



Australian Government
Department of Agriculture, Fisheries and Forestry

FOI 2011-12.50

Mr John Hawkins
Bentley, Mole Creek Road
Chudleigh TAS 7304

Via email: jhawkins@acenet.com.au

Dear Mr Hawkins

Thank you for your email of 22 March 2012, received by the Department of Agriculture, Fisheries and Forestry (the department) for access under the *Freedom of Information Act 1982* (FOI Act) to:

"Documentation, written, or emails, between Abetz and Carmody, from 21 April 2006 to the 21st December 2006 when the Tax Exemption was removed on all MIS investments.

Correspondence between Dutton and Abetz, and Carmody and Abetz, and if any survives between Carmody and Dutton over which Abetz was copied in is requested for this window between 21st December and 13th Feb 2007 when the exemption was created and announced.

Any Correspondence between Gunns and the Minister between 21 April 2006 and 13th Feb 2007 relevant to the continuing exemption of Forestry from the proposed scrapping of MIS over plantations."

I am authorised to make decisions under the FOI Act and my decision is set out below.

Decision on access to documents

The department has taken all reasonable steps to locate documents that fall within the scope of your request, and I have formed the view that the department does not hold any documents as those you have requested.

I have enclosed information about review under the FOI Act as **Attachment A**.

Should you have any questions, please do not hesitate to contact FOI Policy Officer Rob van den Berg on 02 6272 5155 or via email at foi@daff.gov.au for assistance with your request.

Yours sincerely

Mr John Talbot
Forestry
Climate Change Division
Department of Agriculture Fisheries & Forestry

30 March 2012



Information on rights of review

Rights of review

Under the FOI Act you may seek a review of my decision through:

- an internal review conducted by the department
- a review by the Information Commissioner.

Internal review

If you wish to seek an internal review, you must apply to the department within 30 days after the day you are notified of this decision.

An application for internal review of the decision made must be made in writing. No particular form is required but it is helpful if you set out in the application the grounds on which you consider that the decision should be reviewed. Your application for an internal review should be sent to:

FOI Coordinator
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA CITY ACT 2601

or via email at foi@daff.gov.au

External review

Alternatively, you may seek a review of my decision by the Information Commissioner.

If you wish to seek a review of my decision by the Information Commissioner you must apply within 60 days after the day notice of this decision letter was given.

Your application for review must be in writing and must provide details of how notices may be sent to you and include a copy of this decision letter. The Information Commissioner also suggests that your application sets out why you are objecting to the decision. Your application can be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney, NSW, 2000.

For further information you can call the OAIC on 1300 363 992.

I have also enclosed FOI Fact Sheet 12 titled Freedom of Information – Your review rights. This fact sheet is published by the Office of the Australian Information Commissioner and provides further information on your review rights.

Complaints

Under the FOI Act, you can also make a complaint to the Information Commissioner, via the Commissioner's contact details mentioned above, if you have concerns about how the department handled a request for documents under the FOI Act or took any other action under the FOI Act.

You may also make a complaint to the Commonwealth Ombudsman. Complaints to the Commonwealth Ombudsman can be made either in writing, in person or online. Relevant contact details for the Commonwealth Ombudsman are as follows:

Post:	GPO Box 442, CANBERRA ACT 2601
Tel:	1300 362 072
Fax:	(02) 6276 0123
Online:	www.ombudsman.gov.au
In person:	Refer to the website which contains the relevant address details for the Commonwealth Ombudsman's offices in Adelaide, Alice Springs, Brisbane, Canberra, Darwin, Hobart, Melbourne, Perth and Sydney.

There is no fee for making a complaint to either the Information Commissioner or the Commonwealth Ombudsman.



Freedom of information – Your review rights

April 2011

If you disagree with the decision of an Australian Government agency or minister under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if someone is to be granted access to information that is about you, if the agency has informed you that it will impose a charge for processing your request or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by the agency, and external review by the Australian Information Commissioner.

Internal review

If an agency makes an FOI decision that you disagree with, you can ask the agency to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless the agency extended the application time. You should contact the agency if you wish to seek an extension. The agency must make a review decision within 30 days. If it does not do so, its original decision is considered to be affirmed.

Internal review is not available if a minister or the chief officer of the agency made the decision personally.

Review by the Information Commissioner

The Information Commissioner is an independent office holder who can review the decisions of agencies and ministers under the FOI Act.

Is a review the same as a complaint?

No. The Information Commissioner also investigates complaints about agency actions under the FOI Act. However, if you are complaining that an agency decision is wrong, it will be treated as an application for a review. Your matter will be treated as a complaint when a review would not be practical

or would not address your concerns (for example, if you were not consulted about a document that contains your personal information before it was released). For more information see FOI fact sheet 13 – *Freedom of Information: How to make a complaint*.

Do I have to go through the agency's internal review process first?

No. You may apply directly to the Information Commissioner. However, going through the agency's internal review process gives the agency the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

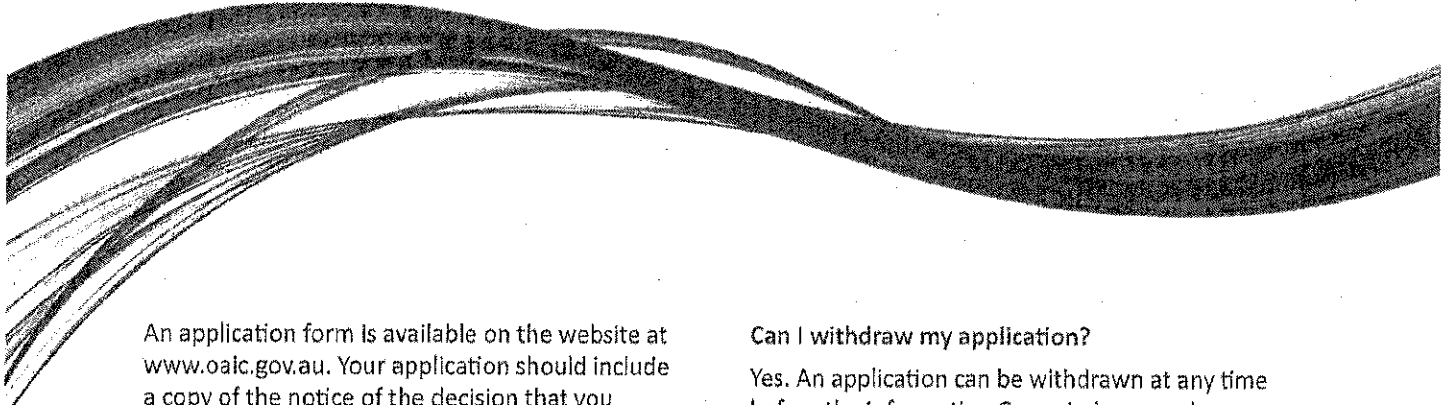
Do I have to pay?

No. The Information Commissioner's review is free.

How do I apply?

You must apply in writing and you can lodge your application in one of the following ways:

online: www.oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
fax: +61 2 9284 9666
email: enquiries@oaic.gov.au
in person: Level 3,
175 Pitt Street
Sydney NSW 2000



An application form is available on the website at www.oaic.gov.au. Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

Can I get help in completing the application?

Yes. The Information Commissioner's staff are available to help you with your application if anything is unclear.

When do I have to apply?

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the Information Commissioner within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

You can ask the Information Commissioner for an extension of time to apply, and this may be granted if the Information Commissioner considers it is reasonable in the circumstances.

Who will conduct the review?

Staff of the Information Commissioner will conduct the review. Only the Information Commissioner, the FOI Commissioner or the Privacy Commissioner can make a decision at the end of the review.

Does the Information Commissioner have to review my matter?

No. The Information Commissioner may decide not to review an application that is frivolous, misconceived or lacking in substance, or if you fail to cooperate with the process or cannot be contacted after reasonable attempts. You cannot appeal against that decision.

Alternatively the Information Commissioner may decide that the Administrative Appeals Tribunal (AAT) would be better placed to review the matter, and if so, will advise you of the procedure for applying to the AAT. This will not be common.

Can I withdraw my application?

Yes. An application can be withdrawn at any time before the Information Commissioner makes a decision.

What happens in the review process?

The review process is designed to be as informal as possible. The Information Commissioner may contact you or any of the other parties to clarify matters and seek more information. The Information Commissioner may also ask the agency or minister to provide reasons for their decision if the reasons given were inadequate.

Most reviews will be made on the basis of the submissions and papers provided by the parties. Sometimes the Information Commissioner may decide to hold a hearing if one of the parties applies. Parties may participate in a hearing by telephone. If confidential matters are raised, the hearing may be held partly or wholly in private.

Will there be other parties to the review?

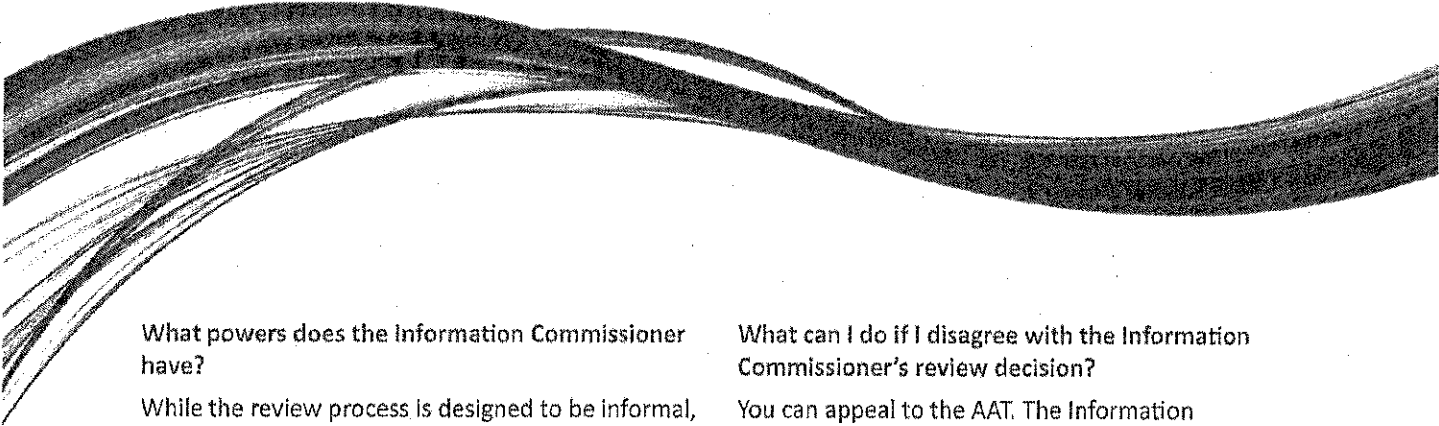
There may be. The Information Commissioner can join other parties who are affected by the application. For example, if you are objecting to someone else being granted access to information that concerns you, that person may be joined in the review.

Can someone else represent me?

Yes, including a lawyer. However, the Information Commissioner prefers the process to be as informal and cost-effective as possible and does not encourage legal representation.

Will the Information Commissioner look at all documents, including ones that are claimed to be exempt?

Yes. The Information Commissioner's review is a fresh decision, so all the relevant material must be examined, including documents that the agency or minister has declined to release. Developments that have occurred since the original decision may also be considered.



What powers does the Information Commissioner have?

While the review process is designed to be informal, the Information Commissioner has formal powers to require anyone to produce information or documents, to compel anyone to attend to answer questions and to take an oath or affirmation that their answers will be true.

An agency or minister can also be ordered to undertake further searches for documents.

What decisions can the Information Commissioner make?

After reviewing a decision, the Information Commissioner must do one of three things:

- set the decision aside and make a fresh decision
- affirm the decision, or
- vary the decision.

The Information Commissioner will give reasons for the decision.

Will the decision be made public?

Yes. The Information Commissioner will publish decisions on the website. Exempt material (that is, material that is not released) will not be included. Nor will the name of the review applicant, unless that person requests otherwise or there is a special reason to publish it.

What can I do if I disagree with the Information Commissioner's review decision?

You can appeal to the AAT. The Information Commissioner will not be a party to those proceedings. The fee for lodging an AAT application is \$777 (at November 2010), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

FOI applications made before 1 November 2010

The Information Commissioner can only review an agency's or minister's FOI decision if you made your FOI request on or after 1 November 2010. If you made your FOI request before 1 November, even if the decision was made after that date, the review process is different.

You must first ask the agency for internal review of the decision. You may then appeal to the AAT if you are not satisfied with the decision.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

telephone: 1300 363 992

email: enquiries@oaic.gov.au

write: GPO Box 2999, Canberra ACT 2601
or visit our website at www.oaic.gov.au