

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 10/12/2021 2:38:09 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
File Number:	VID519/2021
File Title:	SENATOR REX PATRICK v AUSTRALIAN INFORMATION COMMISSIONER
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Dated: 10/12/2021 3:11:53 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Amended Originating application**

No. VID519/2021

Federal Court of Australia  
District Registry: Victoria  
Division: Administrative and Constitutional Law & Human Rights

**Senator Rex Patrick**

Applicant

**Australian Information Commissioner**

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Melbourne

The Court ordered that the time for serving this application be abridged to N/A

Date:

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party) Rex Patrick, Senator for SA  
Prepared by (name of person/lawyer) Stella Majury  
Law firm (if applicable) In house lawyer  
Tel 08 8232 1144 Fax \_\_\_\_\_  
Email [Stella.Majury@aph.gov.au](mailto:Stella.Majury@aph.gov.au) ; [Senator.Patrick@aph.gov.au](mailto:Senator.Patrick@aph.gov.au)  
**Address for service** (Electorate Office) Lvl 2/31 Ebenezer Place, Adelaide, SA, 5000  
(include state and postcode)



## Details of claim

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

1. Pursuant to s 16(3)(a) of the *Administrative Decision (Judicial Review) Act 1977* (Cth) (**ADJR**), orders that the Respondent make a decision on each of the ~~Long Term Outstanding~~ IC Review Applications which were lodged with the respondent 6 months or more prior to 1 September 2021 (see Appendix A to Amended Originating Application) in Appendix A to the Further Amended Originating Application which have not been decided at the date of the order within 30 days, or such alternate timeframe as the court deems appropriate.
2. ~~Further and in the alternative, pursuant to s 16(3)(b) of the *Administrative Decision (Judicial Review) Act 1977* (Cth) (**ADJR**), an order declaring that the delay in the Respondent processing the IC Review Applications which were lodged 6 months or more prior to 1 September 2021 (see Appendix A to Amended Originating Application) is contrary to the interests of the administration of the *Freedom of Information Act 1982* (Cth). In the alternative, pursuant to s 16(3)(c) of the *Administrative Decision (Judicial Review) Act 1977* (Cth) (**ADJR**), orders directing the Respondent to determine the IC Review Applications in **Appendix A to the Further Amended Originating Application** which have not been decided at the date of the order without further unreasonable delay.~~
3. ~~Such further or other order as the court deems appropriate. Further, pursuant to s 16(3)(b) of the *Administrative Decision (Judicial Review) Act 1977* (Cth) (**ADJR**), an order declaring that the delay in the Respondent considering each of the IC Review Applications which were lodged less than 6 months prior to 1 September 2021 (see Appendix A to Amended Originating Application) is contract to the interests of the administration of the *Freedom of Information Act 1982* (Cth).~~

## Claim for interlocutory relief

The Applicant also claims interlocutory relief.

1. Pursuant to rule 40.51 of the *Federal Court Rules 2011* (Cth) the maximum costs as between party and party that may be recovered in the proceeding in relation to the trial of the applications marked "separate question" in Appendix A to the Further Amended Originating Application is \$10 in an amount to be determined by the court.

**Applicant's address**

The Applicant's address for service is:

Place: (Electorate Office) Lvl 2/31 Ebenezer Place, Adelaide, SA, 5000

Email: Senator.Patrick@aph.gov.au

The Applicant's address is place of business.

**Service on the Respondent**

It is intended to serve this application on all Respondents.

Date: 9 September 2021 ~~11 October 2021~~ 10 December 2021

[Redacted signature area]

Signed by Stella Majury  
Lawyer for the Applicant

[Redacted signature area]



**APPENDIX A to Further Amended Originating Application**  
 Senator Rex Patrick v Australian Information Commissioner  
 VID519/2021

Matters not highlighted in grey are those marked "separate question"  
 (refer to orders of Wheelahan J made 8 December 2021)

No.	Request no.	Request date	Request to	Request description	Decision	IC review application	Days since application (to 1/9/2021)	Weeks since application (to 1/9/2021)	separate question
1	MR19/00070	22/10/2018	Department of Defence	Future Submarine Project Integrated Master Schedule and Project Earned Value Management Reports	21/12/2018	21/12/2018	985	141	Greater than 2 years.
2	MR19/00437	19/05/2019	Department of Defence	Incoming Government briefs related to the naval shipbuilding and naval sustainment program	21/06/2019	28/06/2019	796	114	Greater than 2 years.
3	MR20/00054	11/09/2019	Department of Foreign Affairs and Trade	Oil and gas processing options for the Greater Sunrise oil and gas fields	18/12/2019	22/01/2020	588	84	Greater than a year.
4	MR20/00176	19/11/2019	Australian War Memorial	Changes to the official history of Australia's East Timor Operations	19/02/2020	21/02/2020	558	80	Greater than a year.
5	MR20/00209	3/02/2020	Department of Prime Minister and Cabinet	A report relating to the Community Sports Infrastructure Grants program	4/03/2020	4/03/2020	546	78	Greater than a year.
6	MR20/00291	11/11/2019	Department of Agriculture	Draft report relating to the Adelaide Desalination Plant	3/02/2020	19/03/2020	531	76	Greater than a year.
7	MR20/00424	4/02/2020	Department of Industry	Briefing re. selection of the National Radioactive Waste Management Facility site.	16/04/2020	21/04/2020	498	71	Greater than a year.
8	MR20/00544	11/03/2020	Attorney-General's Department	Advice relating to the Community Sports Infrastructure Grants program	3/06/2020	4/06/2020	454	65	Greater than a year.
9	MR20/00604	14/02/2020	Department of Industry	Joint Authority's Suspension and Extension decisions for Bright Petroleum Pty Ltd's exploration licences	11/05/2020	24/06/2020	434	62	Greater than a year.
10	MR20/00610	23/05/2020	The Treasury	China Mengnai Diary Foreign Investment Review Board decision	24/06/2020	25/06/2020	433	62	Greater than a year.
11	MR20/00612	30/03/2020	The Treasury	COVID-19 briefs	24/06/2020	26/06/2020	432	62	Greater than a year.
12	MR20/00615	22/05/2020	The Treasury	COVID-19 submissions made to the Treasurer	22/06/2020	26/06/2020	432	62	Greater than a year.
13	MR20/00613	23/05/2020	The Treasury	COVID-19 modelling	22/06/2020	26/06/2020	432	62	Greater than a year.
14	MR20/00780	24/04/2020	Department of Industry	Snovy Hydro Australian Industry Capability Plans	4/08/2020	6/08/2020	391	56	Greater than a year.
15	MR20/00863	2/07/2020	Department of Industry	Judicial review briefs related to the national Radioactive Waste Management Facility	14/09/2020	14/09/2020	352	50	Greater than 6 months.
16	MR20/00922	25/08/2020	Department of Health	Documents of AHPPC relating to border closures	24/09/2020	24/09/2020	342	49	Greater than 6 months.
17	MR20/00923	6/08/2020	Department of Industry, Science, Energy and Resources	Documents related to National Radioactive Waste Management Facility	24/09/2020	25/09/2020	341	49	Greater than 6 months.
18	MR20/01189	21/10/2020	Department of Prime Minister and Cabinet	Directions, guidelines, advice or templates for drafting Cabinet documents.	27/11/2020	30/11/2020	275	39	Greater than 6 months.
19	MR21/00059	10/11/2020	Department of Prime Minister and Cabinet	Sports Rorts documents.	13/01/2021	21/01/2021	223	32	Greater than 6 months.
20	MR21/00144	21/12/2021	Department of Defence	FCD location advice.	4/02/2021	15/02/2021	198	28	Greater than 6 months.
21	MR21/00340	12/03/2021	Department of Prime Minister and Cabinet	Documents related to Prime Minister's visit to whylla 10 December 2018.	14/04/2021	13/04/2021	141	20	Under 6 months.
22	MR21/00422	13/01/2021	Department of Health	ATAGI meeting minutes.	16/03/2021	7/05/2021	117	17	Under 6 months.
23	MR21/00551	12/04/2021	Department of Health	University of Queensland COVID Grant documents.	17/05/2021	21/06/2021	72	10	Under 6 months.

Days/weeks calculated to 1/09/2021