4 August 2015



Australian Broadcasting Corporation

Corporate Affairs

ABC Ultimo Centre 700 Harris Street Ultimo NSW 2007

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Tel. +61 2 8333 5261 abc.net.au

By email:

Dear

FOI REQUEST - REFERENCE NUMBER 2015-033

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your letter of 21 July 2015 which was sent by email on 22 July 2015. Specifically, you have sought access to the following documents:

"All communication including emails, letters, online transcripts etc. relating to the receipt and publication of the letter of 27 May 2015 from the Chair of the Indigenous Land Corporation (ILC), Ms Dawn Casey, and the Prime Minister about purchase of the Ayers Rock Resort."

I am authorised by the Managing Director under section 23 of the FOI Act to make decisions in respect of requests made under that Act.

Access to documents

The ABC is specifically excluded from the operation of the FOI Act in relation to its program material by virtue of s7(2) and Schedule 2, Part II of the FOI Act. 'Program material' for the purposes of that Part has been interpreted to mean:

"...the program and all versions of the whole or any part of the program, any transmission broadcast or publication of the program, and includes a document of any content or form embodied in the program and any document acquired or created for the purpose of creating the program, whether or not incorporated into the completed program... it would include a document created <u>after</u> a program is broadcast. Such documents might

include transcripts of radio programs, podcasts, internet pages and documents might the ABC or incorporated in its records directly concerning the substantive content of the broadcast program."¹

¹ Australian Broadcasting Corporation and Herald and Weekly Times Pty Limited and Anor [2012] AATA 914 (21 December 2012), see [57].

Any documents obtained by the ABC during the process of creating a program or article would have been "...created for the purpose of creating the program". The creation of transcripts is also explicitly included in the definition of 'program material'.

For the reasons outlined above, I am satisfied that the requested documents would, by their nature, fall within the definition of 'program material' and that the ABC would be exempt from the operation of the FOI Act in relation to them. Therefore, I do not propose taking further steps to process your request.

Publicly available information

I note there are a number of publicly available documents which appear to be relevant to your request. The access decision relating to and including the letter mentioned in your request is publicly available on the Indigenous Land Corporation's FOI disclosure log. It is listed as 'Disclosure log no. 8' and both the schedule of documents and all documents made available to the applicant are accessible:

http://www.ilc.gov.au/IndigenousLandCorporation/media/Items/Content/About%20Us/Files/08-Schedule-of-Released-Documents.pdf http://www.ilc.gov.au/IndigenousLandCorporation/media/Items/Content/About%20Us/Files/08-Released-Documents.pdf

If you are dissatisfied with this outcome you can apply for Internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review. Information about your review rights is attached.

Yours sincerely



Judith Maude Head, Corporate Governance