



FOI [XX]-[XX]

XX Month 2024

[applicant's name]  
[applicant's address or organisation]

By email: [applicant's email]

Sydney

1 Martin Place (Level 12), NSW 2000  
GPO Box 9836, Sydney NSW 2001  
Australian Prudential Regulation Authority  
02 9210 3000 | [apra.gov.au](http://apra.gov.au)

Dear [title] [surname]

## NOTICE OF DECISION MADE UNDER SECTION 23 OF THE FREEDOM OF INFORMATION ACT 1982 (CTH) (FOI ACT) WITH REASONS FOR DECISION PROVIDED UNDER SECTION 26

**Applicant:** [applicant's name]

**Decision-maker:** [decision-maker's first name and person number], an authorised officer of the Australian Prudential Regulation Authority (**APRA**) for the purposes of subsection 23(1) of the FOI Act.

**FOI request:** '[FOI request].'  
(FOI request)

**My decision:** Refuse access to the relevant document(s) based on the reasons outlined in this Notice of Decision.

### MATERIAL FACTS

1. On [date], you made the FOI request by email under the FOI Act.
2. On [date], APRA acknowledged receipt of the request by email.
3. [insert as applicable]: On [date], APRA extended the decision date under section 15AA of the FOI Act until [date].
4. [insert as applicable]: On [date], APRA extended the decision date under section 15AB of the FOI Act until [date].
5. [insert as applicable]: The request is for documents that contain information relating to the [business affairs of the APRA [non-/regulated] entity or personal affairs of a third party]. Therefore, APRA extended the statutory timeline until [date] under section [27 or 27A or 15A] of the FOI Act.

## EVIDENCE AND MATERIAL RELIED ON

6. In making my decision, I have relied on the following evidence and material:

- (i) the Applicant's request received by APRA on [date];
- (ii) acknowledgment email from FOI Officer to the Applicant dated [date];
- (iii) internal APRA email correspondence [from date to date];
- (iv) [insert as applicable]: file note written by the FOI Officer dated [date];
- (v) [insert as applicable]: relevant sections of the *Australian Prudential Regulation Authority Act 1998* (Cth) (**APRA Act**);
- (vi) relevant sections of the FOI Act; and
- (vii) guidelines issued by the Office of the Australian Information Commissioner to date (**FOI Guidelines**).

## REASONS FOR PRACTICAL REFUSAL

7. I consider that a practical refusal exists in relation to your FOI request.

8. I am satisfied, under [subparagraphs 24(1)(b) and 24AA(1)(a)(i)] of the FOI Act, that the work involved in processing your FOI request would substantially and unreasonably divert the resources of APRA from its other operations. Based on APRA's preliminary enquiries, APRA estimates that it would require [insert time estimate] to:

[insert as applicable]

- a. locate the documents relevant to your FOI request;
  - b. consider whether to grant, refuse or defer access to the documents, including considering whether the documents are exempt from production under the FOI Act;
  - c. in particular, consider whether the documents are subject to section 56 of the APRA Act and consider whether any conditional exemptions under the FOI Act apply;
  - d. prepare a draft decision; and
  - e. have a decision maker examine the documents and the draft decision and ultimately make a decision on whether access should be granted.
9. [insert as applicable] A breakdown of the estimated hours involved in reviewing documents to determine their relevance to your FOI request is set out in Schedule A.
10. [insert as applicable] Furthermore, a breakdown of the estimated hours involved in the overall decision making process to decide your revised FOI request is set out in Schedule B.
11. [insert as applicable] With APRA staff completing preliminary searches and processing a small sample of the relevant documents, the secrecy provision contained in section 56 of the Australian Prudential Regulation Authority Act 1998 (APRA Act) that prevents APRA from being able to disclose to third parties, "protected documents" or "protected information" (as defined under the APRA Act) may apply to several documents relevant to this request. Relevantly, paragraphs 56(11)(a) and (b) of the APRA Act states that a protected document or a document that contains protected information will be exempt for the purposes of section 38 of the FOI Act.

## RIGHTS OF REVIEW

### Application for Internal Review of decision

12. Under section 54 of the FOI Act, you have the right to apply for an internal review of the decision if you disagree with my decision. If you make an application for review, another officer of APRA will be appointed to conduct the review and make a fresh decision on the merits of the case.
13. Under section 54B of the FOI Act, you must apply in writing for a review of the decision within 30 days after the day the decision has been notified to you.
14. You do not have to pay any other fees or processing charges for an internal review, except fees and charges applicable for providing access to further material, if any, in the document(s) released as a result of the review (for example, photocopying, inspection, etc).
15. No particular form is required to apply for review, although it is desirable (but not essential) to set out in the application, the grounds on which you consider that the decision should be reviewed.
16. An application for internal review of the decision should be:
  - (i) sent by email to [foi@apra.gov.au](mailto:foi@apra.gov.au) (preferred); or
  - (ii) sent by post or hand delivered, addressed to:  
  
FOI Officer  
Australian Prudential Regulation Authority  
GPO Box 9836  
Sydney NSW 2001.
17. If you make an application for internal review and we do not make a decision within 30 days of receiving the application, we are deemed to have affirmed the original decision. However, under section 54D of the FOI Act, APRA may apply, in writing to the Information Commissioner for further time to undertake the internal review.

### Application for review by Information Commissioner

18. Under section 54L of the FOI Act, you also have the right to apply to the Information Commissioner for a review of the original decision set out in this Notice of Decision or a review of this decision made on internal review.
19. Any application must be in writing and must give details of an address where notices may be sent and include a copy of the original decision or the decision made on internal review.
20. An application for review by the Information Commissioner may be lodged with one of the following:

Online	Complete and lodge the online review form at: <a href="https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review">https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review</a>  (Alternatively, you may download & complete the review form, then send it to the Office of the Australian Information Commissioner via post or email as detailed below)
Post	Director of FOI Dispute Resolution GPO Box 5218, Sydney NSW 2001

Email	foidr@oaic.gov.au
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21. More information about your review rights under the FOI Act is available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>.

### **Application for review by Administrative Appeals Tribunal**

22. If you apply for a review by the Information Commissioner, you may be entitled to seek a subsequent review of the Information Commissioner's decision by the Administrative Appeals Tribunal (AAT).

23. The AAT is an independent review body with powers that include the ability to make a fresh decision in relation to your FOI request. An application to the AAT for a review of an FOI decision does not attract a fee. The AAT cannot award costs either in your favour or against you, although it may in some circumstances recommend payment by the Attorney-General of some or all of your costs.

24. More information is available from the AAT at <https://www.aat.gov.au/apply-for-a-review/freedom-of-information-foi> or on 1800 228 333.

### **Complaints to the Information Commissioner**

25. You may complain to the Information Commissioner concerning action taken by APRA in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint.

[decision-maker's first name and person number]

FOI Officer

Australian Prudential Regulation Authority

## Schedule A

Document location	Estimated number of documents	Estimated number of pages	Estimated hours to review and determine relevance	Estimated 8 hour work days (rounded to nearest half day)
XX (e.g. 'APRA's records')	XX	XX	XX	XX days

### Note:

- [Insert any relevant notes applicable to the estimates included above – e.g. “This schedule sets out the number of documents we have located that are potentially relevant to your revised FOI request. It is likely that there are additional documents we have been unable to locate through these initial searches.”]

## Schedule B

Task	Estimated hours	Estimated 8 hour work days (rounded to the nearest half day)
Reviewing documents to determine relevancy	XX hours	XX days
Preparing a draft decision	XX hours	XX days
Process of the final decision maker	XX hours	XX days
Consultations and original notice of practical refusal	XX hours	XX days

## **FREEDOM OF INFORMATION ACT 1982 (CTH)**

### **24 Power to refuse request—diversion of resources etc.**

- (1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:
  - (a) must undertake a request consultation process (see section 24AB); and
  - (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists—the agency or Minister may refuse to give access to the document in accordance with the request.
- (2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:
  - (a) the requests relate to the same document or documents; or
  - (b) the requests relate to documents, the subject matter of which is substantially the same.

### **24AA When does a *practical refusal reason* exist?**

- (1) For the purposes of section 24, a ***practical refusal reason*** exists in relation to a request for a document if either (or both) of the following applies:
  - (a) the work involved in processing the request:
    - (i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or
    - (ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions;
  - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
  - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
  - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
    - (i) examining the document; or
    - (ii) consulting with any person or body in relation to the request;
  - (c) making a copy, or an edited copy, of the document;
  - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
  - (a) any reasons that the applicant gives for requesting access; or
  - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or
  - (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

## 24AB What is a **request consultation process**?

### *Scope*

- (1) This section sets out what is a **request consultation process** for the purposes of section 24.

### *Requirement to notify*

- (2) The agency or Minister must give the applicant a written notice stating the following:
  - (a) an intention to refuse access to a document in accordance with a request;
  - (b) the practical refusal reason;
  - (c) the name of an officer of the agency or member of staff of the Minister (the **contact person**) with whom the applicant may consult during a period;
  - (d) details of how the applicant may contact the contact person;
  - (e) that the period (the **consultation period**) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

### *Assistance to revise request*

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), **reasonable steps** includes the following:
  - (a) giving the applicant a reasonable opportunity to consult with the contact person;
  - (b) providing the applicant with any information that would assist the applicant to revise the request.

### *Extension of consultation period*

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

### *Requirement to notify*

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
  - (a) withdraw the request;
  - (b) make a revised request;
  - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
  - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
  - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

### *Consultation period to be disregarded in calculating processing period*

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

*No more than one request consultation process required*

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.