

**From:** [FOI NIAA](#)  
**To:** s47F  
**Cc:** [FOI NIAA](#)  
**Subject:** FOI/2223/016 Your Freedom of Information Request – Acknowledgement [SEC=OFFICIAL]  
**Date:** Tuesday, 21 February 2023 4:31:45 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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OFFICIAL

Dear s47F

### **Freedom of Information Request no. FOI/2223/016**

Thank you for your request to the National Indigenous Australians Agency (NIAA) for access to documents under the *Freedom of Information Act 1982* (FOI Act).

The NIAA received your request on 7 February 2023 and the 30 day statutory period for processing your request commenced from the day after that date. You should therefore expect a decision from us by **9 March 2023**.

### **Charges**

Agencies may decide that an applicant is liable to pay a charge in respect of a request for access to documents. If the decision-maker decides that you are liable to pay a charge, a preliminary assessment of the charge will be provided to you as soon as possible.

### **Publication**

Please note that information released under the FOI Act may later be published online on our [Disclosure Log](#), subject to certain exceptions. If you think you might wish to raise any objections to the publication of any of the information which may be released to you, please contact us by email at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au). If you wish to object to the publication of information, you will need to provide supporting reasons.

### **Information out of scope**

The NIAA treats the names and contact details of Commonwealth staff not in the Senior Executive Service (SES), such as Australian Public Service (APS) officers, and other personal details of all Commonwealth staff (such as signatures and direct phone numbers) as not relevant to the scope of a request. Information that is irrelevant to your request will be excluded from any documents which may be released to you.

Please note, the NIAA routinely excludes the following from documents released in response to FOI requests:

- duplicate documents
- duplicate email chains
- publicly available documents, and
- draft or interim documents where a later version is included.

If you consider this information is relevant to the scope of your request, please contact us by email at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au).

**Next steps**

We will write again when we have more information. We will contact you using the email address you provided. Please advise if you would prefer us to use an alternative means of contact.

If you have any questions in the meantime, please do not hesitate to contact us at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au).

Yours sincerely,

FOI Team | Legal Services Branch| Corporate Group | National Indigenous Australians Agency|

[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)

Charles Perkins House, 16 Bowes Place, Phillip ACT 2606| PO Box 2191 ACT 2601

w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



Note: This email and any attachments may contain confidential or legally privileged information (and neither are waived or lost if this email has been sent to you by mistake). If you are not the intended recipient, you must not use, disclose, copy or retain it. If you have received it in error, please let me know by reply email and then delete this email from your system and do not retain any copy. Recipients within the National Indigenous Australians Agency should seek assistance from Legal Services Branch before disseminating this email to third parties.

**From:** s47F

**Sent:** Tuesday, 7 February 2023 9:42 AM

**To:** FOI NIAA <[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)>; FOI <[FOI@pmc.gov.au](mailto:FOI@pmc.gov.au)>

**Subject:** Freedom of Information application to the NIAA and Dept of the Prime Minister and Cabinet

To:

The FOI Coordinator  
National Indigenous Australians Agency  
GPO Box 2191  
CANBERRA ACT 2601

The FOI Coordinator  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

Good morning,

s47G would like to make a Freedom of Information application to the National Indigenous Australians Agency and the Department of the Prime Minister and Cabinet.

The subject matter requested is the detailed meeting outcomes and transcripts for the First Nations Regional Dialogues, information session, and National Constitutional Convention,

that would have been recorded by the Referendum Council or AIATSIS or others, at events listed below:

- Hobart, hosted by Tasmanian Aboriginal Corporation (9–11 December 2016)
- Broome, hosted by the Kimberley Land Council (10–12 February 2017)
- Dubbo, hosted by the New South Wales Aboriginal Land Council (17–19 February 2017)
- Darwin, hosted by the Northern Land Council (22–24 February 2017)
- Perth, hosted by the South West Aboriginal Land and Sea Council (3–5 March 2017)
- Sydney, hosted by the New South Wales Aboriginal Land Council (10–12 March 2017)
- Melbourne, hosted by the Federation of Victorian Traditional Owners Corporation (17–19 March 2017)
- Cairns, hosted by the North Queensland Land Council (24–27 March 2017)
- Ross River, hosted by the Central Land Council (31 March – 2 April 2017)
- Adelaide, hosted by the Aboriginal Legal Rights Movement Inc (7–9 April 2017)
- Brisbane, (21–23 April 2017)
- Thursday Island, hosted by Torres Shire Council and a number of Torres Strait regional organisations (5–7 May 2017)
- an information session hosted by the United Ngunnawal Elders Council held in Canberra on 10 May 2017
- the National Constitutional Convention held at Uluru (23–26 May 2017)

Unfortunately, the communiqués would not satisfy this request.

I look forward to your reply.

Many thanks,

s47F  
s47G  
s47G

s47G

**From:** [FOI NIAA](#)  
**To:** s47F  
**Cc:** [FOI NIAA](#)  
**Subject:** Your Freedom of Information Request - Notice of Estimate of Charges - FOI/2223/016 [SEC=OFFICIAL]  
**Date:** Monday, 6 March 2023 4:23:18 PM  
**Attachments:** [FOI-2223-016 - Notice of Estimate of Charges \(signed\).pdf](#)  
[image002.png](#)  
[image004.png](#)  
[image006.png](#)  
[image008.png](#)  
[image010.png](#)

OFFICIAL

Dear s47F,

Please find attached correspondence in relation to your Freedom of Information request.

Timeframe

The processing timeframe will be suspended under section 31(2)(a) of the FOI Act from the date of this notice and when you respond to this notice. If a response is not received within thirty (30) calendar days, you will be taken to have withdrawn your request under section 29(2) of the FOI Act.

If you have any questions, please feel free to contact the NIAA FOI team at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au).

Yours sincerely,

FOI Team | Legal Services Branch | Corporate Group | National Indigenous Australians Agency |

[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)

Charles Perkins House, 16 Bowes Place, Phillip ACT 2606 | PO Box 2191 ACT 2601

w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



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OFFICIAL

**FREEDOM OF INFORMATION ACT 1982**

Request by: s47F

Notice of Estimate of Charges

Email: s47F

Dear s47F

**Freedom of information request - FOI/2223/016**

1. I refer to your request dated 7 February 2023 to the National Indigenous Australians Agency (NIAA) under the *Freedom of Information Act 1982* (FOI Act) for access to the following documents:

Scope:

*“The subject matter requested is the detailed meeting outcomes and transcripts for the First Nations Regional Dialogues, information session, and National Constitutional Convention, that would have been recorded by the Referendum Council or AIATSIS or others, at events listed below:*

- *Hobart, hosted by Tasmanian Aboriginal Corporation (9–11 December 2016)*
  - *Broome, hosted by the Kimberley Land Council (10–12 February 2017)*
  - *Dubbo, hosted by the New South Wales Aboriginal Land Council (17–19 February 2017)*
  - *Darwin, hosted by the Northern Land Council (22–24 February 2017)*
  - *Perth, hosted by the South West Aboriginal Land and Sea Council (3–5 March 2017)*
  - *Sydney, hosted by the New South Wales Aboriginal Land Council (10–12 March 2017)*
  - *Melbourne, hosted by the Federation of Victorian Traditional Owners Corporation (17–19 March 2017)*
  - *Cairns, hosted by the North Queensland Land Council (24–27 March 2017)*
  - *Ross River, hosted by the Central Land Council (31 March – 2 April 2017)*
  - *Adelaide, hosted by the Aboriginal Legal Rights Movement Inc (7–9 April 2017)*
  - *Brisbane, (21–23 April 2017)*
  - *Thursday Island, hosted by Torres Shire Council and a number of Torres Strait regional organisations (5–7 May 2017)*
  - *an information session hosted by the United Ngunnawal Elders Council held in Canberra on 10 May 2017*
  - *the National Constitutional Convention held at Uluru (23–26 May 2017)”*
2. I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.
  3. I am writing to advise you of my decision that you are liable to pay a charge in respect of the processing of your request. My preliminary assessment of the charge you are liable to pay is \$189.20. A 10% deposit of \$18.92 is payable.
  4. The reasons for my decision are set out below and at Annexure A.

Released under the FOI Act by the  
National Indigenous Australians Agency



### Basis for my preliminary assessment of the charge

5. In accordance with section 29 the FOI Act and the *Freedom of Information (Charges) Regulations 2019* (Charges Regulations), a charge can be imposed in respect of a request for access to documents under the FOI Act. The charge is for the search and retrieval of documents, decision making and provision of access to documents. Payment of the charge does not guarantee access to the requested documents.
6. I have assessed the work the NIAA would need to do to process your request and have calculated the breakdown of charges set out at **Annexure A**.
7. My assessment has been made with reference to the following:
  - the hours taken to search for, and retrieve, documents relevant to the request
  - the number of documents and pages relevant to the request
  - the number of third parties to be potentially consulted in the course of making a decision about each document
  - the hours estimated to make a decision about each document (less the first five hours of decision-making time, which are free of charge), and
  - any charge for providing access to the document, other than by personal inspection.

### Payment of deposit

8. As the charge exceeds \$25, you are required to pay a deposit of **\$18.92**.
9. The deposit is not refundable except in some limited circumstances (for example, if the NIAA fails to make a decision on your request within the statutory time limit), or may be refundable in part if the final charge is less than the deposit paid.

### Final charges

10. Once your FOI request has been processed, I will determine the actual charge you must pay before the documents can be provided to you. The final charge for processing your request may be different from the estimate quoted in this letter.
11. If the final amount of the charge is lower than the estimated amount, I must adjust my preliminary assessment to the lower amount.
12. However, if the final amount of the charge is higher than the estimated amount, I may adjust my preliminary assessment to the higher amount.

### The time you have to respond and what you need to do

13. You have 30 days to respond to this notice in writing.
14. You may choose to:
  - pay the deposit amount or the full charge amount, and notify the FOI Coordinator in writing,
  - contend the charge has been wrongly assessed, or should be reduced or not imposed and explain your reasons, or

- withdraw your request.

15. Please send your response to [foi@niaa.gov.au](mailto:foi@niaa.gov.au).

### Option 1: Pay the deposit amount or full charge

16. Payment can be made by electronic funds transfer to:

Account Name: **NIAA Official Departmental Account**

BSB: **s47E(d)**

Account: **s47E(d)**

Reference: **FOI/2223/016**

17. When paying the charges you must:

- reference FOI/2223/016 and
- notify the FOI Coordinator at [foi@niaa.gov.au](mailto:foi@niaa.gov.au).

18. Failure to notify the FOI Coordinator of payment may result in delays to the processing of your FOI request.

19. If you agree to pay the charge in respect of the request, the charge must be paid in full before access to the documents can be given (see section 11 of the *Freedom of Information Charges Regulations 2019*).

### Option 2: Your right to contend the charge

20. Under the FOI Act, you have the right to contend that the charge:

- has been wrongly assessed, or
- should be reduced, or
- should not be imposed.

21. In deciding whether a charge should be reduced or not imposed, I must take into account:

- whether payment of the charge, or part of it, would cause you financial hardship
- whether giving access to the document(s) is in the general public interest or in the interest of a substantial section of the public
- any other relevant matter.

22. If you decide to do so, please set out the reasons why you believe that I should reduce or waive the proposed charge.

23. Should you seek a reduction or waiver of charges on the grounds of financial hardship, it would assist me if you could provide suitable evidence of financial hardship (for example, evidence of receipt of a pension or income support payment, or evidence of income, debts or assets).

### Option 3: Withdraw your request

24. You may notify the NIAA in writing if you wish to withdraw your request.

25. Alternatively, if you do not provide us with a written response within 30 days of this notice, your request will be taken to have been withdrawn.

### Timeframe for dealing with your request

26. In accordance with section 31 of the FOI Act, the period for processing your request stops from the date you receive this notice until:

- the day you pay the charge (the deposit amount or the full charge),
- if the amount of the charge is changed following review under the FOI Act, the day you pay the revised charge (the deposit amount or the full charge), or
- if a decision is made not to impose a charge following review under the FOI Act, the day you are notified of the decision.

27. If you agree to pay the deposit, the timeframe for processing your request will resume once payment is received and the NIAA must provide you with the decision by the due date (including any extensions of time). However, the NIAA is not obliged to provide the relevant documents (if any are released) until the remainder of the charge has been paid.

### Questions about this notice

28. More information about charges under the FOI Act is available on the Office of the Australian Information Commissioner's website: <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/calculating-and-imposing-charges-for-foi-access-requests/>.

29. If you have any questions or would like to discuss this notice with us, please contact the FOI Coordinator:

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

Post: Freedom of Information Coordinator  
National Indigenous Australians Agency  
GPO Box 2191  
Canberra ACT 2601

Kind regards,

A grey rectangular box containing the text 's22(1)' in a large, bold, black font, indicating a redacted signature.

Dr John Walker

Branch Manager  
The Voice Branch

6 March 2023

Annexure A – Notice of Estimate of Charges – FOI/2223/016

Document estimate	
Number of relevant documents	14
Number of pages	112

PROCESSING CHARGES		
Search and retrieval		
Task	Time	Cost @ \$15/hr
Search and retrieval of relevant electronic and physical files	10.00	150.00
Search and retrieval of relevant pages in file	-	0
<i>Search and retrieval subtotal (A)</i>	<i>10.00</i>	<i>\$150.00</i>
Decision making		
Task	Time	Cost @ \$20/hr
Examination of documents	3.73	74.60
Consultation with third parties	0.00	0.00
Redacting pages that are partially disclosed	0.18	3.60
Preparation of documents for release	0.00	0.00
Preparation of notice of access decision	3.05	61.00
<i>Decision making subtotal (before deduction of 5 free hours)</i>	<i>6.96</i>	<i>139.20</i>
<i>Decision making subtotal (after deduction of 5 free hours) (B)</i>	<i>1.96</i>	<i>39.20</i>

ESTIMATED TOTALS AND DEPOSIT	
<b>ESTIMATED TOTAL</b>	<b>\$189.20</b>
<b>REQUIRED DEPOSIT (10 per cent (%))</b>	<b>\$18.92</b>

**From:** s47E(d)  
**To:** s47F  
**Cc:** FOI NIAA; s47E(d)  
**Subject:** FW: 168488 - Reference: FOI/2223/016 [SEC=OFFICIAL]  
**Date:** Wednesday, 8 March 2023 10:29:52 AM  
**Attachments:** [\\$189.00 - FOI Request.pdf](#)  
[image002.png](#)  
[image004.png](#)  
[image006.png](#)  
[image008.png](#)  
[image010.png](#)

OFFICIAL

Good morning s47F

Please find attached a copy of the receipt for \$189.00 received on the 7<sup>th</sup> March.

Kind Regards,

s22(1)

Accounts Receivable Officer  
Financial Operations/Shared Services Branch

s22(1)

Ngunnawal Country, One National Circuit, Barton 2600 / PO Box 6500 Canberra ACT 2600

e. s22(1)

w. s47E(d)

**From:** FOI NIAA <FOI@niaa.gov.au>  
**Sent:** Tuesday, 7 March 2023 6:04 PM  
**To:** s47E(d)  
**Cc:** FOI NIAA <FOI@niaa.gov.au>  
**Subject:** 168488 - Reference: FOI/2223/016 [SEC=OFFICIAL]

OFFICIAL

Good afternoon Accounts Receivable Team,

Could I please check that the NIAA has received the deposit of funds referenced below from FOI applicant s47F

Amount: \$189.20  
 Reference: FOI/2223/016  
 Date: 7/03/2023

We would be very grateful for a copy of the receipt by 9 March 2023 to send to the applicant, please.

Many thanks,

s22(1)

s22(1)

Corporate and Commercial Law Team | Legal Services Branch | Corporate Group  
National Indigenous Australians Agency

s22(1)

Ngunawal Country

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2601  
w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)

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---

**From:** s47F

**Sent:** Tuesday, 7 March 2023 2:31 PM

**To:** FOI NIAA <[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)>

**Subject:** Reference: FOI/2223/016

Good afternoon,

An amount of \$189.20 has been transferred to:

Account Name: NIAA Official Departmental Account

BSB: s47E(d) Account: s47E(d)

Reference: FOI/2223/016

Many thanks,

s47F



Australian Government

# National Indigenous Australians Agency RECEIPT Document 3

Charles Perkins House 16 Bowes Place  
PHILLIP, CANBERRA  
ACT 2606

ABN: 30 429 895 164  
Telephone: 02 6271 6000

**Receipt No.:** RND01322  
**Date:** 07/03/2023

**Page :** 1 of 1

<i>Date</i>	<i>Reference</i>	<i>Description</i>	<i>Exclusive GST</i>	<i>GST</i>	<i>Amount</i>
07/03/2023	RND01321	FOI Request 2223/016	189.00		189.00
		TOTAL AMOUNT RECEIVED AUD:	189.00	0.00	189.00

Released under the FOI Act by the  
National Indigenous Australians Agency

**From:** [FOI NIAA](#)  
**To:** s47F  
**Cc:** [FOI NIAA](#)  
**Subject:** Your Freedom of Information Request - Notice of Decision - FOI/2223/016 [SEC=OFFICIAL]  
**Date:** Friday, 10 March 2023 3:51:01 PM  
**Attachments:** [FOI-2223-016 - Decision Notice \(Signed\).pdf](#)  
[FOI Act Review Rights - \(Attachment A\).pdf](#)  
[FOI-2223-016 - Schedule of Documents \(Attachment B\).pdf](#)  
[FOI-2223-016 - Statement of Reasons \(Attachment C\).pdf](#)  
[FOI-2223-016 Documents \(FINAL\) - Redacted.pdf](#)  
[\\$189.00 - FOI Request.pdf](#)  
[image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)

OFFICIAL

Dear s47F

**Freedom of Information Request no. FOI/2223/016**

Please find attached the decision and receipt for payment in relation to your Freedom of Information request.

If you have any questions, please do not hesitate to contact the FOI Team.

Yours sincerely,

FOI Team | Legal Services Branch | Corporate Group | National Indigenous Australians Agency |

[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)

Charles Perkins House, 16 Bowes Place, Phillip ACT 2606 | PO Box 2191 ACT 2601

w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



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**From:** s47F

**Sent:** Tuesday, 7 February 2023 9:42 AM

**To:** FOI NIAA <[FOI@niaa.gov.au](mailto:FOI@niaa.gov.au)>; FOI <[FOI@pmc.gov.au](mailto:FOI@pmc.gov.au)>

**Subject:** Freedom of Information application to the NIAA and Dept of the Prime Minister and Cabinet

To:

The FOI Coordinator  
National Indigenous Australians Agency  
GPO Box 2191  
CANBERRA ACT 2601

The FOI Coordinator  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

Good morning,

s47G would like to make a Freedom of Information application to the National Indigenous Australians Agency and the Department of the Prime Minister and Cabinet.

The subject matter requested is the detailed meeting outcomes and transcripts for the First Nations Regional Dialogues, information session, and National Constitutional Convention, that would have been recorded by the Referendum Council or AIATSIS or others, at events listed below:

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- Broome, hosted by the Kimberley Land Council (10–12 February 2017)
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- Darwin, hosted by the Northern Land Council (22–24 February 2017)
- Perth, hosted by the South West Aboriginal Land and Sea Council (3–5 March 2017)
- Sydney, hosted by the New South Wales Aboriginal Land Council (10–12 March 2017)
- Melbourne, hosted by the Federation of Victorian Traditional Owners Corporation (17–19 March 2017)
- Cairns, hosted by the North Queensland Land Council (24–27 March 2017)
- Ross River, hosted by the Central Land Council (31 March – 2 April 2017)
- Adelaide, hosted by the Aboriginal Legal Rights Movement Inc (7–9 April 2017)
- Brisbane, (21–23 April 2017)
- Thursday Island, hosted by Torres Shire Council and a number of Torres Strait regional organisations (5–7 May 2017)
- an information session hosted by the United Ngunnawal Elders Council held in Canberra on 10 May 2017
- the National Constitutional Convention held at Uluru (23–26 May 2017)  
Unfortunately, the communiqués would not satisfy this request.

I look forward to your reply.

Many thanks,

s47F  
s47G  
s47G

s47G  
s47G



Working with Aboriginal and Torres Strait Islander peoples

OFFICIAL

**FREEDOM OF INFORMATION ACT 1982**

REQUEST BY: s47F

REFERENCE: FOI/2223/016

**NOTICE OF DECISION**

Dear s47F,

**Freedom of information request ref. FOI/2223/016**

1. The purpose of this letter is to give you a decision about access to documents that you requested from the National Indigenous Australians Agency (NIAA) under the *Freedom of Information Act 1982* (FOI Act).
2. I am an officer authorised by the NIAA’s Chief Executive Officer under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

**Summary**

Total number of documents that fall within the scope of your request	14
Number of documents to be released to you in full	11
Number of documents to be released to you in part	3
Number of documents exempt from release in full	0

**Time frames**

3. On 7 February 2023, you requested access to the following:

*“The subject matter requested is the detailed meeting outcomes and transcripts for the First Nations Regional Dialogues, information session, and National Constitutional Convention, that would have been recorded by the Referendum Council or AIATSIS or others, at events listed below:*

- *Hobart, hosted by Tasmanian Aboriginal Corporation (9–11 December 2016)*
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- *Dubbo, hosted by the New South Wales Aboriginal Land Council (17–19 February 2017)*
- *Darwin, hosted by the Northern Land Council (22–24 February 2017)*
- *Perth, hosted by the South West Aboriginal Land and Sea Council (3–5 March 2017)*
- *Sydney, hosted by the New South Wales Aboriginal Land Council (10–12 March 2017)*
- *Melbourne, hosted by the Federation of Victorian Traditional Owners Corporation (17–19 March 2017)*
- *Cairns, hosted by the North Queensland Land Council (24–27 March 2017)*

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- *Ross River, hosted by the Central Land Council (31 March – 2 April 2017)*
- *Adelaide, hosted by the Aboriginal Legal Rights Movement Inc (7–9 April 2017)*
- *Brisbane, (21–23 April 2017)*
- *Thursday Island, hosted by Torres Shire Council and a number of Torres Strait regional organisations (5–7 May 2017)*
- *an information session hosted by the United Ngunnawal Elders Council held in Canberra on 10 May 2017*
- *the National Constitutional Convention held at Uluru (23–26 May 2017)”*

4. On 21 February 2023, the NIAA acknowledged your request.
5. On 6 March 2023, you were notified of a requirement to pay a charge of \$189.20 in respect of your request for access to documents. We received your payment of \$189.00 on 7 March 2023. I have decided to discount the charge by 20 cents.
6. A decision in relation to your request is due on 10 March 2023.

#### Document searches

7. The NIAA has undertaken searches of relevant agency document management systems for documents within the scope of your request.

#### Material taken into account

8. I have taken the following material into account in making my decision:
  - the terms of your request
  - the acknowledgement sent to you
  - document searches undertaken by NIAA advisers
  - the content of the documents identified as within scope of your request
  - consultation with NIAA advisers
  - the FOI Act, and
  - Guidelines made by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

#### Decision

9. I have identified documents which I consider to be within the scope of your request. I have decided to refuse access to some of those documents in part.
10. Your **rights to seek review** under the FOI Act or submit a complaint are set out in **Attachment A** to this notice.
11. The **Schedule of Documents** at **Attachment B** sets out brief information about each document within the scope of your request and the decision made on each document.
12. The **Statement of Reasons** at **Attachment C** sets out the reasons for my decision to refuse access to some of the documents.

#### Access to documents

13. The documents released to you are attached.

#### Questions about this decision

14. If you have any questions about this notice or NIAA's FOI process, please contact the NIAA's FOI Coordinator at:

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

Post: Freedom of Information Coordinator

National Indigenous Australians Agency  
GPO Box 2191  
Canberra ACT 2601

Yours sincerely

s22(1)

Dr John Walker  
Branch Manager  
The Voice Branch

8 March 2023



## FREEDOM OF INFORMATION ACT 1982

### Attachment A – FOI Review Rights

#### Your review rights

If you are dissatisfied with a decision of the National Indigenous Australians Agency (NIAA), you may apply for internal review or Australian Information Commissioner (OAIC) 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 *Freedom of Information Act 1982* (FOI Act), you may apply in writing to the NIAA for an internal review of the decision. The internal review application must be made within 30 days of the date you receive the decision letter.

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.

You may submit a request for internal review by:

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

Post: Freedom of Information Coordinator  
National Indigenous Australians Agency  
GPO Box 2191  
Canberra ACT 2601

#### Information Commissioner review

Under section 54L of the FOI Act, you may apply to the OAIC to review my decision. You do not need to seek an internal review from the NIAA before seeking a review from the OAIC. However, going through the NIAA's internal review process gives us the opportunity to reconsider the initial decision and your needs may be met more quickly without undergoing an external review process.

An application for review by the OAIC must be made in writing within 60 days of the date you receive the decision letter. More information about how to apply for OAIC review is available on the OAIC website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

If you cannot access the OAIC website, please contact the FOI Coordinator (contact details at the end of this notice), and further details will be provided to you.

#### Your complaint rights

If you are unhappy with the way the NIAA has handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem.





**ATTACHMENT B - SCHEDULE OF DOCUMENTS – FOI/2223/016**

1. This attachment, together with the **Decision Notice** and **Attachment C – Statement of Reasons**, provides information about the reasons I have decided not to release certain material to you in response to your request for documents under the *Freedom of Information Act 1982* (FOI Act).

2. Scope:

*“The subject matter requested is the detailed meeting outcomes and transcripts for the First Nations Regional Dialogues, information session, and National Constitutional Convention, that would have been recorded by the Referendum Council or AIATSIS or others, at events listed below:*

- *Hobart, hosted by Tasmanian Aboriginal Corporation (9–11 December 2016)*
- *Broome, hosted by the Kimberley Land Council (10–12 February 2017)*
- *Dubbo, hosted by the New South Wales Aboriginal Land Council (17–19 February 2017)*
- *Darwin, hosted by the Northern Land Council (22–24 February 2017)*
- *Perth, hosted by the South West Aboriginal Land and Sea Council (3–5 March 2017)*
- *Sydney, hosted by the New South Wales Aboriginal Land Council (10–12 March 2017)*
- *Melbourne, hosted by the Federation of Victorian Traditional Owners Corporation (17–19 March 2017)*
- *Cairns, hosted by the North Queensland Land Council (24–27 March 2017)*
- *Ross River, hosted by the Central Land Council (31 March – 2 April 2017)*
- *Adelaide, hosted by the Aboriginal Legal Rights Movement Inc (7–9 April 2017)*
- *Brisbane, (21–23 April 2017)*
- *Thursday Island, hosted by Torres Shire Council and a number of Torres Strait regional organisations (5–7 May 2017)*
- *an information session hosted by the United Ngunnawal Elders Council held in Canberra on 10 May 2017*
- *the National Constitutional Convention held at Uluru (23–26 May 2017)”*

Doc #	Date	Description	Size	Decision	Exemption
1	9-10 December 2016	Record of Meeting – Hobart First Nations Dialogue	6	Access to the document is granted with deletions on the basis of one or more specific exemptions.	The following exemptions <sup>1</sup> have been applied to the document: <ul style="list-style-type: none"> <li>• 47F - personal privacy</li> </ul>

<sup>1</sup> These exemptions are set out in the *Freedom of Information Act 1982*. Please contact the FOI Coordinator at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au) if you would like to receive a copy of the exemptions.

Doc #	Date	Description	Size	Decision	Exemption
	10 December 2016	Attachment 1A: Hobart Communique	1	Access to the document is granted in full.	
	10 December 2016	Attachment 1B: Reporting of Plenary Session Two	4	Access to the document is granted with deletions on the basis of one or more specific exemptions.	The following exemptions have been applied to the document: 47F - personal privacy
2	10-12 February 2017	Record of Meeting – Broome First Nations Dialogue	7	Access to the document is granted in full.	
3	17-19 February 2017	Record of Meeting – Dubbo First Nations Dialogue	5	Access to the document is granted in full.	
4	22-14 February 2017	Record of Meeting – Darwin First Nations Dialogue	7	Access to the document is granted in full.	
5	3-5 March 2017	Record of Meeting – Perth First Nations Dialogue	5	Access to the document is granted in full.	
6	10-12 March 2017	Record of Meeting – Sydney First Nations Dialogue	5	Access to the document is granted in full.	
7	17-19 March 2017	Record of Meeting – Melbourne First Nations Dialogue	6	Access to the document is granted with deletions on the basis of one or more specific exemptions.	The following exemptions <sup>2</sup> have been applied to the document: <ul style="list-style-type: none"> <li>47F - personal privacy</li> </ul>
8	24-26 March 2017	Record of Meeting – Cairns First Nations Dialogue	6	Access to the document is granted in full.	

<sup>2</sup> These exemptions are set out in the *Freedom of Information Act 1982*. Please contact the FOI Coordinator at [FOI@niaa.gov.au](mailto:FOI@niaa.gov.au) if you would like to receive a copy of the exemptions.

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Doc #	Date	Description	Size	Decision	Exemption
9	31 March – 2 April 2017	Record of Meeting – Ross River First Nations Dialogue	6	Access to the document is granted in full.	
10	7-9 April 2017	Record of Meeting – Adelaide First Nations Dialogue	6	Access to the document is granted in full.	
11	21-23 April 2017	Record of Meeting – Brisbane First Nations Dialogue	11	Access to the document is granted in full.	
12	5-7 May 2017	Record of Meeting – Thursday Island First Nations Dialogue	8	Access to the document is granted in full.	
13	10 May 2017	Record of Meeting – Canberra Information Session, Constitutional Reform	3	Access to the document is granted in full.	
14	26 May 2017	Uluru Statement from the Heart - Long	26	Access to the document is granted in full.	

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ATTACHMENT C: STATEMENT OF REASONS – FOI/2223/016

1. This attachment, together with the Decision Notice and Attachment B – Schedule of Documents, provides the reasons I have decided not to disclose certain material to you in response to your request for documents under the *Freedom of Information Act 1982* (FOI Act).
2. Attachment B – Schedule of Documents provides a table with the description of documents, the decision with respect to each document and a reference to the relevant provision that has been relied upon to exempt the document from release. My considerations under the relevant provisions column are discussed below.

**Personal information (section 47F)**

3. A document is conditionally exempt under section 47F of the FOI Act if its disclosure would involve the unreasonable disclosure of personal information about any person.

Personal information

4. 'Personal information' is information or an opinion about an identified person or a person who can be easily identified, whether that information or opinion is true or not.
5. Paragraph 6.130 of the Guidelines issued by the Office of the Australian Information Commissioner (the Guidelines) further provides:

*'Personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.'*

6. I am satisfied that the Documents contain personal information of other people. That is, names of third parties.

Where disclosure is 'unreasonable'

7. In determining whether the disclosure of personal information would be unreasonable, I have had regard to the matters under section 47F(2) of the FOI Act, specifically:
  - the extent to which the information is well known
  - whether the person to whom the information relates is known to be associated with the matters dealt with in the documents
  - the availability of the information from publicly accessible sources, and
  - any other matters that I consider relevant, specifically, any objections raised by third parties who were consulted on the release of their personal information.
8. Paragraph 6.142 of the FOI Guidelines sets out key factors to consider when determining whether disclosure would be unreasonable, being whether:



- the author of the document is identifiable
  - the documents contain third party information
  - release of the documents would cause stress on the third party, and
  - no public purpose would be achieved through release.
9. The case of *FG and National Archives of Australia* [2015] AICmr 26 (*FG and NAA*) also finds the circumstances of an agency's collection and use of the information to be a relevant factor for consideration. The Administrative Appeals Tribunal (AAT) further noted in *Re Chandra and the Minister of Immigration and Ethnic Affairs (Re Chandra)* that consideration is to be given to:

*'all the circumstances, including the nature of the information that would be disclosed, the circumstances in which the information was obtained, the likelihood of the information being information that the person concerned would not wish to have disclosed without consent, and whether the information has any current relevance.'*

10. In this case, the NIAA has obtained the personal information concerned in the course of participating in the meetings preceding the National Constitutional Convention held at Uluru (23–26 May 2017).
11. In particular, I am satisfied that disclosing third parties' personal information would allow them to be identified. This information is not publicly available, the release of the information would affect the individuals' ability to perform their duty and functions and would be a breach of an individual's right to privacy. I am also satisfied that there is no public purpose served in releasing this information.
12. Taking into account the factors outlined above under the FOI Act, the FOI Guidelines and the cases of *FG and NAA* and *Re Chandra* and third party submissions, I consider the disclosure of the documents would be an unreasonable disclosure of personal information. For these reasons, I am satisfied that the material is conditionally exempt under section 47F of the FOI Act.
13. As I have found that the relevant material is conditionally exempt, I am required to consider whether it would be contrary to the public interest to grant access to the conditionally exempt material at this time.

#### Public interest

14. Under the FOI Act, access to conditionally exempt documents must generally be given unless doing so would be contrary to the public interest. In making my decision, I have considered the factors mentioned in paragraphs 10 to 11 of this document.
15. My consideration of the public interest test regarding the application of section 47F of the FOI Act follows:

#### *Factors in favour of disclosure*

16. Of the factors favouring disclosure, I consider the release of the conditionally exempt material:
- would promote the general public interest in accessing documents as expressed in sections 3 and 11 of the FOI Act, including by providing access to background or contextual information that informed a government decision

#### *Factors against disclosure*

17. Of the factors against disclosure, I consider the release of the conditionally exempt material:



- could reasonably be expected to prejudice the protection of an individual’s right to privacy, and
- could reasonably be expected to harm the interests of the persons concerned.

18. On balance, I have decided that the factors against disclosure outweigh those favouring disclosure and that disclosure of the conditionally exempt material would be contrary to the public interest.

**Publication (section 11C)**

19. Where an applicant is provided access to a document, section 11C of the FOI Act requires the NIAA to publish the document to members of the general public within ten (10) business days of providing the applicant with access to the document.

20. Documents are published on NIAA Disclosure Log at <https://www.niaa.gov.au/foi/agency-foi-disclosure-logs>.