



Our reference: RQ21/00259  
Agency reference: 67800

**Ms Lynn Los**

Sent by email: [foi+request-6985-b5e16bb9@righttoknow.org.au](mailto:foi+request-6985-b5e16bb9@righttoknow.org.au)

## Extension of time under s 15AB

Dear Ms Los

On 1 February 2021, the Department of Industry, Science, Energy and Resources (the Department) applied for further time to make a decision on your FOI request of 20 December 2020 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

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

The Department attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The Department did not receive a response from you.

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: RQ21/00169). This extended the decision period to 3 February 2021.

## 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 15 days under s 15AB(2) of the FOI Act **to 19 February 2021**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons follow:

- The Department have advised that the request is complex in nature as it is similar to other FOI requests received and the scope of the request requires careful consideration.
- The subject matter of the request is sensitive in nature and any documents within scope are approximately three to five years old.

- The Department have advised that following initial search results, they have engaged in consultations and that further third-party consultations are to be conducted.
- The Department have also advised that external assistance has now been engaged to assist in managing the large number of requests and the complexities within each.
- The Department require the additional time to review the relevant documents and finalise a decision.

## Contact

If you have any questions about this email, please contact me on 02 9284 9625 or via email [avanithah.selvarajah@oaic.gov.au](mailto:avanithah.selvarajah@oaic.gov.au). In all correspondence please include OAIC reference number at the top of this letter.

Yours sincerely



**Avanithah Selvarajah**  
Review and Investigations Adviser  
Freedom of Information

3 February 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/>.