



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 5597

File No: 22/15176

Date: 15 July 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 23 May 2022, for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

On 13 July 2022 you revised the scope of your request to:

*“**All documents** relating to any investigation undertaken by the Department of Foreign Affairs and Trade relating to any journalistic articles written by Jason Koutsoukis regarding now deceased Australian Ben Zygier. (emphasis added)”*

Excluding:

- *material in a foreign language;*
- *media articles and translations of media articles; and*
- *transcripts of press conferences.”*

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, processing time and time taken by the

decision-maker (once appointed) to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$327.35**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Fees & Charges) Regulations* requires that you pay a deposit of **\$81.84** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to *further* narrow the scope of your request, which may reduce the applicable charge.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director

Freedom of Information and Privacy Law Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 5942

File No: 22/19803

Date: 8 August 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third Party Consultation

s 22(1)(a)(ii)

On 15 July 2022 you revised the scope of your request, limiting the request to Parts 1 and 2 and excluding Parts 3 and 4:

“Part 1: From 1 January 2020 to current date: any briefing held by DFAT regarding the NSW Government’s Sydney Metro project (in particular involving the Public-Private Partnership, Hong Kong MTR, and the Chinese Government).”

Part 2: With reference to LEX 5109 Decision and Documents for Release, I request the documents to be released in full without any redactions.

For each part of this FOI, I request the full names and details of all persons including non-senior level staff etc. And for each part of this FOI, I request the full document for each item located - the less redactions the better."

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$310.20**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Fees & Charges) Regulations* requires that you pay a deposit of **\$77.55** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to *further* narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information and Privacy Law Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 5942
File No: 22/19803

21 September 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

s 22(1)(a)(ii)

On 15 July 2022 you revised the scope of your request to:

“Part 1: From 1 January 2020 to current date: any briefing held by DFAT regarding the NSW Government’s Sydney Metro project (in particular involving the Public-Private Partnership, Hong Kong MTR, and the Chinese Government).

Part 2: With reference to LEX 5109 Decision and Documents for Release, I request the documents to be released in full without any redactions.

For each part of this FOI, I request the full names and details of all persons including non-senior level staff etc. And for each part of this FOI, I request the full document for each item located - the less redactions the better.”

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Charges

On 8 August 2022 the department notified you of a preliminary processing charge of \$310.20. This charge was based on an estimate calculated in accordance with Regulation 9 of the *Freedom of Information (Charges) Regulations 2019* (Charges Regulations).

On 16 August 2022 you paid the processing charge in full.

In accordance with Regulation 10 of the Charges Regulations, I have considered the documents within scope of your request and the actual time taken to process your request. I have decided to adjust the charge and fix it at \$279.70.

I note that the difference between the revised charge and the amount you have paid is **\$30.50**.

So that the department can process a refund for you, please provide the details requested below, and confirm your authorisation to refund to your nominated account:

- the payee's bank details (your bank, account name, BSB and account number), and
- the payee's full name and relevant physical (street) address.

Review rights

Your review rights are set out in the **Attachment** for your reference.

Contact

Should you have any queries regarding this matter, please contact the FOI Section by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

Anthony Aspden
Assistant Secretary
East Asia Outreach Branch

Your review rights

Internal review

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of receipt of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6016

File No: 22/21446

30 August 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 3 August 2022 and subsequently clarified on 5 August 2022, for access under the *Freedom of Information Act 1982* (the FOI Act) to:

- *Briefings to the Minister for Foreign Affairs and/or the Minister for Trade and Tourism about Nancy Pelosi's visit to Taiwan;*

Between 1 July 2022 – current [3 August 2022].

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$83.20**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed;
- or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$20.00** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to **further** narrow the scope of your request, which may reduce the applicable charge.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information and Privacy Law Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX5983

File No: 22/21251

23 September 2022

s 22(1)(a)(ii)

By email to: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re. Freedom of Information Request

I refer to your current request for access under the *Freedom of Information Act 1982* (the FOI Act) to:

the incoming government briefs provided from the Department to its respective Ministers since 21 May 2022.

Preliminary searches for documents relevant to your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that you are liable to pay a charge. I note that the department has previously advised that decisions have been made concerning similar documents to those you are seeking access to. We have drawn entries on the FOI disclosure log to your attention. As you have requested the following:

a decision independent to the document and decision you provided me (FOI 3116), particularly with reference to matters the Department believes is exempt under Division 3 of the Act.

I expect to be provided detailed explanation for redactions made using these exemptions and how they meet a public interest test.

I have decided that it is reasonable to impose a charge in circumstances where the department is making a fresh decision. This is consistent with the department's practice for previous requests for access.

Based on the number of relevant pages, processing time and time taken by the decision maker (once appointed) to assess your request (noting that the first five hours are free of charge), our preliminary assessment of the amount of that charge is **\$161.76**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charges.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
 - contend that the charge has been wrongly assessed, or should be reduced or not imposed;
- or

- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Fees & Charges) Regulations* requires that you pay a deposit of 25 per cent of the total charge before processing commences. I have calculated the required deposit for your request to be **\$40.44**.

If you choose to pay only the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the Charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the Department to waive or reduce the charge. The Department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward, and will make a decision on whether the charge should be imposed, and in what amount.

Processing period / Withdrawal

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the deposit/payment in full of charges charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow Scope of Request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Should you have any queries, or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6388

File No: 22/26363

14 October 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 28 September 2022, for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“... any documents created since 21 May 2022, held by the Department of Foreign Affairs and Trade, containing any advice given to the Foreign Minister about discussing with representatives of the United States of America, the following aspects of the situation of Australian citizen Julian Paul Assange:

- (a) the USA’s request for the extradition of Julian Assange*
- (b) Julian Assange’s health.*

Please provide any documents created since 21 May 2022, held by the Department of Foreign Affairs and Trade, containing any advice given to the Foreign Minister about discussing with representatives of the United Kingdom, the following aspects of the situation of Australian citizen Julian Paul Assange:

- (a) how the UK would deal with the request made by the USA for the extradition of Julian Assange*
- (b) Julian Assange’s health.”*

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$60.27**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$20.00** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to **further** narrow the scope of your request, which may reduce the applicable charge.

As noted in the department's email to you on 13 October 2022, you have requested access to documents containing the personal information of other people. Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information of any person. While no decision has been made as to whether the information you seek will be released or exempt under the FOI Act, please be aware that the department may not be able to release a third parties' personal information to you without an authority.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely
s 22(1)(a)(ii)

A/g Director
Freedom of Information

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX6388
File References: 22/26363

1 December 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – decision not to impose a charge

I refer to your request of 28 September 2022 for access to documents relating to Mr Julian Assange, and your correspondence of 1 November 2022, in which you disputed the charge, seeking that it not be imposed.

I am writing to inform you that I have decided not to impose a charge in respect of your FOI request.

Your request

On 28 September 2022, you requested access to the following documents:

documents created since 21 May 2022, held by the Department of Foreign Affairs and Trade, containing any advice given to the Foreign Minister about discussing with representatives of the United States of America, the following aspects of the situation of Australian citizen Julian Paul Assange:

- (a) the USA's request for the extradition of Julian Assange*
- (b) Julian Assange's health.*

Please provide any documents created since 21 May 2022, held by the Department of Foreign Affairs and Trade, containing any advice given to the Foreign Minister about discussing with representatives of the United Kingdom, the following aspects of the situation of Australian citizen Julian Paul Assange:

- (a) how the UK would deal with the request made by the USA for the extradition of Julian Assange*
- (b) Julian Assange's health.*

On 14 October 2022, I sent you a written notice stating that you were liable to pay a charge, and containing other information as required under section 29(1) of the FOI Act.

On 1 November 2022, you responded to this notice by email, as follows:

I contend that I should not be charged for access to documents about Julian Assange, because his situation is a matter of public interest, not just in Australia but around the world. Your people in overseas missions would be aware of the concern expressed in their host countries, about the condition of Julian Assange.

In particular, it is important for the public to know about Australia's interactions with the UK and the USA, since those states are making the decisions about how Julian Assange is treated.

Thank you for considering my request that charges not be imposed.

You have contended the charge should not be imposed, pursuant to section 29(1)(f)(ii) of the FOI Act. Section 29(4) of the FOI Act provides that where you have done this, the department may decide that the charge is to be reduced or not to be imposed.

I am the decision-maker authorised in accordance with the provisions of Section 23(1) of the *Freedom of Information Act 1982* ('FOI Act').

In making my decision, I have taken into account the FOI Act and section 29 of the FOI Act in particular, the *Freedom of Information (Charges) Regulations 2019*, Guidelines issued by the Information Commissioner under section 93A of the FOI Act ('FOI Guidelines'), your email of 1 November 2022 and your original request, and my notice of a preliminary estimate of charges to you.

Noting charges are discretionary, I have decided not to impose a charge. I made this decision in accordance with section 29(4) of the FOI Act.

Please note that at this stage in the FOI process, no decision has been made on whether the information you seek will be released or exempted under the provisions of the FOI Act. My decision relates only to the processing charges.

Next steps

We will continue to process your request as expeditiously as possible. We will contact you with further information by email on the progress of your request.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6225

File No: 22/24609

28 October 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 6 September 2022 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

On 7 September 2022 you revised the scope of your request, limiting the request to:

1. Correspondence (including, but not limited to, cables, emails, letters, text messages, iMessages and messages sent via *online* or encrypted messaging applications) and minutes of the meetings between the Department of Foreign Affairs and Trade and any of the following stakeholders:

- a) The government of Timor Leste, including its agencies
- b) Santos
- c) Eni
- d) INPEX
- e) Australia's Department of Climate Change, Energy, the Environment and Water [or the, Ministry for Industry Energy and Emissions Reduction]
- f) Global CCS Institute
- g) Australian Petroleum Production & Exploration Association (APPEA)
- h) Australia's Embassy in Timor-Leste
- i) CO2CRC
- j) Woodside Petroleum (now Woodside Energy)

in relation to the Indo-Pacific Carbon Credit Scheme between January 2021 to date.

On 12 September 2022 the department clarified, and you confirmed, that the request was intended to be in relation to the Indo-Pacific Carbon Offset Scheme, rather than the Credit Scheme.

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$243.33 AUD**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$60.83 AUD** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to *further* narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6224

File No: 22/24617

9 November 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 6 September 2022 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

s 22(1)(a)(ii)

On 4 October 2022, following consultation under section 24AB of the FOI Act, you further revised the scope of your request to:

“All documents (including, but not limited to, briefs and notes of discussion/meetings, excluding duplicates and draft documents), and correspondence (including, but not limited to, emails, letters, cables, text messages, iMessages and messages sent via online or encrypted messaging applications) between the Department of Foreign Affairs and Trade and any of the following stakeholders:

- 1. Santos*
- 2. The government of Timor Leste including its agencies and regulators in regards to the Bayu-Undan gas field and the carbon capture and storage (CCS) project between July 2021 to date.”*

On 5 October 2022 you agreed to extend the consultation period under section 24AB(5) of the FOI Act to extend the consultation period until Tuesday 11 October 2022.

On 18 October 2022 you were notified that the department had finalised consultation with the relevant business areas and the department accepted your further revised scope. The consultation period concluded on Tuesday 11 October 2022 and searches for documents resumed.

Searches for documents falling within the further revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$366.37 AUD**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$91.59 AUD** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to **further** narrow the scope of your request, which may reduce the applicable charge.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6485

File No: 22/27712

9 November 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 16 October 2022 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

- “1. DFAT’s most recent submission to the Australian Workplace Equality Index (AWEI), including attachments.*
- 2. The AWEI scorecard DFAT received for (1)*
- 3. Emails and other records of communication between DFAT and Pride in Diversity/ACON regarding the submission and the scorecard.*
- 4. Invoices for membership or services provided by ACON in financial year 2021/22.*
- 5. Records of the consultation and approval process for the decision to invite staff to include pronouns in their email signature blocks. Please include consultation with Pride in Diversity/ACON in your search.*
- 6. The DFAT style guide.*
- 7. Records of the consultation and approval process for the decision to advise DFAT staff to ‘use women, not female to be inclusive’.*
 - 7a) Please include consultation with Pride in Diversity/ACON in your search.*
 - 7b) Please include in your search records of any consultation, with Pride in Diversity/ACON and/or internally, on the use of “men/male”.*

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under [section 23 of the FOI Act](#) to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request

(noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$284.53**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$71.13** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6224
File Reference: 22/24617

19 December 2022

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information Request

I am writing to provide you with a decision about your request under the *Freedom of Information Act 1982* (the FOI Act).

s 22(1)(a)(ii)

s 22(1)(a)(ii)

On 4 October 2022 you wrote to the department and further revised the scope of your request to:

"All documents (including, but not limited to, briefs and notes of discussion/meetings, excluding duplicates and draft documents), and correspondence (including, but not limited to, emails, letters, cables, text messages, iMessages and messages sent via online or encrypted messaging applications) between the Department of Foreign Affairs and Trade and any of the following stakeholders:

1. Santos
2. The government of Timor Leste including its agencies and regulators

in regards to the Bayu-Undan gas field and the carbon capture and storage (CCS) project between July 2021 to date."

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Charges

On 28 October 2022 the department notified you of AUD 366.37 charges payable for the processing of your FOI request. On 8 November 2022 you paid a deposit of AUD 91.59 and processing of your FOI request recommenced.

Under section 10(5)(a) of the *Freedom of Information (Charges) Regulations 2019* (Regulations), where a charge was estimated under section 9 of the Regulations, and the department subsequently makes a decision on the FOI request, the department must calculate the final charge based on the actual time taken to process the request.

If the new charge is less than the actual amount that the applicant would be liable to pay in respect of the charge, and the charge is not in respect of a request for access to a document in which a decision refusing to give access to the document has been made by the agency, the agency may fix, as the amount of the charge, an amount that is equal to the actual amount in respect of the charge.

Having considered the actual time taken to process the request, the documents that ultimately fell within scope of your revised request as well as documents that are publicly available, I have decided to fix that charge to the amount of AUD 91.59. As you have already paid this amount in full, the documents will be released to you without further payment required.

Review rights

Information about your review rights is set out in the **Attachment** for your reference.

Contact

Should you have any queries regarding this matter please contact the FOI Section by email at foi@dfat.gov.au.

Yours sincerely
s 22(1)(a)(ii)

Assistant Secretary
Southeast Asia Development Policy & Programs Branch

Attachment

Internal review

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of the date of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act). You may also make a complaint to the Australian Information Commissioner about the department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 6485
File Reference: 22/27712

23 January 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information Request

I am writing to provide you with a decision about access to documents that you requested under the *Freedom of Information Act 1982* (the FOI Act).

s 22(1)(a)(ii)

Request

On 16 October 2022 you requested access to the following:

1. DFAT's most recent submission to the Australian Workplace Equality Index (AWEI), including attachments.
2. The AWEI scorecard DFAT received for (1)
3. Emails and other records of communication between DFAT and Pride in Diversity/ACON regarding the submission and the scorecard.
4. Invoices for membership or services provided by ACON in financial year 2021/22.
5. Records of the consultation and approval process for the decision to invite staff to include pronouns in their email signature blocks. Please include consultation with Pride in Diversity/ACON in your search.
6. The DFAT style guide.
7. Records of the consultation and approval process for the decision to advise DFAT staff to 'use women, not female to be inclusive'.
 - 7a) Please include consultation with Pride in Diversity/ACON in your search.
 - 7b) Please include in your search records of any consultation, with Pride in Diversity/ACON and/or internally, on the use of "men/male".

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Charges

On 9 November 2022 the department notified you of \$284.53 charges payable for the processing of your FOI request. On 24 November 2022 you paid a deposit of \$71.13 and processing of your FOI request recommenced.

Under section 10(5)(a) of the *Freedom of Information (Charges) Regulations 2019* (Regulations), where a charge was estimated under section 9 of the Regulations, and the department subsequently makes a decision on the FOI request, the department must calculate the final charge based on the actual time taken to process the request.

If the new charge is less than the actual amount that the applicant would be liable to pay in respect of the charge, and the charge is not in respect of a request for access to a document in which a decision refusing to give access to the document has been made by the agency, the agency may fix, as the amount of the charge, an amount that is equal to the actual amount in respect of the charge.

Having considered the actual time taken to process the request, the documents that fell within scope of your request, the percentage of pages requiring redaction and time taken to write the statement of reasons, I have decided to fix that charge to the amount of **\$223.30**. As outlined in the charges letter dated 9 November 2022, the documents will be released to you once the remainder of the charges are paid (**\$152.17**).

Review rights

Information about your review rights is set out in the **Attachment** for your reference.

Contact

Should you have any queries regarding this matter please contact the Freedom of Information Section by email at foi@dfat.gov.au.

Yours sincerely
s 22(1)(a)(ii)

A/g Assistant Secretary
People Policy Branch

Attachment

Internal review

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of the date of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act). You may also make a complaint to the Australian Information Commissioner about the department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>

s 22(1)(a)(ii)

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7201

File No: 23/4187

1 March 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Third Party Consultation Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 31 January 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

On 13 February 2023, A/g Director s 22(1)(a)(ii) notified you of her intention to refuse to process your FOI request on the grounds that your request would constitute a substantial and unreasonable diversion of the department's resources.

On 14 February 2023 you revised the scope of your request to:

Letters produced since 1 January 2022 to 31 December 2022, relating to:

1. *Speeding and drink driving offences for diplomats in Canberra.*

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$226.67**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$56.67** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents that originated with, or were received from, the State or an authority of the State (note a State is defined in the FOI Act to include the Australian Capital Territory and the Northern Territory), the department is required to consult prior to making a decision on the release of documents relevant to your request.

The consultation mechanism under section 26A of the FOI Act provides an opportunity for the relevant State authority to contend that documents, or portions of the documents within the scope of your request, are conditionally exempt under section 47B of the FOI Act and access to the documents would, on balance, be contrary to the public interest for the purposes of subsection 11A(5) of the FOI Act.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7201

File References: 22/4187

March 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – decision to reduce charge

I refer to your request of 31 January 2023, which was subsequently revised on 14 February 2023, for access to documents relating to traffic infringements for diplomats in Canberra, and your correspondence of 1 March 2023, in which you contested the charge.

I am writing to inform you that I have decided to reduce the charge in respect of your FOI request.

Your request

On 31 January 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:
s 22(1)(a)(ii)

On 14 February 2023 you revised the scope of your request to:

Letters produced since 1 January 2022 to 31 December 2022, relating to:

1. *Speeding and drink driving offences for diplomats in Canberra.*

On 1 March 2023 I sent you a written notice stating that you were liable to pay a charge and containing other information as required under section 29(1) of the FOI Act.

That same day, you responded to this notice by email, as follows:

"I am seeking to contest this charge based on the criteria outlined in your letter: the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

My reasons are as follows:

- I believe these documents are of the utmost importance to the public interest given they involve activities that endanger and potentially threaten the lives of Australian citizens, particularly those living in Canberra.*
- I note this has been a long-running issue and that government representatives have previously urged foreign diplomats to respect domestic laws while residing in Australia. Reporting on whether there has been an improvement in compliance is vital to assessing whether current government and law enforcement strategies are working and whether a new approach may be required.*
- I also note there is no other way to have a public discussion about the above issues without these documents being provided under freedom of information laws as they do not appear in court registers and are not published online, despite a clear risk to public safety.*
- I note the media's role in informing the community about matters of public safety and do not believe s 22(1)(a)(ii) should be required to pay for this information to be provided to citizens, which allows for fair scrutiny of laws and accountability.*
- I also note the difficult commercial environment that news publishers face in Australia, and that having to pay for documents that relate to the safety of Australian road users, which would not otherwise be published, is arguably detrimental to the public interest."*

You have contended the charge should not be imposed, pursuant to section 29(1)(f)(ii) of the FOI Act, on the basis of section 29(5)(b) of the FOI Act. Section 29(4) of the FOI Act provides that where you have done this, the department may decide that the charge is to be reduced or not to be imposed.

Decision

I am the decision-maker authorised in accordance with the provisions of section 23(1) of the FOI Act. Noting charges are discretionary, I am writing to inform you that I have decided to reduce the charges of **\$226.67** to **\$113.00**. I made this decision in accordance with section 29(4) of the FOI Act.

Reasons for Decision

In making my decision, I have taken into account:

- the FOI Act and section 29 of the FOI Act in particular,
- the *Freedom of Information (Charges) Regulations 2019*,
- Guidelines issued by the Information Commissioner under section 93A of the FOI Act,

- your original request of 31 January 2023 and revised request of 14 February 2023,
- your email of 1 March 2023,
- my notice of a preliminary estimate of charges to you,
- the documents falling within scope of your request,
- work undertaken in this matter to date, including third party consultations, and
- previous FOI requests with a substantially similar scope.

I have considered your submissions that the giving of access to documents relevant to your request is in the public interest or in the interest of a substantial section of the public interest (section 29(5)(b) of the FOI Act).

Whilst you have not made submissions based on financial hardship (section 29(5)(a) of the FOI Act), I have also considered your submission on the difficult commercial environment that news publishers face in Australia, and I have decided to reduce the charges applicable to your request on this basis.

Please note that at this stage in the FOI process, no decision has been made on whether the information you seek will be released or exempted under the provisions of the FOI Act. My decision relates only to the processing charges. This is a reviewable decision. Information about seeking a review is attached.

Next steps

Now I have written to you with my decision on your request for waiver, you have 30 days within which to:

- agree to pay the charge,
- seek review of my decision (as per the enclosed information), or
- withdraw your FOI request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$28.25** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Processing period or withdrawal or request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or following a review, a decision is a decision is made that the charge is not imposed. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive a response from you as outlined above within 30 days of your receipt of this letter, your request will be deemed to have been withdrawn, in accordance with section 29 of the FOI Act.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

Attachment

Your review rights*Internal review*

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of receipt of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7339

File No: 23/5839

13 April 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 17 February 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“documents that DFAT holds relating to the development, approval, and communication of the “Yogyakarta Principles Plus 10.”

Specifically, I seek copies of

- 1 documents detailing Australian Government attendance at the September 2017 meeting in Geneva at which the “Yogyakarta Principles Plus 10” were drafted and negotiated,*
- 2 briefing/advice provided by DFAT to attendees at the meeting,*
- 3 records of consultations and meetings conducted – in Australia and overseas - in advance of the meeting,*
- 4 records of the meeting/s at which the Principles were negotiated and agreed,*
- 5 reporting of the outcomes of the meeting, including reporting cables and updates to Ministers,*
- 6 records - including records of conversation, formal interventions in meetings, prepared talking points and correspondence that mention the Principles for the period since September 2017 (that is, for the period September 2017 to February 2023).*
- 7 public statements, including speeches, in which Australian officials have referred to the Yogyakarta Principles since September 2017 (that is, for the period September 2017 to February 2023).”*

Searches for documents falling within the scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time required to undertake third party consultations, processing time and time taken by the decision-maker to assess your request

(noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$232.530**

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed; or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$58.13** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7546

File No: 23/8001

14 April 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 20 March 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“All documents related to protests that took place outside Australia’s embassy and city consulates in the United States in October 2021 linked to Australia’s Covid-19 policies — for example, outside the Australian consulate in New York.

This includes internal correspondence, staff warnings/briefings, media monitoring and any other relevant document related to the above protests.”

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, which has included multiple overseas posts, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$310.73**

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed;
- or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$77.68** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7546

File References: 23/8001

May 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – decision to reduce charge

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 20 March 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“All documents related to protests that took place outside Australia’s embassy and city consulates in the United States in October 2021 linked to Australia’s Covid-19 policies — for example, outside the Australian consulate in New York.

This includes internal correspondence, staff warnings/briefings, media monitoring and any other relevant document related to the above protests.”

I am writing to inform you that I have decided to reduce the charge in respect of your FOI request.

Your request

On 14 April 2023 I sent you a written notice stating that you were liable to pay a charge and containing other information as required under section 29(1) of the FOI Act.

On 17 April 2023 you responded to this notice by email, as follows:

“Given the public interest in this topic, I believe a charge should not be imposed.

I am happy to discuss further, but this event was widely covered at the time by Australian media, and as an event occurring at a high-profile Australian Government location, the details are clearly of interest to the general public. This information has been requested in my capacity as s 22(1)(a)(ii) .

I am happy to narrow the scope as follows: If emails are captured, please limit to the final thread of the conversation. Likewise, I agree to having the names and direct contact details of non-senior staff removed."

You have contended the charge should not be imposed, pursuant to section 29(1)(f)(ii) of the FOI Act, on the basis of section 29(5)(b) of the FOI Act. Section 29(4) of the FOI Act provides that where you have done this, the department may decide that the charge is to be reduced or not to be imposed.

Decision

I am the decision-maker authorised in accordance with the provisions of section 23(1) of the FOI Act. Noting charges are discretionary, I am writing to inform you that I have decided to reduce the charge of **\$310.73** by 75% to **\$77.68**. I have made this decision in accordance with section 29(4) of the FOI Act.

Reasons for Decision

In making my decision, I have taken into account:

- the FOI Act and section 29 of the FOI Act in particular,
- the *Freedom of Information (Charges) Regulations 2019*,
- Guidelines issued by the Information Commissioner under section 93A of the FOI Act,
- your original request of 20 March 2023,
- your contention email of 17 April 2023,
- my notice of a preliminary estimate of charges to you,
- the documents falling within scope of your request,
- work undertaken in this matter to date, and
- work required to be undertaken on this matter, including third party consultations to be undertaken.

In the context of charges, public interest considerations require me to consider whether the release of documents is in the general public interest or the interest of a substantial section of the public (section 29(5)(b) of the FOI Act). Although the concept of public interest cannot be exhaustively defined, it is important to consider the advancement or the interest or welfare of the public (paragraph 4.109 of the FOI Guidelines).

To satisfy section 29(5)(b) of the FOI Act, an applicant must identify or specify the general public interest or substantial section of the public that would benefit from disclosure of relevant documents. Matters which may be taken into account include:

- whether the information in the documents is already publicly available,
- the nature and currency of the topic of public interest to which the documents relate, and
- the way in which a public benefit may flow from the release of the documents.

Your email of 17 April 2023 stated that:

“since this event was widely covered at the time by Australian media, and as an event occurring at a high-profile Australian Government location, the details are clearly of interest to the general public.”

As indicated in your contention, your request relates to an event that has already been widely covered by the Australian media. The documents captured by your request include information that is already publicly available and information that that has been publicly available since October 2021. In my view, the documents sought in your request will not necessarily better inform the public about the events of October 2021 or have currency given Australia’s current COVID-19 policies.

Notwithstanding these findings, given the global impact of COVID-19 I do consider the documents relate to a matter that was previously of public debate. On this basis I have decided to reduce the charges payable in relation to your request by 75%.

Please note that at this stage in the FOI process, no decision has been made on whether the information you seek will be released or exempted under the provisions of the FOI Act. My decision relates only to the processing charges. This is a reviewable decision. Information about seeking a review is attached.

Next steps

Now I have written to you with my decision on your request for waiver, you have 30 days within which to:

- agree to pay the charge,
- seek review of my decision (as per the enclosed information), or
- withdraw your FOI request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$20.00** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the [attachment](#).

Processing period or withdrawal or request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or following a review, a decision is a decision is made that the charge is not imposed. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive a response from you as outlined above within 30 days of your receipt of this letter, your request will be deemed to have been withdrawn, in accordance with section 29 of the FOI Act.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

Attachment

Your review rights*Internal review*

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of receipt of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7546
File References: 23/8001

June 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – Internal Review of Decision to Issue Charges

The purpose of this letter is to give you a decision regarding your request for an internal review of a decision to issue charges in respect of your current request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I have decided to waive the charge of **\$77.68** payable in respect of your FOI request.

Request

On 20 March 2023 you sought access under the FOI Act to:

“All documents related to protests that took place outside Australia’s embassy and city consulates in the United States in October 2021 linked to Australia’s Covid-19 policies — for example, outside the Australian consulate in New York.

This includes internal correspondence, staff warnings/briefings, media monitoring and any other relevant document related to the above protests.”

On 14 April 2023 the department sent you a written notice stating that you were liable to pay a charge of **\$310.73** and containing other information as required under section 29(1) of the FOI Act.

On 17 April 2023 you responded to this notice by email, as follows:

“Given the public interest in this topic, I believe a charge should not be imposed.

I am happy to discuss further, but this event was widely covered at the time by Australian media, and as an event occurring at a high-profile Australian Government location, the details are clearly of interest to the general public. This information has been requested in my capacity as s 22(1)(a)(ii)

I am happy to narrow the scope as follows: If emails are captured, please limit to the final thread of the conversation. Likewise, I agree to having the names and direct contact details of non-senior staff removed."

You contended the charge should not be imposed, pursuant to section 29(1)(f)(ii) of the FOI Act, on the basis of section 29(5)(b) of the FOI Act.

On 17 May 2023 the department sent you written notice that the decision maker had decided to reduce the charge of **\$310.73** by 75% to **\$77.68**, in accordance with section 29(4) of the FOI Act (original decision).

On 26 May 2023 you sought internal review of the processing charges on public interest grounds. Specifically, you stated:

"In my view, the decision to impose a partial charge incorrectly interprets public interest for the following reasons:

- As a government agency dealing with a protest against the state in an overseas location, how DFAT discussed and dealt with this matter is of the public interest. While the facts of the protest are specific to Covid-19, such an event is likely to occur again in relation to another globally significant event or issue. Embassies and consulates are regular targets for protest. The decision maker did not appear to take this broader public interest into consideration.*
- Although the request may include some information that is already publicly available -- media coverage, for example -- the proportion of such material compared to material not yet shared publicly is unclear, and is not indicated in the decision maker's reasoning. Also, while this event was covered by media at the time, coverage largely stemmed from social media content and observations made at the scene, not from DFAT-provided information. This FOI would provide such material.*
- Inquiries as to Australia's Covid-19 response are ongoing at many levels of government, undermining the argument that the "documents relate to a matter that was previously of public debate". Australia's Covid-19 response is a matter of continued public debate. It is unclear how the decision maker arrived at such an interpretation."*

Reasons for Decision

I am authorised in accordance with the provisions of section 23(1) of the FOI Act to make a decision on your request.

I have made a fresh decision in accordance with section 54C of the FOI Act. I have decided to vary the original decision of 17 May 2023. The reasons for my decision are set out below.

In making my decision, I have taken into account:

- the FOI Act and section 29 of the FOI Act in particular,
- the *Freedom of Information (Charges) Regulations 2019*,

- Guidelines issued by the Information Commissioner under section 93A of the FOI Act,
- your original request of 20 March 2023,
- your contention email of 17 April 2023,
- the notice of a preliminary estimate of charges to you,
- the original decision of 17 May 2023,
- your internal review email dated 26 May 2023, and
- the documents falling within scope of your request.

Sections of the FOI Act referenced in my decision letter can be found online at www.legislation.gov.au. Relevant sections of the FOI Guidelines can be found online at www.oaic.gov.au/freedom-of-information/foi-guidelines/.

In the context of charges, public interest considerations require me to consider whether the release of documents is in the general public interest or the interest of a substantial section of the public (section 29(5)(b) of the FOI Act).

In reaching my decision, I have had regard to the factors under section 29(5) of the FOI Act, and also the purposes of the charges regime under the FOI Act. I have also taken into account the reasons provided by you in support of your request for a waiver of the charges on public interest grounds.

On the basis of these factors, I have, in accordance with section 29(5) of the FOI Act, decided to waive the processing charges.

Please note that at this stage in the FOI process, no decision has been made on whether the information you seek will be released or exempted under the provisions of the FOI Act. My decision relates only to the processing charges.

This is a reviewable decision. Information about seeking a review is **attached**.

The processing period will now recommence, and you are not required to take any further action in respect of the charges notice dated 17 May 2023.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely
s 22(1)(a)(ii)

Lauren Henschke
Assistant Secretary
Department of Foreign Affairs and Trade

Attachment

Your review rights

Australian Information Commissioner

You may apply within 60 days of receipt of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7636

File No: 23/8915

April 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 30 March 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“Specifically, we seek all talking points prepared for Assistant Minister for Trade Tim Ayres for his trip to China in the last week of March 2023.

This includes his talking points for any Chinese or Australian media, and for his official meetings.”

Searches for documents falling within the scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$110.75**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge,
- contend that the charge has been wrongly assessed, or should be reduced or not imposed, or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$27.69** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship, and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request, which may reduce the applicable charge.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 7636

File References: 23/8915

May 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – Decision not to Impose Charge

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 30 March 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

“Specifically, we seek all talking points prepared for Assistant Minister for Trade Tim Ayres for his trip to China in the last week of March 2023.

This includes his talking points for any Chinese or Australian media, and for his official meetings.”

I am writing to inform you that I have decided not to impose the charge in respect of your FOI request.

Your request

On 27 April 2023 I sent you a written notice stating that you were liable to pay a charge and containing other information as required under section 29(1) of the FOI Act.

That same day you responded to this notice by email, as follows:

*“These are media talking points - ie. already cleared for media distribution.
Can I please double check you need to charge us \$110 to access them?
That would seem to frustrate openness and usual journalistic practice.”*

On 28 April 2023 the department responded to your email and advised:

“While your request is for talking points for any Chinese or Australian media you have also requested talking points for the official meetings. These talking points are contained within bilateral, event and key issues briefs and require extensive

consultation as they were not prepared for media distribution, rather they were talking points prepared for the official meetings.”

That same day you advised the department that you wished to revise the scope of your request to exclude talking points for official meetings and asked for the department to reassess the charges.

Decision

I am the decision-maker authorised in accordance with the provisions of section 23(1) of the FOI Act. Noting charges are discretionary, I am writing to inform you that I have decided not to impose the charge of \$110.75 in respect of your FOI request. I have made this decision in accordance with section 29(4) of the FOI Act.

Reasons for Decision

In making my decision, I have taken into account:

- the FOI Act and section 29 of the FOI Act in particular,
- the *Freedom of Information (Charges) Regulations 2019*,
- Guidelines issued by the Information Commissioner under section 93A of the FOI Act,
- your original request of 30 March 2023,
- your revised scope of 28 April 2023, and
- the documents falling within the revised scope.

I note your revision of scope had the effect of reducing the volume of documents falling within the scope of your request and removed the need for extensive consultation department wide. On this basis, I have decided not to impose the charge in respect of your FOI request.

The processing period will now recommence, and you are not required to take any further action in respect of the charges notice dated 27 April 2023.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 8138
File Reference: 23/13678

July 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 5 June 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

- *The Australian High Commissioner to Vanuatu's letter, dated 22 August 2022, responding on behalf of Foreign Minister Penny Wong to Vanuatu's former Minister of Infrastructure and Public Utilities' correspondence of 12 July 2022.*
- *Foreign Minister Penny Wong's letter, dated 29 November 2022, responding to Vanuatu's former Minister of Infrastructure and Public Utilities' letter of 26 October 2022.*
- *Any documents, including emails, letters and reports, created by DFAT between July 2022 and December 2022 about concerns regarding lead contamination on Moso Island in Vanuatu.*

Searches for documents falling within the scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make charging decisions for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge amount is **\$323.80**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the charge payable to process your request.

Section 29 of the FOI Act provides that you now have 30 days within which to:

- agree to pay the charge,
 - contend that the charge has been wrongly assessed, or should be reduced or not imposed,
- or

- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$80.95** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment options are outlined in the **Attachment**.

Contend the charge

Should you contend that the charge has been wrongly assessed, should be reduced or not imposed, you may apply for the department to reduce or waive the charge.

The department will consider whether:

- the payment of the fee or a part of the fee would cause you financial hardship, and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

The FOI Guidelines contain further information regarding charging

<https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines/part-4-charges-for-providing-access#guiding-principles>.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If you do not reply in writing selecting one of the above options within 30 calendar days of receipt of this notice, your request will be deemed withdrawn.

Narrow scope of request

You may elect to narrow the scope of your request, which may reduce the applicable charge.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

Acting Director
Freedom of Information Section



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 8496

File No: 23/18081

August 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 19 July 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

On 10 August, I notified you of my intention to refuse to process your request as processing the request would substantially and unreasonably divert the department's resources from its other operations.

On 10 August 2023, you responded to the consultation notice and revised the scope of your request to:

"All ministerial briefs for the Foreign Minister's office containing the term 'parental abduction' relating to Japan between July 1 2022 and January 1 2023"

Following further correspondence from the department to clarify your revised scope, on 11 August 2023 you confirmed that we could exclude drafts from the scope of your revised request.

Revised searches for documents falling within the scope of your revised request have now been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$441.08**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge,
- contend that the charge has been wrongly assessed, or should be reduced or not imposed, or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$110.27** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship, and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to further narrow the scope of your request, which may reduce the applicable charge.

I note that you have made a number of other FOI requests to the department for similar material in the past and that, even with the revised scope you have provided, this request still involves a substantial number of pages of material.

The department would be happy to work with you to further reduce the scope of your request to a more targeted request, should you wish.

Should you have any queries regarding this charges notice, or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 8447

File No: 23/17658

August 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges Notification

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 13 July 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

‘... documents, photos and video footage, produced since 1 July 2022 to the date this application is validated relating to:

- a) Traffic infringements, including speeding, drink driving and parking fines for diplomats in Canberra.*

Without limiting my application, I would expect it to include the date of the offence, details of the offence, the penalty incurred, where the diplomats were from, the outcome of any court proceeding (if relevant) and their current job status (ie. Was their employment suspended or terminated?)

Please exclude third party personal details such as names and addresses.

I made a similar application last year and ask for the same sort of documents to be released in this instance.

I advise I am not interested in duplicate copies of documents or documents that have already been publicly released or media releases, media articles or media statements. I would also like advice if the information I have sought is due to be released under FOI to individuals or organisations prior to finalisation of my FOI application.”

On 4 August 2023, you were notified of a 30 day extension of time under section 15(6) of the FOI Act in order for consultations to be undertaken with State or Territory government/s.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$301.00**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge,
- contend that the charge has been wrongly assessed, or should be reduced or not imposed, or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$75.25** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship, and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to narrow the scope of your request to reduce the period which it covers, which may reduce the applicable charge.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 9056

File No: 23/22538

October 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Freedom of Information Request – Charges and Notification of Third-Party Consultation

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 16 September 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

Following extensive consultation with you under section 24AB of the FOI Act, on 9 October 2023 you revised the scope of your request as follows:

“all tender documents related to the awarding of the contracts included in the previous email, including the contracts themselves. I would like this to include any documents related to the procurement if there are any (meaning competing bids for that tender submitted by airlines other than Qantas), and any documents relating to the negotiation of the contract if there are any:

- <https://www.tenders.gov.au/Cn/Show/1ff02f85-156a-49a9-a310-f572b613ca97>
- <https://www.tenders.gov.au/Cn/Show/78cf927a-a3cc-4f1c-a8d7-2028d3799ae4>
- <https://www.tenders.gov.au/Cn/Show/1d991000-6b3f-4fe7-bee4-5163acc83264>
- <https://www.tenders.gov.au/Cn/Show/Ofb410fb-aac1-4891-97d5-0c1d3d4d5dd4>".

On 10 October 2023 you agreed to extend the consultation under section 24AB(5) of the FOI Act.

Searches for documents falling within the revised scope of your request have been completed.

I am an officer authorised under section 23 of the FOI Act to make decisions on the charge for processing your request.

I have decided that a charge is payable based on the number of hours taken to complete searches across the department, the number of relevant pages, time taken to undertake third party consultations, processing time and time taken by the decision-maker to assess your request (noting that the first five hours are free of charge). Our preliminary assessment of the charge due is **\$310.00**.

Please note that at this stage in the FOI process, no decision has been made as to whether the information you seek will be released or exempt under the FOI Act. My decision at this stage relates only to the processing charge.

Under section 29 of the FOI Act, you now have 30 days within which to:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed;
- or
- withdraw your request.

Should you agree to pay the charge, the *Freedom of Information (Charges) Regulations 2019* requires that you pay a deposit of **\$77.50** before processing commences.

If you choose to only pay the deposit amount at this stage, you will be required to pay the remainder of the charge prior to the release of any documents.

Your payment method options are outlined in the attachment.

Contend the charge

Should you contend that the charge has been wrongly assessed, or should be reduced or not imposed, you may apply for the department to waive or reduce the charge. The department will take into account whether:

- the payment of the fee or a part of the fee would cause you financial hardship; and
- the giving of access to documents relevant to your request is in the general public interest or in the interest of a substantial section of the public.

A departmental decision-maker will take into account any considerations you put forward and will make a decision on whether the charge should be imposed, and in what amount.

Processing period or withdrawal of request

Section 31 of the FOI Act provides that the 30-day processing period to assess your request is put on hold until we receive your payment of the charge, or we decide not to impose a charge. Should you withdraw your request at this stage, no charge will be imposed.

If we do not receive your response to this letter within 30 days of its receipt, I will consider that you no longer wish to continue with your request, and I will deem it withdrawn.

Narrow scope of request

Finally, you may elect to *further* narrow the scope of your request, which may reduce the applicable charge.

Third party consultations

As your request covers documents which contain the business information and personal information of third parties, the department is required to consult prior to making a decision on the release of documents relevant to your request. The consultation mechanisms under sections 27 and 27A of the FOI Act provide an opportunity for relevant third parties to contend that documents, or portions of the documents within the scope of your request are conditionally exempt, for example if the documents contain their personal information.

Once processing of the matter recommences (e.g. if you elect to pay the charge), the period for processing will be extended by 30 days, as provided at section 15(6) of the FOI Act, to allow the department time to undertake third party consultations.

Should you have any queries or wish to discuss revising the terms of your request, please contact me by email at foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section

s 22(1)(a)(ii)



Australian Government

Department of Foreign Affairs and Trade

FOI Reference: LEX 9056

File References: 23/22538

November 2023

s 22(1)(a)(ii)

By email: s 22(1)(a)(ii)

Dear s 22(1)(a)(ii)

Re: Freedom of Information (FOI) Request – decision to reduce charge

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 16 September 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

s 22(1)(a)(ii)

Following extensive consultation with you under section 24AB of the FOI Act, on 9 October 2023 you revised the scope of your request as follows:

“all tender documents related to the awarding of the contracts included in the previous email, including the contracts themselves. I would like this to include any documents related to the procurement if there are any (meaning competing bids for

that tender submitted by airlines other than Qantas), and any documents relating to the negotiation of the contract if there are any:

- <https://www.tenders.gov.au/Cn/Show/1ff02f85-156a-49a9-a310-f572b613ca97>
- <https://www.tenders.gov.au/Cn/Show/78cf927a-a3cc-4f1c-a8d7-2028d3799ae4>
- <https://www.tenders.gov.au/Cn/Show/1d991000-6b3f-4fe7-bee4-5163acc83264>
- <https://www.tenders.gov.au/Cn/Show/0fb410fb-aac1-4891-97d5-0c1d3d4d5dd4>".

On 10 October 2023 you agreed to extend the consultation under section 24AB(5) of the FOI Act.

I am writing to inform you that I have decided not to impose the charge in respect of your FOI request.

Your request

On 30 October 2023 I sent you a written notice stating that you were liable to pay a charge and containing other information as required under section 29(1) of the FOI Act.

On 31 October 2023 you requested a detailed calculation of the preliminary charges, which was provided by the department on 3 November 2023.

On 7 October 2023 you responded to this notice by email, as follows:

I would like to submit under Section 29(1)(f)(ii) that the charge be reduced or not imposed. I would suggest that under Section 29(5) the contents of this request are in the general public interest, and also that imposing the charge would cause financial hardship. In terms of the public interest, it is clear that the nature of the relationship between Qantas Airways and the Australian is of huge importance currently. Australians deserve to be informed of the nature of the contracts which its government enters into, especially where those contracts are not confidential and it could be argued should already be public. Furthermore, when dealing with several contracts worth in excess of \$10 million, it is important that the government is transparent with its citizens. Finally, as s 22(1)(a)(ii) the imposition of a \$310 fee makes this request prohibitively expensive for me. Unless the cost is reduced, I will be unable to complete the request, which would appear to satisfy Section 29(5)(a).

You have contended the charge should not be imposed, pursuant to section 29(1)(f)(ii) of the FOI Act, on the basis of section 29(5) of the FOI Act. Section 29(4) of the FOI Act provides that where you have done this, the department may decide that the charge is to be reduced or not to be imposed.

Decision

I am the decision-maker authorised in accordance with the provisions of section 23(1) of the FOI Act. Noting charges are discretionary, I am writing to inform you that I have decided not to impose the charge for this request. I have made this decision in accordance with section 29(4) of the FOI Act.

Reasons for Decision

In making my decision, I have taken into account:

- the FOI Act and section 29 of the FOI Act in particular,
- the *Freedom of Information (Charges) Regulations 2019*,
- Guidelines issued by the Information Commissioner under section 93A of the FOI Act,
- your original request of 16 September 2023,
- your contention email of 7 November 2023,
- my notice of a preliminary estimate of charges to you,
- the documents falling within scope of your request, and
- work undertaken in this matter to date, including third party consultations.

I have weighed up your advice and taken into account your contentions regarding the public interest and your advice that the charges would cause you financial hardship. I have decided not to impose the charge.

Please note at this stage in the FOI process, no decision has been made on whether the information you seek will be released or exempted under the provisions of the FOI Act. My decision relates only to the processing of charges.

Next steps

The department will now continue to process your FOI request and the statutory period has recommences.

If you have any questions about this decision, please contact foi@dfat.gov.au.

Yours sincerely

s 22(1)(a)(ii)

A/g Director
Freedom of Information Section