



## Decision to decline an extension of time application under s 15AB of the *Freedom of Information Act 1982*

<b>Agency</b>	Services Australia
<b>FOI applicant</b>	Nosey Rosey
<b>Date of Decision</b>	3 January 2025
<b>OAIC reference number</b>	RQ24/05737
<b>Agency reference number</b>	82935

### Decision

1. I refer to the application made by Services Australia (the Department) under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of time to process Nosey Rosey's (the FOI applicant) request of 14 December 2024 (the FOI request).
2. As a delegate of the Information Commissioner, I am authorised to make decisions on extensions of time applications made under s 15AB(2) of the FOI Act.
3. On the information before the Information Commissioner, I have decided to decline the Department's request to extend the processing period. A decision on the FOI applicant's request therefore remains due by 13 January 2025. My reasons are outlined below.

### Background

4. On 14 December 2024, the FOI applicant made an FOI request to the Department. The FOI decision is due to be provided to the FOI applicant on 13 January 2025.
5. On 16 December 2024, the Department applied to the Information Commissioner for further time to process the FOI applicant's request under s 15AB(1) of the FOI Act, on the basis that the processing period is insufficient to adequately deal with the FOI request. A copy of the Department's reasons is included at **Attachment A**.

### Reasons for decision

6. Subsection 15AB(2) of the FOI Act requires that I consider whether the application is justified on the basis that the processing period referred to in s 15(5)(b) is insufficient for dealing with the request, on the basis that the request is complex or voluminous.

7. In declining to extend the processing period under s 15AB(2), I have considered the following factors:
  - Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, to which I must have regard, in particular [3.150] – [3.155]
  - the Department’s reasons for seeking an extension
  - whether an agreement to extend the processing period under s 15AA of the FOI Act has first been attempted by the Department
  - the work still required to finalise the request.
8. On the information before the OAIC, I am not satisfied that the application to extend the processing period is justified, for the following reasons:
  - The FOI applicant’s request does not appear complex or voluminous, based on the limited evidence of any technical or practical challenges involved in the processing of the request, particularly noting that the Department has not yet conducted searches.
  - While I acknowledge the Department’s submissions regarding its current resourcing challenges due to the Department’s shut down period, there does not appear to be other extenuating circumstances to demonstrate that the FOI applicant’s request is otherwise complex or voluminous for the Department to deal with so as to justify an extension under s 15AB(2).
9. In declining this extension, I have also considered the limited available evidence of work undertaken by the Department to process the FOI request to date.
10. The Department must provide the FOI applicant with a decision by 13 January 2025.
11. If the Department does not provide the FOI applicant a decision by 13 January 2025, the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of 13 January 2025. Further information on [applying for IC review](#) is available on the OAIC [website](#). Any application for IC review should be made within 60 days of the Department’s decision or deemed decision.
12. It also remains open to the Department to apply for a further extension of time from the Information Commissioner if considered appropriate.
13. This extension of time matter is now closed. Your review rights are set out below.
14. If you wish to discuss this matter, please contact us by email at [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au) quoting reference number RQ24/05737.

Yours sincerely,

A handwritten signature in black ink that reads "Claire Lynch." The signature is written in a cursive, flowing style.

**Claire Lynch**

Assistant Review Advisor  
Freedom of Information Branch  
Office of the Australian Information Branch

3 January 2025

**The agency's reasons for requesting an extension of time, as included in the extension of time request form.**

Please also explain the reasons for the request and why an extension would be justified. Requests for longer extensions of time (more than 30 days) will require greater justification.

Please provide a timeline setting out the work already completed in order to process this request. Where an extension of time has previously been granted, describe the work that was undertaken during that extended period. \*

14 December 2024 - Request received, automatic acknowledgement sent request 30 day EOT under s 15AA  
16 December 2024 - Applicant declined s 15AA extension agreement As per OAIC guidelines we have turned our minds to EOT early in processing.

What work is required to finalise the request? \*

Conduct searches for documents Review any located documents for sensitivities Conduct any third party or courtesy consults that may be required Seek advice from subject matter experts Prepare a Decision Final privacy and quality checks

Why is the request considered complex or voluminous? \*

The subject matter of the request is such that the FOI team will rely on subject matter expertise in order to make an FOI decision on release. Due to this, we consider reviewing the documents to make a decision is likely to take additional time. Due to the agency shut down period from 24 December 2024 - 1 January 2025, the availability of subject matter experts and FOI personnel will be limited. The Agency wishes to maintain the applicant's review rights.

Do other agencies or parties have an interest in the request? \*

Unknown at this time.

Please describe the measures that would be taken to ensure a decision is made within the period of the requested extension and to keep the applicant informed of the progress of the request \*

The Agency will keep the applicant informed as this matter progresses. The Agency intends to ensure the outstanding action on this request is progressed in a timely manner and will notify a decision earlier than the requested extension date, if it is able to do so.

## Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit Court for a review of a decision of the Information Commissioner, if you think that a decision by the Information Commissioner to grant an extension of time is not legally correct. You can make this application under the *Administrative Decisions (Judicial Review) Act 1977*.

The Court will not review the merits of your case, but it may refer the matter back to the Information Commissioner for further consideration if it finds the decision was wrong in law or the Information Commissioner's powers were not exercised properly.

An application for review must be made to the Court within 28 days of the OAIC sending the decision to you. You may wish to seek legal advice as the process can involve fees and costs. Please contact the Federal Court registry in your state or territory for more information or visit the Federal Court website at <http://www.fedcourt.gov.au/>.

## Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

**For FOI applicants:** [How to make an FOI request: Extensions of time](#)  
**For agencies and Ministers:** [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the *Freedom of Information Act 1982* (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the **[online FOI complaint form](#)** if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint> .

## **Making a complaint to the Commonwealth Ombudsman**

If you believe you have been treated unfairly by the OAIC, you can make a complaint to the Commonwealth Ombudsman (the Ombudsman). The Ombudsman's services are free. The Ombudsman can investigate complaints about the administrative actions of Australian Government agencies to see if you have been treated unfairly.

If the Ombudsman finds your complaint is justified, the Ombudsman can recommend that the OAIC reconsider or change its action or decision or take any other action that the Ombudsman considers is appropriate. You can contact the Ombudsman's office for more information on 1300 362 072 or visit the Commonwealth Ombudsman's website at <http://www.ombudsman.gov.au>.