



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Ref: LEX-78400

CR

Via email: CR foi+request-12109-af18b7ff@righttoknow.org.au

Dear CR

Decision on your Freedom of Information request

I refer to your revised request, dated and received by the Department of Climate Change, Energy, the Environment and Water (**department**) on 8 October 2024, for access under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) to the following documents:

'I am writing to amend the scope of my FOI request to assist with its processing.

As I wish to access only recent charge decisions, I have introduced a time frame and clarified the exclusions. I confirm the revised scope of my request as follows:

1. The most recent 30 notices of charges issued to FOI applicants.

For each of these 30 requests, if applicable, please also provide:

2. Any subsequent decisions regarding charges following applicant contention.
3. Any subsequent decisions regarding charges following internal or external review.

The time period for my request is from 1 July 2022 to 1 October 2024.

Please exclude the following information:

- i) Personal information of FOI applicants, including supporting evidence or details of personal circumstances in a financial hardship contention.
- ii) Emails that attached the charges notices/decision letters.'

My decision

The department holds 36 documents (totalling 146 pages) that relate to your request.

I have decided to:

- grant you **full access** to 33 documents; and
- grant you **part access** to 3 documents with some of the content removed, pursuant to section 47F of the FOI Act.

Please note that the information excluded from the scope of the request (as stated above) has been deleted in accordance with section 22(1) of the FOI Act.

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision.

How we will send your documents to you

The documents are attached.

You can ask for a review of my decision

If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to foi@dcceew.gov.au.

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the department handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website www.oaic.gov.au or phone the OAIC on 1300 363 992.

Further assistance

If you have any questions, please email foi@dcceew.gov.au.

Yours sincerely

JC

Janet Curtis
General Counsel
Corporate, Climate Change and Energy Branch
Legal Division

23 October 2024

**LIST OF DOCUMENTS FOR RELEASE
LEX-78400**

Doc number	Pages	Date	Description	Decision	Exemption	Comments
1.	4	24/07/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
2.	4	26/07/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
3.	4	26/07/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
4.	4	2/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
5.	4	6/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
6.	4	8/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
7.	5	28/8/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)

Doc number	Pages	Date	Description	Decision	Exemption	Comments
8.	4	9/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
9.	4	12/8/2024	Charges notice	Release in part	s 47F	Personal information of the FOI applicant deleted under s 22 (out of scope) Personal information of other third parties exempt under 47F
10.	4	12/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
11.	5	28/8/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
12.	3	16/8/2024	Charges notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
13.	4	16/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
14.	4	16/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
15.	3	22/8/2024	Charges notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
16.	6	25/9/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)

Doc number	Pages	Date	Description	Decision	Exemption	Comments
17.	4	23/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
18.	4	23/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
19.	5	30/8/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
20.	3	2/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
21.	3	3/9/2024	Charges notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
22.	5	8/10/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
23.	3	3/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
24.	4	13/9/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
25.	4	6/9/2024	Charges notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
26.	4	6/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)

Doc number	Pages	Date	Description	Decision	Exemption	Comments
27.	6	1/10/2024	Charges decision	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
28.	4	6/9/2024	Charges notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
29.	4	9/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
30.	4	12/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
31.	4	13/9/2024	Charges and consultation notice	Release in full	N/A	N/A
32.	4	18/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
33.	4	18/9/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)
34.	4	19/9/2024	Charges notice	Release in part	47F	Personal information of the FOI applicant deleted under s 22 (out of scope) Personal information of other third exempt under 47F

Doc number	Pages	Date	Description	Decision	Exemption	Comments
35.	4	26/9/2024	Charges and consultation notice	Release in part	47F	Personal information of the FOI applicant deleted under s 22 (out of scope) Personal information of other third parties exempt under 47F
36.	3	1/10/2024	Charges and consultation notice	Release in full	N/A	Personal information of the FOI applicant deleted under s 22 (out of scope)

REASONS FOR DECISION

What you requested

I am writing to amend the scope of my FOI request to assist with its processing.

As I wish to access only recent charge decisions, I have introduced a time frame and clarified the exclusions. I confirm the revised scope of my request as follows:

1. The most recent 30 notices of charges issued to FOI applicants.

For each of these 30 requests, if applicable, please also provide:

2. Any subsequent decisions regarding charges following applicant contention.

3. Any subsequent decisions regarding charges following internal or external review.

The time period for my request is from 1 July 2022 to 1 October 2024.

Please exclude the following information:

i) Personal information of FOI applicants, including supporting evidence or details of personal circumstances in a financial hardship contention.

ii) Emails that attached the charges notices/decision letters.'

What I took into account

In reaching my decision, I took into account:

- your revised request dated 8 October 2024;
- the documents that fall within the scope of your request;
- information about:
 - the nature of the documents; and
 - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**);
- the FOI Act.

Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

I have decided that certain parts of the relevant documents are exempt under the FOI Act.

My findings of fact and reasons for deciding that an exemption applies to those documents are discussed below.

Section 47F of the FOI Act – unreasonable disclosure of personal information

I have applied the conditional exemption in section 47F(1) to the parts of the documents as outlined in Schedule at Attachment A.

Section 47F of the FOI Act relevantly provides:

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
 - (a) the extent to which the information is well known;
 - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
 - (c) the availability of the information from publicly accessible sources;
 - (d) any other matters that the agency or Minister considers relevant.

Personal Information

The term 'personal information' is defined as follows:

'...information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a. whether the information or opinion is true or not; and
- b. whether the information or opinion is recorded in a material form or not.'

Paragraph 6.125 of the Guidelines provides:

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

I find that the relevant documents contain personal information of other people. This includes their names and other personal information.

Whether disclosure is 'unreasonable'

In addition to the factors specified in section 47F(2) of the FOI Act, paragraph 6.133 of the Guidelines provides:

'The personal privacy conditional exemption is designed to prevent the unreasonable invasion of third parties' privacy. The test of 'unreasonableness' implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.'

I am satisfied that the disclosure of the third parties' personal information would be unreasonable for the following reasons:

- you do not have the consent from the individuals for the release of their personal information;
- the information is private and not available in full or in part from publicly accessible sources;
- the identity of the individuals concerned is readily apparent or could be easily ascertained;

On this basis, I have decided that the personal information included in the relevant documents referred to in the Schedule is conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act provides:

'The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.'

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act.

I have also considered the relevant factors weighing against disclosure, indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- prejudice an individual's right to privacy,
- adversely affect or harm the interests of an individual or group of individuals, specifically, those individuals to whom the personal information relates.

Based on the above factors, I have decided that in this instance, the disclosure of the relevant information contained in the documents would, on balance, be contrary to the public interest.

I am satisfied that the parts of the relevant documents, as set out in the Schedule, are conditionally exempt under section 47F(1) of the FOI Act. Accordingly, I have decided not to release those documents in full to you.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.