

Borg, Stacey

From: Bruce Tonkin <bruce.tonkin@auda.org.au>
Sent: Monday, 5 September 2022 9:17 AM
To: s 22
Cc: Vickers, Marc; s 22
Subject: RE: FOI 22/54 - Third Party Consultation - Business Information [SEC=OFFICIAL]

Thanks s 22 – good luck with it.

Regards,

Bruce Tonkin

From: s 22 @finance.gov.au
Sent: Monday, 5 September 2022 8:19 AM
To: Bruce Tonkin <bruce.tonkin@auda.org.au>
Cc: Vickers, Marc <Marc.Vickers@finance.gov.au>; s 22 @finance.gov.au
Subject: [EXTERNAL] - RE: FOI 22/54 - Third Party Consultation - Business Information [SEC=OFFICIAL]

SEC=OFFICIAL

Hello Bruce

Thank you for providing this comprehensive advice. We'll let you know how it goes!

Regards

s 22 | Government Domain Name Administrator
IT Security | ICT Division
Department of Finance
M: s 22
E: s 22 @finance.gov.au
A: 1 Canberra Avenue, Forrest ACT 2603

SEC=OFFICIAL

From: Bruce Tonkin <bruce.tonkin@auda.org.au>
Sent: Friday, 2 September 2022 4:39 PM
To: FOI Requests <FOIA@finance.gov.au>
Cc: s 22 @finance.gov.au; s 22 @finance.gov.au;
Vickers, Marc <Marc.Vickers@finance.gov.au>; s 22 @finance.gov.au; W s 22 @finance.gov.au; s 22 @auda.org.au; Patrick s 22 @identity.digital; s 22 @identity.digital; s 22 @auda.org.au; s 22 @saintylaw.com.au
Subject: RE: FOI 22/54 - Third Party Consultation - Business Information [SEC=OFFICIAL]

Hello s 22 ,

Thank you for the opportunity to make a submission on the request made under the FOI Act asking for the "master list" of gov.au public domain names by a member of the public.

auDA submits that disclosure of an edited copy of the Master List would not be appropriate due to the nature of the information in the Master List.

Please see attached for our detailed response.

Regards,

Bruce Tonkin

Chief Operating Officer

bruce.tonkin@auda.org.au

0411 072 530



.au Domain Administration

www.auda.org.au

From: FOI Requests <FOIA@finance.gov.au>

Sent: Monday, 22 August 2022 11:16 AM

To: Bruce Tonkin <bruce.tonkin@auda.org.au>

Cc: FOI Requests <FOIA@finance.gov.au>; § 22 <[REDACTED]@finance.gov.au>; § 22 <[REDACTED]@finance.gov.au>; Vickers, Marc <Marc.Vickers@finance.gov.au>; § 22 <[REDACTED]@finance.gov.au>; § 22 <[REDACTED]@finance.gov.au>

Subject: [EXTERNAL] - FOI 22/54 - Third Party Consultation - Business Information [SEC=OFFICIAL]

SEC=OFFICIAL

Dear Bruce

Freedom of Information request and opportunity to make a submission – FOI 22/54

The Department of Finance (Finance) has received a request for the following under the *Freedom of Information Act 1982* (FOI Act).

You operate the site <https://www.domainname.gov.au/about> which is the gov.au domain name registration portal.

This portal in turn supplies registration data to the .au registry operator (Afilias Australia Pty Ltd) who maintains a "master list" of gov.au public domain names.

Please supply the current "master list", preferably in machine-readable format.

Finance has identified the Registry/Registrant Data of the complete list of all 2LD licenced domain names, in this case, gov.au, (now referred to as "Master List"), as falling within the scope of the request that may contain information relating to auDA.

Under the *Freedom of Information Act 1982* (FOI Act), where an agency receives a request covering documents of this kind and the agency believes that the person or organisation concerned may wish to contend that the documents are exempt from release, the agency is required to consult the person or business before releasing the documents, if it is reasonably practicable to do so.

Document

We have **not** attached a copy of the 'Master List' as we understand that you have access to this document. The version of the 'Master List' is the version that was in existence as at 18:16 Monday 25 July 2022.

Opportunity to make a submission

Finance would like to provide an opportunity for you to make any comments regarding any objection you may have to the release of the Master List under either of the following exemptions in the FOI Act (paraphrased):

- Section 47(1) – disclosure of the documents would disclose
 - a) trade secrets or
 - b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- Section 47G(1) – disclosure of the documents would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information
 - a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs, or
 - b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

If section 47(1) applies, documents are fully exempt from release. However, if section 47G(1) applies access must be given to documents unless this would be contrary to the public interest. If you consider that the documents fall within the scope of section 47G(1) you must also indicate whether you believe that disclosure would be contrary to the public interest.

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

More information about these exemptions is available in the *Guidelines issued by the Australian Information Commissioner under section 93A of the Freedom of Information Act 1982*, Parts 5 and 6 (Exemptions and Conditional exemptions), available at www.oaic.gov.au/freedom-of-information/applying-the-foi-act/foi-guidelines/.

Additional consideration – breach of contract

We note that Finance is considering the application of section 45 of the FOI Act, that is, to refuse to release, given the disclosure of the Master List may give rise to an action for breach of confidence. Our preliminary view is supported by the existing confidentiality of the Master List, as access has only been granted to a limited number of authorised people in the course of business as Registry, Registrar or an affected party. We have also had regard to existing contractual arrangements which require notification of any potential, suspected or actual unauthorised access, use, copying or disclosure; and limit actions which may adversely affect or compromise integrity or stability of the Internet domain name system.

We seek your views as to whether you support this position?

We note that while your comments will be taken into account, the final decision about whether to release the documents rests with the decision maker in our agency. If the decision maker decides to grant access to any documents whose release you opposed, you will be given written notice of the decision and the opportunity to seek review of the decision before those documents are released.

Disclosure log

You should be aware that if we decide to grant access to the requested documents we are generally obliged to publish that information our [disclosure log](#). However we will not publish information (such as personal or business information) where this would be unreasonable. If you have any queries about this requirement, please contact the FOI team on the details below.

How to make your submission

Please provide any submissions you wish to make, in writing, by **COB Friday 2 September 2022**.

If a response is not received by this date, the decision maker in our agency will assume you do not object to the release of the documents.

Notice

Please note that as a part of the decision making process Finance are required to send the applicant a decision letter setting out the reasons for our decision. In that decision letter we usually will refer to any submissions made by third parties. This is generally in the form of a holistic reference to your position (e.g. you support the material being exempt or you do not support the material being exempt).

Additional assistance

We note that it is not uncommon for third parties to be unfamiliar with the operations of the FOI Act. We encourage you to contact Finance's FOI Team on the below details, if you have any questions regarding this process.

Kind regards



s 22 | FOI Officer

Legal and Assurance Branch

Department of Finance

T: s 22

E: s 22 [@finance.gov.au](mailto:s 22@finance.gov.au)

A: One Canberra Avenue, Forrest ACT 2603

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