



Posty

Via email: [foi+request-5192-e7ab469d@righttoknow.org.au](mailto:foi+request-5192-e7ab469d@righttoknow.org.au)

Dear Posty,

### **Decision on your Freedom of Information request**

I refer to your request, received by the Department of Agriculture and Water Resources (**department**) on 31 December 2018 for access under the *Freedom of Information Act 1982* (**FOI Act**) to the following documents:

'I request the total of the number of times any member of the public has asked for access to each said non-website published successful for documents on the FOI disclosure log other than the original successful applicant'.

#### **My decision**

The information you have requested does not exist in a discrete form. I consider that the department is not obliged under section 17 of the FOI Act to produce a written document as:

- the department cannot produce the document using a computer or other equipment ordinarily available to it for retrieving or collating stored information; and
- producing a written document would substantially and unreasonably divert the resources of the agency from its other operations.

As such, I have decided to refuse your request for access to documents under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the document/s you have requested and I am satisfied that they cannot be located or do not exist.

Please see **Attachment A** for the reasons for my decision.

#### **You can ask for a review of my decision**

If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to [foi@agriculture.gov.au](mailto:foi@agriculture.gov.au).

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the department handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website [www.oaic.gov.au](http://www.oaic.gov.au) or phone the OAIC on 1300 363 992.

**Further assistance**

If you have any questions, please email [foi@agriculture.gov.au](mailto:foi@agriculture.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Ireland', written in a cursive style.

Cassandra Ireland  
Acting Assistant Secretary  
Corporate and Dispute Resolution Branch  
Department of Agriculture and Water Resources

30 January 2019

## REASONS FOR DECISION

### What you have requested

'I request the total of the number of times any member of the public has asked for access to each said non-website published successful for documents on the FOI disclosure log other than the original successful applicant'.

### What I took into account

In reaching my decision, I took into account:

- your original request dated 31 December 2018;
- consultations with departmental officers about:
  - the nature of the documents; and
  - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**);
- the FOI Act.

### Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

#### Section 17 of the FOI Act

Section 17 of the FOI Act provides that:

(1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
  - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
  - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

(2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

Paragraph 3.204 of the Guidelines states that the obligation to produce a written document arises if:

- the agency could produce a written document containing the information by using a computer or other equipment that is ordinarily available to the agency for retrieving or collecting stored information; and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations.

*S17(1)(c)(i): Computer or other equipment that is ordinarily available to the agency*

The department does not keep a list of all requests received from the public in relation to accessing documents on department's disclosure log. The department has no system that is capable of collating or retrieving stored information in order to produce the requested document. Rather, the information you are seeking would require a manual search of the department's record management systems and relevant email mailboxes to locate any documents or records.

*S17(2): Substantially and unreasonably divert the resources of the agency from its other operations*

Processing your request would involve manual searches of records between 2012 to present to find any relevant documents that could inform creation of a discrete document. I estimate over 20 hours of processing time would be required to deal with this request.

For the purposes of deciding whether your request would unreasonably divert the resources of the department from its other operations, I considered whether the substantial resource burden would be unreasonable having regard to the above. As the scope of your relevant request covers a period of six years, this in my view would substantially and unreasonably divert the resources of this department from performing other functions.

#### Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document if:
  - (a) all reasonable steps have been taken to find the document; and
  - (b) the agency or Minister is satisfied that the document:
    - (i) is in the agency's or Minister's possession but cannot be found; or
    - (ii) does not exist.

The department conducted searches of the department's records management system, the department's FOI email mailbox and the email mailboxes of FOI processing officers. This process did not identify any documents matching the description in your request.

On the basis of these searches, I am satisfied, in accordance with section 24A of the FOI Act, that all reasonable steps have been taken to find the documents and the documents cannot be located or do not exist.