



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI/2024/217-218-219

To Deborah

By email: foi+request-11667-90de735e@righttoknow.org.au
foi+request-11668-6ebff263@righttoknow.org.au
foi+request-11669-cc65e757@righttoknow.org.au

Dear Deborah

I refer to your three requests to the Department of the Prime Minister and Cabinet (the Department), for access to documents under the *Freedom of Information Act 1982* (the FOI Act), received on 11 July 2024.

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

Scope of request

The terms for each of your requests is set out in **Attachment A**.

Request consultation

On 8 August 2024, the Department notified you of the intention to refuse the request under section 24(1) of the FOI Act on grounds a practical refusal reason exists. The notice informed you the three requests had been combined under the FOI Act.

On 9 August 2024, you revised the terms of your requests to:

Narrowing the Timeframe: I will limit the scope of my request to documents created or received between January 2023 and July 2024. This should substantially reduce the volume of documents and focus the search on more recent materials.

Specific Document Types: Instead of requesting a wide range of documents, I will focus on formal correspondence, briefings, and submissions specifically related to Australia's support provided to Israel and Palestine, as well as any communications sent to the United Nations on these matters.

Clarification of Departmental Relevance: I understand that not all aspects of my request may fall within the purview of the Department of the Prime Minister and Cabinet. Therefore, I am particularly interested in documents prepared by or for the Prime Minister, including any advice provided by your Department regarding Australia's position on Israel and Palestine in international forums.

On 12 August 2024, you agreed to exclude publicly available documents from your request.

On 9 September 2024, the Department wrote to you to seek additional information to clarify the terms of your request.

On 17 September 2024, you provided the following clarification:

To provide more specific guidance, I am seeking communications and documents related to Australia's position on Israel and Palestine in the following international forums:

- United Nations (UN), including the General Assembly and Security Council.*
- United Nations Human Rights Council (UNHRC).*
- Organisation of Islamic Cooperation (OIC).*
- Asia-Pacific Economic Cooperation (APEC).*
- Association of Southeast Asian Nations (ASEAN).*
- World Economic Forum (WEF).*
- World Health Organisation (WHO).*
- G20.*

Request decided out of time

A decision on your request was due 14 August 2024. Unfortunately, the Department was unable to complete the processing of your request by the due date. In these circumstances, the Department follows the advice in the Information Commissioner Guidelines at paragraph 3.161.

As a result, review rights for your request can be directed to the Australian Information Commissioner (Information Commissioner) and information on how to submit a review is at the bottom of this letter.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Material taken into account

In reaching my decision I referred to the following:

- the terms of your request
- the Department's request consultation notice issued to you on 8 August 2024

- your responses of 9 August, 12 August, and 9 September 2024
- the FOI Act
- the Guidelines issued by the Information Commissioner under section 93A of the FOI Act (the Guidelines)

Decision

I have decided to refuse your request under section 24(1) of the FOI Act, on the grounds that a practical refusal reason still exists.

My findings of fact and reasons for deciding to refuse your request are set out below.

Reason for decision

Section 24(1) of the FOI Act provides that if an agency is satisfied when dealing with a request for a document that a practical refusal reason exists in relation to the request, the agency:

- (a) must undertake a request consultation process (see section 24AB); and*
- (b) if, after the request consultation process, the agency is satisfied that the practical refusal reason still exists—the agency may refuse to give access to the document in accordance with the request.*

I am satisfied the Department undertook a request consultation process with you in accordance with section 24AB of the FOI Act, and you have engaged with this process. The Department took further steps to clarify your request. However, it remains unclear what specific records, in our possession, are responsive to your request, and the work to identify relevant documents is an unreasonable diversion of resources.

This is because the terms such as 'support' and 'position' could be interpreted in several ways and as a central agency we may have been provided with a broad range of records that may or may not be the documents you seek to access. We consider at this time an assumption will need to be made to determine if we hold responsive documents. Further, the agency who would be more closely related to the subject of your request is the Department of Foreign Affairs and Trade (DFAT). We have provided additional information about this below so that you may consider re-directing your request to the appropriate agency.

Following your revision and clarification, the Department conducted fresh searches in its Outlook email system and relevant record repositories for any documents that would fall within the terms of your revised request. The search terms (Israel, Palestine, United Nations Human Rights Council, Organisation of Islamic Cooperation, Commonwealth of Nations, Asia-Pacific Cooperation (APEC), Association of Southeast Asian Nations (ASEAN) and G20) have continued to return thousands of results that cross over multiple areas of the Department, and it has not been possible to readily identify which items would be responsive to your request.

To continue to process your request, a staff member would be required to assess each of the documents returned from the searches and decide as to each one's relevancy. Given the volume, this task alone is unreasonable.

We have also considered the time it has taken us to process other requests of the same topic but with more clearly defined terms, one of which took over 150 days to complete. The documents released in this matter is published on our website, and we have provided a link for you below under Additional Information.

For the reasons given above, I consider that processing your request in its revised form would create a substantial and unreasonable diversion of the Department's resources from its other operations.

Accordingly, I have decided to refuse your request under section 24(1) of the FOI Act.

Additional information

As previously advised, DFAT is the lead Australian agency for communications to the UN and other international forums.

Information about the Hamas-Israel conflict, including media releases, speeches and humanitarian assistance provided by the Australian government can be found at the following link: [Hamas-Israel conflict and Middle East Regional escalation | Australian Government Department of Foreign Affairs and Trade](#)

Information related to the subject of your request has been published on our website following previous access decisions under the FOI Act during 2024. This information may satisfy your request, and you can access them at the following links:

[FOI 2024 071IC](#)

[FOI/2023/334IC](#)

[FOI/2023/296IC](#)

[FOI/2024/052](#)

Review rights

If you disagree with my decision you may apply for review with the Information Commissioner.

Information Commissioner Review

Under section 54L of the FOI Act, you may apply to the Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within

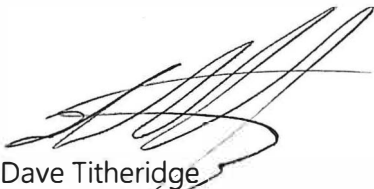
60 days after the date of this letter. More information about Information Commissioner review is available [here](#).^[1]

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Information Commissioner. A complaint to the Information Commissioner must be made in writing. More information about complaints is available [here](#).¹

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely



Dave Titheridge
Assistant Secretary
Global Interests Branch
Department of the Prime Minister and Cabinet

26 November 2024

^[1] <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>

¹ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>