



Australian Government
**Department of Industry,
Science and Resources**

Our ref: LEX 75697

Brendon

By email: foi+request-11950-ddfcb818@righttoknow.org.au

Dear Brendon

Freedom of Information Act 1982 – Notice of Decision

I refer to your 27 August 2024 request, to the Department of Industry, Science and Resources (the department), which was subsequently revised by agreement, to seek access under the *Freedom of Information Act 1982* (the FOI Act) to:

*“Under the FOI Act I request a copy of all meeting invites sent or received by the FOI EL2, Pip Fairbairn, between the period of 1 March to 31 March 2024.
I also request a copy of all emails sent or received by the above mentioned which contains the following words between the period of 1 March to 31 March 2024:*

“Meeting” “decision maker” “clearance””

On 23 September 2024 you were provided with a notice of the department’s intention to refuse your request on practical refusal grounds. The practical refusal grounds being that processing your request would unreasonably and substantially divert the resources of the department from its other operations. Accordingly, you were invited to revise the scope of your request before a final decision was made as to whether your request was able to be processed.

On 23 September 2024 you revised the scope of your request to the following:

*“Under the FOI Act I request a copy of all meeting invites sent or received by the FOI EL2, Pip Fairbairn, between the period of 1 March to 31 March 2024.
I also request a copy of all emails sent or received by the above mentioned which contains the following words between the period of 1 March to 14 2024:*

“Meeting” “decision maker” “clearance””

Decision

I am an authorised decision maker under section 23 of the FOI Act.

I have decided to refuse your request under section 24(1) of the FOI Act on practical refusal grounds. The practical refusal ground being that processing your request would unreasonably and substantially divert the resources of the department from its other operations.

The reasons for my decision are set out below as required by section 26 of the FOI Act.

Reasons for Decision

Under subsection 24(1) of the FOI Act, if an agency is satisfied that a practical refusal reason exists in relation to a request, the agency must undertake a request consultation process in accordance with section 24AB of the FOI Act. However, if after the request consultation process the agency is satisfied that the practical refusal reason still exists, the agency may refuse the request.

I am satisfied that a request consultation process has been undertaken by the department in accordance with section 24AB of the FOI Act. On 23 September 2024 you were issued a notice of intention to refuse informing you of the voluminous scope of your request and that the processing of your request as originally framed would be unreasonable and substantially divert the resources of the department from its other operations.

Consistent with section 24(3) of the FOI Act, I am satisfied that the department also took reasonable steps to assist you to revise the scope of your request so that a practical refusal reason would no longer exist. The department provided guidance for the refinement of your scope by suggesting you limit your request to particular topics or reducing the timeframe. I am therefore satisfied that the department has taken reasonable steps to assist you to revise the scope of your request.

I am also satisfied that a practical refusal reason exists in relation to your revised request of 23 September 2024, that is the revised request that you provided to the department after a request consultation process had been undertaken. While you did reduce the scope of your initial request by introducing timeframes, specifically reducing a four-week period down to two-weeks, this revised timeframe failed to sufficiently narrow the scope of the request. This is because despite the revised timeframe the volume of documents within scope remains significant because of the specific search terms that form part of your request.

A conservative estimate indicates that it would take the department at least 50 hours to process the revised request. This is based on an estimate that there are at least 1000 documents, consisting of at least 4,560 pages, relevant to the scope of the revised request. I note that this estimate does not include an estimate of the time it would take for the department to collect and review the documents subject to your request.

Accordingly, I am satisfied that a practical refusal reason remains in relation to your request and I have decided to refuse your request under section 24(1) of the FOI Act.

Review rights

If you are dissatisfied with any part of my decision, your review rights are set out in **Attachment A**.

For further queries or clarification, please contact the FOI team by e-mail at FOI@industry.gov.au.

Yours sincerely



Deborah Miliszewski
General Counsel – Legal
Chief Counsel and Integrity

25 September 2024

ATTACHMENT A**REVIEW RIGHTS****Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator
Department of Industry, Science and Resources
GPO Box 2013
CANBERRA ACT 2601

or by e-mail to: FOI@industry.gov.au.

Review by the Australian Information Commissioner

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218, Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

An application form is available on the website at www.oaic.gov.au. Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

Complaints to the Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at www.oaic.gov.au.

industry.gov.au

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