

REVIEW OF THE *FREEDOM OF INFORMATION ACT 1982* AND THE *AUSTRALIAN INFORMATION COMMISSIONER ACT 2010*

TERMS OF REFERENCE

I, Nicola Roxon, Attorney-General of Australia, request Dr Allan Hawke AC to review and report on the operation of the *Freedom of Information Act 1982* (FOI Act) and the *Australian Information Commissioner Act 2010* and the extent to which those Acts and related laws continue to provide an effective framework for access to government information.

1. The review should consider the following matters:
 - (a) the impact of reforms to freedom of information laws in 2009 and 2010, including the new structures and processes for review of decisions and investigations of complaints under the FOI Act, on the effectiveness of the FOI system;
 - (b) the effectiveness of the Office of the Australian Information Commissioner;
 - (c) the effectiveness of the new two-tier system of merits review of decisions to refuse access to documents and related matters;
 - (d) the reformulation of the exemptions in the FOI Act, including the application of the new public interest test, taking into account:
 - (i) the requirement to ensure the legitimate protection of sensitive government documents including Cabinet documents; and
 - (ii) the necessity for the government to continue to obtain frank and fearless advice from agencies and from third parties who deal with government;
 - (e) the appropriateness of the range of agencies covered, either in part or in whole, by the FOI Act;
 - (f) the role of fees and charges on FOI, taking into account the recommendations of the Information Commissioner's review of the current charging regime; and
 - (g) the desirability of minimising the regulatory and administrative burden, including costs, on government agencies.
2. The review should include consultation with relevant stakeholders.
3. The report should be provided by 30 April 2013.

Dated

29 October

2012



Nicola Roxon
Attorney-General

[Authority: Section 93B of the *Freedom of Information Act 1982* and section 33 of the *Australian Information Commissioner Act 2010*]