



Our reference: RQ21/00515
Agency reference: LEX2731

Mr Elias Ross

Sent by email: foi+request-6782-40ee8825@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Ross

On 2 March 2021, the Department of Foreign Affairs and Trade (the Department) applied for further time to make a decision on your FOI request of 6 October 2021 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 statutory timeframe had been suspended under ss 24AB and 31 of the FOI Act.

The Department previously obtained your agreement under s 15AA of the FOI Act for a 30-day extension of time to 1 February 2021 (OAIC reference: RQ21/00291).

The Office of the Australian Information Commissioner has previously granted the Department an extension of time under s 15AB(2) of the FOI Act (OAIC reference: RQ21/00263). This extended the decision period to 2 March 2021.

Contact with you

On 4 March 2021, I wrote to you to seek your view on the Department's application. You responded to my inquiries and provided comments that I have taken into consideration.

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 of 21 days under s 15AB(2) of the FOI Act **to 23 March 2021**. 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 considerations follow:

- the Department considers your request both complex and voluminous, as it consists of several hundred pages containing multiple sensitivities requiring careful consideration and handling following finalised consultations
- the Department has advised that consultations with Post have faced delays due to the impact of COVID-19 which has and continues to affect the staff and day-to-day operations at Posts
- the Department has further advised that internal consultations were undertaken, however given the nature and complexity of the documents, this process took longer than anticipated
- additional time is required to finalise the internal consultations and consideration of the documents by 8 March 2021, once this process is finalised the decision will be provided to the decision maker who will finalise the decision and
- when consulted by the OAI you agreed to the extension.

Contact

If you have any questions, please contact me on (02) 9284 9847 or via email jasmin.clarke@oaic.gov.au. Please quote OAI reference number at the top of this email in all correspondence.

Yours sincerely



Jasmin Clarke

Assistant Review and Investigation Advisor
Freedom of Information

5 March 2021

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/>.