



**Australian Government**  
**Classification Board**

Our reference: CB 25-049

Email: [foi+request-11790-62e6e328@righttoknow.org.au](mailto:foi+request-11790-62e6e328@righttoknow.org.au)

Dear applicant

## **Decision on your Freedom of Information Request**

On 29 July 2024, you submitted a request to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department), seeking access to documents under the *Freedom of Information Act 1982* (FOI Act).

On 6 August 2024, the Department notified you that the subject matter of your request is more closely related to the functions of the Classification Board (the Board), and as such, on 5 August 2024, your request was transferred to the Board under section 16 of the FOI Act.

### **1 Your request**

You requested access to:

Audio/video recorded by the board during classification and contained in the application to classify for the computer game 'EA Sports UFC 5'.

### **2 Authority to make decision**

I am authorised to make decisions in relation to Freedom of Information requests under section 23(1) of the FOI Act.


### **3 Decision**

#### **3.1 Audio/video recorded by the Board**

The right of access under the FOI Act is limited to a 'document of an agency', being a document in the possession of the Board, whether created by the Board or received by the Board (section 4 of the FOI Act refers).

Section 24A of the FOI Act provides that an agency 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.



Staff assisting the Board conducted searches of the Board's case files for documents relating to 'EA Sports UFC 5'. No recordings made by members of the Board or by staff assisting the Board were identified as being in the possession of the Board. In addition, I note that it is not usual practice for members of the Board to create such recordings.

I am satisfied that all reasonable steps have been taken to find documents which would be relevant to your request and that the documents do not exist in the possession of the Board.

I have therefore decided, in accordance with section 24A of the FOI Act, that the Board does not hold a document in its possession that meets the terms of this part of your request.

### **3.2 Audio/video contained in the application to classify**

I have identified one document that I consider contains information that is relevant to the second part of your request. This document was in the possession of the Board when your request was received and consists of video footage which accompanied the application to classify the computer game 'EA Sports UFC 5'.

I have decided to grant access in full to this document.

## **4 Material taken into consideration**

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

- the terms of your request
- the content of the documents captured by your request
- the provisions of the FOI Act
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from departmental officers assisting the Board with responsibility for the subject matter contained in the documents captured by your request.

## **5 Legislative provisions**

The FOI Act, including the provisions referred to in my decision, are available on the Federal Register of Legislation website: [www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562).

## **6 Your review rights**

If you are dissatisfied with my decision, you may apply for a review of it.

### **6.1 Information Commissioner review or complaint**

An application for IC review must be made in writing to the Office of the Australian Information Commissioner (OAIC) within 60 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.

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

## 7 Publication of material released under the FOI Act

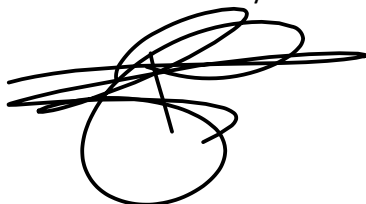
Where I have decided to release documents to you, we may also publish the released material on our Disclosure Log. We will not publish personal or business affairs information where it would be unreasonable to do so.

For your reference our Disclosure Log can be found here: [www.infrastructure.gov.au/about-us/freedom-information/freedom-information-disclosure-log](http://www.infrastructure.gov.au/about-us/freedom-information/freedom-information-disclosure-log).

### Further information

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts provides administrative assistance to the Classification Board in relation to FOI matters. If you require further information about this decision, please contact the Department's FOI Section at [FOI@infrastructure.gov.au](mailto:FOI@infrastructure.gov.au).

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

Tristan Sharp  
Acting Director  
Classification Board

26 August 2024