



14/4659

9 April 2014

Mr Robert Candelori
Email only: foi+request-570-f780baf0@righttoknow.org.au

Dear Mr Candelori

Freedom of Information Request no. FOI14/044

I refer to your request for access to documents relating to section 18C of the *Racial Discrimination Act 1975 (Cth)*, under the *Freedom of Information Act 1982* (FOI Act).

I, Stephen Bouwhuis, Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

I am writing to tell you that I believe that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size and broad scope. This is called a 'practical refusal reason' (section 24AA).

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, 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.

Why I intend to refuse your request

In your request you sought documents relating to:

- "...any and all internal correspondence, ministerial briefing papers, policy documents, memos or file notes relating to the proposed repeal of section 18C of the *Racial Discrimination Act 1975* between 8 September 2013 and 28 March 2014".

I decided that a practical refusal reason exists because I have determined that processing this request would substantially and unreasonably divert the resources of this Department from its operational activities.

In coming to this decision I have considered the elements that the agency must have regard to under section 24AA(2) of the FOI Act, including the resources that would be used for:

- identifying, locating or collating the documents within the filing system of the agency
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request)

- making a copy or an edited copy, of the document, and
- notifying any interim or final decision on the request.

To assist me with my decision, Departmental officers conducted a search of the Department's electronic records management system and identified approximately 1000 documents falling within the scope of your request.

A sample of these documents was assessed in order to provide an estimate of the time it would take to process your request. The average length of each record is estimated to be two pages, which means that Departmental officers will be required to assess at least 2000 pages of material in the course of processing your FOI request. Based on recent experience, examining the documents for sensitivities and potentially exempt material will take officers approximately 10 minutes per page. It is estimated that reviewing all of the documents returned through our searches will take approximately 333 hours, which equates to almost 45 full working days. Some of the documents may potentially be exempt from release as cabinet documents and others may contain deliberative processes of the Government. Additional time will be required for other Departmental officers to assess the documents against the legislative requirements of the FOI Act, and then to redact those documents.

Given the size of the Departmental area dealing with this request, and the amount of other operational work the area does, I consider that it is unreasonable to divert one or more persons to process this request for a number of full days. I am satisfied that 45 full working days is a substantial and unreasonable diversion of the Department's resources from its other operations.

I have not taken any irrelevant factors into account in coming to this decision. The reason for my decision is based on the amount of resources available to the Department and the substantial amount of time likely to be diverted by this 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 documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, our agency will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.

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

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

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. (Please note that the time taken

to consult you regarding the scope of your request is not taken into account for the purposes of the 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 the contact person during this period, your request will be taken to have been withdrawn.

Contact officer

If you would like to revise your request or have any questions, please email foi@ag.gov.au.

Yours sincerely



Stephen Bouwhuis
Assistant Secretary
Attorney-General's Department

