

4 June 2025

Melissa O'Connell

**By email:** [foi+request-12477-359f4b79@righttoknow.org.au](mailto:foi+request-12477-359f4b79@righttoknow.org.au)

Dear Melissa O'Connell

### **Freedom of Information request — Notice of Decision**

Thank you for your correspondence of 4 December 2024, seeking access under the *Freedom of Information Act 1982* (FOI Act) to documents held by the National Disability Insurance Agency (NDIA).

I apologise for the delay in processing your request.

The purpose of this letter is to provide you with a decision on your request.

### **Scope of your request**

You have requested access to the following documents:

- \*\* Power Wheelchairs*
- \* Power Wheelchair with standing feature*
- \* Recreational Supports - Off Road Cycles*
- \* Charcot orthotic restraint walker (CROW)*
- \* Omeo powered mobility device*
- \* Specialist wheelchair features and seating systems*
- \* Secondary seating systems*
- \* Best practice in the management of posture for a person with a physical/neurological disability*
- \* Entry level sports power wheelchair*
- \* Out of warranty AT replacement*
- \* Benefits of rotating/powering turning bed features*
- \* Splinting, Botox and serial casting*
- \* Safety of front versus second or third row conversion*
- \* Bariatric wheelchair transport*
- \* Bowel care consumables*
- \* Comparison of catheter models*
- \* Insulin Pumps*
- \* Research into portable suction machines and respiratory supports*
- \* CPAP funding, use and management*
- \* Phrenic nerve pacing..."*

### **Timeframe**

The FOI Act provides 30 calendar days for the processing of an FOI request after it is received. As your valid FOI request was received on 4 December 2024, the original due date for your FOI request was 3 January 2024.

On 8 December 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 3 February 2025 the new date to provide you with a decision on access.

I acknowledge that this time has lapsed and as a result we are deemed to have refused your request under section 15AC of the FOI Act. The effect of this is that you do not have a right seek an internal review of my decision. However, I confirm that you retain your right to seek external review by the Office of the Australian Information Commissioner (OAIC).

I note that despite this, I have continued processing your request and I extend my apologies for the delay in providing you with a decision on access.

### **Search efforts**

The FOI Guidelines provide that agencies and ministers should undertake a reasonable search on a flexible and common-sense interpretation of the terms of the request. At a minimum, an agency is required to have regard to the following in undertaking these searches:

- the subject matter of the documents
- the current and past file management systems
- the record management systems in place
- the individuals and line areas within an agency or minister's office who may be able to assist with the location of documents, and
- the age of the documents.

Having regard to these Guidelines, I engaged in search consultations with the following internal business areas and staff to obtain documents within their possession which may fall within the scope of your FOI request:

- Technical Advice and Practice Improvement Branch

I advise that senior staff in the aforementioned business areas conducted searches for the documents.

### **Decision on access to documents**

I am authorised to make decisions under section 23(1) of the FOI Act. My decision on your request and the reasons for my decision are set out below.

I have identified 18 documents, which fall within the scope of your request, and I have decided to grant access to 1 document in full and 17 documents in part.

I advise that 2 of the documents titled "*Bowel Care Consumables*" and "*Out of Warranty AT Replacement*" are available through the NDIS Disclosure Log. I have decided to release these documents to you as part of your Freedom of Information request.

### **Reason for decision**

I have decided that some documents and parts of documents should not be disclosed as they contain conditionally exempt information where disclosure would be contrary to the public interest. The information is therefore exempt, under section 47F – Personal Information of the FOI Act.

Additionally, I have decided to refuse access to some information you have requested on the basis that the documents are non-existent or unlocatable pursuant to section s24A of the FOI Act.

In reaching my decision, I took the following into account:

- your correspondence of 4 December 2024 outlining the scope of your request
- The provisions of the FOI Act including ss 15, 24A and 47F
- the FOI Guidelines published under section 93A of the FOI Act, which includes guidance on what reasonable searches an agency is required to undertake
- consultation with relevant officers and business areas of the NDIA.
- factors relevant to my assessment of whether or not disclosure would be in the public interest

A detailed statement of reasons for my decision can be found at **Attachment A**.

### **Release of documents**

The documents for release, as referred to in the Schedule of Documents at **Attachment B**, are enclosed.

### **Rights of review**

Your rights to seek a review of my decision, or lodge a complaint, are set out at **Attachment C**.

Should you have any enquiries concerning this matter, please do not hesitate to contact me by email at [foi@ndis.gov.au](mailto:foi@ndis.gov.au).

Yours sincerely



### **Wendy (WNN633)**

Senior Freedom of Information Officer  
Information Release, Privacy and Legal Operations Branch  
Reviews and Information Release Division

**Statement of Reasons  
FOI Application FOI 24/25-0889**

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For ease of reading, I will have set out my statement of reasons in two parts.

**Reasons for decision – Part 1**

Personal privacy (section 47F)

Section 47F of the FOI Act conditionally exempts a document if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Personal information is defined as information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Under section 47F(2) of the FOI Act, in determining whether the disclosure of documents would involve unreasonable disclosure of personal information, regard must be had to:

- 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; and
- d. any other matters that the agency considers relevant.

Against these criteria, I take the view that:

- a. it is apparent from the information that an individual is identifiable; and
- b. the information referred to above is not readily available from publicly accessible sources.

I am satisfied the information you have requested meets the definition of personal information of a third party and that it would be unreasonable to disclose publicly this personal information. Therefore, the release of the documents are conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations – section 47F

Section 11A(5) of the FOI Act provides that access to a document covered by a conditional exemption must be provided unless disclosure would be contrary to the public interest.

I have not considered any of the irrelevant factors as set out under section 11B(4) of the FOI Act in making this decision.

In favour of disclosure, I have considered the factors outlined in section 11B(3) of the FOI Act, and I have determined that disclosure of the relevant information in Documents 2 to 18 would promote the objects of the FOI Act by providing access to documents held by the government and providing access to information.

Against disclosure, I consider that disclosure of the relevant information in Documents 2 to 18:

- would not contribute to the publication of information of sufficient public interest to justify the likely harm caused by release
- would not enhance Australia's representative democracy in the ways described in section 11B(3) of the FOI Act
- would not inform any debate on a matter of public importance, or promote oversight of public expenditure.

While there is limited public interest in the disclosure of information conditionally exempt under section 47F of the FOI Act, the harm that would result from disclosure is that it could reasonably be expected to:

- affect an individual's right to privacy by having their personal information in the public domain.

In summary, I am satisfied that the factors against disclosure of the information outweigh the factors in favour of disclosure and that, on balance, it would be contrary to the public interest to release this information to you. Accordingly, I have decided that the relevant information in Documents 2 to 18 is exempt under sections 47F of the FOI Act.

## **Reason for Decision – Part 2**

### **Refused Information (Section 24A)**

I have refused access to the information you requested under section 24A of the FOI Act on the basis that documents containing such information are unlocatable or do not exist.

#### *Relevant law*

Under the FOI Act, a person has a right to be given access to documents of an agency. However, the right of access is subject to limitations, including grounds for refusal of access. Section 24A(1) of the FOI Act states that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document cannot be found or does not exist.

#### *Searches for documents*

After reviewing the scope of your FOI application, I identified the need to make enquiries with the NDIA's TAPIB for documents relevant to the scope of your request.

In response to my enquiries, senior staff in the business area have informed me that no research papers have been created for the documents titled "Power Wheelchairs" and "Power Wheelchair with Standing Feature." Initially the aforementioned items were part of the TAPIB research papers however over the course of time, they were subsequently withdrawn before any research had commenced.

## **Conclusion**

Based on the information I received from internal business areas; I consider there are reasonable grounds to be satisfied that documents containing the information you seek do

not exist. I therefore refuse access to the information under section a 24A of the FOI Act on the basis that the information is does not exist.

## Schedule of Documents for FOI 24/25-0889

Document number	Page number	Description	Access Decision
1	1	<b>Bowel Care Consumables</b> Undated	<b>FULL ACCESS</b>
2	2-17	<b>Research Request - Charcot orthotic restraint walker (CROW)</b> Date: 18 November 2020	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
3	18-24	<b>Research - Omeo powered mobility device</b> Date: 17 March 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
4	25-43	<b>Research Paper - 24 hour Postural Management Programmes</b> Date: 24 September 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
5	44-49	<b>Research Paper - Rotating Beds</b> Date: 23 December 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
6	50-56	<b>Research paper - Safety of front versus second or third row vehicle conversions for wheelchairs</b> Date: 5 October 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
7	57-63	<b>Research Paper - Alternative seating system for wheelchair users</b> Date: 19 January 2022	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy

8	64-77	<b>Research Paper - CPAP funding, management and use</b> Date: 14 February 2022	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
9	78-92	<b>Research Paper - Bariatric wheelchairs and transport safety</b> Date: 19 May 2022	<b>PARTIAL ACCESS</b> Exemptions claimed: s47F – personal privacy
10	93-102	<b>Research Paper - Entry level sports PWC</b> Date: 7 June 2022	<b>PARTIAL ACCESS</b> Exemptions claimed: s47F – personal privacy
11	103-112	<b>Research Paper - Outcome comparison of catheter model and technique</b> Date: 2 March 2022	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
12	113-136	<b>Research Request - Phrenic nerve pacing</b> Date: 12 June 2020	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
13	137-150	<b>Research Request - Botox, Splinting and Serial Casting</b> Date: 14 August 2019	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
14	151-179	<b>Research - Feasibility of NDIS providing insulin pumps as a way to reduce expensive nursing supports as well as optimising the independence of participants</b> Date: 23 April 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
15	180-198	<b>Research - Out of warranty AT Replacement</b> Date: 17 May 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
16	199-220	<b>Research - Recreational Supports: Off Road Cycles</b> Date: 26 November 2020	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
17	221-226	<b>Research Request - Suction machine types and cleaning</b> Date: 12 September 2019	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy

18	227-258	<b>The Benefits of Power Wheelchair Tilt, Recline and Leg Rests, Power Wheelchair Standing Systems, and Standing Frames for Power Wheelchair Users</b>  Date: 15 December 2021	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy
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## Your review rights

As this matter was a deemed refusal, internal review of this decision is not an option. However, if you have concern with any aspect of this decision, please contact the NDIA FOI team by email [foi@ndis.gov.au](mailto:foi@ndis.gov.au) or by post:

Freedom of Information Section  
Complaints Management & FOI Branch  
General Counsel Division  
National Disability Insurance Agency  
GPO Box 700  
CANBERRA ACT 2601

### Review by the Office of the Australian Information Commissioner

The FOI Act gives you the right to apply to the Office of the Australian Information Commissioner (OAIC) to seek a review of this decision.

If you wish to have the decision reviewed by the OAIC, you may apply for the review, in writing, or by using the online merits review form available on the OAIC's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter.

Applications for review can be lodged with the OAIC in the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
Phone: 1300 363 992 (local call charge)

### Complaints to the Office of the Australian Information Commissioner or the Commonwealth Ombudsman

You may complain to either the Commonwealth Ombudsman or the OAIC about actions taken by the NDIA in relation to your request. The Ombudsman will consult with the OAIC before investigating a complaint about the handling of an FOI request.

Your complaint to the OAIC can be directed to the contact details identified above. Your complaint to the Ombudsman can be directed to:

Phone: 1300 362 072 (local call charge)  
Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

Your complaint should be in writing and should set out the grounds on which it is considered that the actions taken in relation to the request should be investigated.