



10 January 2025
FOI ref: 3804

Glenn Hamiltonshire
By email: foi+request-12354-245b30ec@righttoknow.org.au

Dear Mr Hamiltonshire

FREEDOM OF INFORMATION REQUEST – DECISION

I refer to your request to the Treasury on 21 November 2024, as revised by you on 9 December 2024 for access, under the *Freedom of Information Act 1982 (FOI Act)*, to the following:

(a) a document titled "Final summary of submissions to the Review into the Reserve Bank of Australia"

(b) a document titled "Summary of submissions (published on 8/12/2022) to the Review into the Reserve Bank of Australia for Treasurer's Office"

(c) the "summary spreadsheets" created for the review regarding each submission.

*For the avoidance of doubt. This FOI request does *not* seek access to the emails, correspondence, or other such documents from Treasury staff about the RBA review process. This request is *specifically* focused on the documents created in the course of the RBA review which meet my narrowed request*

I am an authorised decision maker under section 23 of the FOI Act.

Decision

The Treasury has identified nine documents within scope of your request, listed in the attached schedule. I have decided to release one document in full and eight documents in part. My decision on each document is shown in the schedule.

The documents for release are attached.

Further information regarding my decision is set out below.

Material Considered

The material to which I have had regard in making this decision includes the scope of the request and content of the documents subject to your request, the relevant provisions in the FOI Act and Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), and advice from subject matter experts within the Treasury.

Reasons for decision

Material Obtained in Confidence - Section 45

Section 45 of the FOI Act provides that a document is exempt from disclosure if such disclosure would give rise to an action, by a person (other than an agency or the Commonwealth), for a breach of confidence.

To found an action for breach of confidence (which means section 45 would apply), the following five criteria must be satisfied in relation to the information:

- it must be specifically identified;
- it must have the necessary quality of confidentiality;
- it must have been communicated and received on the basis of a mutual understanding of confidence;
- it must have been disclosed or threatened to be disclosed, without authority; and
- unauthorised disclosure of the information would have or will cause detriment.

Documents 1 to 7 and Document 9 contain information relating to confidential and anonymous submissions made to the RBA Review. This information was provided to the RBA Review with a clear and mutual understanding of confidence, which has been maintained. I am satisfied these documents possess the requisite degree of confidentiality.

I am satisfied that disclosure of this material without authority of the individuals concerned would cause detriment to them on the basis that it would expose their personal information, as well as their views and opinions and thereby expose them to public criticism. I therefore find the relevant material in Documents 1 to 7, and 9 is exempt from disclosure, and partially refuse access to these documents under section 45 of the FOI Act.

Certain Operations of Agencies - Section 47E(d)

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

Documents 1 to 7 and Document 9 comprise various summaries of submissions made to the RBA Review, including details of submissions made on a confidential or anonymous basis. Documents 2, 3 and 7 also contain defamatory material from non-confidential submissions that was not published as part of the review process.

Independent reviews are an important scrutiny mechanism to support the proper and efficient conduct of the Australian Government. One of the core functions of the RBA Review was to actively seek views from a broad cross-section of the public through submissions. Disclosure of material provided to the Review on a confidential or anonymous basis may reduce the willingness of members of the public to contribute submissions to future independent reviews established by the government. Additionally, the RBA Review collected submissions on the basis that it reserved the discretion to edit or not publish submissions containing defamatory material, and disclosure of such material would undermine the integrity of the expected review process. I am therefore satisfied that disclosure of the relevant material would have a substantial and adverse effect on the proper and efficient conduct of independent government reviews.

Accordingly, I find the relevant material in Documents 1 to 7, and Document 9 is conditionally exempt from disclosure under section 47E(d) of the FOI Act. My consideration of the public interest test is set out below.

Personal privacy – section 47F

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person. The test of 'unreasonableness' implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.

Documents 3 and 7 contain the personal contact details of individuals that made submissions to the RBA Review, which I am satisfied constitutes 'personal information' and is not publicly known. I therefore consider disclosure would be unreasonable, and find that the relevant material in Documents 3 and 7 is conditionally exempt under section 47F of the FOI Act. My consideration of the public interest test follows.

Public Interest

Section 11A(5) of the FOI Act provides that conditionally exempt material must be released unless its disclosure would, on balance, be contrary to the public interest. Section 11B(3) sets out public interest factors favouring release, and section 11B(4) sets out factors that must not be taken into account. The FOI Guidelines set out factors in favour of, and against, releasing conditionally exempt material.

In favour of disclosure, I consider access to the conditionally exempt material would promote the objects of the FOI Act.

Against disclosure of the conditionally exempt material in Documents 1 to 7 and Document 9, I have considered the importance of upholding the procedural integrity of independent government reviews. I further consider there is an overriding public interest in maintaining the confidentiality of confidential and anonymous submissions made to the government, as well as in protecting the personal privacy of individuals' making such submissions.

On balance, I consider the public interest factors against disclosure outweigh the factor in favour of disclosure, and so on balance release would be contrary to public interest. I have therefore decided that the relevant material in the documents is exempt under section 47E(d) and section 47F of the FOI Act as listed in the document schedule.

Rights of Review

A statement setting out your rights of review in this matter is attached.

Disclosure Log

The Treasury publishes documents disclosed in response to FOI requests on the Treasury website. This is consistent with the arrangements established by section 11C of the FOI Act. In this instance, I consider that the documents released to you are appropriate for publication on the Treasury's FOI disclosure log. This is consistent with the arrangements established by section 11C of the FOI Act.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Lancaster', with a stylized flourish at the end.

David Lancaster
Acting Assistant Secretary
Macroeconomic Analysis and Policy Division

FOI 3804 Document Schedule

Doc No.	Description	Decision
1.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations
2.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations
3.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations - Section 47F – personal privacy
4.	Spreadsheet List	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations
5.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations
6.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations
7.	Spreadsheet List	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations - Section 47F – personal privacy
8.	Summary Spreadsheet	Release in Full
9.	Summary Spreadsheet	Release in part <ul style="list-style-type: none"> - Section 45 – material obtained in confidence - Section 47E(d) – agency operations

INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the FOI Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to FOI@Treasury.gov.au.

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

AND/OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.