



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

Our ref: LEX 68215

Mr Menzies
Right to Know

By email: foi+request-7105-3f656849@righttoknow.org.au

Dear Mr Menzies

Freedom of Information Act – Notice of intention to refuse

I refer to your request received by the Department of Industry, Science, Energy and Resources (**the department**) on 23 February 2021 in which you sought access under the *Freedom of Information Act 1982 (FOI Act)* to the following:

Please release all documents created by Erin Higuchi suggesting to or requesting from Alan Hilvert-Bruce to interfere/manage/respond to FOI requests.

Please release all documents created by Erin Higuchi suggesting to or requesting from Alan Hilvert-Bruce to interfere/manage/respond to FOI requests that seek names of legal counsel.

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 110 hours of decision making and processing time is required to deal with this request. I also wish to advise that:

- I estimate that there are over 15 documents comprising approximately 585 pages relevant to your request as presently framed;
- there are at least 3 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 where searches have not been completed, which are likely to identify additional documents that have not been included in the processing time 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 wish to consider the following (please note that these are suggestions only and do not guarantee the practical refusal reason/s will no longer exist):

- narrowing the date range for the required documents;
- specifying particular FOI requests that you are referring to, rather than any FOI requests;
- specifying particular types of documents that you are seeking; and/or
- narrowing the subject matter and context of the documents being sought, rather than documents that relate either to interfering, managing or responding to any FOI requests.

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.

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;
- 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

industry.gov.au

Industry House - 10 Binara Street, Canberra City, ACT 2601
GPO Box 2013 Canberra ACT 2601 ABN: 74 599 608 295

Should you wish to discuss this matter further, please contact the FOI team by email at FOI@industry.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sasha Pestic', written over a vertical line.

Sasha Pestic
Senior FOI Officer
Legal, Audit & Assurance

11 March 2021