



15 August 2018

Jay Doe

**BY EMAIL:** [foi+request-4693-1b0fc827@righttoknow.org.au](mailto:foi+request-4693-1b0fc827@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 18/07/00699

File Number: ADF2018/158256

Dear J Doe

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

On 13 July 2018, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

**1 Scope of request**

You have requested access to the following documents:

- 1) *a list of boats affected by DBD16 v Minister for Immigration and Anor [2018] FCCA 1801*
- 2) *a list of Boat ID's affected by the abovementioned case*
- 3) *if you cannot provide a list of Boat ID's, then please provide the number of people on each affected boat and the alphabetic part of the boat ID that would have been designated to passengers on that boat. For example, if there was an affected boat called Astra and the people on that boat had a boat ID of ASTXXX, the alphabetic part is AST and*

**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 records.

### **3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your request;
- the FOI Act;
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines); and
- advice provided by relevant business areas within the Department.

### **4 Documents in scope of request**

The Department has undertaken reasonable searches in relation to the documents you have requested access to.

No discrete document exists that contains “a list of boats affected by *DBD16 v Minister for Immigration and Anor* [2018] FCCA 1801”, or a list of boat ID’s that may be affected by this case.

The Department has also considered whether, under section 17 of the FOI Act, it could produce a written document containing the information in discrete form by the use of a computer that is ordinarily available to it for retrieving or collating electronic data stored. Having considered the advice received from a number of relevant business areas, I am satisfied that it would not be possible for the Department to produce a document under section 17 of the FOI Act that would meet the scope of your request.

Having regard to your request, and the types of documents that may fall within the scope of your request, I am satisfied that all reasonable steps have been taken to locate any document relevant to your request.

### **5 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 does not exist.

I am satisfied that the Department has undertaken reasonable searches in relation to your request and that no documents were in the possession of the Department on 13 July 2018 when your FOI request was received. As such I am refusing access to the documents requested by you based on the application of section 24A of the FOI Act.

### **6 Legislation**

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

### **7 Your Review Rights**

#### Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a 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:

By email to: [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au)

OR

By mail to:  
Freedom of Information Section  
Department of Home Affairs  
PO Box 25  
BELCONNEN ACT 2617

*Review by the Office of the Australian Information Commissioner*

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

## **8 Making a Complaint**

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)


Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

## **9 Contacting the FOI Section**

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).

Kind Regards



Janelle Raineri  
Authorised Decision Maker  
Department of Home Affairs