



**Australian Government**  
**Department of Industry, Science,**  
**Energy and Resources**

Our ref: 66405

Harry Witherspoon

By email: [foi+request-6428-7b853803@righttoknow.org.au](mailto:foi+request-6428-7b853803@righttoknow.org.au)

Dear Mr Witherspoon

**Freedom of Information Act – Multiple Request & Notice of intention to refuse**

I refer to your three requests received by the Department of Industry, Science, Energy and Resources (the department) on 25 June 2020, in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to documents in relation to the Incubator Support Initiative.

Section 42(2)(b) of the FOI Act provides that:

*For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:*

*(b) the request relate to documents, the subject matter of which is substantially the same.*

In accordance with section 42(2)(b) of the FOI Act, I am writing to provide you with a notice that the department is satisfied that your multiple request can be treated as a single request.

As such, you sought access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

1. *...the following contracts (including any amendments):*
  - a. *CN3495925 - TMINUS ACCELERATOR and Department of Industry, Science, Energy and Resources*
  - b. *CN3495926 - BRADOAKS PTY LTD and Department of Industry, Science, Energy and Resources*
  - c. *CN3494977 - BUSINESS IN BARE FEET and Department of Industry, Science, Energy and Resources*
  - d. *CN3497362 - WE ARE ARISING PTY LTD and Department of Industry, Science, Energy and Resources*
  
2. *...the Incubator Support Initiative 'MedTech's got talent' grant application. Grant details follow:*

*GA ID: GA35362*  
*Agency: Department of Industry, Science, Energy and Resources Approval Date: 16-Mar-2018*  
*Publish Date: 4-Mar-2019*  
*Category: Industry Innovation*  
*Recipient Name: THE ACTUATOR OPERATIONS LTD*
  
3. *I would like to see:*
  - a. *all emails and SMS messages received by regional incubator facilitator Daniel Smith (TMINUS ACCELERATOR) from any Department staff member or Australian Public Service employee; and*

- b. all emails and SMS messages sent by regional incubator facilitator Daniel Smith (TMINUS ACCELERATOR) to any Department staff member or Australian Public Service employee.*

Under subsection 24(1) of the FOI Act, I am satisfied that a practical refusal reason exists in relation to this request. The practical refusal reason is that the work involved in processing the request would substantially and unreasonably divert the resources of the department from its other operations.

My view is based on a conservative estimate that over 500 hours of decision making and processing time is required to deal with this request. I also wish to advise that:

- I estimate that, based on a single email account, there are over 515 documents and approximately 966 pages relevant to your request as presently framed;
- There are at least 200 third parties identified in the relevant documents and consultation will be required prior to considering possible release of many of the documents falling within the scope of the request.
- There are additional areas, including a large number of email accounts and mobile phones, where searches have not been completed which are likely to have additional relevant documents and therefore the total number of relevant documents is likely to be substantially higher than the estimate; and
- Many of the documents you are seeking contain sensitive information that requires more decision making time, thus adding to the voluminous nature of your request.

In accordance with section 24(1)(a) and 24AB of the FOI Act, I am writing to provide you with written notice that I intend to refuse your request on the grounds that a practical refusal reason exists and to initiate a request consultation process in accordance with section 24AB of the FOI Act.

### **Request consultation process**

Before I make a decision to refuse your request under section 24(1)(b) of the FOI Act, I would like to provide you with the opportunity to revise the scope of your request so that a 'practical refusal reason' no longer exists. Although it is your responsibility to suggest ways that your request may be revised and narrowed, you may consider the following suggestions to revise the scope of your FOI request (please note that these are suggestions only and do not guarantee the practical refusal reason/s will no longer exist):

- Consider refining the scope of your request to a particular time period, or subject matter
- Clarify whether there are any specific email accounts or phone accounts relevant to your request.

Should you wish to revise your request, you must do so **within 14 days** after the day you are given this notice (unless extended by agreement with the department). If you are unable to meet this deadline and wish to arrange an extension of time in which to consider this matter, or would like to discuss how you could best revise the scope of the request, please contact the FOI team by email at [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

Under subsection 24AB(6) of the FOI Act, you must, before the end of the 14-day consultation period, do one of the following by written notice to the department:

- a) withdraw the request;

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GPO Box 2013 Canberra ACT 2601 ABN: 74 599 608 295

- b) make a revised request; or
- c) indicate that you do not wish to revise the request.

Please note that under subsection 24AB(7), the request is taken to have been withdrawn at the end of the 14 day consultation period if:

- (a) the applicant does not consult the contact person during the consultation period in accordance with this notice; or
- (b) the applicant does not do one of the things mentioned in subsection(6) before the end of the consultation period.

In accordance with subsection 24AB(8) of the FOI Act, the 14-day consultation period is to be disregarded in calculating the processing period for the request.

Your written response should be addressed to:

FOI Coordinator  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

Or by email to: [FOI@industry.gov.au](mailto:FOI@industry.gov.au)

Should you wish to discuss this matter further, please contact the FOI team by email at [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

Yours sincerely



Sasha Pestic  
Senior FOI Officer  
Legal, Audit & Assurance

8 July 2020