



20 December 2021

Our ref: CRM2022/909

Ms Alice Verbatim

By Email Only: foi+request-7886-37f356c3@righttoknow.org.au

Dear Ms Verbatim,

Freedom of Information Request – Section 24AB(2) Notice

I refer to your email of 22 September 2021 seeking information under the *Freedom of Information Act 1982* (the Act).

Substantial and unreasonable diversion of resources

This is a notice under section 24AB(2) of the Act of an intention to refuse to grant access to the documents you have requested because a 'practical refusal reason' exists under section 24(1) of the Act.

For the reasons outlined below, I am satisfied that the work involved in processing your request would substantially and unreasonably divert the resources of the AFP from its other operations as set out in section 24AA(1)(a)(ii) of the Act.

The FOI Team have undertaken a preliminary search for the documents relevant to your request. This has included searches undertaken by AFP Property Operations. Based on these searches, the AFP considers your request will capture in excess of 2,481 pages of material.

Based on a conservative estimate (3 minutes per a page for review and assessment, two hours per a business area for searches (at least 2 related areas) and 10 hours for a decision to be prepared and finalised), the AFP considers your request as presently drafted will take over 124 hours to process.

This does not take into account the time necessary for third party business consultations. There are approximately 2,165 businesses referenced in the relevant material. Again, based on a conservative estimate (2 hours per consultation), the AFP considers that consulting businesses that may reasonably wish to make a contention that the information is conditionally exempt will take in excess of 4,330 hours to process.

Accordingly, I consider processing your request in its current form would be an unreasonable diversion of AFP resources and a substantial burden on the AFP FOI Team, and relevant AFP business areas. This will substantially impact on other requests for information to the detriment of a number of other applicants, and the AFP's ability to perform its usual functions.

An extract of sections 24AA and 24AB of the Act is attached for your information.

Next Steps

You now have 14 days from the date of this letter to consult with the AFP regarding the scope of the request. During this period you may wish to withdraw your request, make a revised request or indicate you do not wish to revise your request. Should you not avail yourself of this opportunity to consult with the AFP, your request will be considered withdrawn. Should you not revise the scope of the request to remove the practical refusal reason notice will be given of a decision to refuse access.

Sam is the agency officer with whom you may consult with a view to making the request in such a form that would remove the ground for refusal. He may be contacted on (02) 5126 4160, by email at foi@afp.gov.au or at the postal address indicated below

Suggestions to remove the practical refusal reason

Your request, as currently drafted, is broad seeking all material relating to the costs of maintaining and running the AFO College Barton, specifically the cost of repairs and maintenance to the building. You have also requested documents relating to the maintenance of the roof, including how many occurrences of water leaks since the major refurbishment in the 1990s.

The following information is provided to assist you in making a request in such a form that the grounds for the section 24AA refusal is removed.

Should you wish to narrow the scope of your request, you may wish to consider:

- identifying a specific category of documents such as, the work order history for Barton College or a YTD Summary of repairs and maintenance for 2017-2022;
- Identifying the specific discussions of repair and maintenance of the building you refer to in your current request or excluding this component of your request;
- removing documents already in your possession which have either been supplied and/or provided to you;
- excluding all third party business information;
- narrowing the focus of your request to specific types of repairs or maintenance; and/or
- narrowing the focus of your request to a specific aspect of the costs of running the building.

Please note, it is unlikely that adopting only one of the above suggestions will be sufficient to remove the practical refusal reason.

Yours sincerely,



Natalie Woodberry
Senior Lawyer and Acting Team Leader
Freedom of Information and Information Law
Chief Counsel Portfolio

24AA When does a *practical refusal reason* exist?

- (1) For the purposes of section 24, a ***practical refusal reason*** exists in relation to a request for a document if either (or both) of the following applies:
 - (a) the work involved in processing the request:
 - (i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister’s functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
 - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
 - (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency’s or Minister’s belief as to what the applicant’s reasons are for requesting access; or
 - (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a *request consultation process*?

Scope

- (1) This section sets out what is a ***request consultation process*** for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the ***contact person***) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the ***consultation period***) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), **reasonable steps** includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.