



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

Our ref: 67573

Harry Witherspoon

By email: [foi+request-6827-94378781@righttoknow.org.au](mailto:foi+request-6827-94378781@righttoknow.org.au)

Dear Harry

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

I refer to your correspondence received by the Department of Industry, Science, Energy and Resources (the department) on 24 November 2020, for an internal review of a decision under section 54 of the *Freedom of Information Act 1982* (the FOI Act).

**Background**

In correspondence of 24 November 2020, you requested an internal review of the department's decision of 23 November 2020 (original decision). A copy of the original decision is attached for your reference.

**Internal Review Decision**

I am an authorised internal review decision maker under section 23 of the FOI Act. I am required to make a fresh decision on behalf of the department and I am not bound by the original decision.

My decision relates to the exemptions in Document 3, described as "AAC Fraud Report" as Documents 1 and 2 were released in full and are not in dispute.

I have decided to vary the original decision by revising redactions made in Document 3.

In reaching my decision, I relied on the following:

- the FOI Act;
- the contents of the documents described in the original decision;
- your correspondence of 22 October 2020 setting out the particulars of your FOI request;
- your correspondence of 10 November 2020 revising your scope of request;
- your correspondence of 24 November 2020 setting out the particulars of your request for an internal review;
- consultation with departmental officers as to the nature of the documents; and
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

## Reasons for Decision

Your request for internal review is set out in your email of 24 November 2020. In your email you outlined two grounds of appeal which are:

*'...these can be applied much more selectively such that:*

- 1. divisions listed as having conducted risk assessments remain visible, and*
- 2. mere mentions of risk assessments remain visible'.*

I consider each of your arguments in relation to Document 3.

### *Revision of scope*

In your revision of scope, you set out the following particulars:

*To clarify the specific documents requested, I note that the Secretary must have sought advice from the Assurance and Audit Committee and/or the Fraud Control Section in meeting her obligations under s 17AG of the PGPA Rule.*

*To reduce the size of the request, I consent to limit the search to the Assurance and Audit Committee and the Fraud Control Section.*

*Any advice from the Audit Committee and/or the Fraud Control Section that was provided to the Secretary to inform her 18/Sep/2019 declaration should be included in this FOI disclosure.*

From your reduced scope, the department understands that you have confined your request to matters directly related to the Audit and Fraud Branch. Specifically, documents of advice which were supplied to Secretary Heather Smith to certify compliance with section 17AG of the PGPA Rule<sup>1</sup>. I note that this revision has excluded documents from the department's Finance Branch.

Consideration of your arguments:

- 1. Divisions listed as having conducted risk assessments remain visible*

For completeness, I have reviewed the whole of Document 3 and '*divisions listed as having conducted risk assessments remain visible*' do not appear in the document as you have described. I am satisfied that Document 3 does not contain a list of divisions which have conducted risk assessments as this is a higher level report which addresses the requirements at a departmental level, as outlined in section 17AG(2) of the PGPA Rule.

Rather, any divisions listed within this report are for the purposes of attributing specific risks, risk ratings and/or risk treatments for that particular division. This level of reporting is in line with the requirements of section 17AG(2)(b) of the PGPA Rule and the expectations of an Annual Report as prescribed by the Department of Finance.

In summary, the information you seek regarding '*divisions listed as having conducted risk assessments*' does not exist within the documents identified as falling within the scope of your revised request. Exemptions applied to the documents relate only to information which would reasonably be expected to prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits.

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<sup>1</sup> Section 17AG(2) of the *Public Governance, Performance and Accountability Rule 2014*. We take your request to specifically pertain to subsection (2) – *corporate governance* and documents which support the requirements of the annual report.

<sup>2</sup>

## 2. Mere mentions of risk assessments remain visible

The original decision-maker found that the majority of Document 3 was exempt under section 47E(a) of the FOI Act. Upon review of Document 3, I am of the view that there may be more information which could be released to you without posing additional or increased fraud risk to the department. Therefore, I have decided to vary these redactions and release additional content from pages 1 to 8 in Document 3.

### Timing of fraud risk assessments

When you requested this internal review, you also raised a question about the timing of fraud risk assessments. I draw your attention to Point 12 'Risk Management' (p 16) in our Fraud and Corruption Control Plan 2018-20, which requires that we 'undertake a divisional risk assessment and enterprise fraud risk profile every two years'. In a previous decision released to you (67013), we identified risk assessments completed for AusIndustry Support for Business on 25 October 2016 and 16 December 2019.

The department ensures it conducts risk assessments within a two year reference period. The reference period for the first of the two risk assessments (25 October 2016) was from 1 July 2016 to 30 June 2018. The reference period for the second risk assessment (16 December 2019) was 1 July 2018 to 30 June 2020. This accounts for the 36 month gap between the assessments. The department has satisfied its obligations to conduct fraud risk assessments in line with section 10 of the PGPA Rule 2014.

### Review rights

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 by e-mail at [FOI@industry.gov.au](mailto:FOI@industry.gov.au), if you require any further clarification.

Yours sincerely



Kylie Bryant  
Chief Operating Officer  
Corporate and Digital Division

22 December 2020

### Enclosures

Original Decision  
Attachment A – Review Rights



**REVIEW RIGHTS**

**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)