



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI
FOI/2018/100

Mr Snehan Kekre

By email: foi+request-4607-65c93c60@righttoknow.org.au

Dear Mr Kekre

I refer to your email of 28 May 2018 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:

“Copies of all briefings, communications, forms, reports, documents or notes mentioning or regarding the not-for-profit media organization WikiLeaks or its Australian staff, including but not limited to Julian Assange.”

On 7 June 2018 you clarified the scope of your request, confirming the following:

“I would be happy to limit the scope of my request to documents authored by Department of the Prime Minister and Cabinet personnel mentioning or regarding the not-for-profit media organization WikiLeaks or its Australian staff, including but not limited to Julian Assange, and excluding duplicates of documents and drafts.

Also, with the exception of WikiLeaks staff, I would be happy to exclude the personal information of any individuals contained in the documents, from the scope of my request. Additionally, I wish to exclude documents which are already publicly known or accessible.

If you can release via administrative access, please do, otherwise, treat this as an FOI request. I suggest these exclusions to make the process more practical, and would, therefore, be happy to further reframe my request if it is helpful.”

On 8 June 2018 you clarified the date range of your request as follows:

“I request for documents created between May 2012 - June 2018.”

The authorised decision-maker for your request is Mr Brendan MacDowell, Assistant Secretary, Government Division.

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

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:¹

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

Other matters may be relevant in deciding if a practical refusal reason exists such as 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.²

The Department has identified several thousand documents through initial searches using relevant key words in response to your FOI request.

The Department dedicates specialist staff resources to FOI processing. The FOI requests received by the Department are typically complex and cover sensitive matters. The combined effect of numbers of FOI requests, complexity and sensitivity means that the ability of the Department to fairly allocate its specialist FOI resources to processing other FOI requests would be substantially impaired if this FOI request were to be processed. Further, processing this FOI request would significantly impact on the staff resources of the decision-maker's branch.

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 reallocation of resources within an agency. However, the Department could not reasonably divert resources to assist in processing the request as it stands. In reaching this view, the Department has had

¹ 'Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*', Part 3 – Processing and Deciding on Requests for Access (Version 1.6, January 2016), [3.116].

² *Ibid*, [3.117].

regard to the public interest in providing access to information held by the Department but considers the public interest in providing access to information is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, including the processing of other FOI requests.

For the reasons given above, the decision maker considers that processing your request would be a substantial and unreasonable diversion of the Department's resources from its other operations.

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.

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 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



Jo-Anne
FOI Adviser
Legal Policy Branch

June 2018

