



Australian Government

Office of the Registrar of Indigenous Corporations

www.oric.gov.au

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Level 1, Charles Perkins House

16 Bowes Place

Woden ACT 2606

PO Box 29

Woden ACT 2606

ABN 18 108 001 191

ORIC ref: MS01-2021
Contact officer: FOI Coordinator
Contact phone: 1800 622 431

4 June 2021

Mr Mark Simms
C/- Right to Know
OpenAustralia Foundation
38 Surrey Road
Keswick
South Australia 5035

By email: foi+request-7291-5ba756cf@righttoknow.org.au

Dear Mr Simms

FOI request MS01-2021 – notice of decision

I refer to your email dated 7 May 2021, which sets out the terms of your request for access under the *Freedom of Information Act 1982* (FOI Act) as follows:

- details of complaints made about ICN 7184 and their outcome.

Authority

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.

Searches

I have conducted a search of ORIC's electronic records for relevant documents. The search has identified four documents falling within the scope of your request. I am satisfied that ORIC has no other documents that fall within the scope of your request.

FOI decision

I have decided to release the four documents in part, rather than in full, in accordance with section 22 of the FOI Act. In particular, I have redacted all personal information relating to the identity of the complainant as provided under section 47F of the FOI Act.

I have also redacted the names of any ORIC officers, being non-SES officers.

The first schedule attached to this letter (**Attachment A**) sets out a description of the documents relating to your request. The documents are attached accordingly.

The second attachment to this letter sets out my reasons for redacting all personal information mentioned above (**Attachment B**).

Charges

There is no charge in relation to this FOI request. The first five hours of decision-making time is free for all applicants and I waive any other FOI charges in relation to this request.

Your review and complaint rights

Internal review

You can request in writing that we reconsider our decision through an internal review. An internal review will be conducted by another officer in our agency. We will advise you of our new decision within 30 days of receiving your request.

Information commissioner review

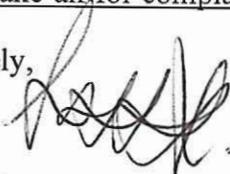
You can ask the Australian Information Commissioner to review our original decision or our decision on internal review within 60 days of the date of decision (or 30 days after you are notified if you are an affected third party). The Information Commissioner can affirm or vary the decision or substitute a new decision. The Information Commissioner may decide not to conduct a review in certain circumstances. More information is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Complaints

If you are unhappy with the way we have handled your request, you can complain to the Australian Information Commissioner who may investigate our actions. More information is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely,

Sall Forrest
FOI Coordinator



Attachment A: Schedule of documents; Attachment B: Statement of Reasons

Schedule of documents - Freedom of Information request MS01-2021

Doc No.	Pages	Date	Description	Decision	Exemption	Notes
1	1	09.05.2021	PDF of email from complainant to ORIC	Exempt in part	s 47F	Personal information relating to the complainant and ORIC staff member has been redacted
2	2	12.05.2021	PDF of email response from ORIC to complainant	Exempt in part	s 47F	Personal information relating to the complainant and ORIC staff member has been redacted
3	3	13.05.2021	PDF of email from complainant to ORIC	Exempt in part	s 47F	Personal information relating to the complainant and ORIC staff member has been redacted
4	3	13.05.2021	PDF of email from ORIC to complainant	Exempt in part	s 47F	Personal information relating to the complainant and ORIC staff member has been redacted

Document 1

[REDACTED]

From: [REDACTED]
Sent: Friday, 9 April 2021 2:45 PM
To: ORIC Info
Subject: Wiradyuri Central West Aboriginal Corporation ICN: 7184

Dear Registrar,

I have a number of concerns relating to the Wiradyuri Central West Aboriginal Corporation.

The first relates to filings dated 24 March 2021 where a member list containing no surnames was provided to your office along with a change of officeholders form containing no details.

I believe that because of controversy surrounding this organisation in Bathurst they do not wish for their surnames to be known.

The other relates to the exemption granted for the late filing of an annual report for 2018/19 on the basis that the previous report contained assets which were not owned by the organisation. In any case the 2018/19 report does not disclose the money referred to as being held in the account in the exemption letter.

I believe these matters are serious and merit investigation.

Regards,

[REDACTED]

Document 2

From: [REDACTED]
Sent: Monday, 12 April 2021 4:49 PM
To: [REDACTED]
Subject: RE: acknowledgment and repoly - Job Ref Id: 1515138 Wiradyuri Central West Aboriginal Corporation ICN: 7184 [SEC=OFFICIAL]

OFFICIAL

Dear [REDACTED]

I write in response to your email in relation to members surnames removed from the ORIC public register and an exemption granted to lodge the 2019-20 financial report.

Members surnames

ORIC’s public register does not list addresses of members on the public register. A corporation may request that personal information on these documents be amended or not be published electronically. If the corporation has a justifiable concern, the Registrar may agree to the list being removed from the website or modified as requested by the corporation.

Exemption in relation to reporting requirements

The corporation lodged and exemption in relation to the 2018-19 financial reporting and it was granted. The general report lodged by the corporation for the 2019-19 financial year did not record the \$72.98 in the corporations bank account. This may have been an oversight by the lodger of the report.

At this time I don’t believe a investigation is warranted. I hope this is helpful to you about your concerns.

With kind regards

[REDACTED] | Adviser
Office of the Registrar of Indigenous Corporations (ORIC)
Phone 1800 622 431 (not free from mobiles)
Charles Perkins House 16 Bowes Place WODEN ACT 2606
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Regards,
[REDACTED]

Document 3

From: [REDACTED]
Sent: Tuesday, 13 April 2021 11:17 AM
To: [REDACTED]
Subject: Re: acknowledgment and repoly - Job Ref Id: 1515138 Wiradyuri Central West Aboriginal Corporation ICN: 7184 [SEC=OFFICIAL]

Dear [REDACTED],
Thankyou for your prompt response.

My complaint did not relate to member's addresses. Those are not available on ORIC's website. It was related to the documents filed on 24 March 2021 which were incomplete and/or misleading.

With regards to my second concern, I was not clear and apologise. My concerns are:

- In 2018 the Corporation disclosed that it had current assets of \$125,000 and non-current assets of \$27,000
- In 2018 the Corporation disclosed that it had current liabilities of \$123,000
- In 2019 the Corporation has NIL income, expenses, assets or liabilities
- On 20 November 2019, the Corporation wrote a letter to ORIC seeking an exemption from its reporting obligations because "The assets nominated in our previous return were incorrectly nominated by our chief executive officer on the return, those assets belong to the premises we were renting (Heritage Park Bathurst 624 Limekilns Road Forest Grove NSW 2795) and were never owned by the corporation" and "Our chief executive officer informed the directors at a meeting, that he attempted to correct this error with ORIC by making a phone call."

The Corporation incorrectly listed \$152,000 of assets on it's 2018 report - all or at least part of which was incorrect. This shows serious maladministration and financial incompetence which can't be excused by "we incorrectly listed them" and this alone warrants further investigation.

Regards,
[REDACTED]

On Mon, Apr 12, 2021 at 4:49 PM [REDACTED] wrote:

OFFICIAL

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██████████

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

From: [REDACTED]
Sent: Tuesday, 13 April 2021 3:53 PM
To: [REDACTED]
Subject: RE: Job Ref Id: 1515138 - suppressed surnames and financial details. - Wiradyuri Central West Aboriginal Corporation - ICN: 7184 [SEC=OFFICIAL]

OFFICIAL

Dear [REDACTED]

Notification of change of officers' details form

The extract document posted on the ORIC website is the extract of a document lodged by the corporation. The extract document informs the members/public that the corporation has had a change/s to directors details. Please note not all information submitted to ORIC is public information.

2018 General Report

The corporation incorrectly recorded assets on the 2018 general report and; ORIC was informed by the corporation of the error..

If you are member of the corporation you can put your concerns to the directors via the listed contact person. Members of a corporation have rights and one of these is they can ask questions about the management of the corporation; usually this is done at an annual general meeting.

Hope this is helpful to you.

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Regards,

[REDACTED]

REASONS FOR DECISION – Freedom of Information request MS01-2021

My reasons for exempting parts of the four documents in the schedule in Attachment A from disclosure under the Freedom of information Act 1982 (Cth) (**FOI Act**) are set out below.

Section 47F – documents affecting personal privacy

1. Section 47F of the FOI Act conditionally exempts a document (or material contained in a document) to the extent that its disclosure would involve the unreasonable disclosure of personal information about any person.

Personal information

2. Personal information is defined in section 4 of the FOI Act to have the same meaning as in the *Privacy Act 1988 (Cth)*. Section 6 of the Privacy Act 1988 defines it as:

“information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and*
- (b) whether the information or opinion is recorded in a material form or not.”*

3. The elements of “personal information” are:
 - a. it relates only to a natural person (not, for example, a corporation);
 - b. it says something about the individual;
 - c. it may be in the form of an opinion;
 - d. it may be true or untrue;
 - e. the individual’s identity is known or is reasonably identifiable.
4. I find that parts of the four documents falling within the scope of the applicant’s FOI request, as noted on the documents, are conditionally exempt under section 47F, as they contain the following types of personal information:
 - a. the name of a person who sent a complaint to ORIC via email (the Complainant);
 - b. the email address of the Complainant;
 - c. the name of the officer of ORIC who responded to the Complainant.
5. Accordingly, I find that those parts indicated on Documents 1, 2, 3 and 4 are exempt under section 47F of the FOI Act as they contain personal information about one or more individuals.

Disclosure unreasonable

6. If informational is personal information, it will be conditionally exempt if disclosure would be “unreasonable”. In considering whether disclosure would be unreasonable, subsection 47F(2) of the FOI Act requires me to take into account:
 - 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 each document;
 - c. the availability of the information from publicly accessible sources; and
 - d. any other matter I consider to be relevant.
7. I am satisfied from the nature of the information that the information is not well known or publicly available.

8. I have also taken into account the circumstances in which the information was obtained and/or the reasonable expectation of confidentiality held by the individuals whom the information is about, given the context of the communications and processes undertaken.
9. I do not consider that the disclosure of this information would shed light on the workings of the Government or enhance accountability or transparency. Further, such disclosure would disproportionately interfere with the privacy of the persons identified or reasonably able to be identified in Documents 1, 2, 3 or 4.
10. On that basis, I find that parts of the 4 documents, as noted on the documents, are conditionally exempt under section 47F of the FOI Act and that disclosure would be unreasonable.
11. Nonetheless, I must provide you with access to the four documents unless providing access at this time would, on balance and in the circumstances, be contrary to the public interest.

The public interest

12. Conditionally exempt material must be released on request unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest (section 11A(5), FOI Act). As noted in paragraph 6.27 of the *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* (the **FOI Guidelines**),

“To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The decision maker must analyse, in each case, where on balance the public interest lies, based on the particular facts of the matter at the time the decision is made.”

13. I have considered the factors favouring access in section 11B(3) of the FOI Act and have not had regard to factors that are irrelevant in subsection 11B(4).
14. In balancing the public interest in this case, I have considered factors for and against disclosure as outlined below.

Factors in favour of disclosure

15. I have considered the following factors in favour of disclosure as recommended under paragraph 6.19 of the FOI Guidelines:
 - a. promoting the objects of the FOI Act, particularly to inform the community of the Government’s operations, revealing the reasons for government decision and any background or contextual information that informs the decision, and enhancing the scrutiny of government decision making; and
 - b. informing the debate on a matter of public importance of an agency or official.

Factors in favour of disclosure

16. I have considered the following factors against disclosure:
 - a. protecting individuals from unreasonable interference with their privacy and adverse consequences;
 - b. the information was provided under an expectation of statutory protection;
 - c. preserving reasonably held expectations of confidentiality;
 - d. the ability of ORIC to be able to maintain confidentiality over information provided in confidence;

- e. disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
 - f. disclosure could reasonably be expected to prejudice the fair treatment of individuals where information about them is unsubstantiated; and
 - g. the impact on the ability of ORIC to effectively regulate, manage and assist Aboriginal and Torres Strait Islander corporations, their directors and members if ORIC is unable to guarantee confidentiality in its regulatory functions.
17. I acknowledge that there is a public interest in documents of ORIC being made available to the public for the purpose of encouraging debate and to promote oversight of ORIC's activities. I do not consider that disclosure of those parts of the documents that are exempted under section 47F would facilitate any of these objects.
18. By contrast, there is a public interest in protecting the privacy of individuals from interference and in certain circumstances, this public interest may be significant.
19. In the circumstances and taking into account the above matters, I consider that, on balance, disclosure of the information is contrary to the public interest. Accordingly, I have decided not to release to the applicant those parts of the four documents that contain personal information, as noted on the documents, under section 47F of the FOI Act.

Deletion of exempt or irrelevant matter – section 22

20. Section 22 of the FOI Act provides that exempt or irrelevant information may be deleted from a copy of a document, and access granted to such an amended copy, where it is reasonably practicable to do so, unless it is apparent that the applicant would not wish to have access to such a copy.
21. I have found material in the document being released to the FOI applicant to be conditionally exempt under section 47F of the FOI Act. This material has also been deleted from the documents being released to the applicant.
22. I consider it is reasonably practicable to make a copy of the documents that are being released with the irrelevant and exempt material deleted.

Publication of the documents – section 11C

23. Under section 11C(1) of the FOI Act, ORIC is required to publish documents released to FOI applicants on its website in its disclosure log, within 10 working days of notification of its FOI access decision. However, subsection 11C(1) of the FOI Act also provides for exemptions from this publication requirement in certain circumstances, including personal information about any person, if it would be unreasonable to public the information (section 11C(1)(a), FOI Act).
24. As indicated above, I have decided to release each document to the applicant in part, with exempt material deleted as noted on each document.