



OFFICE OF THE OFFICIAL SECRETARY  
TO THE GOVERNOR-GENERAL

28 May 2020

Mr Brett Wilson  
[foi+request-6332-310176e6@righttoknow.org.au](mailto:foi+request-6332-310176e6@righttoknow.org.au)

Dear Mr Wilson

**RE: Application under the *Freedom of Information Act 1982***

I refer to your email of 6 May 2020 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

*"Dear Office of the Official Secretary to the Governor-General,*

*Sect 69 of the Commonwealth Constitution states as follows:*

*Sect 69 - Transfer of certain departments*

*On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:*

*posts, telegraphs, and telephones;*

*naval and military defence;*

*lighthouses, lightships, beacons, and buoys;*

*quarantine.*

*But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.*

*a. It is requested that your office provide a copy of the instrument or document that includes the date proclaimed by the Governor-General after the establishment of the Commonwealth, when the State of QLD transferred its quarantine department of the public service to the Commonwealth as per Sect 69 of the Constitution; and*

*b. It is also requested that your office provide a copy of the instrument or document that includes the date the quarantine department of the public service, might have been transferred back to the State of QLD from the Commonwealth to State control, by the QLD Government?*

*Yours faithfully,*

*Brett Wilson"*

I am the authorised decision maker under section 23 of the FOI Act and this letter sets out my decision on your request for access.

### **Material taken into account**

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

- the terms of your request;
- the content of the documents to which you sought access;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

### **Section 6A of the FOI Act**

- 1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.
- 2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

### **The FOI Act and the Archives Act 1983**

Documents created before the year 2000 are deemed to be within the 'open access period' under the Archives Act 1983.

Under section 12(1)(a) of the FOI Act, a person is not entitled to obtain access under the FOI Act to documents within the open access period unless the document contains personal information.

## **Decision**

I have identified that any documents relevant to the FOI request you have submitted would have been created before the year 2000 and, therefore, fall within the open access period under the Archives Act.

Accordingly, I advise that I must reject your request under section 12(1)(a) of the FOI Act.

## **Documents and information provided outside of the FOI Act**

In responding to your request, I have decided to provide you with publicly-available information which may help you, even though it falls outside the scope of our obligations under the FOI Act.

If there are documents that exist that are relevant to your request, they may be held by the National Archives of Australia (NAA) and could be accessed under the Archives Act rather than the FOI Act.

You can find information about obtaining access to records in the open access period under the Archives Act on the NAA website <https://www.naa.gov.au/help-your-research/using-collection/access-records-under-archives-act#open-access-period>.

The NAA website also includes an online RecordSearch that you can access <https://recordsearch.naa.gov.au/SearchNRetrieve/Interface/SearchScreens/BasicSearch.aspx>.

## **Review rights**

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

Yours sincerely



**Ms Jo Tarnawsky**

Deputy Official Secretary to the Governor-General

## **ATTACHMENT A—INFORMATION ON RIGHTS OF REVIEW**

### **1. APPLICATION FOR INTERNAL REVIEW OF DECISION**

Section 54 of the Freedom of Information Act (the Act) gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Application for review of the decision should be addressed to:

The Official Secretary to the Governor-General  
Government House  
CANBERRA ACT 2600

**OR**

### **2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION**

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
GPO Box 2999  
CANBERRA ACT 2601

Or by email to: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**OR**

### **3. COMPLAINTS TO THE INFORMATION COMMISSIONER**

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
GPO Box 2999  
CANBERRA ACT 2601

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.