



INFRASTRUCTURE FOI 23-020 NOTICE OF DECISION UNDER THE FREEDOM OF INFORMATION ACT

I refer to your request to the Attorney General's Department for documents related to Norfolk Island. On 25 August 2022, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**the Department**) accepted transfer of this request under section 16(1) of the FOI Act as it appropriately sits within our portfolio.

You requested the following:

"...copies of all the Orders in Council signed by the United Kingdom Monarchs for Norfolk Island since the 24 June 1856 Order in Council ..."

Authority

I am an officer authorised by the Secretary to make decisions about access to documents in the possession of the Department in accordance with subsection 23(1) of the FOI Act.

Decision

I have decided to refuse access to your request under section 24A as they cannot be found or do not exist.

Material considered

In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act;
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
- e. advice received from relevant Departmental subject matter experts.

Reason for Decision

Refuse a request for access (section 24A)

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document cannot be found or does not exist.

The relevant line areas have conducted searches of the Department's document management systems and made enquiries with Departmental staff who could be expected to identify documents that fall within the scope of your request. These enquiries have revealed that the Department is not in possession of documents.

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents cannot be found or does not exist. I have, therefore, decided to refuse access to your request, in accordance with section 24A(1)(b)(ii) of the FOI Act.

Additional Information

The documents you are seeking are defined under Section 3 of the Archives Act 1983 as being in the 'open access' period due to the fact they were prepared before 1981. As such under Section 12 of the FOI Act they are not documents to which the FOI Act applies and normally your request could be refused.

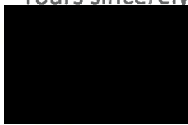
Furthermore, it is my understanding that as the documents you are seeking are prepared for the United Kingdom monarch, they are not documents to which Departmental officers would have access to.

However, the Department has managed to locate a copy of the Commonwealth of Australia Gazette from 17 June 1914 which provides a synopsis of the Orders in Council.

I am providing you with a copy of this document and hope it is of some assistance in your research.

Should you have any enquiries concerning this matter, please do not hesitate to contact the FOI Team on FOI@infrastructure.gov.au.

Yours sincerely,



Aaron O'Neill
Authorised Decision Maker
Norfolk Island Branch
Territories Division
9 September 2022