



1 November 2019

BY EMAIL:

In reply please quote:

FOI Request: FA 19/06/01305

File Number: ADF2019/38765

Dear

Decision on Internal Review – Freedom of Information Act 1982

I refer to your correspondence dated 26 August 2019 in which you requested that the Department of Home Affairs (the Department) review its decision on access to documents dated 13 August 2019 under the *Freedom of Information Act 1982* (the FOI Act).

I am authorised under section 23 the FOI Act to make decisions to release and to refuse access to exempt documents.

1 Scope of original request

On 25 June 2019, you requested access to the following documents:

Copies of correspondence received or sent by Michael Pezzullo to the Department of Prime Minister & Cabinet in relation to the plan or plans for or actual establishment, constitution and jurisdiction of the proposed Department of Home Affairs dated or created between 1 June 2017 and 18 July 2017.

2 Original Decision on access dated 13 August 2019

The Department undertook reasonable searches for documents relevant to your request. Having regard to your request, and the types of documents that may fall within the scope of the request, the decision maker was satisfied that the searches undertaken were thorough and was satisfied that no relevant documents existed.

The Department's decision was to refuse your request under section 24A of the FOI Act, on the basis that no relevant documents existed.

3 Request for Internal Review

On 29 August 2019, you requested the Department to review its original decision.

Your request for internal review of that decision was based on the fact that the same request was also submitted to the Department of the Prime Minister and Cabinet (PM&C). PM&C responded to your request with a practical refusal notice under section 24AB of the FOI Act, asserting that were 'potentially 600 documents' relevant to your request.

4 Additional search for documents

Upon receipt of your request for an internal review, the Department undertook additional searches for documents that may be captured by your request. As the timeframe for your request was 1 June 2017 to 18 July 2017, a period more than two years before the date on which you submitted your FOI request, the Department's searches included a forensic examination of the Department's system for storing archived emails.

In undertaking this forensic examination of the Department's archived email system, the Department identified two emails, within the one email chain, as being captured by your request. These were:

- an email dated 18 July 2017 from Michael Pezzullo to [REDACTED], with a copy sent to Martin Parkinson
- an email dated 18 July 2017 from Mr Parkinson to Mr Pezzullo and [REDACTED].

I now consider that this email chain is relevant to your request.

5 Internal Review Decision

In relation to the document that is captured by your FOI request, I have decided to release relevant information in one document in full.

5.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 26 June 2019, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that the parts of document marked with 's.22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request, and have therefore prepared an edited copy of the document, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the document has been released to you as it is relevant to your request.

6 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

7 Your Review Rights

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

8 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

9 Contact

Should you wish to discuss my decision, please do not hesitate to contact via email at foi.reviews@homeaffairs.gov.au.

[signed electronically]


Authorised Decision Maker
Department of Home Affairs