

1 June 2023

Watson Norwood

By email: foi+request-10234-e8bc781e@righttoknow.org.au

Dear Watson Norwood,

Notice of intention to refuse access to documents under *the Freedom of Information Act 1982*

I refer to your *Freedom of Information Act 1982 (FOI Act)* request dated and received on 6 May 2023 in which you sought access to “a complete copy of the departments’ Freedom of Information (FOI) logs for the period 2013-2023, including any secondary departments controlled by the agency.”

Further, your request states: “I request that this is provided as a document and not a simple redirect to the agency website as I am of the view that your online disclosure logs do not actively reflect your FOI requests that you have received in this period. I would appreciate it if you could provide me with this information in an electronic format, such as a PDF or spreadsheet, if possible.”

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.

Following receipt of your request I emailed you on 11 May 2023 explaining the extent of the information available on the ACMA’s FOI Disclosure Log that is published on the ACMA’s website and invited you to consider clarifying the scope of your request. No further information has been provided.

Under paragraph 24AA(1)(a) of the FOI Act, if the work involved in processing a request would substantially and unreasonably divert the resources of the ACMA from its operations, the request may be refused (the **practical refusal reason**).

The purpose of this letter is to advise you that it is my intention to refuse access for this reason (section 24AB of the FOI Act). Before I make my final decision, you have an opportunity to revise your request to remove this ground for refusal, for example, by narrowing it to make it more manageable. I have set out below why I consider the practical refusal reason exists as this may assist you to make a revised request.

Practical refusal reason

You have sought access to a complete copy of the ACMA’s FOI logs for the period 2013-2023. Given that you have specifically referred to the information available on the ACMA’s website, I understand your request to be for a ‘log’ (containing a description of each request, and the outcome of the request, but not the

documents released) of all of the FOI requests received by ACMA in the period between 2013 and 6 May 2023, the date of your request.

I can again confirm that the Disclosure Log that appears on the ACMA website (www.acma.gov.au) is a complete record of all FOI matters since 2011, in relation to which the ACMA was required to publish documents released under the FOI Act on the Disclosure Log. All log entries since 2013 are still on the website and have not been removed.

As previously advised, in addition to the matters listed in the Disclosure Log, the ACMA receives several other FOI requests a year which are not included in the Disclosure Log for a number of reasons, including where the FOI request was:

- withdrawn by the applicant, either because access is provided outside of the FOI Act or otherwise,
- held to be invalid,
- refused on the grounds that the documents sought do not exist,
- transferred to another agency for processing, or
- solely for personal information about the applicant or another person.

While the ACMA records and processes every FOI request received, the ACMA does not maintain any other log of FOI requests, other than the Disclosure Log that the ACMA is required to maintain and publish under the FOI Act – that is, the information you are seeking access to is not available in the form of a discrete written document. I note that you have specifically sought access to the information in the form of a document (a spreadsheet or in PDF).

I note that subsection 17(1) of the FOI Act provides that where it appears from an FOI request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency, and the agency could produce a written document containing the information by the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, the agency should deal with the request as if it were a request for access to a written document so produced and containing that information and. Subsection 17(2) provides that “An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.”

Processing your FOI request as currently framed would involve the ACMA compiling a ‘log’ of all FOI requests made to the agency over the last 10 years. All of the ACMA’s FOI requests are coordinated by the ACMA’s FOI coordinator who sits within the Legal Services Division and who performs this role as part of their other work responsibilities. Requests are processed by the sections within the agency who hold or have responsibility for the documents sought. Each FOI request received is processed and filed on the ACMA’s document management systems in separate files.

A substantial amount of work would be involved in searching and retrieving details of every FOI request received over 10 years, describing each request, the outcome of the request and creating a log of the requests received.

Having identified, retrieved and compiled the document, a decision must then be made as whether access should be granted, in full or in part. This may require consultation with persons - for example, the ACMA may need to consult with the applicants who made the FOI requests, depending on the information being

disclosed. Given the number of requests involved, this would potentially be a substantial amount of work for the agency.

The ACMA is a relatively small agency, with less than 400 staff. Given this, the ACMA, as set out above, does not have a separate FOI section and FOI requests are managed through the Legal Services Division by the FOI Coordinator who performs this role as part of their other work duties and responsibilities. That being so, I consider that processing a request of this size would amount to a substantial and unreasonable diversion of the resources of the ACMA away from its statutory functions and operations.

Effect of the notice

Under section 24AB of the FOI Act you now have a period of 14 days commencing from the day after you receive this notice (**the consultation period**) to do one of the following in writing:

- withdraw your request
- make a revised request
- indicate that you do not wish to revise your request.

During the consultation period you may wish to contact the officer listed below who may be able to assist you to revise your request. Some of the ways you may wish to narrow the scope of your request might include reducing the timeframe and/or excluding all personal information.

Please note that if you do not contact the contact officer or do one of the three things listed above during the 14 day consultation period (**by 15 June 2023**), your request will be taken to have been withdrawn.

Please also note that the time taken to undertake this consultation is not taken into account for the purposes of the 30 day time limit for processing your FOI request. Time for processing will recommence when you make a revised request or indicate that you not wish to revise your request.

Contact details

As noted above, if you would like assistance to revise your request you may contact Morgan Vaudrey, the ACMA's FOI Coordinator on (03) 9963 6800, or by email: foi@acma.gov.au.

Yours sincerely



Dharshi Jeyaseelan

Senior Lawyer
Legal Services Division