



14 July 2022

John

BY EMAIL: foi+request-9028-b80d227e@righttoknow.org.au

In reply please quote:

FOI Request: FA 22/06/00932

File Number: OBJ2022/16417

Dear John,

Freedom of Information (FOI) request – Access Decision

On 16 June 2022, 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 document:

I would like to know the number of approved citizenship applicants (by conferral) waiting for test appointments as of 16 June 2022 and the number of citizenship tests from 27 Nov 2021 to 16 June 2022 at the following centres:

Citizenship test centre – Sydney

Citizenship test centre - Parramatta

I would like to know the above figures split by council of applicant's residence - for example, number of residents of North Sydney council who gave a test at Parramatta centre from 27 Nov 2021 to 16 June 2022; number of residents of North Sydney council who gave a test at Sydney centre from 27 Nov 2021 to 16 June 2022.

I am especially interested in the figures for the following councils:

Blacktown City Council

Burwood Municipal Council

Canada Bay Council

City of Parramatta Council

City of Ryde Council

City of Sydney

Hornsby Shire Council

Hunter's Hill Council

Inner West Council

*Ku-Ring-Gai Municipal Council
Lane Cove Municipal Council
Mosman Council
North Sydney Council
Northern Beaches Council
Randwick City Council
Strathfield Council
Sutherland Shire Council
The Hills Shire Council
Waverley Council
Willoughby City Council.*

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

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains information that falls within the scope of your request. The data produced in the document existed in the possession of the Department on 16 June 2022 when your FOI request was received.

5 Decision

The decision in relation to the document in the possession of the Department which falls within the scope of your request is as follows:

- Release one document in full relating to Parts 1 and 2 of your request
- Refuse access to Parts 3 and 4 of your request under section 24A of the FOI Act.

6 Reason for the decision

Section 24A of the FOI Act provides that the Department may refuse access to a document when the Department has taken all reasonable steps to locate the document, and the document cannot be found or does not exist.

The information you are seeking for part 3 and 4 of your request is not held by the Department in discrete form, that is, in an existing document. I have therefore considered whether section 17(1)(c)(i) of the FOI Act is relevant to your access request.

17 Requests involving use of computers etc.

(1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
 - 1. the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - 2. the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

In my assessment, I have considered paragraph 3.207 of the FOI Guidelines, citing the decision of the Full Federal Court in *Collection Point Pty Ltd v Commissioner of Taxation* [2013] FCAFC 67; 95 ATR 334, in which the Full Federal Court:

...held that the reference in s 17(1)(c)(i) to a 'computer or other equipment that is ordinarily available' means 'a functioning computer system including software, that can produce the requested document without the aid of additional components which are not themselves ordinarily available ... [T]he computer or other equipment ... must be capable of functioning independently to collate or retrieve stored information and to produce the requested document.' This will be a question of fact in the individual case, and may require consideration of 'the agency's ordinary or usual conduct and operations'. For example, new software may be ordinarily available to an agency that routinely commissions or otherwise obtains such software, but not to an agency that does not routinely do such things.

The relevant Departmental business area confirmed on 12 July 202 that information you wish to access is not available via existing reporting systems. I am therefore satisfied that the information you are seeking for Part 3 and 4 of your request is not ordinarily available by use of the Department's computer systems and that section 17(1)(c) of the FOI Act does not apply to your access request.

I am satisfied the Department has taken all reasonable steps to find the document that falls within the scope of the request as it was required to do by section 24A of the FOI Act, and that:

- a discrete document does not exist
- the Department cannot produce a written document containing the information by the use of a computer or other equipment that is ordinarily available, as would otherwise be required by section 17 of the FOI Act.

On this basis, I refuse your access request under section 24A of the FOI Act.

7 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.

8 Final decision on charge

On 13 July 2022 the Department issued you with a notice of the preliminary charge in the amount of **\$40.00** to process your request, which includes the first five hours of decision-making at no cost.

Amount already paid

On 14 July 2022, the Department received your payment of \$40.00 - the total charge indicated in the preliminary charges notice issued by the Department.

As you have paid the full amount required, the Department is now releasing the document to you. If you are dissatisfied with my decision to impose charges, your review rights are set out in the paragraph titled "Your Review Rights" below.

9 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 <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

10 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.

11 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.

Yours sincerely,

Signed electronically

Joanne

Position Number: 60100057

Authorised Decision Maker

Department of Home Affairs