



Australian Government
Department of Industry, Science,
Energy and Resources

Our ref: LEX68432

Menzies

By email: foi+request-7167-cc5b67cd@righttoknow.org.au

Dear 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 22 March 2021, in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

- as bundle A - please release documents demonstrating Zoe Naden to be at Senior Executive Service level by 3/12/2019

- as bundle B - please release documents demonstrating the authority for Zoe Naden to act in the capacity of general manager by 3/12/2019

- as bundle C - please release documents demonstrating the authority for Zoe Naden to act in the capacity of Incubator Support Initiative Delegate by 3/12/2019 in line with the Duty Statements here- <https://protect-au.mimecast.com/s/aH2LCOMxKxURNEDWFEeyza?domain=righttoknow.org.au...>

- as bundle D - please release documents demonstrating that Zoe Naden was on leave on 3/12/2019

- as bundle E - please release documents demonstrating that Zoe Naden was on leave on 4/12/2019

Under subsection 24(1) of the FOI Act, I am satisfied that a practical refusal reason exists in relation to this request, particularly with respect to parts B and C. The practical refusal reason is that the request does not satisfy the requirement in paragraph 15(2)(b) of the FOI Act (identification of documents).

Paragraph 15(2)(b) of the FOI Act provides that a request must provide such information as is reasonably necessary to enable the agency to identify the documents that are being requested.

I am unable to reasonably identify what documents you are seeking in relation to Parts B and C of your request because, based on the wording of both your request, it is unclear what documents are intended to be sought. In particular, the use of the word 'demonstrating' is open to multiple interpretations, and is subjective as to the kinds of documents that would satisfy a reasonable person as to the existence or non-existence of the information sought. As such, without further clarification, the department is unable to conduct a search for possible documents that fall within the scope 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 clarified, you may consider specifying what type of document(s) you are seeking. For example, you might want to ask for a delegation instrument, general manager role/position statement, a policy document, or a document relating to this instance of the specified employee acting as general manager only.

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

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 Pesic', written over a vertical line.

Sasha Pesic
Senior FOI Officer
Legal, Audit & Assurance

19 April 2021