

Our Reference: 36687/15



ASIC

Australian Securities & Investments Commission

29 October 2015

Mr John Daniels

By email: [foi+request-1277-f9f2c0f5@righttoknow.org.au](mailto:foi+request-1277-f9f2c0f5@righttoknow.org.au)

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Dear Mr Daniels

**Freedom of Information Request –  
Notice to Identify Documents under section 24AB of the FOI Act**

I refer to your request for access to documents under the *Freedom of Information Act 1982 (FOI Act)* received on 3 October 2015. We apologise for the delay in acknowledging your request.

**Your request**

Your request is for access to the following:

*“ a copy of a document that contains an extract the minutes of meeting of a Select Committee of the Legislative Council of South Australia related to the Elder Smith & Co Limited Provident Funds Act 1963 ”.*

You have advised that the fund in question has also been known as the Elders IXL Superannuation Fund and more recently as the AusBev Superannuation Fund.

I advise your request does not comply with paragraph 15(2)(b) of the FOI Act as it does not provide enough information for me to identify the documents to which you seek access. Paragraph 15(2)(b) states that a request must ‘provide such information concerning the document as is reasonably necessary to enable a responsible officer of an agency to identify it.’ As paragraph 15(2)(b) has not been met ASIC may, under paragraph 24(1)(b) of the FOI Act, refuse to process your application.

In its current form, it would be my intention to refuse your application, and thereby not provide you with access to any documents under this request. However, to assist you to make a valid request, I make the following comments.

**Clarification of request**

I note that as ASIC is a federal agency, we would not typically be in possession of documents from the Legislative Council of South Australia. If you have reason to believe the document is in ASIC’s possession because, for example, you are aware that the document has been provided to ASIC, please indicate:

- the date the document was provided to ASIC (if known);
- the date of the meeting minutes you referred to; and

- the general content of the document; for example, whether it contains information other than the extract of the minutes of meeting you referred to.

This information will enable us to conduct the relevant searches for the document.

## **Charges**

You should be aware that while the first 5 hours of decision making in respect to FOI requests is free of charge, ASIC is able to charge for searching and retrieval of documents and decision making time in excess of 5 hours. The careful attention to the terms of the request can reduce the cost of the request. For example, if you are not seeking access to personal information of third parties, this may reduce the time involved in editing and decision-making at a later time when your request is clear.

As a general rule, an application must be processed within 30 days. However, please note that under subsection 24AB(8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter and resumes on the day after ASIC receives from you a request in writing which contains sufficient information to identify the documents required. This means that the time for processing your request will start again when we receive your revised response.

## **Consultation**

You can contact me by telephone on 03 9280 4638 or email [lauren.roy@asic.gov.au](mailto:lauren.roy@asic.gov.au) for assistance in making your request in a revised form which removes the grounds for refusal. If you would like to consult with me for this purpose, you are required to contact me within 14 days after the date that you receive this letter.

Please note that following any consultation, if you wish to amend the terms of your request, under paragraph 15(2)(a) of the FOI Act you need to confirm in writing the terms of your amended request.

Subsection 24AB(6) of the Act, provides that before the end of the consultation period you are required to have done one of the following:

- (a) withdrawn the request;
- (b) made a revised request;
- (c) indicated that you do not wish to revise the request

If I do not hear from you about the clarification of the terms of your request within 14 days after the date of this letter, your request will, under subsections 24AB(6) and 24AB(7) of the FOI Act, be taken to be *withdrawn*.

Yours sincerely



**Lauren Roy**

**(Authorised Decision-maker under subsection 23(1) of the FOI Act)  
For the Australian Securities and Investments Commission**