



Our reference: RQ21/00384
Agency reference: LEX67941

Mr To Nguyen

Sent by email: foi+request-7023-d84853e5@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Nguyen

On 15 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 17 January 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.

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.

Contact with you

On 16 February 2021, I wrote to you to seek your view on the Department's application. I invited you to provide any comments by 18 February 2021. You have not responded to my inquiries.

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 4 March 2021**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- the Department contacted you to informally clarify the scope of your request, you responded and clarified the scope
- the Department has advised that additional searches are currently underway with the assistance of IT support

- the Department also advised that it considers your request to be complex due to the large volume of requests received since June 2020 about similar subject matter which has resulted in the Department devoting a significant amount of resourcing to processing these requests
- this includes additional time in conducting document searches, document retrieval, engaging in consultations, commencing document review and as a result has led to unavoidable delays in processing your request
- the Department has advised that this subject matter relates to sensitive material which may be contained within requested documents and require third party consultations
- additional external assistance has been sought by the Department to process these requests and advise your request is in the advanced stages of processing , and
- additional time is required to finalise additional searches, review documents, determine if third party consultations are required and finalise the decision.

Contact

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

Yours sincerely



Jasmin Clarke

Assistant Review and Investigation Advisor
Freedom of Information

19 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/>.