

5 February 2013



Dear [REDACTED]

**Request for access to documents under the *Freedom of Information Act 1982* (FOI Act)**

1. I refer to your request of 26 January 2013 under the FOI Act seeking documents held by Defence Housing Australia (DHA) in regard to the original house plans for a property located at [REDACTED], Hobartville, New South Wales.
2. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests for access to documents. My decision and the reasons for that decision are set out below.

**Background**

On 26 January 2013 you lodged an FOI request via email, received on 29 January 2013, requesting:

*We have recently purchased a property at:*

[REDACTED] Hobartville 2753 NSW

*We are trying to get a copy of the original house plans. Our local council (Hawkesbury City Council) has advised that the property was originally built by Defence Housing and suggested to contact your organisation in relation to this matter.*

*Please advise if this is possible and any associated costs.*

3. An initial search by DHA was unable to identify any documents in existence relating to [REDACTED], Hobartville, NSW.
4. As I had not identified any documents within DHA, I requested the Department of Defence to accept a request for transfer under Section 16 (1) (a) of the FOI Act. The Department of Defence did not accept the transfer as it was unable to locate any documents relating to your request.

**Charges**

5. I have decided not to impose any charges.

**Legislative background**

6. The FOI Act provides a right of access to information in the possession of Commonwealth agencies, limited only by exceptions and exemptions provided for in the Act (section 3).

HEAD OFFICE

26 Brisbane Avenue Barton ACT 2600  
Telephone: 139 DHA Fax: 02 6222 2200  
Email: [info@dha.gov.au](mailto:info@dha.gov.au) Internet: [www.dha.gov.au](http://www.dha.gov.au)  
ABN 72 968 504 934



7. In making my decision, I relied on section 24A of the FOI Act. A copy of this provision is attached for your information.

**Decision**

8. As I have not identified any documents that contain information falling within the scope of your request, I am unable to release any documents to you.

**Reasons for decision**

9. I am satisfied that all reasonable steps have been taken to locate any documents that fall within the scope of your request and that no such documents exist. Therefore, in accordance with section 24A of the FOI Act, I am unable to release any documents to you.

**Rights of review**

10. If you do not agree with my decision in relation to the release of documents, you are entitled to apply for an internal review of the decision under section 54 of the FOI Act. The attached Notice of Rights of Review contains information on making an application for an internal review by DHA.

**Additional Information**

11. If the property was built prior to 1984/85, the records may be in the open access period and may be sought under the *Archives Act 1983*.

Yours sincerely



Pip Sackley  
Executive Officer

Attachments: Copy of section 24A of the FOI Act  
Notice of Rights of Review

***Freedom of Information Act 1982*****24A Requests may be refused if documents cannot be found or do not exist**

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:
  - (i) is in the agency's or Minister's possession but cannot be found; or
  - (ii) does not exist.

## Freedom of information – Your review rights

If you disagree with the decision made by Defence Housing Australia (DHA) under the *Freedom of Information Act 1982* (the 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 you have been informed that there will be 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 DHA and/or external review by the Australian Information Commissioner.

### Internal review

If DHA makes an FOI decision with which you disagree, you can ask DHA to review its decision. The review will be conducted by a DHA officer at a more senior level than the original decision maker. There is **NO** charge for internal review.

You must apply within 30 days of being notified of the decision, unless you have sought an extension from DHA.

DHA **must** make a review decision within 30 days. Where DHA has not met its review obligation, you may then approach the Information Commissioner.

Internal review is not available if the Minister or the principal officer of the agency made the decision personally.

### *How to apply for internal review*

You must apply in writing and should include a copy of the notice of the decision provided and the points to which you are objecting and why. You can lodge your application in one of the following ways:

**Post:** Company Secretary  
Defence Housing Australia  
26 Brisbane Avenue  
BARTON ACT 2600

**Email:** [foi@dha.gov.au](mailto:foi@dha.gov.au)

### External Review

*Do I have to go through DHA's internal review process first?*

No. You may apply directly to the Information Commissioner. However, going through DHA's internal review process gives DHA the opportunity to reconsider its initial decision and your concerns will most likely be addressed more quickly, without undergoing an external review process.

*When can I go to the Administrative Appeals Tribunal (AAT)?*

Under the revised Act, you must seek external review through the Information Commissioner prior to applying to the AAT for such a review.

### Making a complaint

You may make a complaint to the Information Commissioner about actions taken by DHA in relation to your application. The complaint needs to be in writing.

### *Contacting the Information Commissioner*

Further information about the external review process or how to make a complaint to the Information Commissioner is available at the following:

**Online:** [www.oaic.gov.au](http://www.oaic.gov.au)

**Post:** GPO Box 2999, Canberra ACT 2601

**Fax:** +61 2 9284 9666

**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

### **Investigation by the Ombudsman**

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the Act. However, if the issue complained about either could be or has been investigated by the Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint, then all relevant documents and information must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

### **Defence Housing Australia FOI contacts**

Defence Housing Australia  
26 Brisbane Avenue  
BARTON ACT 2600

**Ph:** +61 2 6217 8401

**Email:** [foi@dha.gov.au](mailto:foi@dha.gov.au)

**Website:** [www.dha.gov.au](http://www.dha.gov.au)