

Our ref: ID : A900424

[REDACTED]  
Email: [REDACTED]@bigpond.com

Dear [REDACTED]

## **FREEDOM OF INFORMATION REQUEST – F192 - NOTICE OF DECISION TO IMPOSE A CHARGE**

I refer to your request to the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise you of my decision that you are liable to pay a charge in respect of the processing of your request under section 29 of the FOI Act. I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

I have assessed the work that NOPSEMA would need to do to process your request based on the documents identified as within the scope. My preliminary assessment of the charge you are liable to pay is \$318.07. An itemised assessment of the charge is enclosed at **Attachment A**.

### ***Payment of deposit***

As the charge exceeds \$100, a deposit of 25% is required (\$79.52) before NOPSEMA will resume processing your request.

Payment can be made by cheque or by direct deposit into the following account:

Commonwealth Bank of Australia

BSB: 066-000

A/c No: [REDACTED]

Account Name: National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

The deposit is not refundable except in some limited circumstances (for example if NOPSEMA fails to make a decision on your request within the statutory time limit) or may be refundable in part if the final charge is less than the deposit paid.

### ***Your right to challenge the charge***

Under the FOI Act you have the right to contend that the charge has been wrongly assessed, should be reduced, or should not be imposed.

If you contend that the charge should be reduced or not imposed, I will take into account the following considerations:

- whether payment of the charge, or part of it, would cause you financial hardship
- whether giving access to the documents is in the general public interest or in the interest of a substantial section of the public any other relevant matter.

***Time you have to respond and what you need to do***

Within 30 days of receipt of this notice you are required to do one of the following things:

- (1) agree to pay the charges in full or pay, as a minimum, the deposit amount (\$79.52); or
- (2) provide reasons contending that the charge has been wrongly assessed, should be reduced or not imposed; or
- (3) withdraw your request.

In accordance with section 31 of the FOI Act, I am permitted to suspend the time limit for processing your request from the day that you receive this notice. This time limit will resume on either:

- the day you pay the deposit
- the day on which I decide not to impose a charge following consideration of any contentions you may make.

If you do not provide a written response to this notice by **14 January 2023** your request will be taken to be withdrawn.

For your information, I enclose a copy of sections 29 and 31 of the FOI Act (**Attachment B**).

If you have any questions about the matters raised in this notice please contact me on the details above.

Yours sincerely

Mandy Fittock

**Freedom of Information Authorised Officer**

wA657296

15 December 2022

## Estimate of Charges

Document No: A900425

Date: 15/12/2022

### Summary of Estimates

Documents relevant to request	16
Pages relevant to request	104
Third parties to be consulted	0

### Search and retrieval<sup>1</sup>

TASK	Time	Cost @ \$15 p/h
Search and retrieval of relevant electronic files	7 hours	\$105.00
Preparation of document schedules	0.05 hours	\$0.80
<b>Sub-total</b>		<b>\$105.80</b>

### Decision making<sup>2</sup>

TASK	Time	Cost @ \$20
Examination of documents	5.20 hours	\$104.00
Consultation with third parties	0	\$0.00
Preparation of documents for release (collation and deletions)	0.42 hours	\$8.27
Preparation and notification of access decision, statement of reasons	10 hours	\$200.00
<b>Sub-total (before deduction of 5 hours)</b>		<b>\$312.27</b>
<b>Sub-total (after deduction of 5 hours)</b>		<b>\$212.27</b>

<sup>1</sup> FOI Regulations, Schedule Part 1, item 2

<sup>2</sup> FOI Regulations, Schedule Part 1, item 5

### Access and delivery

<b>Inspection charges</b>	<b>Cost</b>
Access to documents by inspection <sup>3</sup>	\$0.00
Transcription of audio/visual recording (\$4.40 per page) <sup>4</sup>	\$0.00
Provision of photocopy, printed documents <sup>5</sup>	\$0.00
Provision of documents in electronic format <sup>6</sup> , provision of USB/storage <sup>7</sup>	\$0.00
Viewing arrangements for sound/video recordings <sup>8</sup>	\$0.00
Postage and/or delivery <sup>9</sup>	\$0.00
<b><i>Sub-total</i></b>	<b><i>\$0.00</i></b>

<b>ESTIMATED TOTAL CHARGES</b>	<b><i>\$318.07</i></b>
<b>DEPOSIT REQUIRED</b>	<b><i>\$79.52</i></b>

<sup>3</sup> FOI Regulations, Schedule Part 2, item 1

<sup>4</sup> FOI Regulations, Schedule Part 2, item 7

<sup>5</sup> FOI Regulations, Schedule Part 2, item 2

<sup>6</sup> FOI Regulations, Schedule Part 2, item 4, 4A

<sup>7</sup> FOI Regulations, Schedule Part 2, Item 6

<sup>8</sup> FOI Regulations, Schedule Part 2, Item 5

<sup>9</sup> FOI Regulations, Schedule Part 2, Item 8



# **Freedom of Information Act 1982**

**No. 3, 1982**

## **Compilation No. 83**

**Compilation date:** 1 July 2016

**Includes amendments up to:** Act No. 31, 2016

**Registered:** 6 July 2016

**This compilation includes commenced amendments made by Act No. 59, 2015 and Act No. 164, 2015**

## 29 Charges

- (1) Where, under the regulations, an agency or Minister decides that an applicant is liable to pay a charge in respect of a request for access to a document, or the provision of access to a document, the agency or Minister must give to the applicant a written notice stating:
  - (a) that the applicant is liable to pay a charge; and
  - (b) the agency's or Minister's preliminary assessment of the amount of the charge, and the basis on which the assessment is made; and
  - (c) that the applicant may contend that the charge has been wrongly assessed, or should be reduced or not imposed; and
  - (d) the matters that the agency or Minister must take into account under subsection (5) in deciding whether or not to reduce, or not impose, the charge; and
  - (e) the amount of any deposit that the agency or Minister has determined, under the regulations, that the applicant will be required to pay if the charge is imposed; and
  - (f) that the applicant must, within the period of 30 days, or such further period as the agency or Minister allows, after the notice was given, notify the agency or Minister in writing:
    - (i) of the applicant's agreement to pay the charge; or
    - (ii) if the applicant contends that the charge has been wrongly assessed, or should be reduced or not imposed, or both—that the applicant so contends, giving the applicant's reasons for so contending; or
    - (iii) that the applicant withdraws the request for access to the document concerned; and
  - (g) that if the applicant fails to give the agency or Minister such a notice within that period or further period, the request for access to the document will be taken to have been withdrawn.
- (2) If the applicant fails to notify the agency or Minister in a manner mentioned in paragraph (1)(f) within the period or further period mentioned in that paragraph, the applicant is to be taken to have withdrawn the request for access to the document concerned.
- (3) An agency or Minister must not impose a charge in respect of a request for access to a document, or the provision of access to a document, until:
  - (a) the applicant has notified the agency or Minister in a manner mentioned in paragraph (1)(f); or
  - (b) the end of the period or further period mentioned in that paragraph.
- (4) Where the applicant has notified the agency or Minister, in a manner mentioned in subparagraph (1)(f)(ii), that the applicant contends that the charge should be reduced or not imposed, the agency or Minister may decide that the charge is to be reduced or not to be imposed.
- (5) Without limiting the matters the agency or Minister may take into account in determining whether or not to reduce or not to impose the charge, the agency or Minister must take into account:
  - (a) whether the payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and
  - (b) whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.
- (6) If the applicant has notified the agency or Minister in the manner mentioned in subparagraph (1)(f)(ii), the agency or Minister must take all reasonable steps to enable the applicant to be notified of the decision on the amount of charge payable as soon as

practicable but in any case no later than 30 days after the day on which the applicant so notified the agency or Minister.

- (7) If:
- (a) that period of 30 days has elapsed since the day on which the agency or Minister was so notified; and
  - (b) the applicant has not received notice of a decision on the amount of charge payable; the principal officer of the agency, or the Minister, as the case requires, is, for all purposes of this Act, taken to have made, on the last day of the period, a decision to the effect that the amount of charge payable is the amount equal to the agency's or Minister's preliminary assessment of the amount of the charge mentioned in paragraph (1)(b).
- (8) If:
- (a) the applicant makes a contention about a charge as mentioned in subsection (4); and
  - (b) the agency or Minister makes a decision to reject the contention, in whole or in part;
- the agency or Minister, as the case requires, must give the applicant written notice of the decision and of the reasons for the decision.
- Note: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.
- (9) A notice under subsection (8) must also state the name and designation of the person making the decision and give the applicant appropriate information about:
- (a) his or her rights with respect to review of the decision; and
  - (b) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
  - (c) the procedure for the exercise of those rights;
- including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (10) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (8).
- (11) A notice under subsection (8) is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

### **31 Decision to impose charge—extended period for processing request**

#### *Scope*

- (1) This section applies if:
- (a) on a particular day (the **charge notice day**) an applicant in relation to a request receives a notice under subsection 29(1) or (6) to the effect that the applicant is liable to pay a charge in respect of the request; and
  - (b) the notice is received before the end of the period (the **processing period**) applicable under paragraph 15(5)(b) in relation to the request (or that period as extended).

*Processing period to be calculated disregarding period when charge unpaid*

- (2) In working out the length of the processing period (or that period as extended) for the purposes of paragraph 15(5)(b), disregard the number of days in the period starting on the charge notice day and ending on the earliest occurring of the following days:
- (a) the day the applicant pays the amount of the charge (or a deposit on account of the charge prescribed by the regulations), whether or not the decision to impose the charge has been considered under section 29, or is the subject of a review under this Act;
  - (b) if the amount of the charge is changed under section 29, or following a review under this Act—the day the applicant pays the amount of the charge (or a deposit on account of the charge prescribed by the regulations) as changed following the review;
  - (c) if, under section 29, or following a review under this Act, a decision is made with the effect that the charge is not imposed—the day the applicant is notified of the decision.

Note: A decision under section 29 relating to the imposition of a charge or the amount of a charge may be the subject of an internal review (see Part VI), an IC review (see Part VII) or review by the Tribunal (see Part VIIA).