



Australian Government
**Department of Industry, Science,
Energy and Resources**

Our ref: 66900

Mr Warrick Alexander
Right to Know

By email: foi+request-6640-68327833@righttoknow.org.au

Dear Mr Alexander

Freedom of Information Act 1982 – Notice of Decision

I refer to your correspondence received by the Department of Industry, Science, Energy and Resources (the department) on 27 August 2020, in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

Under the Freedom of Information Act 1982, I request access to the page titled 'order of proceedings and proposed timings' in the EPC meeting minutes for every meeting from 26 August 2017 to 26 August 2020 excluding the following dates which are already publicly available on your department's FOI log:

- Thursday 31 October 2019;
- Wednesday 11 December 2019; and
- Wednesday 21 February 2018.

Background

On 28 August 2020 you were notified that you were liable to pay a charge for the processing of your request in the amount of \$219.52.

On 31 August 2020 the department received a deposit in the amount of \$54.88 for the processing of your request.

Decision

I am an authorised decision maker under section 23 of the FOI Act.

I am satisfied all reasonable searches have been undertaken for documents relevant to your request. I am advised the department has in its possession 23 documents relevant to your request. These documents are described in the Schedule of Documents at **Attachment A**.

I have decided to grant access to 23 documents in part. I have found the requested documents contain material which is exempt under:

- Section 47(1)(b) of the FOI Act, as disclosure would reveal commercially valuable information; and
- Section 47F(1) of the FOI Act, as disclosure of the information would be an unreasonable disclosure of an individual's personal information.

industry.gov.au

Industry House - 10 Binara Street, Canberra City, ACT 2601
GPO Box 2013 Canberra ACT 2601 ABN: 74 599 608 295

The reasons for my decision are set out below, as required by section 26 of the FOI Act, in Part A of the Annexure.

Final Decision on Charges

The preliminary estimate of charges associated with processing this FOI request was \$219.52, which includes the first five hours of decision making at no cost.

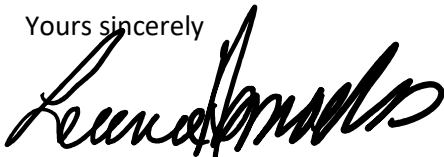
In accordance with the *Freedom of Information (Charges) Regulations 1982* (the Charges Regulations), I have calculated the actual costs associated with processing your request and have decided the final total amount for processing this FOI request is \$259.80. While these charges exceed the estimate of charges previously provided to you, the Charges Regulations provides a higher amount can be charged if providing full access to the documents. However, I am not providing access to the documents in full and therefore you are not required to pay the actual charges.

As you have already paid a deposit of \$54.88, you are required to pay the balance owing of \$164.64 before the documents can be released to you.

Methods of payment are set out in **Attachment B**.

If you are dissatisfied with my decision, your review rights are set out in Part B of the Annexure.

Yours sincerely



Leonie Horrocks
General Manager
Industry Research and Investment

7 September 2020

Enclosures

Annexure (Part A – Statement of Reasons and Part B – Review Rights)
Attachment A – Schedule of Documents
Attachment B – Methods of Payment

Annexure
Part A – Reasons for Decision (section 26 FOI Act)
Request: Warrick Alexander – 27 August 2020 (LEX 66900)
Decision Maker: Leonie Horrocks, General Manager, Industry Research and Investment

1. Evidence/Material on which my findings were based

1.1 In reaching my decision, I relied on the following information and documentary evidence:

- the FOI Act;
- the contents of the documents described in Attachment A;
- your correspondence setting out the particulars of your request;
- consultation with departmental officers as to the nature of the documents; and
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

2. Section 22 – Deletion of exempt or irrelevant material

2.1 Subsections 22(1) and (2) of the FOI Act permit an agency to decide to provide a copy of a document (modified by redaction) edited to remove information that would reasonably be regarded as irrelevant to the request (edited copy).

Subsection 22(1)

Scope

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*

(b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*
- (ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Subsection 22(2)

Access to edited copy

(2) *The agency or Minister must:*

- (a) *prepare the edited copy as mentioned in paragraph (1)(b); and*
- (b) *give the applicant access to the edited copy.*

2.2 On 28 August 2020, the department advised you that unless you indicated otherwise, the names and contact details of APS staff below the SES level would be treated as out of scope and deleted under section 22 of the FOI Act.

- 2.3 On the same day you specified you are seeking the names of any departmental staff mentioned in the documents.
- 2.4 I consider to provide you with full access to the documents would disclose information that does not fall within the scope of your FOI request. Accordingly, where possible, I have decided the irrelevant and exempt information will be deleted under section 22(1) of the FOI Act and a copy of the documents, with the irrelevant and exempt information deleted, will be provided to you.
- 2.5 These deletions are identified in the Schedule of Documents at Attachment A.

3. Section 47(1)(b) – Documents disclosing commercially valuable information

- 3.1 Paragraph 47(1)(b) of the FOI Act provides that:

(1) A document is an exempt document if its disclosure under this Act would disclose:

...

(b) Any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

- 3.2 Documents 1-23 are the EPC Meeting Minutes. I am of the view the information in the documents relate to many other third parties applications under the Entrepreneurs Programme and is considered commercially valuable, and their business could be diminished or destroyed if this information were disclosed. I consider this information is not publicly available and is known only to the parties concerned.
- 3.3 Disclosure of this information would, or could reasonably be expect to, reduce the value of the business, and the business relationship with the department would also be diminished.
- 3.4 Therefore, I am satisfied this material consists of commercially valuable information that would be, or could reasonably be expected to be, destroyed or diminished if it were publicly disclosed.
- 3.5 Accordingly, I have decided certain material in Documents 1-23 is exempt from disclosure under section 47(1)(b) of the FOI Act and will not be released.
- 3.6 As identified in the Schedule, I have deleted the exempt material in these documents and have decided to release the remaining material in accordance with subsection 22(1) of the FOI Act.

4. Section 47F – Personal Information

- 4.1 Subsection 47F(1) of the FOI Act provides that:

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).

- 4.2 The term, 'personal information', is defined in section 4 of the FOI Act to mean:

information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

- 4.3 When determining whether the disclosure of personal information would be unreasonable, subsection 47F(2) of the FOI Act requires me to consider:
- (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 I consider relevant.

- 4.4 I have decided material contained in documents 1-23, as identified in the Schedule of Documents, is conditionally exempt under subsection 47F(1) of the FOI Act.
- 4.5 The information I have determined would be unreasonable to disclose includes the names and details of staff members below the SES level, and their contact information. This personal information is not well known or publicly available and the individuals to which the information relates are not known to be (or to have been) associated with the matters contained in the documents. I also do not consider any public purpose would be achieved through the release of the personal information of these persons.
- 4.6 Under subsection 11A(5) of the FOI Act, the department must give you access to this conditionally exempt material unless in the circumstances it would be, on balance, contrary to the public interest to do so. Subsection 11A(5) of the FOI Act sets out the following factors favouring access to a document:
- promote the objects of the FOI Act;
 - inform debate on a matter of public importance;
 - promote effective oversight of public expenditure; and
 - allow a person access to his or her own personal information.
- 4.7 I have considered each of the factors favouring access listed above and I have decided disclosure of the personal information in question would not go towards promoting the object of the FOI Act or inform debate on a matter of public importance. Disclosure of the personal information would also not promote effective oversight of public expenditure and will not allow you or another person to access his or her own personal information.
- 4.8 Following consideration of these factors, I have decided in the circumstances of this particular matter, the public interest in disclosing the personal information is outweighed by the public interest against disclosure.
- 4.9 I am therefore satisfied the material is of such a nature it is conditionally exempt under subsection 47F(1) of the FOI Act. Furthermore, I have decided on balance it would be contrary to the public interest to release this information. Accordingly, I have deleted the exempt material in the document and have decided to release the remaining material in accordance with subsection 22(1) of the FOI Act.

5. Publication

- 5.1 Section 11C of the FOI Act requires agencies to publish documents released through an FOI request on our website within 10 days of release, except in certain circumstances including when the documents contain personal or business information that would be unreasonable to publish.
- 5.2 The documents being released to you do not contain any personal or business information that would be unreasonable to publish. As a result, they will be published on our disclosure log within 10 days of the documents being released to you.

Part B – Review Rights

Application for Internal Review

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator
Department of Industry, Science, Energy and Resources
GPO Box 2013
CANBERRA ACT 2601

or by e-mail to: FOI@industry.gov.au.

Review by the Australian Information Commissioner

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

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

Online: www.oaic.gov.au
Post: GPO Box 5218, Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

An application form is available on the website at www.oaic.gov.au. Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

Complaints to the Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at www.oaic.gov.au.

Request for Access under the *Freedom of Information Act 1982 (Cth)*
Department of Industry, Science, Energy and Resources
FOI Applicant: Warrick Alexander – LEX 66900
SCHEDULE OF DOCUMENTS

Doc No	Description of document	Total Pages	Decision	Reasons
1.	EPC meeting minutes 3 August 2017	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
2.	EPC meeting minutes 14 September 2017	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
3.	EPC meeting minutes 26 October 2017	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
4.	EPC meeting minutes 6 December 2017	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
5.	EPC meeting minutes 10 April 2018	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
6.	EPC meeting minutes 16 May 2018	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information

Doc No	Description of document	Total Pages	Decision	Reasons
7.	EPC meeting minutes 28 June 2018	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
8.	EPC meeting minutes 9 August 2018	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
9.	EPC meeting minutes 20 September 2018	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
10.	EPC meeting minutes 1 November 2018	5	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
11.	EPC meeting minutes 12 December 2018	5	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
12.	EPC meeting minutes 21 February 2019	6	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
13.	EPC meeting minutes 10 April 2019	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information

Doc No	Description of document	Total Pages	Decision	Reasons
14.	EPC meeting minutes 15 May 2019	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
15.	EPC meeting minutes 27 June 2019	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
16.	EPC meeting minutes 8 August 2019	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
17.	EPC meeting minutes 20 September 2019	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
18.	EPC meeting minutes 20 February 2020	5	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
19.	EPC meeting minutes 19 October 2019	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
20.	EPC meeting minutes 2 April 2020	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information

Doc No	Description of document	Total Pages	Decision	Reasons
21.	EPC meeting minutes 14 May 2020	3	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
22.	EPC meeting minutes 25 June 2020	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information
23.	EPC meeting minutes 6 August 2020	4	Release in part	Section 47(1)(b) – commercially valuable information Section 47F(1) – personal information Section 22 – irrelevant information

METHODS OF PAYMENT

Payment can be made via one of the following three options:

- ***Cheque:***
Please make the cheque payable to the Collector of Public Monies and mark it attention to:

The FOI team
Department of Industry, Science, Energy and Resources
GPO Box 2013
CANBERRA ACT 2601

- ***Credit card:***
The department accepts visa or master card. If you would like to pay by credit card please complete the enclosed credit card payment request form, return a scanned copy to the CPM@industry.gov.au and copy the FOI team in your email at FOI@industry.gov.au.

- ***Electronic Funds Transfer:***
The department also accepts EFT payments. Please see bank details below:

Bank Name:	Reserve Bank of Australia
Bank Address:	20-22 London Circuit Canberra ACT Australia
Account Name:	Department of Industry, Science, Energy and Resources
BSB No:	092-009
Account No:	118689

Please include reference to **FOI 66900** in all forms of payment, and notify the FOI team at FOI@industry.gov.au once payment has been made. Failure to include your reference number and notify the FOI team of payment will result in delays in releasing the documents to you.