

LS7619

Mr Ben Fairless
Right To Know
By email to

foi+request-5407-a06ec080@righttoknow.org.au

Dear Mr Fairless

YOUR PURPORTED REQUEST NO. LS7619

I refer to your electronic request dated 9 May 2019 4.02am to the Australian Electoral Commission ('AEC') in which you request (your 'Purported Request') access to documents relating to comments on a "purported Vote of No Confidence".

2 I, Owen Jones, Senior Lawyer of the AEC, am an officer authorised under section 23(1) of the *Freedom of Information Act 1982* (the 'FOI Act') to make decisions in relation to requests for access to documents under the FOI Act ('FOI Requests').

3 Specifically, your Purported Request seeks access to:

internal documents in relation to an increase in the number of people commenting on the purported "Vote of No Confidence" or VONC for 2019.

4 I have three purposes in writing to you. First, I write to acknowledge receipt of your Purported Request. Second, I write to alert you that your Purported Request does not comply with the requirements of the FOI Act for the making of a valid FOI Request and to assist you in making a valid FOI Request. Third, I write to alert you to a practical refusal reason that applies to your Purported Request and to consult with you about resolving that reason.

DEFECTS IN YOUR PURPORTED REQUEST

Failure to adequately scope your Purported Request

5 The fundamental defect in your Purported Request is that, on its face, it gives insufficient information to enable a retrieval of relevant documents.

6 Insofar as is material, subsection 15(2) of the FOI Act provides:

15 Requests of access

(2) The request must:

...

- (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and ...

7 I therefore ask you to clarify the following aspects of your Purported Request:

- (a) What is the class of persons referred to by “people”?
- (b) Am I correct in confining the scope of your Purported Request to comments made to the AEC?
- (c) Are you able indicate the period during which the comments occurred?
- (d) To what does your reference to the “Vote of No Confidence” relate?

8 As regards to my question in paragraph 7(d), I observe that none of the AEC’s functions under the [Commonwealth Electoral Act 1918](#) relate to a vote of no confidence. I am therefore puzzled by the Purported Request.

Processing time has not started

9 As you have not made a valid FOI Request, the 30-day period for processing your Purported Request has not started. If you appropriately amend your request to make a valid FOI Request, I will write to you acknowledging that occurrence and outlining how that FOI Request will be processed.

PRACTICAL REFUSAL REASON

10 I believe that the work involved in your Purported Request (if re-submitted as a valid FOI Request without a substantial narrowing in scope) would substantially and unreasonably divert the resources of the AEC from its other operations due to your Purported Request being made at a time when the AEC’s resources are applied to delivering the 2019 federal election. Retrieval of documents during this period would distract staff from attending to delivering the 2019 federal election, which is a core function of the AEC.

11 This circumstance, if it arises in relation to a valid FOI Request, is called a ‘practical refusal reason’.

12 Insofar as is material, subsection 24AA(1) of the FOI Act provides:

24AA When does a *practical refusal reason* exist?

- (1) For the purposes of section 24, a ***practical refusal reason*** exists in relation to a request for a document if either (or both) of the following applies:

- (a) the work involved in the processing the request:

- (i) in the case of agency—would substantially and unreasonably divert the resources of the agency from its other operations;

...

- (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).

REVISION OF YOUR PURPORTED REQUEST

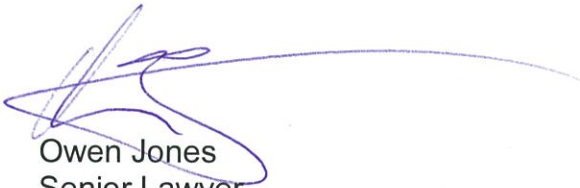
- 13 I invite you to revise your Purported Request to enable it to proceed as a valid FOI Request.
- 14 Revising your Purported Request can mean narrowing its scope to make it more manageable or explaining in more detail the documents you wish to access. For example, providing more specific information about exactly what documents you are interested in may enable the AEC to pinpoint the documents more quickly and avoid using excessive resources to process other documents.

CONTACT OFFICER

- 15 If you would like to revise your Purported Request or have any questions, please contact me at:

| | |
|------------|------------------------------------|
| email: | owen.jones@aec.gov.au |
| fax: | 02 6293 7657 |
| post: | Locked bag 4007, Canberra ACT 2601 |
| telephone: | 02 6271 4528 |

Yours sincerely



Owen Jones
Senior Lawyer
Legal Services
Legal and Procurement Branch

13 May 2019