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28<sup>th</sup> November 2017

Robert Garran Offices  
3-5 National Circuit  
Barton ACT 2600

FOI Attorney General

Dear Attorney General

As per the preamble of the Commonwealth Constitution Act 1901, that the Commonwealth of Australia has been federated under, this Act incorporates many of the laws of England, including several entrenched provisions being Magna Carta, Habeas Corpus, Bill of Rights, 2 Henry 4 and Fee Simple.

Please also consider the following:

**Oxford Australian Legal Dictionary** states under the meaning of Entrenched legislation the following... (2nd Edition p276)

**Entrenched Legislation cannot be repealed or amended** except by means of certain prescribed procedures, for example, a special majority or referendum. This is usually found in constitutions to protect minority rights, **or to ensure that certain fundamental elements of the constitution remain unchangeable**. Entrenchment may be rendered ineffective through the repeal or amendment of the section or clause that entrenches the protected provision.

I require the document or Instrument that enables the Parliament of the Commonwealth, and/or the Parliament of the State to legislate laws abrogating the protected rights of entrenched laws from the peoples of the Commonwealth.

I do not seek legal opinion, or advice, I only seek the document or instrument pertaining to the above mentioned matter.

Sincerely

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**From:**

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**Sent:** Wednesday, 7 February 2018 9:12 PM

**To:** FOI Requests

**Subject:** Follow up FOI request

**Attorney General  
Robert Garran Offices  
3-5 National Circuit  
Barton ACT 2600**

**FOI Attorney General**

**Dear Attorney General**

**Further to my Freedom of Information Request of November 30, 2017 sent by Certified Mail, as yet I have not had the courtesy of a reply.**

**According to your website, access to documents in the possession of the department will be provided, subject to the provisions of the Freedom of Information Act 1982.**

**Therefore, I should have received a reply by now as the allotted time for response has expired.**

**Attached is a copy of my original FOI request for your perusal and response.**

**Should a payment be required please inform me via this email address, and I will arrange for payment immediately.**

**I would appreciate your prompt response and acknowledgement of this email.**

**Sincerely**

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**UNCLASSIFIED**

Dear

I refer to your email below and attached letter requesting under the *Freedom of Information Act 1982* (FOI Act) the following -

*I require the document or Instrument that enables the Parliament of the Commonwealth, and/or the Parliament of the State to legislate laws abrogating the protected rights of entrenched laws from the peoples of the Commonwealth.*

*I do not seek legal opinion, or advice, I only seek the document or instrument pertaining to the above mentioned matter.*

Neither the Attorney-General nor officers of this department provide legal advice to the public. However, the following general comments may be of assistance. Commonwealth (national) law is made, or an existing law amended or repealed, by or under the authority of the federal Parliament, that is, by or in accordance with an Act of Parliament. The Australian Constitution gives the federal Parliament the power to make laws with respect to certain matters. Other than the Australian Constitution which is publicly available, there are no relevant Commonwealth documents.

Yours sincerely

FOI Case Officer

Freedom of Information and Parliamentary Section  
Strategy and Delivery Division | Attorney-General's Department  
T: (02) 6141 6666 | E: [foi@ag.gov.au](mailto:foi@ag.gov.au)



**Australian Government**  
**Attorney-General's Department**

MC18-010940

22 October 2018

Addressed to BLANK

Dear

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Thank you for your letter of 17 July 2018 to the Honourable Martin Pakula, the Victorian Attorney-General, regarding your FOI request to the Attorney-General's Department (the Department). Your letter was referred to the Commonwealth Attorney-General because the matters you raised fall within his portfolio responsibilities. The Attorney-General has requested that the Department respond to you on his behalf.

I understand that you wrote to the Department on 30 November 2017 requesting access to documents under the *Freedom of Information Act 1982* (FOI Act). I note that in reply, the Department responded to your request by email on 8 February 2018.

As you have requested a reply to your letter on letterhead and via post, I reiterate our previous advice to you that the document you seek is not held by the Department and neither the Attorney-General nor officers of this Department provide legal advice to the public. However, the following general comments may be of assistance.

Commonwealth law is made, or an existing law amended or repealed, by, or under the authority of, the federal Parliament, that is, by or in accordance with an Act of Parliament. The Australian Constitution gives the federal Parliament the power to make laws with respect to certain matters. Other than the Australian Constitution, which is publicly available, there are no relevant Commonwealth documents.

I trust this information is of assistance to you.

Yours sincerely

Alex Mathews  
Assistant Secretary  
Strategy and Governance Branch

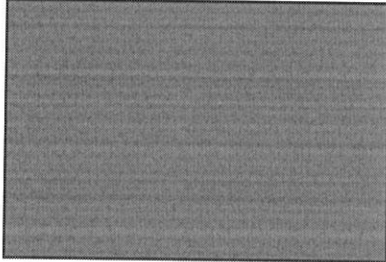
Email: [foi@ag.gov.au](mailto:foi@ag.gov.au)



Australian Government  
Attorney-General's Department

FOI16/113; 16/9295

21 September 2016



**Freedom of Information Request FOI16/113**

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

**Summary of your request and my decision**

I, James Faulkner, am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 23 August 2016 you requested access to documents relating to the Australian Constitution. Specifically you sought access to:

- "...the document or instrument that provides for circumstances where the Australian and State Governments may operate outside of the Australian Constitution from time to time..."
- Where no document of instrument exists, the information/instrument/s that provides for the Governments of Australia to operate outside of the Australian Constitution.
- The document of instrument that may allow the Constitution to depart from the performance of the clauses or expression of the preamble of the Act to constitute the Commonwealth of Australia 1900.
- The document or instrument that may allow the Australian States to operate as independent States outside the indissoluble federal Commonwealth as expressed in the preamble of the foundation law."

Subparagraph 24A(1)(b)(ii) of the FOI Act provides:

- (1) 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

All Australian governments are bound by the Australian Constitution. There is no document, instrument or information that allows the Australian government, or any state or territory government, to operate outside the Constitution.

It follows that the Attorney-General's Department has no relevant documents and I must refuse your request.

#### **Material taken into account**

I have taken the following material into account in making my decision:

- *Commonwealth of Australia Constitution Act 1900*
- the FOI Act (specifically section 24A), and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

#### **Your review rights**

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

#### **Internal review**

Under section 54 of the FOI Act, you may apply in writing to the Attorney-General's Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged in one of the following ways:

email:      [foi@ag.gov.au](mailto:foi@ag.gov.au)  
post:      Freedom of Information and Privacy Section  
             Strategy and Delivery Division  
             Attorney-General's Department  
             3-5 National Circuit  
             BARTON ACT 2600

Where possible please attach reasons 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 review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

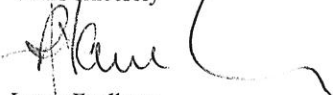
online:      <https://forms.business.gov.au/aba/oaic/foi-review-/>  
email:      [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
post:      GPO Box 5218, SYDNEY NSW 2001  
in person:   Level 3, 175 Pitt Street, SYDNEY NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

**Questions about this decision**

If you wish to discuss this decision, please contact Sarah, FOI case manager, by telephone on (02) 6141 6666 or by email [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'James', with a long horizontal flourish extending to the right.

James Faulkner  
First Assistant Secretary  
Office of Constitutional Law