



22 April 2021

Suraj Gupta

BY EMAIL: foi+request-7149-2a48135a@righttoknow.org.au

In reply please quote:

FOI Request: FA 21/03/00744

File Number: OBJ2021/8832

Dear Suraj Gupta

Freedom of Information (FOI) request - Access Decision

On 15 March 2020, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

I would like to know the number of citizenship applicants who are waiting to complete the citizenship ceremony, residing in various Victorian councils (listed below). Please consider only applicants who were approved on or before 28/02/2021. Also, please split the numbers by each council.

Councils: Banyule City Council, VIC Baw Baw Shire Council, VIC Bayside City Council, VIC Boroondara City Council, VIC Brimbank City Council, VIC Cardinia Shire Council, VIC Casey City Council, VIC Central Goldfield Shire Council, VIC Darebin City Council, VIC Frankston City Council, VIC Glen Eira City Council, VIC Greater Dandenong City Council, VIC Greater Geelong City Council, VIC Hobsons Bay City Council, VIC Hume City Council, VIC Kingston City Council, VIC Knox City Council, VIC Latrobe City Council, VIC Manningham City Council, VIC Maribyrnong City Council, VIC Maroondah City Council, VIC Mitchell Shire Council, VIC Monash City Council, VIC Moonee Valley City Council, VIC Moreland City Council, VIC Nillumbik Shire Council, VIC Port Phillip City Council, VIC Stonnington City Council, VIC Whitehorse City Council, VIC Whittlesea City Council, VIC Wyndham City Council, VIC Yarra City Council, VIC Yarra Ranges Shire Council, VIC

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access document or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the document relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the document to which you sought access

4 Document in scope of request

The Department has consulted with the relevant area of the business in relation to the documents you have requested access to and finds no relevant document holdings.

Searches

The Department does not hold an existing discrete document that contains the data you are seeking.

The Department has considered whether it can extract this data in accordance with section 17(1) of the FOI Act.

The obligation for retrieving or collating information stored in a computer system arises if:

- the Department could produce a written document containing the information using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (s17(2))

In *Collection Point Pty Ltd v Commissioner of Taxation* the full bench of the Federal Court decided that if a new computer program is required to be written to produce the document then a computer is not being used in a manner that is ordinarily available to the agency because an extraordinary step is required to be taken¹.

The Department's ordinary use of computer systems includes measures to produce regular reports on citizenship data; however the data you have requested is of a type that is not produced as part of this regular business reporting cycle.

¹ *Collection Point Pty Ltd v Commissioner of Taxation* [2013] FCAFC 67 [20].

To compile the information you have requested into a discrete document would require that additional and extraordinary measures be undertaken. This is not what section 17 of the FOI Act requires. Section 17 only requires a new document to be created when it is possible to do so using a computer or other equipment to extract data.

The data you have requested is of a detail that cannot be reported on from the Department's computer systems. Either the data is not collected to that level of detail, or it is not possible to extract the data using a computer system in a manner that is ordinarily available to it.

I am satisfied that the Department is not able to produce a written document containing the information you seek in your request in a discrete form using a computer or other equipment ordinarily available to it.

Having regard to your request and the types of document that may fall within the scope of your request I am satisfied that the searches conducted were extremely thorough and all reasonable steps have been taken to locate any document relevant to your request.

5 Decision

Section 24A of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document does not exist.

I am satisfied that the Department has undertaken reasonable searches in relation your request and that no documents were in the possession of the Department on 15 March 2021 when your FOI request was received. As such, I am refusing your request based on the application of section 24A of the FOI Act.

6 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

7 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: foi.reviews@homeaffairs.gov.au

OR

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIc) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIc, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

8 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

9 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.

Position number 60097486 Elaine
Authorised Decision Maker | Freedom of Information Section
FOI and Records Management Branch
Data Division | Strategy and Law Enforcement Group
Department of Home Affairs