



23 December 2024

Glenn Hamiltonshire

By email: foi+request-12504-5ff03123@righttoknow.org.au

Dear Mr Hamiltonshire

Freedom of Information Request - 10428

I am writing to advise you of my decision regarding your request under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

Summary

On 8 December 2024 you requested access to:

...the Style Guides/Brand Guides/Writing Guides currently used for IP Australia.

On 19 December 2024 I sent an email advising you that four (4) documents had been identified as being within the scope of your request. I further advised that several of these documents contained images of IP Australia staff as well as internal email addresses and asked if you would agree to remove these from the scope of your request.

On 19 December 2024 you replied:

Under the provisions of the FOI act, I am comfortable with the redaction/omitting of any details or information relating to non-SES Staff, which would include members of IP Australia.

Relevant documents

The following documents are considered within scope of your FOI request:

- Document 1 - IP Australia brand guidelines;
- Document 2 - Multimedia Style Guide;
- Document 3 - Photography Style Guide; and
- Document 4 - Tone of Voice Guide.

Decision

I have decided:

- to grant access in full to Document 4; and
- to grant access in part to Documents 1 to 3, with exempt matter deleted under section 22 and exempt under section:
 - 47E(d) – *certain operations of an agency*; and
 - 47F - *documents disclosing personal information*.

Searches undertaken

The FOI Act requires that all reasonable steps be taken to locate documents within the scope of an FOI request.

In response to your request the following teams in IP Australia conducted searches for documents relevant to your request:

- Web, Multimedia & Design;
- Communications; and
- Public Education & Awareness.

Having consulted with the relevant teams and undertaken a review of the records of the various search and retrieval efforts, I am satisfied that a reasonable search has been undertaken in response to your request and that all relevant documents have been found.

Material taken into account

In making my decision I have considered the following material:

- your FOI application;
- the documents within the scope of your request;
- the FOI Act;
- guidelines released by the Office of the Australian Information Commissioner (OAIC) issued under section 93A of the FOI Act (Guidelines); and
- relevant cases and decisions by the OAIC, including Information Commissioner review decisions

Reasons for decision

Certain operations of agencies – section 47E of the FOI Act

Section 47E of the FOI Act conditionally exempts a document where disclosure would, or could reasonably be expected to, prejudice or have a substantial adverse effect on certain listed agency operations.

Section 47E(d) of the FOI Act provides that a document is conditionally exempt if disclosure of the document under the Act would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency. However, section 47E is a conditional exemption which means it is subject to the public interest test (considered below).

Document 1, Document 2 and Document 3 contain an internal email address utilised only by IP Australia staff. Disclosing this information publicly would allow the public to contact this email directly and risk destabilising the preferred channels of communication set in place by IP Australia.

I therefore consider this information to be conditionally exempt under section 47E(d) as release of this information would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Section 11B of the FOI Act - Public Interest Test

Section 11B of the FOI Act outlines the Public Interest Test, which requires an agency to provide access to a conditionally exempt document unless doing so would be contrary to the

public interest. While factors in favour of disclosure include promoting the Act's objectives, such as transparency and public participation in government processes, and providing access to government-held information, I consider that the factors against disclosure, particularly the potential prejudice to the management function of IP Australia, outweigh these considerations.

Section 47F - personal privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person). However, section 47F is also a conditional exemption which means it is subject to the public interest test (considered below).

I am satisfied that IP Australia staff photos in Document 2 and Document 3 constitute 'personal information' as defined in section 4(1) of the FOI Act and section 6 of the *Privacy Act 1988* (Cth).

The requested documents are style guides, and the staff photos are included as examples within these guides. This inclusion is outside the usual work-related context for which these photos were taken. The primary purpose of these photos is not to serve as public examples but rather for internal use within the organization. Disclosing these photos would therefore involve an unreasonable disclosure of personal information, as it would expose staff members' images in a manner that is not aligned with their usual work duties and expectations of privacy.

Section 11B of the FOI Act - Public Interest Test

In determining whether the disclosure of this information is contrary to the public interest, I have weighed the objects of the FOI Act, including providing access to government-held information, against the need to protect the personal information of IP Australia staff.

The public interest in accessing this information does not outweigh the potential harm caused by the unreasonable disclosure of personal information. The staff photos are not essential to understanding the content or purpose of the style guides, and their disclosure would not significantly contribute to public debate or transparency. Therefore, I have decided that the public interest factors in favour of disclosure do not outweigh the factors against disclosure.

Accordingly, I am satisfied that disclosure of the personal information would be contrary to the public interest.

Access to edited copies with exempt or irrelevant matter deleted (s22)

I consider it possible to prepare copies of Document 1, Document 2 and Document 3, modified by deletions, ensuring that material I have found to be irrelevant, and exempt is removed.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or review by the Information Commissioner of this decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Under section 54 of the FOI Act, you may apply in writing to IP Australia for an internal review of my decision. The internal review application must be made within 30 days of the

date of this letter or 15 days from the date in which you receive access to the document, whichever is the longest period (section 54B of the FOI Act refers).

Where possible please attach reasons for why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to have this decision reviewed. An application for review must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about reviews by the Information Commissioner is available on the Office of the Australian Information Commissioner website:

[https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/FOI Complaints](https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/FOI%20Complaints)

If you are unhappy with the way we have handled your FOI request, please let us know. We may be able to rectify the problem. However, 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. Complaints can be lodged in one of the following ways:

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney 2001

More information about making a complaint is available on the Office of the Australian Information Commissioner website:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Publication of documents on disclosure log

I have decided to publish the documents on IP Australia's disclosure log in accordance with section 11C of the FOI Act.

Contact

If you have any questions regarding this notice, please do not hesitate to contact me in writing by email at FOI@ipaaustralia.gov.au.

Yours sincerely

Simon Henkel
FOI Officer
Office of Legal Counsel