



May 2025

Dr Megan Poore  
Founder, AAWAA  
By email: [women@womensactionall.org](mailto:women@womensactionall.org)

Dear Megan Poore

**Re: Freedom of Information Request**

I refer to your request received by the Department of Foreign Affairs and Trade (the department) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to provide you with a decision about your request.

I have identified documents relevant to your request. After careful consideration, I have decided to grant you access to an edited copy of the documents with irrelevant and exempt information removed.

**Your request**

On 20 February 2025, you made the following request:

*I am making this request under the Freedom of Information Act 1982 (Cth) for access to documents held by the Department of Foreign Affairs and Trade (DFAT) relating to Australia's interactions with the UN Special Rapporteur on Violence Against Women and Girls, as well as Australia's interpretation and application of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) regarding transgender women and sex self-identification policies.*

*Specifically, I seek access to documents, including but not limited to, reports, briefings, emails, diplomatic cables, ministerial submissions, legal advice, and records of conversations for the period 1 February 2024 to the present, concerning [adjusted into two dot points]:*

- 1. The views of the UN Special Rapporteur on Violence Against Women and Girls in relation to Australia and/or her views concerning sex self-identification and transgender rights.*
- 2. Australia's interpretation of the application of CEDAW regarding transgender women and sex self-identification.*

*Could you please ensure that your search includes documents recording discussions with Natasha Stott Despoja (member of the UN Committee on CEDAW) and other members of the UN CEDAW committee, on the above two issues.*

*I acknowledge that some personal information, such as names and contact details of DFAT officers, may require redaction; however, I respectfully request that all other information be released in full, in light of the significant public interest in these matters.*

*I draw attention to the pro-disclosure principle enshrined in the objects (section 3) of the Freedom of Information Act 1982, as well as the explicit exclusion of irrelevant factors including that access could result in embarrassment to the Commonwealth Government, or confusion and unnecessary debate.*

**Conditional exemptions.** *In the following sections, I address the potential application of various conditional exemptions under the FOI Act and respectfully submit that none should apply in this instance.*

**Section 33 - international relations.** *With respect to communications with the Special Rapporteur, Ms Stott Despoja, and other representatives of the United Nations, I ask the decision-maker to consider that disclosure of documents indicating the Australian Government's engagement in exchanging views with international organisations, and the substance of those exchanges, would not—or could not reasonably be expected to—cause damage to the international relations of the Commonwealth.*

*The phrase 'could not reasonably be expected' sets a legal threshold requiring more than mere speculation; rather, there must be a real and tangible risk of damage to Australia's international standing. If the Australian Government has engaged in advocacy within the UN on these issues, the Australian public has a strong and legitimate interest in knowing what positions their government is advancing in these forums, particularly on matters of significant public interest.*

*Accordingly, I submit that the conditional exemption under section 33(a)(iii) is not applicable.*

*Regarding the possible application of section 33(b) of the FOI Act, I request that the decision-maker confirm whether the communication in question was made with an explicit or implicit expectation of confidentiality, as outlined by the OAIC Commissioner in paragraph 5.46 of the Freedom of Information Guidelines: Exemptions (version 1.6, May 2024). If any party to the communication explicitly or implicitly requested confidentiality, I ask that this be stated in the decision.*

*Absent such a request, it is reasonable to expect that discussions on matters of public policy and contemporary debate would be open to scrutiny. These are topics routinely debated in international forums and do not constitute sensitive diplomatic negotiations, confidential state-to-state communications, or intelligence matters.*

**Section 47C – Deliberative processes.** *With respect to section 47C, I submit that, given the strong public interest in understanding how the Australian Government engages with and responds to UN representatives, the pro-disclosure principle outweighs any reliance on this exemption. In the event that the decision-maker considers section 47C applicable, I request that they provide a clear justification as to why disclosure would be contrary to the public interest.*

*If these documents contain critiques or assessments of UN officials' positions, that is precisely the type of information the public has a right to examine. Government engagement with international institutions is a matter of significant and legitimate public interest, and transparency in these exchanges serves, rather than undermines, informed public discussion.*

*I thank you in advance for your time and assistance with this request on a matter of significant public interest.*

On 3 March 2025, the department wrote to you:

*Your request asks for "...documents...relating to Australia's interactions with the UN Special Rapporteur on Violence Against Women and Girls" from 1 February 2024 to the present. Our subject matter experts have asked us to confirm whether this refers to direct correspondence with the Special Rapporteur and their office, or to internal departmental documents relating to that correspondence and the views of the Special Rapporteur. If the latter, our subject matter areas have advised us that there may be too much material to process, which may lead to a practical refusal of your request.*

On 5 March 2025, you amended your request to the following:

*I have re-examined my request and, in the interest of facilitating its processing, I agree to remove the following element:*

*"Australia's interpretation of the application of CEDAW regarding transgender women and sex self-identification".*

*This is except where this issue is discussed in interactions with the Special Rapporteur or in discussions with third parties about the Special Rapporteur's views.*

*To confirm, my request is now as follows:*

*I am making this request under the Freedom of Information Act 1982 (Cth) for access to documents held by the Department of Foreign Affairs and Trade (DFAT) relating to Australia's engagement with, and discussions concerning, the views of the UN Special Rapporteur on Violence Against Women and Girls (SRVAWG).*

*Specifically, I seek access to documents, including but not limited to, reports, briefings, emails, diplomatic cables, ministerial submissions, legal advice, and records of conversations for the period 1 February 2024 to the present, concerning:*

- *The views of the UN Special Rapporteur on Violence Against Women and Girls in relation to Australia and/or her views concerning sex self-identification and transgender rights.*
- *Any discussions concerning the views or statements of the SRVAWG on the views of the SRVAWG on Australia, and on self-identification and transgender rights, including but not limited to discussions between DFAT and members of the UN CEDAW Committee (including Natasha Stott Despoja).*

On 13 March 2025, the department notified you of the intention to refuse to process your request on the grounds that doing so would substantially and unreasonably divert resources of the department from its other operations. You were invited to revise the request in order that it may be processed.

On 21 March 2025, you amended the scope of your request to the following:

*To facilitate its processing, I agree to revise my request to cover the three-month period following 23 August 2024. This timeframe is intended to capture documents relevant to Australia's response to a statement made by the UN Special Rapporteur on Violence Against Women and Girls (SRVAWG) on 4 September, which she foreshadowed in a tweet on 23 August.*

*Link:* <https://www.ohchr.org/sites/default/files/documents/issues/women/sr/statements/20240904-stm-sr-vawg-australia-en.pdf>

*I note that the Special Rapporteur also commented on Australia's adherence to our treaty obligations on other occasions including 4 April 2024. However, to ensure my request progresses, I will confine it to the later period, beginning 23 August.*

*Link:* <https://www.ohchr.org/sites/default/files/documents/issues/women/sr/statements/20240404-Statement-sr-vawg-cedaw-convention.pdf>

### **Request for the List of Identified Documents & Public Interest Considerations**

*In addition to limiting the timeframe of my request, I also request access to the list of the 175 documents DFAT's preliminary searches have identified.*

*I recognise that 175 documents covering 1,306 pages represents a substantial volume of material—more than I had anticipated. While I do not wish to place unnecessary demands on DFAT staff or trigger a possible practical refusal, the existence of this volume of documentation demonstrates that DFAT itself considered the Special Rapporteur's views and comments on Australia to be a matter requiring detailed and sustained consideration - in essence that this was a matter of significant public importance.*

*This in turn underscores the significant public interest in disclosure, consistent with the objects of the FOI Act including to promote public participation in Government processes, with a view to promoting better-informed decision-making (section 3), increasing scrutiny, discussion, comment and review of the Government's activities (section 3) and informing public debate of a matter of public importance (section 11B) - in this instance Australia's adherence to our international treaty obligations.*

*Specifically with regard to the possibility of a practical refusal, I would also respectfully draw DFAT's attention to advice from the Office of the Australian Information Commissioner (OAIC), which states:*

*Where there is significant public interest value in the disclosure of the information contained in the documents ... the agency may find it difficult to justify that a practical refusal reason exists on the basis that processing the request would have an unreasonable effect on the agency even where the FOI processing burden is substantial. (FOI Guidelines, 3.113)*

*In line with these considerations, I submit that providing the list of the 175 documents (which I assume includes dates and subject headings) represents a reasonable compromise between DFAT's obligations to disclose information that is in the public interest and the Department's practical need to limit the burden of processing the material. I note that since this list already exists, providing it would involve only a minimal administrative effort.*

*I suggest DFAT could provide this list as part of the consultation process required under Section 24AB(4)(b) of the Act. However, noting that the consultation process has put on hold the statutory timeframe for my request, I would be equally happy to make a separate FOI request for this document so that you are able to restart the processing on my current request as soon as possible.*

On 26 March 2025, the department restated your request to you, with amendments in bold:

*I am making this request under the Freedom of Information Act 1982 (Cth) for access to documents held by the Department of Foreign Affairs and Trade (DFAT) relating to Australia's engagement with, and discussions concerning, the views of the UN Special Rapporteur on Violence Against Women and Girls (SRVAWG).*

*Specifically, I seek access to documents, including but not limited to, reports, briefings, emails, diplomatic cables, ministerial submissions, legal advice, and records of conversations for the **three-month period following 23 August 2024**, concerning:*

- The views of the UN Special Rapporteur on Violence Against Women and Girls in relation to Australia and/or her views concerning sex self-identification and transgender rights.*
- Any discussions concerning the views or statements of the SRVAWG on the views of the SRVAWG on Australia, and on self-identification and transgender rights, including but not limited to discussions between DFAT and members of the UN CEDAW Committee (including Natasha Stott Despoja).*

***In addition to limiting the timeframe of my request, I also request access to the list (which I assume includes dates and subject headings) of the 175 documents DFAT's preliminary searches have identified.***

In the same correspondence the department requested a 30-calendar day extension of time to process your request (section 15AA of the FOI Act).

The same day you consented to the extension of time. The department subsequently notified the Office of the Australian Information Commissioner (OAIC) of the extension of time in accordance with our reporting obligations.

On 28 March 2025, the department sought to narrow the scope of your request further:

1. *All documents related to, and including, Australia's response to the statement made by SR VAWG on 4 September (between 23 August – 23 November 2024); and*
2. *A list of the 175 documents (consisting of dates and subject/title headings) that the department's preliminary searches identified as falling in scope of your original request.*

On 29 March 2025, you consented to amending the scope to the above.

On 17 April 2025, the department notified you that it had determined that third party consultation was required and that the processing period for your FOI request had been automatically extended by 30-calendar days.

### **Authority**

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

### **Reasons**

In making my decision I have taken into account:

- the terms of your amended request;
- the documents within the scope of your request;
- consultation undertaken with third parties;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

The reasons for my decision and for the application of exemptions under the FOI Act to the document are set out below. Where I refer to sections of the FOI Act, these are available at [www.legislation.gov.au](http://www.legislation.gov.au). Where I refer to parts of the FOI Guidelines, these are available at [www.oaic.gov.au](http://www.oaic.gov.au).

### **Damage to international relations (section 33(a)(iii) of the FOI Act)**

Under section 33(a)(iii) of the FOI Act, a document is exempt if its disclosure would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth.

The phrase international relations has been interpreted to mean the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them (FOI Guidelines, paragraph 5.39). This applies to documents, the disclosure of which could diminish the confidence which another country has in Australia as a reliable recipient of confidential information, making that country or its agencies less willing to cooperate with Australian agencies in future (FOI Guidelines, paragraph 5.42).

Furthermore, the expression damage could include intangible damage, including inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government (FOI Guidelines, paragraph 5.25).

In your original request you stated:

***Section 33 - international relations.*** *With respect to communications with the Special Rapporteur, Ms Stott Despoja, and other representatives of the United Nations, I ask the decision-maker to consider that disclosure of documents indicating the Australian Government's engagement in exchanging views with international organisations, and the substance of those exchanges, would not—or could not reasonably be expected to—cause damage to the international relations of the Commonwealth.*

*The phrase 'could not reasonably be expected' sets a legal threshold requiring more than mere speculation; rather, there must be a real and tangible risk of damage to Australia's international standing. If the Australian Government has engaged in advocacy within the UN on these issues, the Australian public has a strong and legitimate interest in knowing what positions their government is advancing in these forums, particularly on matters of significant public interest.*

*Accordingly, I submit that the conditional exemption under section 33(a)(iii) is not applicable.*

Australia plays a critical role in engaging with multilateral institutions such as the United Nations, and that Australia regularly communicates with likeminded Member States about their respective foreign policy objectives and how we can work collaboratively to achieve objectives. This includes working with the United Nations Human Rights Council and Special Rapporteurs', in this case the Special Rapporteur on violence against women and girls.

Disclosure would undermine the trust of our international partners by violating the long standing accepted international practice of keeping correspondence of this nature confidential. Any loss of trust held by international organisations or foreign governments in the department's ability to protect confidential communications would diminish the confidence they have in Australia as a reliable recipient of its confidential information, making them less willing to cooperate with Australian agencies in future.

I have had regard to the nature of the information, the circumstances in which it was communicated, and the nature and complexities of Australia's multilateral relationships through the United Nations, including with Special Rapporteurs'. Based on these considerations, I consider that the disclosure of the relevant information to which you seek access, would be reasonably likely to cause damage to Australia's foreign relationships.

For these reasons, I have decided that the information marked up in the documents is exempt under section 33(a)(iii) of the FOI Act.

***Substantial adverse effect on an agency's proper and efficient conduct of operations (section 47E(d) of the FOI Act)***

Under section 47E(d) of the FOI Act, a document is conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the department's operations. A substantial adverse effect may be an indirect effect (FOI Guidelines, paragraph 6.82).

The predicted effect must bear on the department's proper and efficient operations, that is, the department is undertaking its operations in an expected manner (FOI Guidelines, paragraph 6.115).

The documents in scope include internal documents that contain information only for internal use and not for wider dissemination. The release of this information could reasonably have a substantial adverse effect on the proper and efficient conduct of the department.

For these reasons, I have decided that the information marked up in the documents is conditionally exempt under section 47E(d) of the FOI Act.

***Unreasonable disclosure of personal information (section 47F(1) of the FOI Act)***

Under section 47F(1) of the FOI Act, a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.

Personal information refers to information or opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not; and
- whether the information or opinion is recorded in a material form or not.

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 (FOI Guidelines, paragraph 6.133).

I have had regard to the following matters in considering whether disclosure of some information would involve an unreasonable disclosure of personal information:

- the extent to which the information is well known;
- whether the individuals to whom the information relates are known to be (or to have been) associated with the matters in the documents;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant (section 47F(2) of the FOI Act).

Having regard to the nature of the information, and the implications for the identified individuals if disclosed, I am satisfied that the disclosure of the personal information in this case would be unreasonable. I am not satisfied that the information is well known or publicly available, or that the disclosure of the relevant information would achieve a public purpose.

For these reasons, I have decided that the information marked up in the documents is conditionally exempt under section 47F(1) of the FOI Act.

***Conditional exemptions - public interest considerations (section 11A(5) of the FOI Act)***

As sections 47E(d) and 47F(1) of the FOI Act are conditional exceptions, I must grant you access to this material unless providing access would, on balance, be contrary to the public interest (section 11A(5) of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines referred to above and the public interest factors listed in section 11B of the FOI Act as favouring access, including whether granting access to the documents would promote the objects of the FOI Act.

I have also considered public interest factors against disclosure, including that disclosure may reasonably be expected to:

- prejudice an individual's right to privacy; and
- prejudice the internal functions of the department.

On balance, I am of the view that the public interest is weighted against the disclosure of the conditionally exempt material. In forming this view, I have not taken into account any of the irrelevant factors specified in section 11B(4) of the FOI Act.

***Irrelevant and excluded material (section 22(1)(a)(ii) of the FOI Act)***

Some of the material excluded from the documents released to you is outside the scope or could reasonably be regarded as irrelevant to your request (section 22(1)(a)(ii) of the FOI Act).

In determining what is relevant to your request, I have taken into account the terms of your request and the email which you received from the department on 25 March 2025, in which you were invited to respond if you required the personal information of junior staff from ministerial offices and government officials not in the Senior Executive Service (SES) or equivalent, including their email addresses and contact numbers, together with all signatures, mobile phone numbers, departmental inboxes and technical transmission details including reference numbers. As you have not stated that you require this information, I have decided to remove it from the documents being released to you.

***Review rights***

Information about your review rights is set out in the **Attachment** for your reference.

***Contact***

Should you have any queries regarding this matter please contact the Freedom of Information Section by email ([foi@dfat.gov.au](mailto:foi@dfat.gov.au)).

Yours sincerely

Sally-Ann Henfry  
Assistant Secretary  
Department of Foreign Affairs and Trade

## **REVIEW AND COMPLAINT OPTIONS**

If you consider the department made the wrong decision, please request a review.

If you are dissatisfied with the way your request was processed, please make a complaint.

### **REVIEW**

#### ***How to seek a review of this decision***

##### *Internal review by the department*

You may apply for internal review of the decision ([section 54 of the FOI Act](#)). The internal review application must be made within 30 calendar days from the day you receive this notice. Where possible, please attach reasons why you believe review of the decision is necessary.

A new decision maker, who was not involved in the initial decision, will review your request, and make a new decision within 30 calendar days.

Any request for internal review should be directed via email to [foi@dfat.gov.au](mailto:foi@dfat.gov.au) or addressed to:

Freedom of Information Section  
Department of Foreign Affairs and  
Trade  
R G Casey Building  
John McEwen Crescent  
Barton ACT 0221

##### *External review by the Information Commissioner (IC)*

You may apply to the Australian Information Commissioner to review this decision ([section 54L of the FOI Act](#)). To do this, you must contact the IC within 60 calendar days from the day you receive this notice.

Further information on applying for an IC review is available on Office of the Australian Information Commissioners (OAIC) website.

### **COMPLAINT**

#### ***How to make a complaint about process***

##### *Complaint to the department*

If you wish to make a complaint about how your FOI request was processed by the department, we welcome you sending an email with the details of your complaint to the department in the first instance via [foi@dfat.gov.au](mailto:foi@dfat.gov.au).

##### *Complaint to the IC*

You may also make a complaint to the IC about the Departments actions in relation to this decision ([section 70 of the FOI Act](#)).

Further information about how to make a complaint is available on OAICs website.