



**FEDERAL COURT OF AUSTRALIA
REGISTRY**

COMMONWEALTH LAW COURTS
3 ANGAS STREET
ADELAIDE SA 5000

GPO BOX 1350
ADELAIDE SA 5001

20 May 2022

L Marsten
Right to Know

By email: foi+request-8413-442cbf33@righttoknow.org.au

Dear L Marsten

Request for an internal review under the Freedom of Information (FOI) Act

I refer to your email correspondence of 20 April 2022 (12:23AM) seeking an internal review of the FOI decision made on 14 April 2022.

Authorised decision-maker

I am authorised to make a decision on behalf of the Federal Court of Australia (**Court**) in relation to your internal review request. In conducting the internal review, I acknowledge that an internal review is a merit review process and that I am required to bring a fresh, independent and impartial mind to the review.

Material taken into Account

In making my decision on internal review, I have considered the following material:

- your FOI request received on 13 February 2022 (3:35PM) (**FOI request**);
- the decision letter to you dated 14 April 2022;
- the documents identified as falling within the scope of your request;
- the records of the searches conducted by Court staff;
- your request for internal review received on 20 April 2022 (12:23AM) (**review request**);
- the *Freedom of Information Act 1982* (Cth) (**FOI Act**) and relevant case law; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Decision on Internal Review

The documents you seek access to are itemised in a) to e) of your FOI request. Your review request states you accept the decision to refuse access to the documents in item a) on the basis that no documents exist. It appears that you also accept the decision to grant access to AFDA Express V2 – Personnel Management in response to your request for documents in item e). I have therefore not included these in my review.

Your review request states that you do not accept that no documents can be found or that they do not exist in relation to items b), c) and d), other than those documents provided to you pursuant to the decision.

I refuse your request to access documents described in items b) and c) of your FOI request. I am satisfied that all reasonable steps have been taken to find the documents you have requested, but the documents cannot be found or do not exist (see s 24A(1) of the FOI Act).

Prior to the decision made on 14 April 2022, extensive searches were undertaken by staff of the Court to identify any documents falling within the scope of your request. I have reviewed these searches and spoken to Court personnel who were involved in this process. The process for undertaking the searches involved consultations with senior staff of the Court, searches of the Court's human resources and recruitment inboxes, searches of staff emails, as well as searches of the Court's human resources shared drive, the Court's electronic documents, records management and information systems. The searches utilised key words based on Court staff's knowledge of document titling practices in the Court. Staff engaged in extensive consultations to determine appropriate key word searches by reference to the description of the documents in your FOI request. The Court is aware of its obligation to keep employment records of all employees for 75 years after that employee's date of birth or 7 years after the last action, whichever is the later. I am satisfied that the searches conducted and the search results obtained take account of this requirement.

I am satisfied that the searches undertaken were thorough and comprehensive. The same work does not need to be undertaken again. I do not believe that any further reasonable search or enquiry could find the documents you seek access to. I am satisfied that no other documents exist or they cannot be found.

I agree with the decision made on 14 April 2022 that the following documents described in item d) of your FOI request are within the scope of your request and access should be granted:

- Gazette Notice – National Appeals Registrar
- Gazette Notice – National Judicial Registrar – Native Title

The searches undertaken prior to the decision on 14 April 2022 also found the document "Gazette Notice – Judicial Registrar (Legal 2)". I am of the view that this document is within the scope of your request and I grant access to it.

I have read the reasons dated 14 April 2022 on why it is appropriate to allow access to the Gazette Notice – National Appeals Registrar and Gazette Notice – National Judicial Registrar – Native Title. I agree with these reasons and adopt them in relation to the Gazette Notice – Judicial Registrar (Legal 2).

Access

As you have already received a copy of the Gazette Notice – National Appeals Registrar and Gazette Notice – National Judicial Registrar – Native Title, I have not enclosed another copy with this letter.

I enclose a pdf copy of the Gazette Notice – Judicial Registrar (Legal 2).

Your review rights

If you are dissatisfied with my decision, under section 54L of the FOI Act you may apply to the Australian Information Commissioner for review. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter.

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to [Information Commissioner review - Home \(oaic.gov.au\)](https://www.oaic.gov.au/information-commissioner-review-home)

Complaints

If you are dissatisfied with the way the Court has handled your FOI request, you may complain to the Information Commissioner in writing. There is no fee for making a complaint.

More information about making a complaint is available on the OAIC website, including a link to the online complaints form which the OAIC recommends using for complaints. Go to [Make an FOI complaint - Home \(oaic.gov.au\)](https://www.oaic.gov.au/make-an-foi-complaint-home)

Yours sincerely



**Nicola Colbran
National Judicial Registrar &
District Registrar**