



3 October 2024

Oliver Smith

BY EMAIL: foi+request-12064-83c4cf92@righttoknow.org.au

In reply please quote:

FOI Request: FA 24/09/01061

File Number: FA24/09/01061

Dear Oliver Smith,

I refer to your email dated 18 September 2024, in which you requested access to documents held by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

You have requested access to the following:

Under the FOI Act, please provide a list of Ministerial Submissions sent by Home Affairs to the office of the Hon Tony Burke MP in his capacity as the Minister for Home Affairs, and Minister Immigration and Multicultural Affairs from the date of 12 August 2024 to 16 September 2024. Please include: the PDR number, subject of brief, and date sent to the office.

Intention to refuse request

I am writing to advise you that I intend to refuse your request on the basis that a practical refusal reason exists. However, before I make a final decision to do this, you have an opportunity to revise your request to remove the practical refusal reason. This is called a '*request consultation process*'. You have 14 days to respond to this notice in one of the ways set out below.

Power to refuse request

Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

Practical refusal

A *practical refusal reason* exists under section 24AA of the FOI Act if either (or both) of the following applies:

- (1)(a)(i) the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations
- (1)(b) the request does not satisfy the requirement in section 15(2)(b) of the FOI Act, which requires you to provide such information concerning the document you are seeking access to, to enable the Department to be able to identify it.

I consider that the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations, and accordingly that practical refusal reasons exist under section 24AA(1)(a)(i) of the FOI Act.

Reasons for practical refusal

The Department has made a preliminary assessment of the documents that would be captured by your request.

The Department has identified a total of 95 ministerial submissions that may be relevant to your request. As it has been identified that a large number of relevant ministerial submissions fall in the scope of your request, it will take a significant amount of time to consult on each ministerial submission title that meets the scope of your request.

The 95 ministerial submissions contain information concerning 30 business areas of the Department and 12 third parties. As such, the Department must not decide to give access to those documents unless the involved business area and the relevant third party have been consulted and provided with a reasonable opportunity to make exemption submissions. I estimate that this consultation process would take, on average, one hour per business area and third party, and require a total of at least **42 hours** to complete. This includes managing any queries raised by the business areas or third party in relation to the consultation.

In order to finalise this request, a decision maker would be required to assess the 95 ministerial submissions that have been identified by your request. On an average of 92 pages per ministerial submission, and based on the decision maker requiring 5 minutes to assess each page identified by your request, I estimate that the decision maker would require **728 hours** (refer to the below calculation) to assess the documents identified by your request. This would not include deciding whether to grant, refuse or defer access to the 95 ministerial submissions titles to which your request relates, and the resources that would have to be used to examine the ministerial submissions, and to notify you of a decision on access in your request.

Assessment time: 95 ministerial submissions x 92 pages x 5 minutes = 43,700 minutes or 728 hours.

As such, a total estimated time of over **770 hours** (including consultation) would be required to process this request.

I am satisfied that the Department would be required to divert significant resources from its current operations in order to identify, locate and collate the documents held within the Department, and to make a decision on access to those documents. This diversion would result in a significant drain on the resources of the area within the Department that would be required to process this request.

I consider that this would result in this request imposing both a substantial and an unreasonable diversion of resources of the Department from its other operations and that a practical refusal reason exists in relation to this request.

You now have an opportunity to revise your request to enable it to proceed.

Initial searches have identified a large number of the ministerial submissions due to the broad date range you provided.

As such, would you agree to revise your scope to a smaller date range, for example, a particular week from 12 August 2024 to 16 September 2024.

Under section 24AB(6) of the FOI Act, you have 14 days to do one of the following:

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

If you do not do one of the three things listed above during the consultation period (14 days), or you do not consult the contact person listed below during this period, your request will be taken to have been withdrawn in accordance with section 24AB(7) of the FOI Act.

Contact

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact FOI at foi@homeaffairs.gov.au.

Yours sincerely,

[Electronically signed]

Lyn
Position No. 60186967
Authorised Decision Maker
Department of Home Affairs