



29 June 2026

The Hon. Michelle Rowland MP
Attorney-General
PO Box 6022

House of Representatives
Parliament House
Canberra ACT 2600

Dear Attorney-General,

We write seeking your urgent intervention to address an unprecedented and existential threat to the Federal Freedom of Information (FOI) regime.

Mr Rex Patrick sought access to information from the Secretary of the Department of Industry, Science and Resources (DISR) concerning how a site to store AUKUS nuclear waste would be selected. The Secretary's delegate refused access to the documents and Mr Patrick sought a review by the Information Commissioner (IC). The IC declined to conduct the review, allowing Mr Patrick to instead seek a review through the Administrative Review Tribunal (ART). The ART found in Mr Patrick's favour, and he was granted access to most of the documents he had sought access to.

In an unprecedented move, the Secretary has appealed the ART's decision to the Federal Court (Secretary, Department of Industry, Science, Energy and Resources v Rex Patrick), seeking answers to five questions of law, and sought costs against Mr Patrick should the appeal be successful.

It is clear to us that this is an attack on our Freedom of Information regime, with the intent of deterring Australians from pursuing access to information.

In 2019 Anthony Albanese, then the opposition leader, delivered a landmark "Labor and Democracy" speech in which he strongly advocated for Freedom of Information (FOI) and government integrity. He criticized existing laws at the time, arguing that "The current delays, obstacles, costs and exemptions make it easier for the government to hide information from the public. That is just not right."

The Secretary's attempt to impose costs in Mr Patrick's matter seems entirely at odds with the Prime Minister's stated values, particularly noting it is legal action launched by the Commonwealth.

As you are aware, the FOI regime is a recognised contributor to Australia's system of responsible and representative government. Its objects are to allow citizens to participate in democracy and to

to information at the lowest reasonable cost. FOI requests are essentially free of charge, IC reviews are free of charge and ART reviews involve relatively low costs (\$1043 fee), which can be waived in circumstances of hardship.

The effect of the Secretary's decision to seek costs against an appeal initiated by the Commonwealth is to signal that any citizen may be subject to costs of around \$150,000, should the Commonwealth decide to appeal an IC or ART review decision (the Government can appeal any IC or ART decision to the Federal Court (FOI Act s 56(1) and ART Act s 172(1) respectively). The mere potential of facing litigation costs will have a chilling effect on review applications to the IC and ART.

The precedent being established in this instance is in some ways far more significant than the assault on FOI contained in the FOI Amendment Bill 2025 that was rejected in the Parliament earlier this year. We would also draw your attention to the recent Auditor-General report which reported that, across three Agencies, the IC found that 54% of Agency decisions were wrong.

It has long been accepted that the Government, with its considerable resources, must be fair to its citizen. Dragging an ordinary citizen, self-represented and under threat of costs, to argue questions of law raised by the Government is most unfair. It also places the Court in the position of having to determine matters of law where the only legal professionals involved are those arguing the government's position. Indeed, it is highly foreseeable that Mr Patrick would only make a submitting appearance and leave the Court with no contradictor, which does not automatically remove his liability for costs. The 'scales of justice' would clearly be weighed down in favour of the Government and we believe that is not a recipe for good development of public law.

Therefore, should the Government decide to continue with this legal action, we urge you to intervene by agreeing to meet Mr Patrick's costs and not seeking costs in the event the Government is successful.

As Australia's first law officer, swift action on this matter would make it clear to the public that your primary duty is to act in their interest.

The undersigned,



Senator Jacqui Lambie
Senator for Tasmania



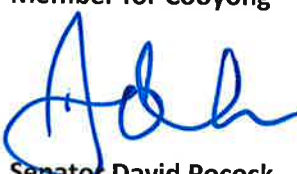
Dr Monique Ryan MP
Member for Cooyong



Senator Fatima Payman
Senator for Western Australia



Helen Haines MP
Member for Indi



Senator David Pocock
Senator for the ACT



Nicolette Boele MP
Member for Bradfield



Senator Lidia Thorpe
Senator for Victoria



Andrew Wilkie MP
Member for Clark



Allegra Spender MP
Member for Wentworth



Dai Le MP
Member for Fowler




Andrew Gee MP
Member for Calare



Rebekha Sharkie MP
Member for Mayo



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Senator Ralph Babet
Senator for Victoria



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Member for Warringah



Senator Pauline Hanson
Senator for Queensland
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Senator David Shoebridge
Senator for New South Wales
Australian Greens