

9 November 2017

Dan Monceaux

By email: foi+request-4145-01ca0c3a@righttoknow.org.au

Dear Mr Monceaux

Notice of intention to refuse FOI request - request consultation process

I refer to your request dated 15 October 2017 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to:

‘electronic copies (scans) of all minutes of all meetings of the EFIC board since its establishment’

This is a notice of an intention to refuse access to the documents you have requested because a ‘practical refusal reason’ exists under section 24(1) of the FOI Act. I am issuing this notice under section 24AB(2) of the FOI Act.

The practical refusal reason is that the work involved in processing the request would substantially and unreasonably divert the resources of Efic from its other operations as specified in subsection 24AA(1)(a)(i) of the FOI Act.

Request is substantial

Following initial enquiries, I estimate that 122 hours of processing time is required to deal with this request (excluding the time required to search for and retrieve electronic documents).

The reasons for this are as follows:

- FOI Act s 12 states that the FOI Act does not apply to documents which are under the ‘open access period’ in the *Archives Act 1983*. The *Archives Act* s 3(7) confirms that as at today’s date, the ‘open access period’ covers all documents up to and including 1993. Therefore in accordance with FOI Act s 12, you can only be provided with any documents dated 1994 onwards.
- Searches have confirmed that from 1994 through to the date of your request, there are a total of 189 Board Minutes documents. As your request is presently framed, all 189 of these documents are likely to be within the scope of your request.
- A sampling exercise was conducted with 24 of the 189 documents randomly sampled (one from each year) to ascertain the number of pages in each of

those documents. The average number of pages of these sampled documents was 7.8 pages.

- On the basis these documents average 7.8 pages each, approximately 1,474 pages of material will require examination.
- I estimate that examination of each page would take an average of 5 minutes, including consideration of the possible applicability of Efic's exemption as set out at Schedule 2, Part II of the FOI Act, and possible redaction for that and any other applicable exemptions.
- Based on the estimate of 5 minutes per page, of an estimated 1,474 pages, this would take an estimated 7,371 minutes of processing time.

In other words, if one person were to dedicate themselves to processing this request full time, it would take them 122 hours, or 17 days, or more than 3 weeks. Accordingly I am satisfied that this is a 'substantial' request.

As referred to above, we would also draw to your attention the fact that an exemption under the [FOI Act](#) applies to Efic, for documents concerning anything done by it under Parts 4 or 5 of the *Export Finance and Insurance Corporation Act 1991*(Cth). Without drawing any conclusions at such an early stage, I would note that the exemption applies to documents regarding these functions, which will likely have an effect on the number of documents able to be provided to you in response to this FOI request.

Request is unreasonable

For the purpose of providing this notice, I have considered whether the substantial resource burden would be unreasonable having regard to the following:

- The number of personnel and the time required to assist with the processing and decision-making for this FOI request;
- The likely application of the Efic exemption (as set out at Schedule 2, Part II of the FOI Act) to many of the documents which need to be considered and which may be relevant; and
- The very broad timeframe of your FOI request.

What you should do?

My colleague Rachael Glasson is the officer with whom you may consult with a view to making the request in a form that would remove the ground for refusal. You can contact her by phone on 02 8273 5467 or by email on rglasson@efic.gov.au.

Please note that even if you do modify your request, it is possible that a practical refusal reason under subsection 24AA(1)(a)(i) may still exist or Efic may need further time to process your revised request – this will depend upon the terms of your final request. As far as is reasonably practicable, we are happy to provide you

with further information to assist you in making your request in such a form that removes the practical refusal ground.

If you are able to pinpoint the specific documents within your request, or clarify more particularly the information you are seeking, that would assist. One aspect of the request that could be revised which may remove the practical refusal reason specified in subsection 24AA(1)(a)(i) of the FOI Act, would include narrowing the timeframe of your request to a shorter time period.

Further consideration would be required by the decision-maker in order to ascertain whether the practical refusal reason has been removed by any one or more of these suggestions above. To be clear, agreeing to one of the suggestions listed above may not be sufficient in and of itself, to remove the practical refusal reason.

I would be pleased to discuss with you in greater detail how your request might be appropriately revised.

Please note that you have 14 days from the date you receive this notice to either:

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

If you do not respond in one of these ways within 14 days the request will be taken to have been withdrawn pursuant to section 24AB(7) of the FOI Act. If you indicate you do not wish to revise your request, I will proceed to make a decision on whether to refuse the request on resource grounds under section 24(1).

If you need more time to respond, please contact me within the 14 day period to discuss your need for an extension of time.

Please note that under section 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed above.

Yours sincerely



Stephen Farmer
Senior Counsel & Head of Legal
Export Finance and Insurance Corporation