



## Australian Government

### Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT  
BARTON

FOI/2020/124

[REDACTED]

[REDACTED]

[REDACTED]

I refer to your email of 22 May 2020 in which you made a request to the Department of Health under the *Freedom of Information Act 1982* (Cth) (the **FOI Act**) for:

*the transcript/copy of the conversation between the Hon Scott Morrison and Mr Bill Gates, which is discussed in the below news item. In addition, please send me all other communications and emails you have available regarding this conversation.*

<https://www.9news.com.au/national/coronavirus-australia-scott-morrison-bill-gates-who-world-health-organization-discussion-donor-funding-covid-19/7c72c208-4bd6-4195-be35-6418ae2c96ca>

On 25 May 2020 the request was transferred to the Department of the Prime Minister and Cabinet (the **Department**) in accordance with section 16 of the FOI Act.

#### **Authorised decision-maker**

The authorised decision-maker for your request is Mr John Neil, Acting Assistant Secretary, COVID-19 Health Priorities, Social Policy Division.

#### **Notice of practical refusal reason**

Section 24(1) of the FOI Act provides that a request to an agency may be refused if the decision maker is satisfied that a practical refusal reason (as set out in section 24AA of the FOI Act) exists in relation to the request.

I write to advise you that the decision maker 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 of the FOI Act. On this basis, the decision maker intends to refuse access to the documents you have requested.

However, before the decision maker makes a final decision to refuse the request for a practical refusal reason, 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**

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the FOI Act:<sup>1</sup>

- identifying, locating or collating documents within the filing system of the agency;
- examining the documents;
- deciding whether to grant, refuse or defer access;
- consulting with other parties;
- redacting exempt material from the documents;
- making copies of documents;
- notifying an interim or final decision to the applicant.

Other matters may be relevant in deciding if a practical refusal reason exists such as the staffing resources available to an agency for FOI processing, whether the processing can only be undertaken by one or more specialist officers in an agency who have competing responsibilities, the impact that processing may have on other work in an agency including FOI processing, and whether there is a significant public interest in the documents requested.<sup>2</sup>

Preliminary searches undertaken to date have identified over 17,000 search results that may fall within the scope of your request based on relevant search terms, for example documents containing both the search phrases ‘Bill Gates’ and ‘Prime Minister’, and relevant dates in April and May 2020.

Before the decision-maker can make a decision regarding any disclosure of documents, these documents would need to be carefully examined. The decision-maker has formed the view that, in order to process your FOI request, the task of thoroughly examining the material identified to date, firstly extracting the documents that were identified in the results and, secondly examining the documents to confirm whether the material is within the scope of the FOI request (considered as part of searches) and, thirdly, to decide whether that material should be released will be substantially time consuming. The documents would then have to be checked, possible redactions made, a schedule of documents prepared and a decision letter written (considered as part of processing the request under the FOI Act), which would also add to the time required to process your FOI request.

It is also likely that the documents that are ultimately identified as within the scope of your request would require consultation with third parties. For the searches alone, based on the number of search results and conservatively estimating 45 seconds per result to retrieve each document identified in the search results, manually review the document to identify if it is within scope and mark it as either in or out of scope will take in excess of 210 hours just to complete searches for this request. Please note that this does not include the time to process the documents identified as being in scope of the request.

The Department 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

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<sup>1</sup> ‘Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*’, Part 3 – Processing and Deciding on Requests for Access (Version 1.6, January 2018), [3.116].

<sup>2</sup> *Ibid*, [3.117].

resources within an agency. However, the Department could not reasonably divert resources to assist in processing the request. In reaching this view, the Department has had regard to the public interest in access to information held by the Department but considers the public interest in access is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, including the processing of other FOI requests.

For the reasons given above, the decision maker considers that processing your request in its current form would be a substantial and unreasonable diversion of the Department's resources from its other operations.

### **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. We will assess whether any revised request has removed the practical refusal reason.

You may wish to consider revising your FOI request by, for example:

- limiting your request to formal briefs;
- specifying a timeframe.

### **No guarantee of access**

Please be aware that even if you revise your FOI request to enable it to be processed, there is still no guarantee that documents will ultimately be released. That is a matter for the decision-maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether your FOI request can be processed – not what the eventual outcome may be if it is processed.

### **Action required**

Section 24AB of the FOI Act provides that you must do one of the following, in writing, within the next 14 days:

- revise your FOI request;
- indicate that you do not wish to revise it; or
- withdraw the FOI request.

If you do *not* do one of the above within the next 14 days, your FOI request will be taken to have been withdrawn as per subsection 24AB(7) of the FOI Act. If you were to revise your FOI request in a way that adequately addresses the above concerns and makes it manageable, the Department will recommence processing it.

### **Calculation of 30 day period**

Please note that the time taken to consult with you regarding the scope of your FOI request is not taken into account for the purposes of calculating the 30 day period during which the Department is required to take all reasonable steps to process your FOI request.

Should you wish to discuss your request, please contact the Department's FOI and Privacy Section on (02) 6271 5849, or by email to [foi@pmc.gov.au](mailto:foi@pmc.gov.au), quoting reference number FOI/2020/124.

Yours sincerely



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Legal Policy Branch | Government Division  
Department of the Prime Minister and Cabinet  
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