



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/069

Mr Brett Wilson

By email: foi+request-6242-1737dd91@righttoknow.org.au

Dear Mr Wilson

On 18 March 2020 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:

It is requested that your office provide copies of all documents, correspondence and emails between your office and the World Health Organisation between 01 Jan 2015 and 18 Mar 2020.

It is requested that your office provide copies of all documents, correspondence and emails between your office and the United Nations between 01 Jan 2015 and 18 Mar 2020.

It is requested that your office provide copies of all documents, minutes, official letters, other correspondence and emails between your office and the Reserve Bank of Australia between 01 Oct 2019 - 18 Mar 2020.

It is requested that your office provide copies of all documents, minutes, official letters, other correspondence and emails between your office and the US Federal Reserve Central Bank between 01 Oct 2019 - 18 Mar 2020.

On 15 April 2020, the Department issued you a practical refusal consultation notice (PRCN) under section 24AB of the FOI Act, which advised that your request raised a practical refusal reason under section 24AA of the FOI Act, namely that the work involved in processing your request would substantially and unreasonably divert the resources of the Department from its other operations. The PRCN also provided you with an opportunity to revise the terms of your request.

On 17 April 2020, you wrote to the Department in which you revised the terms of your request to the following:

1. *It is requested that your office provide copies of all official documents and correspondence between your office and the World Health Organisation (WHO) between 01 Aug 2019 and 18 Mar 2020 inclusive that relate to all pandemic scenarios and the Covid 19 emergency response.*
2. *Provide copies of official documents that relate to WHO requests for Australian Government Funding between the above dates and in relation to the Covid 19 Emergency Response i.e. copies of official documents outgoing and incoming - does not include emails.*
3. *Provide copies of official documents - letters sent between the PMs Office and the United Nations between: 01 Aug 2019 and 18 Mar 2020 that relate to any planned pandemic response and pre planned police state actions in relation to lock down and restriction of freedom of movement for the Australian Federal Governments response to any pandemic or specifically Covid 19.*
4. *Provide documents that might relate to the possible activation of the Government Deposit Guarantee - \$250,000 FCS guarantee i.e. documents that relate to this subject between 1 Aug 2019 and 18 Mar 2020 inclusive.*
5. *Provide copies of all official letters, minutes and emails between your office and the Reserve Bank of Australia between 01 Aug 2019 - 18 Mar 2020 that relates directly to the recent financial stimulus of the Australian Banking and Financial system and the appropriation of \$105 Billion AUD stimulus.*
6. *Provide copies of all official letters between your office and the US Federal Reserve Central Bank between 01 Aug 2019 - 18 Mar 2020 that relates to the financial stimulus of the Australian Banking and Financial system (the **revised request**).*

Authorised decision-maker

Mr Trevor Jones, Assistant Secretary, Disaster Preparedness and Response Branch, is the authorised decision-maker for your revised request.

Notice of practical refusal reason

As indicated in the Department's letter of 15 April 2020, section 24(1) of the FOI Act provides that a request to an agency may be refused if the decision-maker is satisfied that a practical refusal reason (as set out in section 24AA of the FOI Act) exists in relation to the request.

I write to advise you that the decision-maker considers that your revised request raises a practical refusal reason, namely that the work involved in processing your revised request, in its current form, would substantially and unreasonably divert the resources of the Department from its other operations. Consequently, 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 a further 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

Preliminary searches undertaken to date have identified over 2,400 documents that may fall within the scope of your revised request. Before the decision-maker can make a decision regarding any disclosure of documents, Departmental officers would need to be examine each of the 2,400 documents. The decision-maker has formed the view that, in order to process your revised request, the task of thoroughly examining the material identified to date, firstly to confirm whether the material is within the scope of the revised request and, secondly, to decide whether that material should be released, will be substantially time consuming. Departmental officers would then need to check each document, make possible redactions, prepare a schedule of documents and draft a decision letter. Doing so would add to the time required to process your revised request.

It is also likely that the documents that are ultimately identified as within the scope of your revised request would require consultation with a wide range of third parties.

In light of the above, it is apparent that your revised request, in its current terms, remains manifestly voluminous.

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. In reaching this view, the Department has had regard to the public interest in access to information held by the Department but considers 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, including the processing of other FOI requests.

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

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 2018), [3.116].

² *Ibid*, [3.117].

Request consultation process

You now have an opportunity to further revise your revised request to enable it to proceed, such as by narrowing the scope of the request to make it more manageable or explaining in more detail the specific documents you wish to access. We will assess whether any further revised request has removed the practical refusal reason.

For example, you may wish to limit your request only to point 4 of the revised request, namely for “*documents that might relate to the possible activation of the Government Deposit Guarantee - \$250,000 FCS guarantee i.e. documents that relate to this subject between 1 Aug 2019 and 18 Mar 2020 inclusive.*”

No guarantee of access

Please be aware that even if your further revised request removes the practical refusal reason, there is still no guarantee that documents will ultimately be released. That is a matter for the decision-maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether your FOI request can be processed – not what the eventual outcome may be if it is processed.

Action required

Section 24AB of the FOI Act provides that you must do one of the following, in writing, within the next 14 days:

- revise your FOI request;
- indicate that you do not wish to revise it; or
- withdraw the FOI request.

If you do *not* do one of the above within the next 14 days, your FOI request will be taken to have been withdrawn.

If you were to revise your FOI request in a way that adequately addresses the above concerns and makes it manageable, the Department will recommence processing it.

Calculation of 30 day period

Please note that the time taken to consult with you regarding the scope of your FOI request is not taken into account for the purposes of calculating the 30 day period during which the Department is required to take all reasonable steps to process your FOI request.

Should you wish to discuss your request, please contact the Department’s FOI and Privacy Section on (02) 6271 5849, or by email to foi@pmc.gov.au, quoting reference number FOI/2020/069.

Yours sincerely



A/g Senior Adviser
FOI and Privacy Section
20 April 2020