



Official

## Freedom of Information (FOI) request

Internal Review decision and reasons under section 54 of the *Freedom of Information Act 1982*

Reference: FOI/2024/260IR

To: Jillian

[foi+request-11849-252862a7@righttoknow.org.au](mailto:foi+request-11849-252862a7@righttoknow.org.au)

cc: Office of the Australian Information Commissioner

[foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

Dear Jillian

I refer to your email requesting an internal review of an access refusal decision made under the *Freedom of Information Act 1982* (the FOI Act) by the Department of the Prime Minister and Cabinet (the Department) dated 18 September 2024.

Section 54(2) of the FOI Act allows an applicant to apply for internal review of a decision refusing to give access to a document in accordance with the request.

### Scope of internal review

On 22 November 2024 you set out your request for review in the following terms (extract):

*"I am writing to request an internal review of Department of the Prime Minister and Cabinet's handling of my FOI request 'Instrument to establish King of Australia'.*

*We asked for clarification as the Proclamation we have viewed is inconsistent with the document agents of the department described."*

### Authorised decision-maker

The FOI Act provides an agency must arrange for a person (other than the person who made the original decision) to review the decision.<sup>1</sup>

I am authorised to make this review decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

---

<sup>1</sup> s 54C(2) of the FOI Act.

---

## Internal review decision

I have decided to affirm the original decision. I am satisfied that the documents within the scope of your request were provided to you within the original decision, via links to the relevant public-facing websites, reproduced below:

- Document 1 – the signed Proclamation by His Excellency, General the Honourable David John Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, and the Honourable Anthony Albanese, the Prime Minister of Australia, of King Charles the Third, the King of Australia. Document 1 is publicly available on our [website](#).
- Document 2 – The Constitution of Australia, which is publicly available on the Parliament of Australia's [website](#).
- Document 3 – Australian Symbols Booklet (specifically pages 21 and 22 – the Great Seal) which is publicly available on our [website](#).

For clarity, I have attached the above documents to this decision.

In reaching my decision I referred to the following:

- the terms of your request for internal review;
- the original FOI request;
- a review of document searches undertaken by the Department in the original FOI request;
- the FOI Act; and
- the Guidelines issued by the Information Commissioner<sup>2</sup> (the FOI Guidelines).

## Background

### Original FOI request

On 7 August 2024 you made a request under the FOI Act to the Department to seek access to the following:

*1. I request the instrument for the establishment of the proclaimed King of Australia for which the title relies on,*

*2. In the occasion that the instrument for the proclaimed King of Australia exists, I request the head of power that the title relies on,*

*3. I request the information that demonstrates the proclaimed King of Australia conforms to the meaning of, "in the sovereignty of the United Kingdom", expressed in the second clause prefacing the Commonwealth of Australia Constitution proper*

### Summary of original decision

Access to the requested documents was granted in full and the advice provided to you in the notice of that decision was that the documents held by the Department were all available online.

---

<sup>2</sup> s 93A of the FOI Act.

---

## Reasons for Internal Review Decision

Your original request specifically sought the instrument for the establishment of the proclaimed King of Australia, the head of power on which it relies and information that demonstrates the proclaimed King of Australia conforms to the meaning in the Constitution.

I am satisfied that the Department has undertaken reasonable steps to identify documents held by the Department within the scope of the terms of your request. Further, I am satisfied that the documents identified within scope of your request are all publicly available.

## Other information

Your request for internal review refers to another version of the Proclamation, where you state the 'Proclamation we have viewed is inconsistent with the document agents of the department described'. Please be advised, the Proclamation document referred to in the original access decision is the only official instrument for the establishment of the King of Australia and is the document held by the Department which meets the terms of your request.

---

## Review rights

If you disagree with my review decision, you may apply for Information Commissioner review of the decision.

### Information Commissioner review

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

More information about Information Commissioner review is available at

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

## FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing.

More information about complaints is available on the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

Yours sincerely



Andrew Walter  
First Assistant Secretary  
Government Division  
Department of the Prime Minister and Cabinet  
30 January 2025