

[personal information redacted]

Corporate Affairs

ABC Ultimo Centre 700 Harris Street Ultimo NSW 2007 GPO Box 9994 Sydney NSW 2001 Tel. +61 2 8333 5261 abc.net.au

By email: [personal information redacted

Dear [personal information redacted]

FOI REQUEST - REFERENCE NUMBER 2014-012

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your email of 3 May 2014. You have sought access to the following documents:

"All content available to the ABC in relation to its reporting on the cancellation of Tony Abbott's' trip to Indonesia due to an asylum seeker operation."

You have stated that you specifically would like access to the following:

"... the source content of the information (ie where the ABC obtained the information) and documents that show that the information was credible to broadcast at approximately 7.30 pm AEST on ABC News 24 as 'Breaking News' on Friday 2 May 2014."

and

"... all subsequent information held by the ABC further investigating this matter".

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.

The ABC is specifically excluded from the operation of the FOI Act in relation to its program material by virtue of s7(2) and Part II, Schedule 2 of the FOI Act. 'Program material' for the purposes of that Part has been interpreted by the Administrative Appeals Tribunal 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..." ¹

¹ Australian Broadcasting Corporation and Herald and Weekly Times Pty Limited and Anor [2012] AATA 914 at [57]

It is clear on the face of your request that the documents you are seeking access to are documents "acquired or created for the purpose of creating" a program.

I am satisfied that the requested documents fall within the definition of 'program material', and that the ABC is exempt from the operation of the FOI Act in relation to them.

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