



## Australian Government

### Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT  
BARTON

FOI/2014/125

Henare Degan

By email: [foi+request-677-483996e6@righttoknow.org.au](mailto:foi+request-677-483996e6@righttoknow.org.au)

Dear Henare Degan

I refer to your email of 12 July 2014 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:

*This is an application for all documents, reports and emails etc. since January 1, 2014 regarding the two recent appointments to the Nomination Panel for ABC and SBS Appointments of Dr Janet Albrechtsen and the Hon Neil Brown QC.*

*Please treat this as a request for administrative access. If for some reason the request cannot be dealt with in this way, please treat it as a formal application under the Freedom of Information Act*

The authorised decision-maker for your request is Neil Williams, Assistant Secretary, Industry & Communications Branch.

#### Notice of practical refusal reason

I write to advise you also that, subject to possible clarification which would narrow your request, Mr Williams 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(1)(a) of the FOI Act. On this basis, he intends to refuse access to the documents you have requested.

In addition, we note that your request seeks access to 'all documents'. With language this broad, your request in its current form does not provide sufficient information to enable the Department to identify all relevant documents because it is unclear what documents might be covered by your request. An officer of the Department would not be able to identify, with certainty, all of the documents to which you seek access. This constitutes a 'practical refusal reason' under section 24AA(1)(b) of the FOI Act. Accordingly, Mr Williams intends to refuse access to the documents you have requested on this basis also.

However, before Mr Williams makes a final decision to refuse the request for practical refusal reasons, 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**

Your request is exceptionally broad. Accordingly, Mr Williams considers the effort required to process your request would be a substantial and unreasonable diversion of the Department's resources. Following searches across various areas of the Department, any documents relevant to your request would then need to be reviewed to determine if any consultation is necessary with other agencies or third parties. Given the terms of your request, it is likely to be voluminous in nature. Third party consultation will also likely be required, and this will add to the time required to process your request. Following any necessary consultation with agencies and third parties, each document would need to be assessed for possible release by the decision-maker. Subject to consideration of particular documents, additional time would be required to consider, prepare and notify a decision on your request and any relevant documents that could be released. If Mr Williams were to make a decision to release material contrary to the objections of any third parties, then additional time would be required to prepare and notify decisions to the third parties.

Accordingly, the Department considers a substantial and unreasonable amount of resources would need to be dedicated to finalise searches across the Department, settling relevant third parties in the documents, preparing the documents to provide to those third parties for consultation (including redacting the personal and business information of other individuals and third parties), drafting consultation notices, ensuring correct contact details and evaluating any third party objections to the release of any parts of the documents, decision-making (and related other tasks), and finally notifying you and the third parties of the final decision.

Mr Williams further considers the impact that would be had on the line area and FOI area to undertake other work would be substantially and unreasonably diverted. Mr Williams 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, Mr Williams considers that the Department could not reasonably divert resources to assist in processing your request.

Further, noting the factors that Mr Williams must have regard to under subsection 24AA(2) of the FOI Act, your request seeks '*all documents*.' Mr Williams advises that he cannot be satisfied that '*all documents*', relating to your request could be located by the Department noting the significant work activity since 1 January 2014.

Mr Williams 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, Mr Williams considers that the Department could not reasonably divert resources to assist in processing your 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 specific documents you wish to access.



It may be that there is some aspect of your request that you are particularly interested in that could be isolated with a view to narrowing the terms of the request. Further information about the particular information you are seeking to access would be of assistance in providing guidance on how to remove the practical refusal reason. You may for instance also wish to:

- limit your request to particular types of documents only;
- exclude documents after the appointments were announced – for example, your request may now catch other FOI requests from other applicants, media enquiries and correspondence from members of the public received since the appointments were announced;
- narrow the timeframes for documents caught by the request;
- exclude documents containing communications with other agencies;
- exclude documents relating to potential appointees other than those appointed;
- exclude personal information and business information concerning potential appointees other than those appointed; and/or
- advise any other matters you may wish to suggest, including but not limited to contextual information that could help narrow the scope.

However please note for the avoidance of doubt that should you agree to limit your request in any of the way suggested above, or take on board any of our comments above, this would not automatically remove the practical refusal grounds outlined above, nor would it guarantee that the processing of your request could then be processed.

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 me by telephone on (02) 6271 5849 or by email to [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

Yours sincerely



FOI Adviser  
Legal Policy Branch

o/ August 2014