



OFFICE OF THE OFFICIAL SECRETARY  
TO THE GOVERNOR-GENERAL

23 July 2024

Via email: [foi+request-11610-d7be364c@righttoknow.org.au](mailto:foi+request-11610-d7be364c@righttoknow.org.au)

Dear Alex,

**Re: Application under the *Freedom of Information Act 1982***  
**Ref: FOI2024074**

I refer to your email of 2 July 2024 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

*"I seek access to all Correspondence involving members of the Office containing reference to any of the following pieces of legislation:*

- (a) Crown References Amendment Bill 2023 (cth)*
- (b) Statute Law Amendment (References to the Sovereign) Bill 2023 (Vic)*
- (c) Constitution Amendment (Demise of the Crown) Bill 2017 (WA)"*

I am the authorised decision maker under section 23 of the FOI Act and this letter sets out my decision on your request for access.

**Material taken into account**

In making my decision, I have had regard to the following:

- the terms of your request;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

**Application of the FOI Act**

The FOI Act has a limited application to the Official Secretary to the Governor-General. Section 6A provides that the Act does not apply to any request for access to a document of the Official Secretary unless the document relates to matters of an administrative nature. In *Kline v Official Secretary to the Governor General* [2013] HCA 52 the High Court said:

'the exception of a class of document which relates to "matters of an

administrative nature" connotes documents which concern the management and administration of office resources.'

Further, the High Court held the phrase does not apply to documents that relate to the discharge of the Governor-General's 'substantive powers and functions'.

24A - Requests may be refused if documents cannot be found, do not exist or have not been received

*Document lost or non-existent*

- (1) An agency or Minister may refuse a request for access to a document if:
  - (a) all reasonable steps have been taken to find the document; and
  - (b) the agency or Minister is satisfied that the document:
    - (i) is in the agency's or Minister's possession but cannot be found; or
    - (ii) does not exist.

**Decision**

The Office has been unable to identify any documents within the scope of your request.

Accordingly, I advise that I must reject your request under section 24A of the FOI Act on the basis that the document(s) sought cannot be found, do not exist or have not been received.

**Information provided outside the Office's FOI obligations**

As part of the Governor-General's substantive powers and functions the Governor-General signs Instruments and Legislation, however the Office is involved in this process only when they are ready to be submitted for assent. At this point, staff of the Office are involved in coordinating the receipt of bills to be considered by the Governor-General; the Office also advises Parliament when assent has been given. The Office is not involved in the drafting of legislation.

More information about Royal Assent is available via the Parliament of Australia website:

[https://www.aph.gov.au/About\\_Parliament/House\\_of\\_Representatives/Powers\\_practice\\_and\\_procedure/Practice7/HTML/Chapter10/Presentation\\_of\\_bills\\_for\\_assent](https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7/HTML/Chapter10/Presentation_of_bills_for_assent)

The Governor-General gives Royal assent to Commonwealth legislation only; state bills are given assent by the relevant state Governors, and similar processes apply for territory legislation (for example, in the ACT, the Clerk of the Assembly certifies a copy of the bill as passed, and the Speaker asks the Parliamentary Counsel to notify the act on the ACT Legislation Register). Of the three bills to which your request pertained, two – the Statute Law Amendment (References to the Sovereign) Bill 2023 (Vic) and the Constitution Amendment (Demise of the Crown) Bill 2017 (WA) – are state legislation which would be considered by the Governors of Victoria and Western Australia, respectively.

The Commonwealth legislation your request refers to – the Crown References Amendment Bill 2023 – has, at time of writing, not yet passed both houses of

Parliament so is not ready to be submitted for Royal assent. You can check the status of bills via the Parliament of Australia website:  
[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation)

**Review rights**

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Yours sincerely

A handwritten signature in black ink that reads "JBarnes". The signature is written in a cursive, slightly slanted style.

**Jeff Barnes**

Deputy Official Secretary to the Governor-General

## **ATTACHMENT A — INFORMATION ON RIGHTS OF REVIEW**

### **1. APPLICATION FOR INTERNAL REVIEW OF DECISION**

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision-maker.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Applications for internal review can be made:

- via email to [FOIcontactofficer@gg.gov.au](mailto:FOIcontactofficer@gg.gov.au)
- by mail to The Official Secretary to the Governor-General, Government House, CANBERRA ACT 2600

If you choose to seek an internal review, you will afterward have a right to apply for Information Commissioner review (IC review) of the internal review decision.

### **OR**

### **2. INFORMATION COMMISSIONER REVIEW OR COMPLAINT**

You also have the right to seek IC review of this decision. For FOI applicants, an application for IC review must be made in writing within 60 days of the decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify this office as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>
- via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available at its website: [www.oaic.gov.au/freedom-of-information/foi-review-process](http://www.oaic.gov.au/freedom-of-information/foi-review-process).