



18 April 2019

Sun Shine

Sent via email: [foi+request-5239-28fe1434@righttoknow.org.au](mailto:foi+request-5239-28fe1434@righttoknow.org.au)

Dear Sun Shine

**Decision under the *Freedom of Information Act 1982***

I refer to your request sent on 31 January 2019 as amended on 5 April 2019 under the *Freedom of Information Act 1982* (the FOI Act) seeking access to the following documents:

Meeting minutes and strategies from December 2016 to the present. Of interest are those documents that indicate the CEO's desire to increase annual licence charges, broaden cost recovery or expand involvement of agency staff in regulatory matters, the effect of which would be to increase future licence charges. As a minimum, this request includes Executive Group and Strategic Management Committee meeting minutes such as Item 2.5 of SMC paper dated 12 December 2016.

ARPANSA's most recent annual report refers to a strategy for enhancing the agency's revenue-generating activities, including regulatory cost recovery models. My request includes the document that describes this strategy.

No emails are requested.

I am an officer authorised under section 23 of the For FOI Act to make decisions with respect to applications for access to documents under the FOI Act and this letter sets out my decision on your request.

**Decision**

I have identified 8 documents relevant to your request and have decided to release:

- 5 documents in full
- 3 documents in part

My reasons for making this decision are set out in Attachment A to this letter.

Attachment B is a schedule setting out each identified document and detailing my decision in relation to each document.

I have enclosed extracts of the provisions of the FOI Act relevant to your request and my decision at Attachment C to this letter.

You will note that deletions have been made in the document attached, in accordance with section 22 of the FOI Act.

### **Review Rights**

You are entitled to seek review of this decision. Your rights in this regard are set out at Attachment D to this letter.

You may also complain to the Commonwealth Ombudsman about the way your request has been handled and Attachment D also sets out your rights of complaint and how to exercise them.

### **Contacts**

If you require clarification of any of the matters set out in this letter please contact Gemma Larkins on 02 9541 8311 or [foi@arpansa.gov.au](mailto:foi@arpansa.gov.au).

Yours sincerely

*Gemma Larkins*

Gemma Larkins  
Legal Officer  
Office of the General Counsel



## ATTACHMENT 'A' - REASONS FOR DECISION – COST RECOVERY

### Material taken into account

In making my decision, I had regard to the following:

- The terms of your request;
- The content of the documents to which you sought access;
- Consultation from ARPANSA officers with responsibility for matters relating to the documents to which you sought access;
- The relevant provisions of the FOI Act;
- ARPANSA's guidance material on the FOI Act; and
- Guidelines on FOI, available on the Office of the Australian Information Commissioner website.

### Findings of fact and reasons for decision

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that document or part of document are set out below.

#### Section 22 deletion of irrelevant material

Where a decision is made to refuse access to a document on the grounds that it contains irrelevant material, section 22 allows an agency to make an edited copy of the document with the irrelevant material deleted. You have been provided with such edited copies of documents.

The material deleted under section 22 is not relevant to the terms of your request as it discusses other business with no connection to the terms of your request. I have not deleted any material which may be considered relevant to your request such as the participants at the meeting.

The schedule of documents at attachment 'B' identifies where section 22 has been applied to delete irrelevant material



#### ATTACHMENT 'B' – SCHEDULE OF RELEVANT DOCUMENTS

Doc No.	Document Description	Pages	Released	Section
1	Strategic Management Committee Meeting Minutes dated 11 – 12 December 2017	11	Released in part	s.22 – irrelevant
2	Strategic Management Committee Paper – Cost recovery update – Regulatory Services dated 11 December 2017	5	Released in full	
3	Independent Review of Corporate Overheads dated April 2018	15	Released in full	
4	Strategic Management Committee Report dated 16 April 2018	2	Released in full	
5	Strategic Management Committee Meeting Minutes dated 23 – 24 April 2018	11	Released in part	s.22 – irrelevant
6	Cost recovery Update – Regulatory Services	6	Release in full	
7	Executive Group Paper – Cost recovery update dated 24 August 2018	3	Release in full	
8	Executive Group Meeting Minutes	11	Released in part	s.22 – irrelevant



## ATTACHMENT 'C' – RELEVANT FOI ACT PROVISIONS

### 11A Access to documents on request

#### *Scope*

- (1) This section applies if:
  - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
    - (i) a document of the agency; or
    - (ii) an official document of the Minister; and
  - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

#### *Mandatory access—general rule*

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

#### *Exemptions and conditional exemptions*

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
  - (a) a conditionally exempt document; and
  - (b) an exempt document:
    - (i) under Division 2 of Part IV (exemptions); or
    - (ii) within the meaning of paragraph (b) or (c) of the definition of *exempt document* in subsection 4(1).

## 22 Access to edited copies with exempt or irrelevant matter deleted

### *Scope*

- (1) This section applies if:
  - a. an agency or Minister decides:
    - (i) to refuse to give access to an exempt document; or
    - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
  - b. it is possible for the agency or Minister to prepare a copy (an *edited copy*) of the document, modified by deletions, ensuring that:
    - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
    - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
  - c. it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
    - (i) the nature and extent of the modification; and
    - (ii) the resources available to modify the document; and
  - d. it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

### *Access to edited copy*

- (2) The agency or Minister must:
  - a. prepare the edited copy as mentioned in paragraph (1)(b); and
  - b. give the applicant access to the edited copy.

### *Notice to applicant*

- (3) The agency or Minister must give the applicant notice in writing:
  - a. that the edited copy has been prepared; and
  - b. of the grounds for the deletions; and
  - c. if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.



**ATTACHMENT ‘D’ REVIEW & COMPLAINTS**

You have the right to apply for an internal review of this decision in accordance with Part VI of the *Freedom of Information Act 1982* (FOI Act). If you make an application for review, the CEO of ARPANSA will appoint an officer of ARPANSA to conduct a review and make a completely fresh decision on the merits of the case.

If you wish to exercise this review right, you must apply in writing for a review of the decision within 30 days of receipt of this letter. You do not have to pay any fees or proceeding charges for internal the review. No particular form is required to apply for review although it is desirable to set out in the application the grounds on which you consider that the decision should be changed.

The application for review of the decision should be sent to [foi@arpansa.gov.au](mailto:foi@arpansa.gov.au) or:  
FOI & Privacy Officer  
ARPANSA  
619 Lower Plenty Road  
YALLAMBIE VIC 3085

If you make an application for internal review and a decision is not made by us within 30 days of receiving the application, the original decision will be deemed to be affirmed in accordance with section 54D of the FOI Act and you will be entitled to make an application to the Information Commissioner in accordance with sections 54L and 54M of the FOI Act. Similarly, if you are dissatisfied with ARPANSA’s decision on internal review, you may also apply for review of this decision to the Information Commissioner.

**Review of Decision by the Australian Information Commissioner (AIC)**

You do not have to seek an internal review of the decision directly from ARPANSA. You may wish to seek a review of the decision from the AIC. If so, you must apply in writing and you can lodge your application in a number of ways. More information is available on the AIC’s website at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

**Complaints to the AIC or the Commonwealth Ombudsman**

You may complain to the Commonwealth Ombudsman or the AIC concerning action taken by an agency in the exercise of the powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Ombudsman or the AIC will conduct a completely independent investigation of your complaint.

You may complain to the Ombudsman either orally, in person, on-line or in writing and to the AIC in writing or by completing the on-line form. Relevant addresses are:

<p>Commonwealth Ombudsman  GPO Box 442  CANBERRA ACT 2601.</p> <p>Web: <a href="http://www.ombudsman.gov.au">www.ombudsman.gov.au</a></p>	<p>The Australian Information Commissioner  GPO Box 2999 <b>OR</b> GPO Box 5218  Canberra ACT 2601 Sydney NSW 2001</p> <p>Web: <a href="https://www.oaic.gov.au/freedom-of-information/foi-complaints">https://www.oaic.gov.au/freedom-of-information/foi-complaints</a></p>
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