



3 September 2019

Sun Shine

Sent via email: foi+request-5546-bb046565@righttoknow.org.au

Dear Sun Shine

Decision under the *Freedom of Information Act 1982*

I refer to your request dated 31 July 2019 under the *Freedom of Information Act 1982* (the FOI Act) seeking access to:

In response to a number of recent safety incidents, an independent review was conducted at ANSTO in 2018. The results of this review were documented in "INDEPENDENT SAFETY REVIEW OF THE ANSTO HEALTH APPROACH TO OCCUPATIONAL RADIATION SAFETY AND OPERATIONAL PROCEDURES" dated October 2018. It resulted in the identification of 85 recommendations; a small number of which apply to the regulator ARPANSA.

One of the recommendations deals with the lack of clarity surrounding licence conditions. R29 states "Both ARPANSA and ANSTO should develop documentation that offers guidance on the interpretation and implementation of ARPANSA Licence Conditions and which take due cognisance of the suite of documents available through international bodies such as IAEA, WENRA and relevant good international regulatory practice e.g. UK, France, US, etc.".

Request information regarding actions that have been completed since October of 2018 to address this recommendation.

Decision

I am an officer authorised under section 23 of the FOI Act to make decisions with respect to applications for access to documents under the FOI Act.

My decision is to refuse access under section 24A (1) of the FOI Act. Section 24A (1) of the FOI Act provides:

(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.

My reasons for making this decision are set out below:

I have consulted with the Regulatory Services Branch and I am instructed that in response to the ANSTO Independent Review report, ARPANSA has established its own project plan to deal with actions against ARPANSA. However ARPANSA has not developed any specific action in response to recommendation 29. This recommendation appears to be based on interviews with ANSTO Health Staff and does not reflect the significant guidance available on ARPANSA's website including the Performance Objectives and Criteria which provide information on what ARPANSA looks for during an inspection, and extensive regulatory guidance and manuals. This guidance also refers to international best practice for controlled facilities which can be found at:

<https://www.arpansa.gov.au/regulation-and-licensing/regulation/international-best-practice>

This guidance material is updated periodically to maintain currency.

Review Rights

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

You may also complain to the Commonwealth Ombudsman about the way your request has been handled and Attachment A 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.

Yours sincerely

Gemma Larkins

Gemma Larkins
Legal Officer
Office of the General Counsel



ATTACHMENT A

Internal Review of Decision by ARPANSA

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 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:

Commonwealth Ombudsman GPO Box 442 CANBERRA ACT 2601. Web: www.ombudsman.gov.au	The Australian Information Commissioner GPO Box 2999 OR GPO Box 5218 Canberra ACT 2601 Sydney NSW 2001 Web: https://www.oaic.gov.au/freedom-of-information/foi-complaints
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