



**Australian Government**  
**Department of Finance**

Reference: FOI 16/97  
Contact: FOI Team  
Telephone: (02) 6215 1783  
e-mail: [foi@finance.gov.au](mailto:foi@finance.gov.au)

Mr James Horton

**via email:** [foi+request-2157-2006aa23@righttoknow.org.au](mailto:foi+request-2157-2006aa23@righttoknow.org.au)

Dear Mr Horton,

**Freedom of Information Request – FOI 16/97**

Thank you for your email to the Department of Finance (Finance) in which you sought access to the following under the *Freedom of Information Act 1982* (FOI Act).

*Could please provide a copy of the independent "scoping study into future ownership options for the operation and ownership of the registry functions of the Australian Securities and Investments Commission (ASIC) Registry" as announced in the 2014-15 Federal Budget and upon whose findings a subsequent tender process was announced in the 2015-16 Federal Budget.*

**Authorised decision-maker**

I am authorised by the Secretary under subsection 23(1) of the FOI Act to grant or deny access to documents under the FOI Act.

**Decision**

In making my decision, I have had regard to the following:

- the terms of your FOI request;
- the content of the document that falls within the scope of your request;
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC Guidelines).

I have decided to exempt one document, in full, under section 34 (Cabinet documents) of the FOI Act.

The document is identified in the Schedule at [Attachment A](#).

## **Section 34 – Cabinet documents**

Section 34 of the FOI Act prescribes that:

- (1) A document is an exempt document if:
    - (a) both of the following are satisfied:
      - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;*
      - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or**
    - (b) it is an official record of the Cabinet; or*
    - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or*
    - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.**
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.*
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.*

In accordance with the procedural requirements for documents prepared for the Cabinet or its committees, Finance sought views, in regards to the document, from the Cabinet Secretariat via the Department of the Prime Minister and Cabinet (PM&C). Having regard to the comments provided by PM&C, and having considered the matter myself, I have decided that the document contains exempt information. In particular, the document is exempt under paragraph 34(1)(a) of the FOI Act as it was brought into existence for the dominant purpose of submission for consideration by Cabinet and it was submitted to the Cabinet for its consideration. Accordingly, I have decided that the document is exempt in full under paragraph 34(1)(a) of the FOI Act.

### **Charges**

On 8 September 2016, Finance sent you an estimate of charges (\$2476.30) in relation to the processing of your request.

On 15 September 2016, Finance received payment of the deposit (\$619.06).

I have reviewed the charge and can confirm that the actual estimate for time spent processing your request has been assessed as \$155.25. As such, Finance will arrange for a refund of the difference.

### **Review and appeal rights**

You are entitled to request an internal review or a review by the OAIC of my decision. The process for review and appeal rights is set out at [Attachment B](#).

## **Publication**

The FOI Act requires Commonwealth agencies to publish:

- information in documents to which the agency routinely gives access in response to FOI requests except where that information is exempt under the FOI Act and
- information in documents release under the FOI Act.

Subject to certain exceptions, any documents provided to you under the FOI Act will be published on Finance's FOI Disclosure Log ([www.finance.gov.au](http://www.finance.gov.au)) as soon as possible. Finance's policy is to publish the documents within one working day after they are released to you.

If you have any questions in regards to this request, please contact the FOI Team on the above contact details.

Yours sincerely,



Suzanne Pitson  
Assistant Secretary  
ASIC Registry Project  
Department of Finance

28 September 2016

## SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No. 16/97

<b>Document No.</b>	<b>Date of Document</b>	<b>No. of Pages</b>	<b>Description of Document</b>	<b>Decision</b>
1	April 2015	784	Scoping study	Exempt in full under s34 (Cabinet documents).



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**Department of Finance**

## Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

### Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

#### ***How to apply for internal review***

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why. You can lodge your application in writing through one of the contact details provided at the end of this document.

#### **Review by the Australian Information Commissioner (IC)**

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant

decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

#### ***Do I have to go through Finance's internal review process first?***

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

#### ***Do I have to pay?***

No. Review by the IC is currently free.

### ***How do I apply?***

You must apply for IC review in writing and you can lodge your application in one of the following ways:

**Post:** Office of the Australian Information Commissioner  
GPO Box 2999  
CANBERRA ACT 2601

**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**Fax:** 02 9284 9666

**In person:** Level 3  
175 Pitt Street  
SYDNEY NSW 2000

An electronic application form is also available on the OAIC's website ([www.oaic.gov.au](http://www.oaic.gov.au)). Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

### ***Making a complaint***

You may make a written complaint to the IC about actions taken by Finance in relation to your application. However, if you are complaining that a Finance decision is wrong, it is treated as an application for review. For further information, see [FOI fact sheet 13 – Freedom of Information: How to make a complaint](#).

### ***When can I go to the Administrative Appeals Tribunal (AAT)?***

Under the FOI Act, you must seek external review through the IC prior to applying to the AAT for such a review. The fee for lodging an AAT application is currently \$884 (from 1 July 2016), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

### ***Investigation by the Ombudsman***

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the IC, the

Ombudsman will consult the Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Applications to the Ombudsman should be directed to the following address:

**Post:** Commonwealth Ombudsman  
PO Box 442  
CANBERRA ACT 2601

**Phone:** 02 6276 0111  
1300 362 072

#### **Finance FOI contact details**

FOI Coordinator  
Legal Services Branch  
Department of Finance  
One Canberra Avenue  
FORREST ACT 2603  
**Phone:** 02 6215 1783  
**Email:** [foi@finance.gov.au](mailto:foi@finance.gov.au)  
**Website:** [www.finance.gov.au/foi/foi.html](http://www.finance.gov.au/foi/foi.html)