



Our reference: RQ20/03519  
Agency reference: 66929

**Alby P**

Sent by email: [foi+request-6657-ec00493c@righttoknow.org.au](mailto:foi+request-6657-ec00493c@righttoknow.org.au)

## Extension of time under s 15AB

Dear Alby

On 30 September 2020, the Department of Industry, Science, Energy and Resources (the Department) applied for further time to make a decision on your FOI request of 29 August 2020 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

This application was made on the basis that the processing period is insufficient to deal adequately with your request, because it is complex and voluminous.

The Department advised that the statutory timeframe had already been extended to allow for consultation in accordance with s 15(6) of the FOI Act.

The statutory timeframe had been suspended under ss 24AB and 31 of the FOI Act.

The Department attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The Department advised that you refused the request for a 30-day extension.

## Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AB of the FOI Act.

I have decided to grant the Department an extension of time under s 15AB(2) of the FOI Act **to 15 December 2020**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex and voluminous. My reasons and consideration follow:

- the Department have advised that:
  - on 31 August 2020, the Department advised your FOI request was acknowledged and the Department sought your agreement to a s 15AA extension of time from you

- on 10 September 2020, the Department issued you with a s 24AB to which you responded with a revised scope
  - on 11 September 2020, the revised scope and revised search minute was sent to the relevant business area
  - on 18 September 2020, the Department advised that you were sent an acknowledgment regarding your revised scope
  - on 22 September 2020, the Department advise the search minute was received from the relevant business area
  - on 24 September 2020, preliminary assessment of charges was sent to you
  - on 28 September 2020, the Department advised that payment was received and a receipt was sent to you
- multiple FOI requests have been made to the Department relating to similar subject matter and as such, the Department is currently processing an unusual volume of FOI requests
  - there are a number of requests that require input and assistance from the same business area, aside from the business area's usual business within the Department
  - complexity in processing the requests arises from the similar subject matter material be requested multiple times within close timeframes, and
  - the Department has attempted to engage with applicants to assist in the efficient processing of the various FOI requests.

## Contact

If you have any questions about this letter, please contact me on (02) 9284 9721 or via email [shelley.napper@oaic.gov.au](mailto:shelley.napper@oaic.gov.au). In all correspondence please include OAIC reference RQ20/03519.

Yours sincerely



**Shelley Napper**  
Assistant Director  
Freedom of Information

14 October 2020

## Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit Court for a review of a decision of the Information Commissioner if you think that a decision by the Information Commissioner to grant an extension of time is not legally correct. You can make this application under the *Administrative Decisions (Judicial Review) Act 1977*.

The Court will not review the merits of your case but it may refer the matter back to the Information Commissioner for further consideration if it finds the decision was wrong in law or the Information Commissioner's powers were not exercised properly.

An application for review must be made to the Court within 28 days of the OAIC sending the decision to you. You may wish to seek legal advice as the process can involve fees and costs. Please contact the Federal Court registry in your state or territory for more information, or visit the Federal Court website at <http://www.fedcourt.gov.au/>.

## Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

**For FOI applicants:** [How to make an FOI request: Extensions of time](#)

**For agencies and ministers:** [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the Freedom of Information Act 1982 (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the [online FOI complaint form](#) if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.