



FOI reference: 23-004

Dear [REDACTED]

FOI 23-004 NOTICE OF DECISION UNDER THE FREEDOM OF INFORMATION ACT

I refer to your request to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**the Department**) received on 6 July 2022 for access to documents under the *Freedom of Information Act 1982* (**the FOI Act**).

Copies of all documentation, reports, emails, notes, financial costings, expenditure, risk analysis etc between the Administrator Eric Hutchinson, public servants and contractors of the Department of Infrastructure, Transport, Regional Development, Communication and the Arts, any other department and person of the Australian Government and also including previous Minister Nola Marino and Minister McBain regarding the Norfolk Island Regional Council draft Operational Plan 2022-2023, and the Delivery Plan 2022-2026 from the date of 1 January 2022 to 6pm Wednesday 6 July 2022.

Notice of Intention to refuse

On 29 August 2022, the Department issued you with a Notice of intention to refuse the request under s24AA(1) on the grounds that the request was too large.

On 30 August 2022, you provided the following revised scope:

All documentation between the Administrator Eric Hutchinson, Minister Nola Marino and Minister McBain regarding the Norfolk Island Regional Council draft Operational Plan 2022-2023 and the Delivery Plan 2022-2026 from 1 January 2022 to 6pm Wednesday 6 July 2022.

I have interpreted your scope to include all documents (excluding emails, reports, notes, financial costings, expenditure and risk analysis) between the Administrator Eric Hutchinson, Minister Nola Marino and Minister McBain involving the draft Operational Plan 2022-2023 and the Delivery Plan 2022-2026 within your specified dates.

Timeframes

On 30 July 2022, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 6 September 2022 the new date to provide you with a decision on access.

The processing time was paused for one day under section 24AB(8) during the consultation process, therefore the due date was extended to 7 September 2022.

Under section 15(6) of the FOI Act an additional 30 days was granted in order to conduct third party consultations under section 26A, making the final due date for decision 7 October 2022.

Authority

I am an officer authorised by the Secretary to make decisions about access to documents in the possession of the Department in accordance with subsection 23(1) of the FOI Act.

Decision

I have decided to refuse access to your request under section 24A of the FOI Act as the documents you have requested cannot be found or do not exist.

Material considered

In making my decision, I had regard to the:

- a. terms of the request;
- b. relevant provisions in the FOI Act;
- c. Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines);
- d. consultation the relevant third parties; and
- e. information provided by officers within the Department who clarified that no documents were identified within the scope of your request.

Reason for Decision

Refuse a request for access (section 24A)

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document cannot be found or does not exist.

The relevant line area conducted searches of the Department's document management systems, electronic documents saved on computers etc and made enquiries with Department staff who could be expected to identify documents that fall within the scope of your request. These enquiries have revealed that the Department is not in possession of any documents relating to this request because there are no specific documents between the Administrator Eric Hutchinson, Minister Nola Marino and Minister McBain regarding the draft Operational Plan 2022-2023 and the Delivery Plan 2022-2026.

Initial searches had found a number of documents potentially in scope of this request, however after consultation with third parties, it was determined that all documents were outside the scope of this request.

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents cannot be found or do not exist. I have, therefore, decided to refuse access to your request, in accordance with section 24A(1)(b)(ii) of the FOI Act.

Should you have any enquiries concerning this matter, please do not hesitate to contact the FOI Team on FOI@infrastructure.gov.au.

Yours sincerely



Sarah Vandebroek
Authorised Decision Maker
Territories Division

6 October 2022