



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2016/189

Rudi Maxwell

By email: foi+request-2549-7368fb17@righttoknow.org.au

Dear Mr/s Maxwell

I refer to your email dated 2 November 2016 in which you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

Request all available documentation on the Prime Minister's Indigenous Advisory Council (IAC) from its formation in 2013 to the present time, including minutes from meetings, letters from the chair to the Prime Minister, any documentation regarding selection to the IAC, budget papers and any other relevant documentation.

The authorised decision-maker for your request is Ms Rachel O'Connor, Assistant Secretary, Strategic Policy Branch.

Notice of practical refusal reason

I write to advise you that, subject to possible clarification which would narrow your request, the decision-maker considers that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the Department from its other operations. This constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis, the decision-maker intends to refuse access to the documents you have requested.

However, before the decision-maker makes a final decision to refuse the request for a practical refusal reason, 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.

Reasons for intention to refuse your request

Pursuant to S24AA(1)(a)(i) of the FOI Act, a practical refusal reason exists in relation to a request for a documents if the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operation. The decision-

maker advises that providing all documentation related to the IAC since establishment is considered to be an unreasonable diversion of resources.

Pursuant to s24AA (2) of the FOI Act, in deciding whether a practical refusal reason exists, the agency is required to conduct searches to locate relevant material. In this case, relevant material would include but not limited to briefs, correspondence, emails, financial records, reports, meeting papers, minutes and resumes. Officers within the Department undertook initial searches to determine the estimate number of relevant documents involved. These preliminary searches identified a number of documents potentially falling in scope to this request, it is estimated to be in the thousands. Having regard to the large number of relevant documents potentially involved, the decision-maker considers processing your request would amount to a substantial and unreasonable diversion of the Department's resources.

Furthermore, given that there are a large number of documents involved in relation to your FOI request, it is possible that those documents may contain third party information. In the event where third party information exists, third party consultation is required. Based on the Department's previous experience in the time taken to consult and negotiate with third parties in relation to FOI requests, the Department considers the time required to prepare and send consultation letters and relevant documents, ensure correct contact details and evaluate any third party objections to the release of any documents would be, at the very least, 2 hours per consultation. A significant amount of time will be required to review the documents to determine what information in each of the documents should be provided to each of the third parties, while ensuring the information of other third parties is not disclosed during the consultation process. This will require marking up and redacting a different set of the documents for each of the third party consultations. If the number of hours required to consult with third parties was so large that it could amount to a substantial and unreasonable diversion of the Department's resources, the Department could refuse your FOI request on this ground.

In reaching this view, the decision-maker has had regard to the public interest in access to information held by the Department and considers that the public interest in access is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment.

The decision-maker 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 reallocation of resources within an agency. However, the decision-maker considers that the Department could not reasonably divert resources to assist in processing your request.

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 the request to make it more manageable or explaining in more detail the specific documents you wish to access.

You may wish to consider narrowing your proposed FOI request by reference to a more specific subject-matter relating to the documents you are seeking, or clarify the scope of your request.

Please note, for avoidance of doubt, that should you agree to limit your request in any way, this would not automatically remove the practical refusal ground outlined above, nor would it

guarantee that the processing of your request could then proceed. This would be a matter for the decision-maker having regard to the revised terms of your request,

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

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

The consultation period runs for **14 days** and will start on the day after you receive this notice. I am the relevant person for you to contact for the consultation process.

If you were to revise your request in a way that adequately addresses the practical refusal grounds outlined above, we would recommence processing it. Please note that the time taken to consult with you regarding the scope of your request is not taken into account for the purposes of the initial 30 day time limit for processing your request.

If you do not do one of the three things listed above during the 14 day consultation period or you do not consult with me during this period, your request will be taken to have been withdrawn.

Should you wish to discuss any aspect of your request, please contact the Department by email at foi@pmc.gov.au or by phone on 02 6271 5849.

Yours sincerely



FOI Adviser
Honours, Symbols and Legal Policy Branch

23 November 2016