



Australian Government
Defence

FOI 171/24/25

Mr James Smith

foi+request-11971-4e3f3572@righttoknow.org.au

Dear Mr Smith,

NOTIFICATION OF A REQUEST CONSULTATION PROCESS – FOI 171/24/25

I refer to your request for access to documents from the Department of Defence (Defence) under the *Freedom of Information Act 1982 (Cth)* (FOI Act).

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

I am writing to tell you that I believe that the work involved in processing elements of your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size, complexity and scope. This is called a ‘practical refusal reason’ (section 24AA). I am aware Defence staff have contacted you in a less formal capacity to attempt to refine the scope of this FOI from its original form, and you have attempted to revise your request. However, your revision of 13 September 2024 remains too broad.

On this basis, I intend to refuse your revised request. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a ‘request consultation process’ as set out under section 24AB of the FOI Act. You have **14 days** to respond to this notice in one of the ways set out below.

Reason for Intending to Refuse Your Request

In your request dated 30 August 2024, you sought documents relating to:

- 1. the document setting out the Chief of Defence Force’s recommendations regarding medals made to the Defence Minister in about mid May 2023; and*
- 2. subsequent correspondence or materials relating to the same topic.*

On 13 September 2024, you advised in response to a consultation that:

Materials may include briefing notes, correspondence, presentations etc which would otherwise not be ‘correspondence’.

The date range is subsequent to the date of the document in item 1 (ie. from the date of that document until today, 13 September 2024).

The request covers a 16 month period. For the purpose of providing this notice, I have considered whether further processing of your request would be unreasonable.

I consider that further processing your request, as it currently stands, would be unreasonable because the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the agency from its other operations.

Section 24(1) of the FOI Act provides that an agency may refuse to give access to documents in accordance with an FOI request if:

- a practical refusal reason exists in relation to the request; and
- following a request consultation process under section 24AB of the FOI Act, the agency is satisfied that the practical refusal reason still exists.

Section 24AA(1)(a)(i) of the FOI Act provides that a practical refusal reason exists in relation to a FOI request if the work involved in processing the request would substantially and unreasonably divert the resources of the department from its other operations.

I find that a significant amount of resources would likely have to be diverted to arrange for the required searches to be undertaken, to review any documents that were identified as being possibly relevant to your request, any consultations reasonably required, and finally to undertake the decision making process on any documents that did meet the parameters of your request. This assessment is based on the following:

- As the date range extends over 16 months, significant staff work would be required to identify materials related to the subject matter of Chief of Defence Force (CDF) recommendations to the Minister on medals.
- Due to the level of public interest in the subject matter, a preliminary search for in scope documents includes Senate Estimates packs, Question Time Briefs, Departmental Talking points and Media monitoring; many of these have been prepared weekly or daily across the 16 month period.
- In assessing the impacts of further processing your request, the time required to examine these documents becomes a significant and compelling factor, given the context above.
- Relevant records would very likely need to be assessed for consideration of personal privacy and related matters for each individual document, and for considerations around FOI Act exemptions.
- Based on the current revised scope of your FOI request, we anticipate similar concerns on processing time would likely be raised by any non-Defence agencies involved in any third party consultation process.

Request Consultation Process

You now have an opportunity to revise your request to enable Defence to consider processing it.

Revising your request means greatly narrowing the scope of the request to make it more manageable or explaining in more precise detail the exact documents you wish to access. For example, by providing more specific information about exactly what documents you are interested

in, Defence may be able to identify a smaller number of documents more quickly, and avoid using excessive resources to process documents you are not interested in.

We suggest an alternative request might be for:

Item 1. *The document setting out the Chief of Defence Force's recommendations regarding medals made to the Defence Minister in about mid May 2023; and*

Item 2. *Subsequent correspondence or materials sent to the Defence Minister relating to the same topic.*

In its present form, the FOI application is extremely broad, and unlikely to be processed further.

Before the end of the consultation period, you must do one of the following, in writing:

- Withdraw your request
- Make a revised request
- Tell us that you do not wish to revise your request.

The consultation period starts on the day after you receive this notice and ends on 09 October 2024.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal reasoning outlined above, we will consider recommencing processing. (Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the time limit for processing your request.)

If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

Contact Officer

If you would to revise your request or have any questions, the contact officer for your request is:

Freedom of Information Case Manager
Email: foi.casemanagement@defence.gov.au

Yours sincerely,

Philip Moss

Group Captain
Accredited Decision Maker
Associate Secretary Group
Department of Defence

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24 September 2024