

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 83

Division/Agency: Office of the General Counsel

Topic: FOI request

Proof Hansard page: 33 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: Senator Colbeck, has this issue been finalised in the minister's office?

Senator Colbeck: That would be a matter for the minister's office. I do not manage his office and he does not manage mine.

Senator CAMERON: But you are here representing the minister.

Senator Colbeck: Correct. I will have to take it on notice. I am not aware of the procedures within the minister's office.

Senator CAMERON: I would appreciate it if you could just answer me without this sort of stuff.

Senator Colbeck: Seriously, I do not know. I will take it on notice.

Answer:

The matter has been finalised. The Chief of Staff to Minister Joyce made a decision on 11 December 2014 and released documents to the FOI applicant on 12 December 2014.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 84

Division/Agency: Office of the General Counsel

Topic: FOI training – minister’s office

Proof Hansard page: 34 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: Has anyone in the minister’s office taken up the offer of training?

Ms Luscombe: Not to my knowledge at the moment.

Senator CAMERON: So the minister’s office is still on its own?

Ms Luscombe: I can take that on notice and provide the answer to you. I could not be exactly sure.

Answer:

The department has provided informal training on FOI processes and requirements to a Departmental Liaison Officer in Minister Joyce’s office. The department has also provided advice and technical and administrative support on how to process FOI requests when requested by the minister’s office.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 85

Division/Agency: Office of the General Counsel

Topic: Correspondence between the minister's office and the department on FOI request

Proof Hansard page: 34-35 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: Well, there might be some doubts as to what you have done or what I have got. Can you provide details of all correspondence between any of your officers and the minister's office on this FOI request.

Ms Luscombe: The department did receive an FOI request for the processing of the FOI request that you are referring to, and we have finalised that request as well.

Senator CAMERON: I am asking you to provide the Senate—

Dr Grimes: We can take that on notice—any correspondence that relates to the handling of the FOI request.

Senator CAMERON: Why would you need to take it on notice when I am simply asking for correspondence between the minister's office and the department in relation to an FOI request?

Dr Grimes: I cannot speak for Ms Luscombe, but I imagine the reason is that she does not have the correspondence with her at the moment. I am not sure.

Ms Luscombe: I do not.

Dr Grimes: So we will take it on notice to obtain the correspondence so that we can provide it to you. We will have got to go back and obtain the correspondence and then provide it to you.

Senator CAMERON: You will obtain it and you will provide it?

Dr Grimes: Yes. You have asked that very clearly. We will take that question on notice and provide that corresponds to you.

Senator CAMERON: Could you also provide details of the times and dates of telephone conversations between your department and the minister's office in relation to this FOI request.

Ms Luscombe: Yes, certainly.

Question: 85 (continued)

Senator CAMERON: You said you were not aware that the minister's office had requested any training. Could you clarify that on notice and also whether any advice has been provided to the minister's office in a non-formal manner about how to properly deal with an FOI request.

Ms Luscombe: Yes, I am very happy to do that. Senator Cameron, could I correct the record. The 'Laura' that you referred to may have been the departmental liaison officer.

Answer:

Correspondence between Minister Joyce's office and the department in relation to the FOI request (reference FOI 2014/15-21) is provided at Attachment A. Information unrelated to the FOI request has been redacted.

The content of one document is properly the subject of a public interest immunity claim on the basis that it contains advice subject to legal professional privilege. It is the Commonwealth's general position that the content of legal advice received by the government should not be disclosed.

There were two telephone conversations between the department and the minister's office during the period 30 October 2014 and 7 November 2014 in relation to this FOI request. They were after 4.46pm on 4 November 2014 and at approximately 1.15pm on 6 November 2014.

Please also refer to the response to Question on Notice 84 from Additional Estimates held in February 2015.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 86

Division/Agency: Office of the General Counsel

Topic: FOI request

Proof Hansard page: 35 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: I have asked about correspondence between the minister's office and the department. I would also need you to answer all the same questions going to the liaison officer—what discussions took place with the liaison officer, when they took place and any correspondence between the liaison officer and the department on this FOI request. When your department makes reference to a shadow minister or a minister, is it normal for the shadow minister just to be called 'Fitzgibbon' and the minister to be called 'minister'? Is there an issue here in terms of—

Answer:

Correspondence between the department and a Departmental Liaison Officer in relation to the FOI request (reference FOI 2014/15-21) is provided at Attachment B. The Departmental Liaison Officer also received some of the correspondence provided at Attachment A. Information unrelated to the FOI request has been redacted.

Telephone conversations between the department and a Departmental Liaison Officer during the period 30 October 2014 and 7 November 2014 in relation to this FOI request are outlined in Attachment C.

Johnson, Lauren

From: Foi
Sent: Thursday, 30 October 2014 10:03 AM
To: Smith, Laura E; Downard, Christie
Cc: Luscombe, Kerrie-Anne; Foi
Subject: TRIM: Pls call re new FOI request to minister re amendment to Hansard [DLM=For-Official-Use-Only]

Categories: CS Category

Good morning Laura,

Can you pls give me a call about a new FOI request the department received yesterday.

It was an FOI request from Fitzgibbon's office to the minister seeking correspondence about the amendment to the Hansard record.

I'd like to talk to you about it before the department responds to the request.

Regards,

Catherine

Catherine Smith

Director | Office of the General Counsel | Freedom of Information & Legislation and Regulatory Reform Sections

Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture

18 Marcus Clarke Street, Canberra ACT 2601 Australia

GPO Box 858 Canberra ACT 2601 Australia

Johnson, Lauren

From: Foi
Sent: Thursday, 6 November 2014 10:30 AM
To: Smith, Laura E
Cc: Foi
Subject: MO FOI requests [DLM=For-Official-Use-Only]
Attachments: MO FOI 201415-01 - Acknowledgment.docx

Hi Laura,

Hansard FOI (MFOI2014/15-02)

As requested, here's the draft acknowledgement letter for the Hansard FOI request.

Note, this letter doesn't have to be signed by Di (ie someone authorised by the minister), nor does Di need to be the contact officer stated in the letter. To comply with the FOI Act, the only letters that Di needs to sign are the charges and decision on access/refusal letters. It is open to Di to nominate someone else in the office to sign the other letters.

[Redacted]

Cheers,

Catherine

Catherine Smith

Director | Office of the General Counsel | Legislation and Freedom of Information Section

Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture
18 Marcus Clarke Street, Canberra ACT 2601 Australia
GPO Box 858 Canberra ACT 2601 Australia



The Hon. Barnaby Joyce MP

Minister for Agriculture
Federal Member for New England

Ref: MO FOI 2014/15-02

Natasa Sikman
Advisor
Office of the Hon Joel Fitzgibbon MP
Parliament House
Canberra ACT 2600

Dear Ms Sikman

I refer to your request, sent to the Department of Agriculture on 29 October 2014, for access under the *Freedom of Information Act 1982* (the FOI Act) to correspondence in relation to the amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014.

The Department of Agriculture transferred the request to the Minister of Agriculture on 4 November 2014 under section 16 of the FOI Act. Our reference number for your request is MO FOI 2014/15-02.

The office will now undertake a search for relevant documents and you will be notified of a decision on charges (if applicable) or access to documents as soon as practicable.

I can be contacted via telephone on 02 6277 7520 or email at diana.hallam@maff.gov.au for any assistance.

Yours sincerely

Diana Hallam
Chief of Staff
Office of the Hon. Barnaby Joyce MP
Minister for Agriculture

Johnson, Lauren

From: Smith, Laura E
Sent: Thursday, 6 November 2014 11:04 AM
To: Foi
Subject: TRIM: RE: MO FOI requests [DLM=For-Official-Use-Only]

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Catherine

Thanks for this.

[Redacted]

[Redacted]

Thanks
Laura

From: Foi
Sent: Thursday, 6 November 2014 10:30 AM
To: Smith, Laura E
Cc: Foi
Subject: MO FOI requests [DLM=For-Official-Use-Only]

Hi Laura,

Hansard FOI (MFOI2014/15-02)

As requested, here's the draft acknowledgement letter for the Hansard FOI request.

Note, this letter doesn't have to be signed by Di (ie someone authorised by the minister), nor does Di need to be the contact officer stated in the letter. To comply with the FOI Act, the only letters that Di needs to sign are the charges and decision on access/refusal letters. It is open to Di to nominate someone else in the office to sign the other letters.

[Redacted]

Cheers,

Catherine

Catherine Smith

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Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture
18 Marcus Clarke Street, Canberra ACT 2601 Australia
GPO Box 858 Canberra ACT 2601 Australia

WORKING DOCUMENT - DRAFT

Attachment C – Telephone conversations

There were a number of telephone conversations between officers in the FOI team and the Departmental Liaison Officer about the FOI request. Their recollections of these conversations are as follows.

30 October 2014 (after 10.03am)	The FOI decision maker outlines the scope of the FOI request to the Departmental Liaison Officer and options for how it might be processed.
30 October 2014 (~ 11.15am)	The Departmental Liaison Officer asks the department to send a copy of the FOI request to the Minister's Office.
4 November 2014	The FOI decision maker discusses a few matters with the Departmental Liaison Officer, including that the department was waiting for a response to the proposed transfer.
5 November 2014 (prior to 12.00pm)	A FOI Officer calls the Departmental Liaison Officer and discusses the status of this and some other FOI requests.
6 November 2014 (~1pm)	The FOI decision maker calls the Departmental Liaison Officer about a few matters and discusses the status of the FOI request. The Departmental Liaison Officer mentions that the Chief of Staff to Minister Joyce knows she is yet to reply to the department's email about the transfer. The FOI decision maker mentions the draft acknowledgement letter she had sent to the Departmental Liaison Officer at 10.30am that day.
7 November 2014 (prior to 4.40pm)	The FOI decision maker calls the Departmental Liaison Officer to advise that she was sending an FOI decision letter to Mr Fitzgibbon's office, and that the letter would acknowledge that the FOI decision maker had been mistaken in her understanding that the request had been transferred to the Minister's Office. The Departmental Liaison Officer called back to say that the Chief of Staff to Minister Joyce had been made aware of this.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 87

Division/Agency: Office of the General Counsel

Topic: FOI request – acceptance of Chief of Staff

Proof Hansard page: 36 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: The issue of whether Ms Hallam actually accepted—

Senator Colbeck: My advice from Ms Hallam is that she did not accept the document.

Senator CAMERON: Well, can you then provide details of how that non-acceptance took place?

Senator Colbeck: I will have to take that on notice, as you might understand.

Senator CAMERON: If there were telephone calls I would like to know the times and when they took place and I would like to know if there are emails or any correspondence that says, 'We don't accept this.' Why wouldn't the minister's office accept an FOI request that goes to this issue?

Senator Colbeck: I will have to take that on notice. I am not aware of the circumstances. I understand the broader issue because, as the secretary said, it has been in the public arena. You have had a quite detailed conversation with the department around the processes backwards and forwards. All I am trying to do is to clarify a point which you have raised. I have had some advice from the minister's office and I am putting that on the record for your information. I am saying to you that, subsequently, Mr Fitzgibbon has put the question relating to that matter on notice to the minister in the House of Representatives and the minister will obviously respond through that process.

Answer:

Following a telephone conversation with the Chief of Staff to Minister Joyce on 4 November 2014, the department's FOI decision maker had incorrectly understood that a transfer of the FOI request to Minister's Joyce's office had been agreed. At 1.25pm on 6 November 2014, the Chief of Staff sent an email to the department advising that she did not accept the transfer of the request. This document is provided at Attachment A.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 88

Division/Agency: Office of the General Counsel

Topic: FOI request – minister’s office non acceptance

Proof Hansard page: 36 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: That does not go to the minister making a unilateral decision not to respond to a request, does it?

Senator Colbeck: Not as I understand it.

Senator CAMERON: In that context, could you explain why the minister unilaterally decided that his office would not proceed with an FOI request, when the minister has obligations under the act? Could you take that on notice?

Senator Colbeck: I will.

Answer:

Under subsection 16(1) of the *Freedom of Information Act 1982*, there is no requirement under the FOI Act for the Chief of Staff to Minister Joyce to have accepted the proposed transfer on behalf of the minister.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 89

Division/Agency: Office of the General Counsel

Topic: FOI request - status

Proof Hansard page: 36 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: In relation to the actual request itself: where is it up to now, other than buried somewhere in the minister's office? Where exactly is this FOI request up to?

Senator Colbeck: I will have to take that on notice, Senator. But, as I indicated to you, there is another process that is being undertaken to provide a response and—

Answer:

The FOI request has been finalised.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 90

Division/Agency: Office of the General Counsel

Topic: FOI request – when did minister’s office receive referral from department

Proof Hansard page: 37 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: Okay. Can you then advise me when, on what date, the minister's office received the referral from the department? You can tell me that?

Ms Luscombe: I would have to take that on notice. As soon as we identified that there had been a misunderstanding about accepting the transfer or not, we immediately notified the applicant. We apologised, we noted that obviously it needed to be redirected and we told the applicant how to actually make that occur. And I understand that that is what happened.

Senator CAMERON: Okay. So can you give me the details of when you forwarded the FOI to the minister's office? And, Minister, if you could advise when the minister's office made a decision not to proceed.

Answer:

The department sought to transfer the request on 30 October 2014. The relevant document is provided at Attachment A.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 91

Division/Agency: Office of the General Counsel

Topic: FOI

Proof Hansard page: 37 (23.02.2015)

Senator HEFFERNAN asked:

CHAIR: Just to clarify in my thick head again: you cannot remember or do not know whether, when Mr Fitzgibbon made an FOI and it went to your department—it should have gone to the minister, in the judgement of the department—you sent it on to the minister or whether you wrote back to Mr Fitzgibbon and said: 'Mate, you have sent it to the wrong hole. Send it over there.' Is that right?

Ms Luscombe: I would need to look at the documents. There would have been, potentially, an FOI alert. I do not have that information with me.

Answer:

The *Freedom of Information Act 1982* (FOI Act) is procedurally complex legislation, with no single defined path for an FOI request to follow. With the benefit of hindsight, in this particular case the preferable approach would have been for the department to advise the applicant to submit the request directly to Minister Joyce's office.

That said, by seeking to transfer the request, the department's FOI decision maker was following a well-recognised process to place a request in the hands of the agency or minister most appropriate to respond to the request.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2015

Agriculture

Question: 92

Division/Agency: Office of the General Counsel

Topic: FOI request – transfer in writing

Proof Hansard page: 38 (23.02.2015)

Senator CAMERON asked:

Senator CAMERON: When did you seek to confirm the transfer in writing?

Ms Luscombe: I do not have the date but, presumably, it would have been straight after that.

Senator CAMERON: Straight after 5 November?

Ms Luscombe: I would have to confirm that, but it would make sense that it would be.

Answer:

The department's FOI decision maker sent an email to the Chief of Staff to Minister Joyce, seeking to transfer this request on 30 October 2014. The email requested the Chief of Staff to advise by return email if she accepted the transfer on behalf of Minister Joyce. The relevant document is provided at Attachment A.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates March 2015

Agriculture

Question: 93

Division/Agency: Office of the General Counsel

Topic: FOI request – document between ministerial advisers

Proof Hansard page: 5 (5.03.2015)

Senator CANAVAN asked:

Senator CANAVAN: And the document that Senator Heffernan was quoting from earlier was a document between ministerial advisers? Is that right? That is the one we are tabling right now?

Ms Luscombe: Yes, I think that is correct.

Senator CANAVAN: Was that document that you are tabling now in scope of the original FOI request?

Ms Luscombe: That is the question, I suppose, where it is not entirely—the scope of the request was not addressed to the department.

Answer:

The department's FOI decision maker formed the view that, given the scope of the original FOI request, the department did not hold the requested documents. The tabled document would likely have fallen within the scope of that FOI request.

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates March 2015

Agriculture

Question: 94

Division/Agency: Office of the General Counsel

Topic: Guidance - FOI process

Proof Hansard page: 7 (5.03.2015)

Senator CANAVAN asked:

Senator CANAVAN: I am not an FOI expert. Is there any guidance provided through the FOI process about what is in or out of scope, given the date of acceptance or creation of the document?

Ms Luscombe: Yes. There is the Office of the Australian Information Commissioner guidance and, obviously, the act—there is guidance on it.

Senator CANAVAN: What does it say about this particular issue?

Ms Luscombe: I might need to confer with my colleagues to ensure that I give the appropriate approvals, because this does pertain to legal advice.

Answer:

Paragraph 2.30 on page 8 of Chapter 2 of the FOI Guidelines, issued by the Australian Information Commissioner, states:

“The right of access applies to documents that exist at the time the FOI request was made. An applicant cannot insist that their request cover documents created after the request is received. However, the agency or minister should consider whether to include documents that were created after the request was received. This could be more administratively efficient because the applicant might otherwise submit a new request for the later documents.”

Johnson, Lauren

From: Foi
Sent: Thursday, 30 October 2014 11:52 AM
To: Hallam, Diana
Cc: Smith, Laura E; Downard, Christie; Foi; Luscombe, Kerrie-Anne; Cale, Lee; Stathis, Nick; McManus, Gerard; Williams, Nicole; Media; Barbour, Jenny
Subject: TRIM: New FOI request - Amendments to Hansard [SEC=UNCLASSIFIED]
Attachments: Subject: FOI request; MFOI 2014.15-02 ADMIN SPREADSHEET.xlsx
Categories: CS Category

Good morning Di,

The department has received a request (attached and below) under the *Freedom of Information Act 1986* (the FOI Act) from the Office of the Hon. Joel Fitzgibbon (our reference FOI 2014/15-21).

Information requested

Fitzgibbon's office seeks various correspondence relating to the amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014.

Proposed transfer of FOI request to the minister

The FOI request states that it is an application under the FOI Act for the Minister for Agriculture.

It is a request for official documents of the Minister for Agriculture, and not for documents in the possession of the department.

As such, the department seeks your consent to transfer the request to the minister under section 16(1)(a) of the FOI Act.

Please let me know via return email if you will accept the transfer of this request.

If you agree, the request will be processed by the minister's office and the reference number will be MFOI 2014/15-02.

FOI requirements

The 30 day processing period commenced yesterday (Day zero), making **Friday 28 November 2014** the earliest date for a decision on access.

The FOI Act requires an acknowledgement letter or email be sent to the applicant within 14 days of receipt of the request.

The FOI Section is happy to provide you with any assistance and support you would like.

In the interim, in case it assists, I have:

- attached a copy of the team's administrative spreadsheet that we use when processing FOI requests.
- provided a list of exemptions is available here: <http://www.agriculture.gov.au/about/accessing-information/foi/exemptions>.

If you have any questions, please contact me on x25504 or Kerrie-Anne Luscombe on x22238.

Kind regards

Catherine

Catherine Smith

Director | Office of the General Counsel | Freedom of Information & Legislation and Regulatory Reform Sections

Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture

18 Marcus Clarke Street, Canberra ACT 2601 Australia

GPO Box 858 Canberra ACT 2601 Australia

From: Sikman, Natasa (J. Fitzgibbon, MP) [<mailto:Natasa.Sikman@aph.gov.au>]

Sent: Wednesday, 29 October 2014 6:15 PM

To: Foi

Subject: Subject: FOI request

Dear FOI Coordinator

This is a request under the FOI Act to the Minister for Agriculture.

I seek access to correspondence in relation to amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014. In particular:

- Any correspondence between the Minister or his office and Hansard;
- Any correspondence between the Minister or his office and the Prime Minister or his office;
- Any correspondence between the Minister or his office and the Leader of the House or his office;
- Any emails between the Minister and the Minister's staff; and
- Any emails exchanged between members of the Minister's staff.

I may be contacted at this email address to discuss this request.

Yours sincerely,

Natasa Sikman

Natasa Sikman

Adviser/Media

Office of the Hon Joel Fitzgibbon MP

Shadow Minister for Agriculture

Shadow Minister for Rural Affairs

Federal Member for Hunter

Parliament House, Canberra ACT 2600

P: 02 6277 4550

M: 0467 550 065

E: Natasa.sikman@aph.gov.au

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party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

Johnson, Lauren

From: Sikman, Natasa (J. Fitzgibbon, MP) [Natasa.Sikman@aph.gov.au]
Sent: Wednesday, 29 October 2014 6:15 PM
To: Foi
Subject: Subject: FOI request

Follow Up Flag: Follow up
Flag Status: Flagged

Dear FOI Coordinator

This is a request under the FOI Act to the Minister for Agriculture.

I seek access to correspondence in relation to amendment of the Hansard record of the Minister for Agriculture's answer to a [question](#) without notice on 20 October 2014. In particular:

- Any correspondence between the Minister or his office and Hansard;
- Any correspondence between the Minister or his office and the Prime Minister or his office;
- Any correspondence between the Minister or his office and the Leader of the House or his office;
- Any emails between the Minister and the Minister's staff; and
- Any emails exchanged between members of the Minister's staff.

I may be contacted at this email address to discuss this request.

Yours sincerely,

Natasa Sikman

Natasa Sikman

Adviser/Media

Office of the Hon Joel Fitzgibbon MP
Shadow Minister for Agriculture
Shadow Minister for Rural Affairs
Federal Member for Hunter
Parliament House, Canberra ACT 2600
P: 02 6277 4550
M: 0467 550 065
E: Natasa.sikman@aph.gov.au

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FOI Request:

	Name	Phone
Decision Maker (DM):		
EA:		
Contact Officer (CO):		
FOI team contact:		
Applicant:		
Applicant contact details:		

Attention:

*Documents have to be loaded to the department's disclosure log within 10 working days of being released to the applicant.

Request received:	29/10/2014
Request due:	30/10/2014
Charges:	
Third parties:	

scope of request:

[Click if request has been rescoped](#)

Date	Item	Day
Wednesday, 29 October 2014	FOI request received	0
Thursday, 30 October 2014		1
Friday, 31 October 2014		2
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Johnson, Lauren

From: Foi
Sent: Tuesday, 4 November 2014 4:56 PM
To: Hallam, Diana
Cc: Downard, Christie; Smith, Laura E; Foi; Luscombe, Kerrie-Anne; Williams, Nicole; Cale, Lee; Stathis, Nick
Subject: TRIM: FW: Update on FOI requests involving the Minister's Office [SEC=UNCLASSIFIED]

Hi Di,

MINISTER'S OFFICES REQUESTS

MFOI2014/15-02 – Hansard record (refer FOI2014/15-21 below)

- Department has requested this request be transferred to the minister's office.

DEPARTMENTAL FOI REQUESTS

FOI2014/15-21 – Hansard record

- Applicant – Natasa Sikman from the Office of the Hon Joel Fitzgibbon MP.
- Date received – 29 October 2014.
- Current status of request:
 - **Dept awaiting confirmation from MO that it accepts the request being transferred to it.**
 - If accepted, dept must advise the applicant that the transfer has occurred.
 - Acknowledgement due to applicant by Wed 12 November.
- Decision due by 28 November 2014.



Please call or email me or Kerrie-Anne Luscombe if you have any questions or concerns.

Regards,

Catherine

Catherine Smith

Director | Office of the General Counsel | Legislation and Freedom of Information Section

Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture

18 Marcus Clarke Street, Canberra ACT 2601 Australia

GPO Box 858 Canberra ACT 2601 Australia

Johnson, Lauren

From: Foi
Sent: Wednesday, 5 November 2014 10:21 AM
To: Hallam, Diana
Cc: Foi; Luscombe, Kerrie-Anne; Cale, Lee; Fischer, Vikki
Subject: MFOI2014/15-02 - OAIC guidance on searching for documents [DLM=For-Official-Use-Only]

Good morning Di,

Yesterday, you asked me for advice on what should be done if one could not find a document.

I gave you some initial thoughts, but thought you'd appreciate seeing OAIC's advice on the subject, which is below.

High level advice from the OAIC is as follows:

How far should an agency search for a document? The scope of the search required depends on the nature of the request and the information that is available. Agencies are encouraged as a matter of good administrative practice to contact the applicant to discuss the request and provide an explanation of steps taken to locate the document. See [Part 3 of the Guidelines](#).

Does an agency need to search back up computer systems when processing an FOI request? Not usually. Whether a search of a back-up system is necessary will depend on the circumstances of the request. See [Part 3 of the Guidelines](#).

(This is available at: <http://www.oaic.gov.au/freedom-of-information/freedom-of-information-topics/topics-for-agencies/how-far-should-an-agency-search-for-a-document>.)

More detailed guidance

Part 3 of the FOI Guidelines (see http://www.oaic.gov.au/images/documents/freedom-of-information/foi-guidelines/FOI_Guidelines_-_new_compilation_-_Oct_2014.pdf) states:

Refusing a request for a document that does not exist, cannot be found or is not received from a contractor

3.80 An agency or minister may refuse a request if it has taken 'all reasonable steps' to find the document requested, and is satisfied that the document cannot be found or does not exist (s 24A(1)).¹⁹ An agency can also refuse a request for access if it has taken contractual measures to ensure it receives a document from a contracted service provider but has not done so after taking all reasonable steps to receive the document in accordance with the contractual measures (s 24A(2)).²⁰

3.81 The Act is silent on what constitutes 'all reasonable steps'. Agencies should undertake a reasonable search on a flexible and common sense interpretation of the terms of the request. What constitutes a reasonable search will depend on the circumstances of each request and will be influenced by the normal business practices in the agency's operating environment.²¹ At a minimum, an agency or minister should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents
- the current and past file management systems and the practice of destruction or removal of documents
- the record management systems in place
- the individuals within an agency who may be able to assist with the location of documents, and

- the age of the documents.²²

3.82 Agencies are responsible for managing and storing records in a way that facilitates finding them for the purposes of an FOI request.²³ The steps taken to search for documents should include the use of existing technology and infrastructure to conduct an electronic search of documents, as well as making enquiries of those who may be able to help locate the documents.²⁴

3.83 Whether it is necessary for an agency to conduct a search of its backup systems for documents will depend on the circumstances. For example, if the agency is aware that its backup system merely duplicates documents that are easily retrievable from its main records system, a search of the backup system would be unnecessary. On the other hand, if an agency is aware that its backup system may contain relevant documents not otherwise available or if the applicant clearly includes backup systems in the request, a search of the backup system may be required (provided it does not involve a substantial and unreasonable diversion of agency resources, see [3.99]).

3.84 The statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search. If a record is known or likely to have been destroyed under an agency's Records Disposal Authority, or in the course of normal administrative practice,²⁵ this should be explained, if possible by a reference to the date of destruction and the agency's records management policy. A template to plan and keep track of the steps taken to search for a document will be useful, particularly when managing complex requests for many documents or in later explaining the search that was undertaken.

I hope this helps.

Regards,

Catherine

Catherine Smith

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Department of Agriculture
18 Marcus Clarke Street, Canberra ACT 2601 Australia
GPO Box 858 Canberra ACT 2601 Australia

Smith, Catherine

From: Foi
Sent: Wednesday, 5 November 2014 10:34 AM
To: Grimes, Paul; Mellor, Rona; Tucker, Mark; Glyde, Phillip; All SES Band 2; Stathis, Nick; Cale, Lee; Media; Williams, Nicole; Luscombe, Kerrie-Anne; Hallam, Diana; McManus, Gerard; Fischer, Vikki
Cc: Foi; Smith, Laura E; Downard, Christie
Subject: FOI weekly update as at 5 November 2014 [DLM=For-Official-Use-Only]
Attachments: FOI Weekly Update as at 5 November 2014.xlsx

Good morning

Please find attached, for your information, this week's report on the status of the department's FOI requests.

Please contact either Kerrie-Anne Luscombe (x22238) or myself if you have any questions.

Regards,

Catherine

Catherine Smith

Director | Office of the General Counsel | Freedom of Information & Legislation and Regulatory Reform Sections

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www.daff.gov.au

Department of Agriculture
FOI Weekly Update - 4 November 2014

Reference Number	FOI Scope of Request	Original FOI Applicant	FOI Applicant Type	Decision Type	FOI Date Received	FOI Earliest Due Date	Decision outcome
REQUESTS RECEIVED							
REQUESTS IN PROGRESS							
INTERNAL REVIEWS							
EXTERNAL REVIEWS							
THIRD PARTY CONSULTATIONS, COMPLAINTS & OTHER FOI MATTERS							
MATTERS FINALISED							
FOI2014/15-21	Correspondence in relation to amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014.	Natasa Sikman (Office of the Hon Joel Fitzgibbon)	Member of Parliament	Primary	29/10/2014	28/11/2014	Transferred to the minister's office.

Johnson, Lauren

From: Hallam, Diana
Sent: Thursday, 6 November 2014 1:25 PM
To: Foi
Cc: Smith, Laura E; Downard, Christie; Luscombe, Kerrie-Anne; Cale, Lee; Stathis, Nick; McManus, Gerard; Williams, Nicole; Media; Barbour, Jenny
Subject: RE: New FOI request - Amendments to Hansard [SEC=UNCLASSIFIED]
Categories: CS Category

Dear Catherine

Thank you very much for your email.

Please be advised that I am not prepared to accept the transfer of the request.

Yours faithfully

Diana

Diana Hallam
Chief of Staff
Office of the Hon B Joyce MP
Minister for Agriculture
Parliament House
CANBERRA ACT 2600

T 02 6277 7520 | F 02 6273 4120 | M 0481 014 064
Suite MG 64 Parliament House | CANBERRA ACT 2600

From: Foi
Sent: Thursday, 30 October 2014 11:52 AM
To: Hallam, Diana
Cc: Smith, Laura E; Downard, Christie; Foi; Luscombe, Kerrie-Anne; Cale, Lee; Stathis, Nick; McManus, Gerard; Williams, Nicole; Media; Barbour, Jenny
Subject: New FOI request - Amendments to Hansard [SEC=UNCLASSIFIED]

Good morning Di,

The department has received a request (attached and below) under the *Freedom of Information Act 1986* (the FOI Act) from the Office of the Hon. Joel Fitzgibbon (our reference FOI 2014/15-21).

Information requested

Fitzgibbon's office seeks various correspondence relating to the amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014.

Proposed transfer of FOI request to the minister

The FOI request states that it is an application under the FOI Act for the Minister for Agriculture.

It is a request for official documents of the Minister for Agriculture, and not for documents in the possession of the department.

As such, the department seeks your consent to transfer the request to the minister under section 16(1)(a) of the FOI Act.

Please let me know via return email if you will accept the transfer of this request.

If you agree, the request will be processed by the minister's office and the reference number will be MFOI 2014/15-02.

FOI requirements

The 30 day processing period commenced yesterday (Day zero), making **Friday 28 November 2014** the earliest date for a decision on access.

The FOI Act requires an acknowledgement letter or email be sent to the applicant within 14 days of receipt of the request.

The FOI Section is happy to provide you with any assistance and support you would like.

In the interim, in case it assists, I have:

- attached a copy of the team's administrative spreadsheet that we use when processing FOI requests.
- provided a list of exemptions is available here: <http://www.agriculture.gov.au/about/accessing-information/foi/exemptions>.

If you have any questions, please contact me on x25504 or Kerrie-Anne Luscombe on x22238.

Kind regards

Catherine

Catherine Smith

Director | Office of the General Counsel | Freedom of Information & Legislation and Regulatory Reform Sections

Phone +61 2 6272 5504 | Fax +61 2 6272 3325 | Mobile +61 0438 619 623

Department of Agriculture

18 Marcus Clarke Street, Canberra ACT 2601 Australia

GPO Box 858 Canberra ACT 2601 Australia

From: Sikman, Natasa (J. Fitzgibbon, MP) [<mailto:Natasa.Sikman@aph.gov.au>]

Sent: Wednesday, 29 October 2014 6:15 PM

To: Foi

Subject: Subject: FOI request

Dear FOI Coordinator

This is a request under the FOI Act to the Minister for Agriculture.

I seek access to correspondence in relation to amendment of the Hansard record of the Minister for Agriculture's answer to a [question](#) without notice on 20 October 2014. In particular:

- Any correspondence between the Minister or his office and Hansard;
- Any correspondence between the Minister or his office and the Prime Minister or his office;

- Any correspondence between the Minister or his office and the Leader of the House or his office;
- Any emails between the Minister and the Minister's staff; and
- Any emails exchanged between members of the Minister's staff.

I may be contacted at this email address to discuss this request.

Yours sincerely,

Natasa Sikman

Natasa Sikman

Adviser/Media

Office of the Hon Joel Fitzgibbon MP

Shadow Minister for Agriculture

Shadow Minister for Rural Affairs

Federal Member for Hunter

Parliament House, Canberra ACT 2600

P: 02 6277 4550

M: 0467 550 065

E: Natasa.sikman@aph.gov.au

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

Johnson, Lauren

From: Foi
Sent: Wednesday, 12 November 2014 12:43 PM
To: Grimes, Paul; Mellor, Rona; Tucker, Mark; Glyde, Phillip; All SES Band 2; Stathis, Nick; Cale, Lee; Media; Williams, Nicole; Luscombe, Kerrie-Anne; Hallam, Diana; McManus, Gerard
Cc: Foi; Downard, Christie; Smith, Laura E
Subject: FOI weekly update as at 12 November 2014 [DLM=For-Official-Use-Only]
Attachments: FOI Weekly Update as at 12 November 2014.xlsx

Good afternoon

Please find attached, for your information, this week's report on the status of the department's FOI requests.

Please contact either Kerrie-Anne Luscombe (x22238) or myself if you have any questions.

Regards,

Catherine

Catherine Smith

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Department of Agriculture

18 Marcus Clarke Street, Canberra ACT 2601 Australia

GPO Box 858 Canberra ACT 2601 Australia

**Department of Agriculture
FOI Weekly Update - 12 November 2014**

FOI2014/15-21	Correspondence in relation to amendment of the Hansard record of the Minister for Agriculture's answer to a question without notice on 20 October 2014.	Natasa Sikman (Office of the Hon Joel Fitzgibbon)	Member of Parliament	Primary	29/10/2014	7/11/2014	Transfer to the minister's office was refused. Request was processed by the department. Access was refused - nil documents. Applicant advised to send FOI request directly to the minister's office.
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