



Our ref: LEX 67197

Warrick Alexander

By email: [foi+request-6781-345d987c@righttoknow.org.au](mailto:foi+request-6781-345d987c@righttoknow.org.au)

Dear Warrick

**Freedom of Information Act 1982 – Notice of Decision**

I refer to your correspondence, received by the Department of Industry, Science, Energy and Resources (**the department**) on 5 October 2020, for access under the *Freedom of Information Act 1982 (FOI Act)* as follows:

*1) I would like to see all department correspondence created for the purpose of archiving RFT No. PRI00003859 documents. For example, requests to archive the documents.*

*Fore reference, one RFT No. PRI00003859 document is discussed here - [https://www.righttoknow.org.au/request/question\\_2\\_of\\_addendum\\_6\\_of\\_rft](https://www.righttoknow.org.au/request/question_2_of_addendum_6_of_rft)*

*Please leave all APS staff names in all documents.*

*2) I would like to see the name of the lawyer who provided legal advice in response to Question 2 of Addendum 6 of RFT No. PRI00003859.*

*3) I would like to see the name of the person who made the request that led to the archiving of Question 2 of Addendum 6 of RFT No. PRI00003859 on September 19 2020.*

**Decision**

I am an authorised decision maker under section 23 of the FOI Act.

I am satisfied that reasonable searches have been conducted to locate documents relevant to your request but they do not exist.

The document released under FOI LEX 66859 has a marking in it referencing it has been archived on 5 October 2020. This mark does not mean that the document has been archived in the traditional meaning of the word. The program used by the department to create PDF documents from Outlook files calls this conversion process ‘archiving’. This is because an email can be considered a ‘live document’.

In order to convert the email to PDF, you are capturing a snapshot at a certain point in time, thereby creating an archived version. This is an important distinction as depending when the conversion/archiving occurs, may capture different information. The documents that have converted are not archived either, they remain in their usual database or electronic files. For these reasons, document relating to points 1 and 3 of your request do not exist.

In relation to point 2 of your request, the relevant electronic databases, files and corporate file lists in the department have been searched for the documents you have requested, and following these searches I

am satisfied that all reasonable steps have been taken to find the documents requested and that the documents you have requested do not exist.

Therefore, I have decided to refuse your request in accordance with section 24A of the FOI Act on the grounds that the documents you have requested do not exist.

If you are dissatisfied with any part of my decision, your review rights are set out in **Attachment A**.

Please do not hesitate to contact the FOI team at [FOI@industry.gov.au](mailto:FOI@industry.gov.au) if you require any further clarification.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sasha Pesic', with a vertical line extending upwards from the start of the signature.

Sasha Pesic  
Senior FOI Officer  
Legal, Audit & Assurance

26 October 2020

## **REVIEW RIGHTS**

### **Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

or by e-mail to: [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

### **Review by the Australian Information Commissioner**

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

### **Complaints to the Australian Information Commissioner**

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au).

#### **industry.gov.au**

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