



Australian Government
Department of Finance

Agency Reference: FOI 23-24/160
Contact: FOI Team
Email: FOIA@finance.gov.au

“Me” via Right to Know

By email only: foI+request-10722-40ce0565@righttoknow.org.au

Dear Me,

Decision and Statement of Reasons issued under the *Freedom of Information Act 1982* – FOI 23-24/160

I refer to your request of 5 June 2024 to Department of Finance (Finance) seeking access under the *Freedom of Information Act 1982* (Cth)) (FOI Act) to:

- “...1. Attachment A to FOI 23-24/034 Document 1
2. ASIC statements referred to in FOI 23-24/034 Document 1 [2(c)]
3. Any documents not exemptable under s 42 that relate to the subject matter of FOI 23-24/034 Document 1 [13] (ASIC's potential inability to use CDDA)
4. Documents other than RMG 401 that talk to the appropriateness of granting an AoG application for an omission of an NCE (cf an act of an NCE in FOI 23-24/034 Document 1 [12(a)]
5. Attachment A to FOI 23-24/034 Document 2
6. Any documents not exemptable under s 42 that relate to the subject matter of FOI 23-24/034 Document 2 [4(a)], including the relevance of ASIC Act s 11
7. Attachment C to FOI 23-24/034 Document 2
8. Attachment A to FOI 23-24/034 Document 3
9. Attachment C to FOI 23-24/034 Document 3
10. Attachment A to FOI 23-24/034 Document 4
11. Attachment A to FOI 23-24/034 Document 5
12. Attachment A to FOI 23-24/034 Document 6

Regarding (2), (7), and (9), if DoF attempts a blanket redaction such as s 47E, I will fight you on the beaches. ASIC are generally incompetent, are known across the Commonwealth to be generally incompetent, are the subject of many parliamentary inquiries aimed at their lack of competence, and are otherwise a stain on the reputation of the executive branch of government. It is manifestly in the public interest to see the supposedly valid bases ASIC uses to defend itself from AoG claims.

Personal information of non-SES (excl a/SES) is excluded. Personal information of third parties, narrowly construed, is excluded. Legal advice, where it was authored by someone on the roll of a supreme court and the entire document is a legal advice, is excluded.

Corporations cannot possess personal information and their details cannot be exempt on this basis. If John Smith forms John Smith Pty Ltd, they are, at law, separate legal entities with no relationship. The FOI Act and/or Privacy Act does not stitch together what the Corporations Act has bifurcated....”

On 21 June 2024, Finance acknowledged receipt of your request.

On 1 July 2024, Finance requested an extension of time of 30 days to process your request under section 15AA of the FOI Act. By email of the same date, you agreed to extend the time for making a decision to 5 August 2024.

I would like to thank you for agreeing to extend the timeframe for processing your request.

Authorised decision-maker

I am authorised by the Secretary of Finance and section 23(1) of the FOI Act to make decisions in relation to FOI requests.

The purpose of this letter is to provide you with notice of my decision under the FOI Act.

My Decision

Finance has undertaken a reasonable search of its records and has identified 49 documents relevant to your request.

The documents are set out in the schedule at **Attachment A**.

I have decided to:

- grant access in part to 4 documents, subject to the redaction of exempt material under sections 37(2)(b), 47C, 47E(d), 47F, and irrelevant material under section 22(1)(a)(ii) of the FOI Act;
- refuse access to 42 documents under sections 37(2)(b), 47C, 47E(d), 47F 37(2)(b), and 22(1)(a)(ii) of the FOI Act; and
- grant access in full to 3 documents, with irrelevant material under section 22(1)(a)(ii) of the FOI Act redacted.

I have also refused access to parts 3, 4, and 6 of the request under section 24A on the basis that the documents you have requested access to do not exist.

Where I have decided to grant access in part, I have provided access to an edited copy of the documents, modified by deletions in accordance with section 22(2) of the FOI Act.

Material taken into account

In accordance with section 26(1)(a) of the FOI Act, in making my decision, I have stated any material question of fact, the material on which these findings were based, and the reasons for my decision to grant or refuse access to the documents.

In making my decision, I have had regard to the following:

- the terms of your FOI request;
- the content of the documents that fall within the scope of your request;
- consultation with a Commonwealth agency and submissions made by that agency;
- the relevant provisions of the FOI Act;
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (FOI Guidelines);¹ and
- sections 3, 11 and 11A of the FOI Act.

Reasons for decision

I have decided to grant and refuse access to the material within the scope of your request, subject to the following provisions of the FOI Act:

Section 37 - Documents affecting enforcement of law and protection of public safety

Section 37(2) of the FOI Act states that:

...A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;*
- (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or*
- (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety...*

The FOI Guidelines at paragraph [5.127] provide that in order for this exemption to apply, two factors must be satisfied. Specifically (footnotes omitted):

...There must be a reasonable expectation that a document will disclose a method or procedure and a reasonable expectation or a real risk of prejudice to the effectiveness of that investigative method or procedure. If the only result of disclosing the methods would be that those methods were no surprise to anyone, there could be no reasonable expectation of prejudice. However, where a method might be described as 'routine', but the way in which it is employed can reasonably be said to be 'unexpected', disclosure could prejudice the effectiveness of the method.

I consider that material in documents 24 and 45 contain information that is exempt in part under section 37(2)(b). Relevantly, parts of the documents discuss the Australian Securities and Investment Commission's (ASIC) methods or procedures preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law.

I am satisfied that there is a reasonable expectation that the release of the material would disclose information about the ASIC's investigative methods and procedures for investigating matters arising out of breaches of law. I am further satisfied that the disclosure of this information would prejudice the effectiveness of those methods or procedures.

¹ Available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/>.

I consider that the relevant parts of the documents contain information regarding the process and function of ASIC investigations pursuant to section 911D of the *Corporations Act 2001*. When read together, these parts reveal the direction and pivotal considerations of an ASIC investigation.

I am therefore satisfied that the release of this information would disclose a method or procedure in relation to the investigation of a matter arising out of the law, and that this disclosure could reasonably prejudice these methods or procedures. I consider that this material is exempt pursuant to section 37(2)(b) of the FOI Act.

Section 47C – Documents subject to deliberative processes

Section 47C of the FOI Act provides that a document is conditionally exempt if it contains deliberative matter in the nature of, or relating to:

- an opinion, advice or recommendation that has been obtained, prepared, or recorded; or
- a consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, Minister, or the Government.

The FOI Guidelines at paragraph [6.58] provide that a deliberative process involves the exercise of judgement in developing and making a selection from different options:

The action of deliberating, in common understanding, involves the weighing up or evaluation of the competing arguments or considerations that may have a bearing upon one's course of action. In short, the deliberative processes involved in the functions of an agency are its thinking processes –the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

Section 47C(2)(b) of the FOI Act states that deliberative material does not include information that is purely factual, however, the FOI Guidelines provide that at paragraph [6.73]:

'Purely factual material' does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content such that it is impractical to excise it.

While the documents can be considered to contain 'purely factual material, this information is central to the content and purpose of the deliberative information in the documents. I consider that it would be impractical to remove this information from the documents.

Furthermore, paragraph [6.74] of the FOI Guidelines advises that:

“where a decision maker finds it difficult to separate the purely factual material from the deliberative matter, both elements may be exempt.”

Documents 7, 8, 10-15, 17, 18, 24 and 45 in scope of your request relate to submissions made by a third party on behalf of act of grace claimants. These documents contain information including opinion, advice and recommendations from ASIC, and other third parties, and were presented to Finance in the consideration of specific act of grace requests. The relevant information in these documents was used in an ongoing consultation process to determine the suitability of act of grace payments. As such, this information constitutes matter relating to the deliberative process of advising and considering the exchange of

opinions, which I consider satisfies the requirements outlined in section 47C and the FOI Guidelines.

I also consider that while the deliberative material within the documents does contain elements of ‘purely factual material’, that information is the recording of the deliberative processes captured within the documents. Furthermore, I consider the factual material is inextricably linked to the opinions, advice and recommendations, and to attempt to separate the information would be unreasonable.

Accordingly, I have decided that this information in Documents 7, 8, 10-15, 17, 18, 24 and 45 would disclose deliberative matter and is conditionally exempt pursuant to section 47C of the FOI Act.

Section 47E – Material affecting certain operations of agencies

Section 47E of the FOI Act states that:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Section 47E(d) of the FOI Act provides that a document is conditionally exempt from disclosure if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

For this exemption to apply, it is necessary that the predicted effect ‘would, or could reasonably be expected to’ occur.

FOI Guidelines at paragraphs [5.17] and [5.18] provide that:

...the term ‘could’ in this instance, requires an analysis of whether there exists a reasonable expectation that an event, effect or damage could occur. This ‘reasonable expectation’ cannot be a mere risk, possibility or chance of prejudice. It must be based on reasonable grounds, a real, significant or material possibility of prejudice...

In *DZ and Commonwealth Ombudsman* [2014] AICmr 137, it was found that disclosure of certain material could adversely affect the willingness of agencies to cooperate with another investigative body. Furthermore, the Information Commissioner provided that:

“It is likely that a situation will arise in future that involves information held across more than one agency and that agencies will be less forthcoming about the issues this raises if the information is not treated confidentially. If agencies are less forthcoming and less willing to consider and consult on the proper course of action in this situation, the [Ombudsman’s] investigations will be less efficient.”

Further, the AAT has recognised in *Telstra Australian Limited and Australian Competition and Consumer Commission* [2000] AATA 71 (7 February 2000) that the conduct of an

agency's regulatory functions can be adversely affected in a substantial way when there is a lack of confidence in the confidentiality of the investigative process. Similarly, in this instance, the ASIC's ability to carry out its regulatory functions would be affected if there was a lack of confidence in the confidentiality of this process.

Documents 7, 8, 10-15, 17-19, 24, and 45 in scope of your request relate to submissions made by a third party, including from other government agencies, on behalf of act of grace claimants. I consider that disclosure of this information would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of Finance. The information contained within the document was provided by the third party in the course of Finance's functions in assessing act of grace claims.

I consider that the disclosure of this information could have an adverse effect on the willingness of people making submissions. Furthermore, I consider that some of the material within the documents was provided by ASIC on the assumption that it would be treated as confidential information and not disclosed.

Act of grace is a discretionary payment under the *Public Governance, Performance and Accountability Act 2013*. There is no situation which creates an automatic entitlement to an act of grace payment and a decision maker must consider all relevant facts to determine whether a special circumstance exists to justify a payment. Other agencies provide comprehensive and frank submissions relating to specific matters to assist in the making of an act of grace decision. Finance is reliant on the submissions of other departments to enable it to consider all relevant material relating to the claim and determine whether a special circumstance exists.

I consider that the disclosure of this information could have an adverse effect on interagency communications and have a substantial adverse effect on Finance's operations in the future. If sensitive information shared in confidence by government agencies is exposed, it could reasonably be expected that those agencies would be less forthcoming with the breadth of material and views they provide in future submissions. If this occurred, this would materially impact the quality of decision making in relation to act of grace applications.

Accordingly, I have decided that this information is conditionally exempt pursuant to section 47E(d) of the FOI Act.

Section 47F – Personal Privacy

Section 47F of the FOI Act states:

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (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 the document;*
 - (c) *the availability of the information from publicly accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant*

The FOI Guidelines provide:

[6.127 (relevantly)] The FOI Act shares the same definition of 'personal information' as the Privacy Act, which regulates the handling of personal information about individuals (see s 4(1) of the FOI Act and s 6 of the Privacy Act).

[6.130] Personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.

The documents subject to the request contain personal information, specifically the names and 'credit information' of third parties, as described in section 6N of the Privacy Act.² I have considered whether the information contained within the documents is well known and whether the person to whom the information relates is known to be associated with the matters dealt with in the document. I have not found this to be the case in this instance.

Furthermore, I have given significant weight to the context of these documents, in which individuals have sought assistance in their time of hardship. These documents contain overviews of individuals' impact statements, their personal affairs and details of their financial situations.

I consider that the release of the personal information within the documents would be unreasonable and could cause stress on the third parties. Furthermore, I do not consider that the disclosure of their personal information would achieve a public purpose in this instance.

Accordingly, I consider that the disclosure of this personal information would be unreasonable, and I have decided to conditionally exempt these parts under section 47F(1) of the FOI Act.

Section 47G – Documents disclosing business information

Section 47G of the FOI Act provides:

(1) A document is conditionally exempt if its disclosure under this Act 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

(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.

Furthermore, the FOI Guidelines provide:

[6.12] In order to find that s 47G(1)(a) applies, a decision maker would need to be satisfied that if the document were disclosed there would be: an unreasonable adverse effect, on the business or professional affairs of an individual, or the lawful business, commercial or financial affairs of an organisation or undertaking.

² The Privacy Act 1988 (Cth).

[6.13] These criteria require more than simply asserting that a third party's business affairs would be adversely affected by disclosure. The effect would need to be unreasonable. This requires a balancing of interests, including the private interests of the business and other interests such as the public interest.

Section 47G(1)(a)

Section 47G is intended to protect the business interests of third parties dealing with the Government. I consider that the documents I have listed at Attachment A contain sensitive business information relating to the operation of a third-party organisations. Specifically, I consider that certain information in these documents would unreasonably disclose the operations and service offerings of certain businesses, which is information that is not otherwise public.

I am of the view that disclosure of this information would allow competitors to draw upon the third parties intellectual property and use it to obtain an unfair advantage. Misuse of third-party intellectual property would have an unreasonable adverse effect on that business' affairs.

Section 47G(1)(b)

I also consider that disclosure of sensitive business information would discourage third parties from making such detailed submissions regarding act of grace payments in the future.

Paragraphs [6.196-6.197] of the FOI Guidelines provide that:

A document that discloses the kind of information described at [47G(1)(a)] above will be conditionally exempt if the disclosure 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 (s 47G(1)(b)).

This limb of the conditional exemption comprises 2 parts:

- *a reasonable expectation of a reduction in the quantity or quality of business affairs information to the government*
- *the reduction will prejudice the operations of the agency.*

As many of the documents, which include sensitive business information, were supplied as part of act of grace applications, I consider there to be a reasonably high likelihood that the disclosure of this information will adversely affect Finance's ability to consider all relevant material relating to claims and materially impact the quality of decision-making in relation to act of grace applications. I consider that the integrated business information within these parts of the document would be sufficient to prejudice the future supply of this information.

Accordingly, I am satisfied that the disclosure of this information would be unreasonable and is exempt under section 47G.

Public interest test

Section 11A of the FOI Act relevantly provides:

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

In finding that the documents referred to at 'Attachment A' are conditionally exempt in full, I am required to consider whether it would be contrary to the public interest to give access to the information in the documents at this time.

Factors favouring disclosure

Section 11B of the FOI Act relevantly provides:

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

In considering the scope of your request and the content of the documents, I have taken into account the intention of the FOI Act to provide for open Government and that the release of the documents would promote transparency of Government activities. I consider that the release of the documents would promote the objects of the FOI Act. Further, I have balanced this consideration against the factors against disclosure below.

Factors against disclosure

Paragraph [6.233] of the FOI Guidelines provides a non-exhaustive list of factors against disclosure. I consider that the following factors apply to these documents, in that the release of the information in the documents could reasonably be expected to:

- prejudice law enforcement, by disclosing ASIC's investigative methods and procedures, and by informing the entities ASIC regulates as to how and why ASIC will act on specific information in specific circumstances;
- inhibit interagency communications regarding consideration of act of grace payments;
- prejudice the protection of an individual's right to privacy;
- prejudice the effectiveness of an agency's decision-making and deliberative processes; in particular, by:
 - discouraging full and complete sharing of opinions and recommendations;
 - and
 - harming the development of sound decision-making.

I consider that the release of documents within the scope of your request could prejudice law enforcement by disclosing ASIC's investigative methods and procedures. This would inform the entities ASIC regulates how and why ASIC will act on specific information in specific circumstances.

Further to this, I have considered the use of ASIC's investigations as a method of promoting market integrity and consumer protection in relation to the Australian financial system and the payments system and find that the disclosure of the information in these documents would prejudice the effectiveness of those methods or procedures. It may assist other entities in endeavours to evade ASIC investigations and thereby inhibit ASIC's ability to protect the Australian financial and payments system. I consider there is a strong public interest in ensuring that ASIC can conduct its law enforcement functions and that these functions are not compromised or prejudiced in any way. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure.

I consider that the release of documents within the scope of your request could inhibit interagency communications in considering act of grace payments. Finance seeks submissions from third parties and other Commonwealth departments, which are relied on as a prominent element of the decision-making process. Some information is provided on the assumption that it remains confidential. If the redacted material is released it would divulge information or matter communicated in confidence between ASIC and Finance, which could adversely affect the level of trust and cooperation between the departments.

It could lead to ASIC and other departments losing trust in Finance's ability to handle confidential information about current and future act of grace claims, resulting in less comprehensive and frank submissions. Accordingly, disclosing this material would adversely affect Finance's ability to consider all relevant material relating to claims and materially impact the quality of decision-making in relation to act of grace applications. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure.

I consider that the release of documents within the scope of your request could prejudice the protection of an individual's right to privacy. The documents subject to the request contain significant personal information. Decision letters, for example, contain overviews of individuals' impact statements, their personal affairs and details of their financial situations which they have provided in the context of making an act of grace request. It would be unreasonable and contrary to the expectations of those individuals who have sought assistance through the act of grace mechanism to disclose information identifying individuals and the circumstances of their request.

I also consider disclosure could impair Finance's ability to efficiently deliver services, noting that if an individual does not provide their personal information, Finance may be unable to process an act of grace application. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure.

Irrelevant factors

Section 11B of the FOI Act relevantly provides:

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of these irrelevant factors.

Balancing public interest factors

The FOI Guidelines relevantly provide:

[6.238] 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.

I acknowledge that there is public interest in providing access to the information in the documents. However, on balance, I consider that the factors against disclosure outweigh the factors favouring disclosure.

This is because there is a clear public interest in the continuation of the Commonwealth's act of grace mechanism in special circumstances. This can only be achieved through the provision of comprehensive and frank submissions from ASIC and other departments and maintaining an individual's right to privacy.

I also consider the strong public interest in maintaining the confidentiality of ASIC's investigative methods and procedures to allow ASIC to maintain its role as a regulator.

I also note that act of grace payments are discretionary; there is no situation which creates an automatic entitlement to an act of grace payment. As a result, there is limited value and relevance of any act of grace decisions to future applications.

Therefore, I consider that on balance the release of the conditionally exempt material in the documents would be against the public interest and have decided to refuse the release of this material.

Section 22 – Access to edited copies with irrelevant matter deleted

Section 22 of the FOI Act provides that, if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

In your request dated 5 June 2024, you advised that:

“Personal information of non-SES (excl a/SES) is excluded. Personal information of third parties, narrowly construed, is excluded. Legal advice, where it was authored by someone on the roll of a supreme court and the entire document is a legal advice, is excluded.”

I have decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request, including material which relates to the terms you have provided in the scope of your request. I have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

Section 24A – Document cannot be found, do not exist or have not been received

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if after taking reasonable steps to find the document, the agency is satisfied that the document does not exist. In line with this provision, I have decided to refuse parts 3,4 and 6 of your request.

In coming to my decision, I have consulted with the internal business area responsible for discretionary payments. The business area ensured that thorough searches were undertaken of relevant Finance systems where any such documents may have been stored, such as:

- OneDrive and SharePoint

- Microsoft Outlook (SFC inbox);
- Local G Drive;
- EClaims system; and
- HPE Content Manager.

As a result of these consultations and searches, I am satisfied that all reasonable steps have been taken to find any a document that may fall within the scope of these parts of your request, and the documents could not be identified as they do not exist.

Review and appeal rights

You are entitled to request an internal review or an external review by the Office of the Australian Information Commissioner (OAIC) of my decision. The process for review and appeal rights is set out at Attachment B.

If you have any questions about this request, please contact the FOI Team by emailing foia@finance.gov.au.

Yours sincerely,



Grant Stevens

Assistant Secretary

Risk and Insurance Branch | Risk, Insurance and Discretionary Payments Division

Department of Finance

5 August 2024

SCHEDULE OF DOCUMENTS RELEVANT TO FOI 23-24/160

| Document No. | Date of Document | No. of Pages | Description of Document | Decision | Relevant provision |
|--|-------------------------|---------------------|--|-----------------|---|
| Part 1 | | | | | |
| “Attachment A to FOI 23-24/034 – Document 1” | | | | | |
| 1 | 1 October 2021 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 2 | 1 October 2021 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 3 | 1 October 2021 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 4 | 1 October 2021 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 5 | 1 October 2021 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 6 | 1 October 2021 | 24 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| Part 2 | | | | | |
| “ASIC statements referred to in FOI 23-24/034 Document 1 [2(c)]” | | | | | |
| 7 | 7 December 2020 | 11 | ASIC Submission | Part release | s37(2)(b), s47C, s47E(d), s47F, s22(1)(a)(ii) |
| 8 | 4 March 2021 | 10 | ASIC Submission | Part release | s37(2)(b), s47C, s47E(d), s47F, s22(1)(a)(ii) |
| 9 | 26 May 2021 | 2 | ASIC Submission | Full access | s22(1)(a)(ii) |
| 10 | 4 March 2021 | 4 | Chronology | Refused in full | s37(2)(b), s47C, s47E(d) |
| 11 | 13 September 2013 | 4 | Chronology - Appendix 1 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 12 | 23 September 2013 | 1 | Chronology - Appendix 2 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 13 | 17 October 2013 | 2 | Chronology - Appendix 3 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 14 | 26 November 2013 | 9 | Chronology - Appendix 4 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 15 | 2 December 2013 | 1 | Chronology - Appendix 5 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 16 | unknown | 3 | Chronology - Appendix 6 | Refused in full | s37(2)(b) |
| 17 | 1 December 2015 | 3 | Chronology - Appendix 7 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 18 | 8 December 2015 | 2 | Chronology - Appendix 8 | Refused in full | s37(2)(b), s47C, s47E(d), s47F |
| 19 | 5 April 2016 | 11 | Chronology - Appendix 9 | Refused in full | s47F |
| 20 | 16 September 2016 | 117 | Chronology - Appendix 10 | Refused in full | s37(2)(b), s47F |
| 21 | 28 March 2017 | 36 | Chronology - Appendix 11 | Refused in full | s37(2)(b), s47F |

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| Part 3 | | | | | |
|--|------------------|----|--|-----------------|--------------------------|
| “Any documents not exemptible under s 42 that relate to the subject matter of FOI 23-24/034 Document 1 [13] (ASIC's potential inability to use CDDA)” | | | | | |
| No documents identified. | | | Refused | s24A | |
| Part 4 | | | | | |
| “Documents other than RMG 401 that talk to the appropriateness of granting an AoG application for an omission of an NCE (cf an act of an NCE in FOI 23-24/034 Document 1 [12(a)])” | | | | | |
| No documents identified. | | | Refused | s24A | |
| Part 5 | | | | | |
| “Attachment A to FOI 23-24/034 Document 2” | | | | | |
| 22 | September 2022 | 31 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| Part 6 | | | | | |
| “Any documents not exemptible under s 42 that relate to the subject matter of FOI 23-24/034 Document 2 [4(a)], including the relevance of ASIC Act s 11” | | | | | |
| No documents identified. | | | Refused | s24A | |
| Part 7 | | | | | |
| “Attachment C to FOI 23-24/034 Document 2” | | | | | |
| 23 | 25 November 2020 | 1 | ASIC Submission | Full access | s22(1)(a)(ii) |
| 24 | 13 July 2021 | 10 | ASIC Submission | Part release | s37(2)(b), s47C, s47E(d) |
| 25 | 28 November 2001 | 61 | ASIC Submission – Annexure | Full Access | Nil. |
| Part 8 | | | | | |
| “Attachment A to FOI 23-24/034 Document 3” | | | | | |
| 26 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 27 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 28 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 29 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 30 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 31 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 32 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 33 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 34 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |

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| 35 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 36 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 37 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 38 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 39 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 40 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 41 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 42 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 43 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 44 | February 2023 | 19 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| Part 9 | | | | | |
| “Attachment C to FOI 23-24/034 Document 3” | | | | | |
| 45 | 13 April 2022 | 24 | ASIC Submission | Part Access | s37(2)(b), s47C, s47E(d), s47F, 47G, s22(1)(a)(ii) |
| Part 10 | | | | | |
| “Attachment A to FOI 23-24/034 Document 4” | | | | | |
| 46 | February 2023 | 21 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| 47 | February 2023 | 23 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| Part 11 | | | | | |
| “Attachment A to FOI 23-24/034 Document 5” | | | | | |
| 48 | May 2023 | 31 | Decision letter to Act of Grace claimant | Refused in full | s47F |
| Part 12 | | | | | |
| “Attachment A to FOI 23-24/034 Document 6” | | | | | |
| 49 | unknown | 5 | Decision letter to Act of Grace claimant | Refused in full | s47F |



Australian Government

Department of Finance

Your Review Rights

Legislation

A copy of the FOI Act is available at: <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

Internal Review (IR)

If you disagree with this decision, you can seek a review of the original decision. The review will be carried out by a different decision maker, usually someone at a more senior level.

You must apply for an IR within 30 calendar days of being notified of the decision or charge, unless we agree to extend your time. You should contact us if you wish to seek an extension.

We are required to make an IR decision within 30 calendar days of receiving your application. If we do not make an IR decision within this timeframe, then the original decision stands.

Your request for an IR should include:

- a statement that you are seeking a review of our decision;
- attach a copy of the decision you are seeking a review of; and
- state the reasons why you consider the original decision maker made the wrong decision.

Email: foia@finance.gov.au

Post: The FOI Coordinator
Legal and Assurance Branch
Department of Finance
One Canberra Avenue
FORREST ACT 2603

Information Commissioner review

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for an Information Commissioner review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>.

The OAIC ask that you commence a review by completing their online form which is available on their website.

Your review application must include a copy of the notice of our decision that you are objecting to, and your contact details. You should also set out why you are objecting to the decision.

Email: FOIDR@oaic.gov.au

Post: Office of the Australian Information
Commissioner
GPO Box 5218

Sydney NSW 2001

Making a complaint

You may complain to the Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Information Commissioner can be directed to:

Phone: 1300 363 992 (local call charge)

Email: enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Finance as the relevant agency.