find the information requested, and the information sought does not exist.
5. I am satisfied that all reasonable steps have been taken to find information relevant to your request, having regard to:
  - the subject matter;
  - the Department's record management systems and practices; and
  - the relevant individuals and areas within the Department who may be able to assist with the location of the information.
6. The decision to set the automatic reply was taken as a result of a verbal discussion between departmental staff and was not recorded in any way other than by the implementation of that decision. As a result, the Department has been unable to identify any documents relevant to your request.
7. On that basis, I am refusing your request for access to the information under section 24A of the FOI Act.

## Your rights of review

8. If you disagree with your FOI decision, you can ask for the decision to be reviewed. There are two ways you can ask for review of a decision: internal review by the Department, and external review by the Office of the Australian Information Commissioner (OAIC).

## **Internal Review**

9. You can ask the Department to review its decision in relation to access to documents. There is no charge for internal review. You must apply within 30 days of being notified of the decision, unless the Department extends the application time. You should contact the Department if you wish to seek an extension. The Department must make a review decision within 30 days. If it does not do so, its original decision is considered to be affirmed. The review will be carried out by a different departmental officer, usually someone at a more senior level. You must apply in writing and you can lodge your application in one of the following ways:

**Post:** FOI Coordinator  
Department of Infrastructure and Regional Development  
GPO Box 594, Canberra ACT 2601  
**Fax:** (02) 6275 1347  
**Email:** [FOI@infrastructure.gov.au](mailto:FOI@infrastructure.gov.au)

## **Information Commissioner Review**

10. The OAIC is an independent office that can review the decisions of agencies and ministers under the FOI Act and investigates complaints about agency actions.
11. You can ask the OAIC to review the Department's decision. You do not need to seek an internal review from the Department before seeking a review from the OAIC. However, going through the Department's internal review process gives us the opportunity to reconsider the initial decision and your needs may be met more quickly without undergoing an external review process.
12. The OAIC's review is free. You must apply to the OAIC within 60 days of being given notice of the decision. You can ask the OAIC for an extension of time to apply, and this may be granted if it considers it is reasonable in the circumstances.
13. You must apply in writing and you can lodge your application in one of the following ways:

**Online:** [www.oaic.gov.au](http://www.oaic.gov.au)  
**Post:** Office of the Australian Information Commissioner  
GPO Box 5218, Sydney NSW 2001  
**Facsimile:** (02) 9284 9666  
**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
**In person:** Level 3, 175 Pitt Street, Sydney, NSW 2000

More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: [www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-factsheets/foi-factsheet-12-your-review-rights](http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-factsheets/foi-factsheet-12-your-review-rights).

## **Relevant provisions**

14. The FOI Act provisions used to make my decision are available here:  
[http://www.austlii.edu.au/au/legis/cth/consol\\_act/foia1982222/](http://www.austlii.edu.au/au/legis/cth/consol_act/foia1982222/)

If you cannot access this website, but would like a copy of the appropriate provisions, please contact the FOI Coordinator (contact details below).

## Contacts

15. If you wish to discuss this decision, please contact the Department's FOI coordinator on (02) 6274 6495 or via email at [FOI@infrastructure.gov.au](mailto:FOI@infrastructure.gov.au).



Carl Murphy  
Chief Operating Officer  
Department of Infrastructure, Regional Development and Cities

17 January 2018