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Freedom of Information (FOI) request

Practical Refusal Consultation Notice

Reference: FOI/2024/408

Noseyrosey

By email: foi+request-12606-d61a0758@righttoknow.org.au

Dear Noseyrosey,

I refer to your request dated 14 December 2024 to the Department of the Prime Minister and Cabinet, under the *Freedom of Information Act 1982* (the FOI Act).

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

Notice of practical refusal reason

Section 24(1) of the FOI Act provides that a request to an agency may be refused if the decision maker is satisfied that a practical refusal reason exists in relation to that request.

I write to advise that your request in its current form does not satisfy the requirement in section 15(2)(b) of the FOI Act. This constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis the decision intends to refuse your request for access under the FOI Act.

Before a final decision to refuse the request can be made, you have an opportunity to revise your request. This is called a 'request consultation process' as set out in section 24AB of the FOI Act. You have 14 days to respond to this notice, as set out below. The 14 days commences the day after you receive this letter.

Reasons for intention to refuse your request

The request in its current form is very broad and complex as you are seeking a large range of documents spanning 23 different categories. It is also not clear if the Department is the appropriate agency to deal with your request, as the Department as a matter of practice does not deal with client information from the Department of Veterans' Affairs (DVA).

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the FOI Act:

- identifying, locating or collating documents within the filing system of the agency;
- examining the documents;

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- deciding whether to grant, refuse or defer access;
- consulting with other parties;
- redacting exempt material from the documents;
- making copies of documents;
- notifying an interim or final decision to the applicant.

You have provided a ten year timeframe in the terms of your request, which would require searches across current and legacy record repositories and systems including paper files. A number of these systems and repositories are no longer in active use by the Department and to conduct these searches multiple areas across Department would need to be engaged.

The broad nature and numerous categories of documents you are seeking will require multiple key word searches in current and legacy record systems, and will likely result in items which will require the decision-maker to make assumptions on whether reasonable searches have been conducted and all potentially responsive documents have been located. The task to search for and retrieve any documents possibly relevant to your request is in and of itself unreasonable.

In light of the above, the Department has been unable to identify the relevant area that would likely hold the documents relevant to your request.

Other matters that may be relevant in deciding if a practical refusal reason exists include the staffing resources available to an agency for FOI processing, whether the processing can only be undertaken by one or more specialist officers in an agency who have competing responsibilities, the impact that processing may have on other work in an agency including FOI processing, and whether there is a significant public interest in the documents requested.¹

The Department acknowledges that the processing of requests for access to documents is a legitimate part of each agency's functions, and that FOI requests may require the reallocation of resources within an agency in some circumstances. However, in this case, the Department is not able to reasonably divert its resources from its other operations to assist in processing this request. In reaching this view, the Department has had regard to the public interest in providing access to information but considers that this is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, in particular the processing of other FOI requests.

For the reasons given above, the decision maker considers that your request constitutes a practical refusal reason as it does not satisfy section 15(2)(b) of the FOI Act, in that it is not sufficiently clear to enable an officer to interpret and identify relevant documents.

¹ Paragraph 3.117 of the FOI Guidelines.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed. Revising your request can mean narrowing the scope of your request to make it more manageable, reducing the types of documents you are seeking access to and/or explaining in more detail the specific documents you wish to access. You may also wish to consider if you have directed your request, or parts of your request to the correct agency.

To assist you with identifying areas of the Department that may relate to your request please consider the PM&C organisation chart, available on our website.

See: [PM&C organisation chart | PM&C \(pmc.gov.au\)](#)

Action required

Section 24AB of the FOI Act provides that before the end of the consultation period you must do one of the following, in writing, within the next 14 days (**by 27 January 2025**):

- a. Withdraw the request;
- b. Make a revised request;
- c. Indicated that you do not wish to revise the request.

The consultation period runs for 14 days and starts on the day after you receive this notice. During this time, you may wish to seek assistance to revise your request from the contact person listed below.

If you do not do one of the above during the consultation period, your request will be taken to have been withdrawn².

No guarantee of access

Please be aware that even if you revise your FOI request to enable it to be processed, there is still no guarantee that documents will ultimately be released. That is a matter for the decision maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether your FOI request can be processed – not what the eventual outcome may be if it is processed.

² section 24AB(7) of the FOI Act

Calculating of the 30 day processing period

Please note that the time taken to consult with you regarding the scope of your FOI request, under this request consultation notice, is not taken into account for the purposes of calculating the 30 day period³.

Contact officer

Should you wish to discuss any aspect of your request, please contact the Department by email at foi@pmc.gov.au or by phone 02 6271 5849, quoting reference number FOI/2024/408.

Yours sincerely,



Tina,
A/g Senior Advisor
FOI and Privacy Section
13 January 2025

³ s 24AB(8) of the FOI Act