

From: [Legal](#)
To: [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxx.xxx.xx](#)
Cc: [Legal](#)
Subject: FOIREQ22/00095 - Notice of third party consultation - extension of time [SEC=OFFICIAL]
Date: Tuesday, 10 May 2022 3:10:00 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

OAIC reference: FOIREQ22/00095

Dear Julie

I refer to your request made under the Freedom of Information Act 1982 (Cth) (FOI Act) and received by the Office of the Australian Information Commissioner (OAIC) on 10 April 2022.

Because your request covers documents which contain information concerning an organisation's business and professional affairs, the OAIC has decided it is necessary to consult the affected organisation under s 27 of the FOI Act before making a decision on release of the documents, in order to release this material to you.

For this reason, the period for processing your request has been extended by 30 days to allow time to consult (see s 15(6) of the FOI Act). The processing period for your request will now end on **9 June 2022**.

The consultation mechanisms under s 27 apply when we believe the organisation concerned may wish to contend that the requested documents are exempt for reasons of adversely affecting their business or financial affairs.

We will take into account any comments we receive but the final decision about whether to grant you access to the documents you requested rests with OAIC.

Kind regards
Margaret



Margaret Sui | Senior Lawyer
Legal Services
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | [oaic.gov.au](https://www.oaic.gov.au)
+61 2 9284 9879 | xxxxxxxx.xxx@xxxx.xxx.xx



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From: [HORGAN,Llewellyn](#)
To: [FOOT,Michael](#)
Cc: [SUI,Margaret](#)
Subject: FOIREQ22/00095 - Question re: third party consult
Date: Thursday, 19 May 2022 1:01:00 PM
Attachments: [image001.jpg](#)
[FOIREQ22.00095 Bundle for third party consult.pdf](#)

OFFICIAL: Sensitive

FOIREQ22/00095

Dear Michael,

I hope you're well.

We have decided that it is necessary to undertake a third party consultation with Alinta regarding the attached document in the above matter. Regarding what information is currently known to Alinta in the attached document, is it correct that dot points 1 and 2 **s47E(d)**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] while not publicly known, would be known by Alinta, while dot point 3 **s47E(d)**
[REDACTED] is

not known to Alinta and should therefore be redacted in any consultation with them?

Thank you and I look forward to hearing from you.

Kind regards,

Llewellyn



Llewellyn Horgan | Graduate
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9708 | xxxxxxxxx.xxxxxx@xxxx.xxx.xx

OFFICIAL: Sensitive

Commissioner brief: Alinta Energy

Key messages

- On 3 March 2020, we commenced preliminary inquiries with Alinta in response to media reports regarding Alinta's privacy compliance. The matter remains open, however the OAIC does not report on matters under current inquiry or investigation and rarely reports where a matter is escalated to investigation.
- The APPs do not generally prevent an organisation from sending personal information overseas. However, organisations need to carefully consider steps that may need to be taken to comply with the APPs when doing so.
 - However certain types of personal information are subject to data localisation requirements. For example, part IIIA of the Privacy Act, restricts sending information held in the Australian credit reporting system overseas.

Critical facts

- On 2 March 2020, the media reported a whistle blower raising issues regarding Alinta's privacy compliance. In particular, the reports referred to an internal audit by Ernst & Young into Alinta's privacy compliance.
- On 3 March 2020 we commenced preliminary inquiries with Alinta. The inquiries related to APP 8 – Cross-border disclosure of personal information. s47E(d)
- The OAIC has made other telephone inquiries with Treasury and FIRB
- The Senate Economic References Committee inquiry into foreign investment proposals has considered Alinta, and the Commissioner appeared on 15 May 2020.

s47E(d)

- whether or not the new use or disclosure would be reasonably expected by the individuals, having regard to matters including the circumstances in which the information was originally provided by the customers.

Other background

Information in the public domain regarding this matter

- **On 3 March 2020**, the OAIC announced it was making preliminary inquiries into Alinta's handling of Australians' personal information.
- **On 15 May 2020**, the Commissioner advised the Senate Economic References Committee inquiry into foreign investment proposals that the OAIC:
 - had been contacted by third parties with an interest in the matter
 - wrote to Alinta directly (a copy of this initial correspondence was provided in confidence to the Committee)
 - had received information back from Alinta
 - have had telephone contact with the FIRB
 - had not written to Electricity Monster or any other entities.

Document history

Updated by	Reason	Approved by	Date
Michael Foot	Senate Estimates February 2022		

From: [FOOT,Michael](#)
To: [HORGAN,Llewellyn](#)
Cc: [SUI,Margaret](#)
Subject: RE: FOIREQ22/00095 - Question re: third party consult[SEC=OFFICIAL:Sensitive]
Date: Thursday, 19 May 2022 2:55:45 PM
Attachments: [image001.jpg](#)

OFFICIAL: Sensitive

Hi Llewellyn

That is correct. s47E(d)

Regards

Michael Foot

OFFICIAL: Sensitive

From: HORGAN,Llewellyn <xxxxxxxxx.xxxxxx@xxxx.xxx.xx>
Sent: Thursday, 19 May 2022 1:01 PM
To: FOOT,Michael <xxxxxxxxx.xxxx@xxxx.xxx.xx>
Cc: SUI,Margaret <xxxxxxxxx.xxx@xxxx.xxx.xx>
Subject: FOIREQ22/00095 - Question re: third party consult[SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

FOIREQ22/00095

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[REDACTED]
[REDACTED]

[REDACTED] while not publicly known, would be known by Alinta, while dot point 3 s47E(d) [REDACTED] is not known to Alinta and should therefore be redacted in any consultation with them?

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Kind regards,

Llewellyn



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+61 2 9284 9708 | llewellyn.horgan@oaic.gov.au

OFFICIAL: Sensitive

From: [HORGAN,Llewellyn](#)
To: [@xx](#)
Cc: [OAIC - Legal; @xx](#)
Subject: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions
Date: Tuesday, 24 May 2022 5:18:00 PM
Attachments: [image001.jpg](#)
[FOIREQ22.00095 Consult Document.pdf](#)

Dear Privacy Officer,

I am writing to inform you that the Office of the Australian Information Commissioner (OAIC) has received a freedom of information (FOI) request, which includes a document containing the business information of Alinta Energy.

The relevant document is attached. Please note that the attached document also contains material that is already publicly available and we are not seeking your comment on this information. We are only seeking your comment on the material that has been highlighted in the attached document. Please note that the attached documents also contains non-publicly known information that we are not intending to externally disclose and that this information has been redacted from the attachment.

Under the Freedom of Information Act 1982 (FOI Act), when we receive a request covering documents of this kind and we believe the person or organisation concerned may wish to contend that the documents are exempt from release, we are required to consult before releasing the documents, if it is reasonably practicable to do so (under s 27 of the FOI Act).

Opportunity to make a submission

I invite you to make submissions raising any objections you may have to the release of the attached document under the following exemptions in the FOI Act (paraphrased):

Section 47G(1) – disclosure of the document would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

- a. would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs, or
- b. could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

We note that more information about s47G is available in the Part 6 (Conditional exemptions) of the FOI Guidelines, available at www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions.

If it is your view that any of the documents falls within the scope of the exemptions outlined above, would you please consider whether deletion of any specific information from the relevant document (under section 22) would address your objections.

Please note that it is not sufficient simply to assert that one of the exemptions applies and that disclosure would be contrary to the public interest. You need to provide reasons and supporting evidence. Also, while your comments will be taken into account, the final decision about whether to release the documents rests with the decision maker in our agency. If the decision maker decides to grant access to any document whose release you opposed and you have made a submission in support of your contention that the document is exempt under one of the provisions of the FOI Act above, you will be given written notice of the decision and the opportunity to seek review of the decision before the document is released.

Disclosure log

If we decide to grant access to the requested document we are generally obliged to publish the information on our disclosure log.

How to make your submission

Please send your comments in writing by close of business on **31 May 2022** by return email to me. Please use OAIC reference FOIREQ22/00095 in all correspondence. Please cc in xxxxx@xxxx.xxx.xx in all correspondence.

If a response is not received by this date, I will assume you do not object to the release of the document.

If you have any questions, please feel free to contact me.

Kind regards,

Llewellyn



Llewellyn Horgan | Graduate
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9942 4234 | xxxxxxxxx.xxxxxx@xxxx.xxx.xx

Commissioner brief: Alinta Energy

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- [REDACTED]
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s47E(d)

From: s47F
To: [HORGAN,Llewellyn](#)
Cc: [OAIC - Legal](#); s47F; [Privacy](#)
Subject: RE: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]
Date: Wednesday, 1 June 2022 3:07:21 PM
Attachments: [image002.gif](#)
[image003.jpg](#)
[1 June 2022 Alinta Energy Response to FOI Request FOIREQ2200095_DM_executed.pdf](#)

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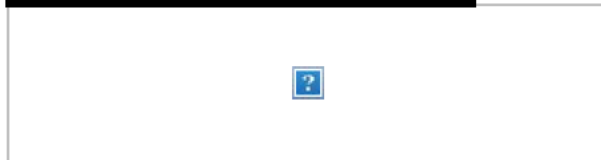
Hi Llewellyn

Further to our discussion yesterday, please find **attached** Alinta Energy's response.

Regards

s47F

s47F



Grosvenor Place, Level 13, 225 George Street
Sydney NSW 2000 Australia

s47F

www.alintaenergy.com.au

Classification: CONFIDENTIAL

From: HORGAN,Llewellyn <Llewellyn.Horgan@oaic.gov.au>
Sent: Tuesday, 24 May 2022 5:18 PM
To: Privacy <privacy@alintaenergy.com.au>
Cc: OAIC - Legal <legal@oaic.gov.au>; Communications <communications@alintaenergy.com.au>
Subject: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]

Dear Privacy Officer,

I am writing to inform you that the Office of the Australian Information Commissioner (OAIC) has received a freedom of information (FOI) request, which includes a document containing the business information of Alinta Energy.

The relevant document is attached. Please note that the attached document also contains material that is already publicly available and we are not seeking your comment on this information. We are only seeking your comment on the material that has been highlighted in the

attached document. Please note that the attached documents also contains non-publicly known information that we are not intending to externally disclose and that this information has been redacted from the attachment.

Under the Freedom of Information Act 1982 (FOI Act), when we receive a request covering documents of this kind and we believe the person or organisation concerned may wish to contend that the documents are exempt from release, we are required to consult before releasing the documents, if it is reasonably practicable to do so (under s 27 of the FOI Act).

Opportunity to make a submission

I invite you to make submissions raising any objections you may have to the release of the attached document under the following exemptions in the FOI Act (paraphrased):

Section 47G(1) – disclosure of the document would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

- a. would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs, or
- b. could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

We note that more information about s47G is available in the Part 6 (Conditional exemptions) of the FOI Guidelines, available at www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions.

If it is your view that any of the documents falls within the scope of the exemptions outlined above, would you please consider whether deletion of any specific information from the relevant document (under section 22) would address your objections.

Please note that it is not sufficient simply to assert that one of the exemptions applies and that disclosure would be contrary to the public interest. You need to provide reasons and supporting evidence. Also, while your comments will be taken into account, the final decision about whether to release the documents rests with the decision maker in our agency. If the decision maker decides to grant access to any document whose release you opposed and you have made a submission in support of your contention that the document is exempt under one of the provisions of the FOI Act above, you will be given written notice of the decision and the opportunity to seek review of the decision before the document is released.

Disclosure log

If we decide to grant access to the requested document we are generally obliged to publish the information on our disclosure log.

How to make your submission

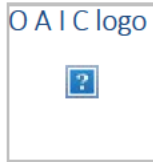
Please send your comments in writing by close of business on **31 May 2022** by return email to me. Please use OAIC reference FOIREQ22/00095 in all correspondence. Please cc in xxxxx@xxxx.xxx.xx in all correspondence.

If a response is not received by this date, I will assume you do not object to the release of the document.

If you have any questions, please feel free to contact me.

Kind regards,

Llewellyn



Llewellyn Horgan | Graduate
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9942 4234 | llewellyn.horgan@oaic.gov.au

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s47E(d)

s47E(d)

s47E(d)

s47E(d)

s47E(d)

From: [HORGAN,Llewellyn](#)
To: s47F
Cc: [OAIC - Legal](#); s47F; [Privacy](#)
Subject: RE: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]
Date: Thursday, 9 June 2022 5:22:00 PM
Attachments: [image001.jpg](#)
[image002.gif](#)

Dear s47F

Thank you for your submission in this matter.

I am writing to confirm that the exemptions from release in this FOI matter aligns with your submissions. After considering your submissions, we decided that the Highlighted Sections were exempt under s 47E(d) of the FOI Act, and these sections were redacted accordingly.

Kind regards,

Llewellyn



Llewellyn Horgan | Graduate
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9942 4234 | llewellyn.horgan@oaic.gov.au

From: s47F
Sent: Wednesday, 1 June 2022 3:06 PM
To: HORGAN,Llewellyn <Llewellyn.Horgan@oaic.gov.au>
Cc: OAIC - Legal <legal@oaic.gov.au>; s47F
s47F Privacy <privacy@alintaenergy.com.au>
Subject: RE: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]

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Hi Llewellyn

Further to our discussion yesterday, please find **attached** Alinta Energy's response.

Regards

s47F

[Redacted signature block]



Grosvenor Place, Level 13, 225 George Street
Sydney NSW 2000 Australia

s47F

www.alintaenergy.com.au

Classification: CONFIDENTIAL

From: HORGAN, Llewellyn <Llewellyn.Horgan@oaic.gov.au>

Sent: Tuesday, 24 May 2022 5:18 PM

To: Privacy <privacy@alintaenergy.com.au>

Cc: OAIC - Legal <legal@oaic.gov.au>; Communications
<communications@alintaenergy.com.au>

Subject: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]

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Under the Freedom of Information Act 1982 (FOI Act), when we receive a request covering documents of this kind and we believe the person or organisation concerned may wish to contend that the documents are exempt from release, we are required to consult before releasing the documents, if it is reasonably practicable to do so (under s 27 of the FOI Act).

Opportunity to make a submission

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the FOI Guidelines, available at www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions.

If it is your view that any of the documents falls within the scope of the exemptions outlined above, would you please consider whether deletion of any specific information from the relevant document (under section 22) would address your objections.

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Kind regards,

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From: s47F
To: [HORGAN,Llewellyn](#)
Cc: [OAIC - Legal](#); s47F [Privacy](#)
Subject: RE: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]
Date: Friday, 10 June 2022 10:21:13 AM
Attachments: [image002.gif](#)
[image003.jpg](#)

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Classification: CONFIDENTIAL

Thank you Llewellyn.

s47F



Grosvenor Place, Level 13, 225 George Street
Sydney NSW 2000 Australia

s47F

www.alintaenergy.com.au

Classification: CONFIDENTIAL

From: HORGAN,Llewellyn <Llewellyn.Horgan@oaic.gov.au>
Sent: Thursday, 9 June 2022 5:23 PM
To: s47F
Cc: OAIC - Legal <legal@oaic.gov.au>; s47F
; Privacy <privacy@alintaenergy.com.au>
Subject: RE: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]

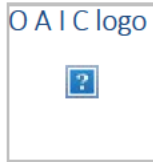
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From: s47F
Sent: Wednesday, 1 June 2022 3:06 PM
To: HORGAN, Llewellyn <Llewellyn.Horgan@oaic.gov.au>
Cc: OAIC - Legal <legal@oaic.gov.au>; s47F
[REDACTED] Privacy <privacy@alintaenergy.com.au>
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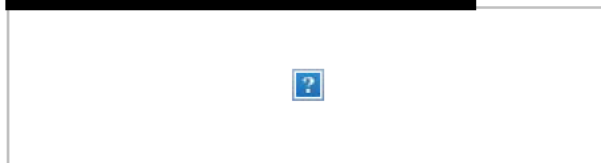
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Sent: Tuesday, 24 May 2022 5:18 PM
To: Privacy <privacy@alintaenergy.com.au>
Cc: OAIC - Legal <legal@oaic.gov.au>; Communications <communications@alintaenergy.com.au>
Subject: FOIREQ22/00095 - Consultation under s27 of the FOI Act - Opportunity to make submissions [SEC=OFFICIAL]

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Disclosure log

If we decide to grant access to the requested document we are generally obliged to publish the information on our disclosure log.

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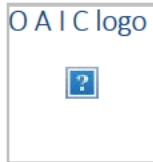
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If you have any questions, please feel free to contact me.

Kind regards,

Llewellyn



Llewellyn Horgan | Graduate

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