



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number: MS24-001756

Date of Clearance: 13/09/2024

To Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security

Subject Order for the Production of Documents - Issuance of visas to Palestinians

Timing *For consideration by 13 September 2024 as agreed with Chief of Staff so that Senator the Hon Murray Watt can advise the Senate before the due date that he will come back to the Senate no later than Thursday 19 September 2024.*

Recommendations

That you:

1. Sign the letter (**Attachment A**) to Senator the Hon Murray Watt advising that it will take the Department of Home Affairs substantially longer to provide documents in scope of the Order for the Production of Documents passed in the Senate on 11 September 2024 (**Attachment B**); and
2. Approve the letter for Senator the Hon Murray Watt to write to the President of the Senate (**Attachment C**).
3. Note the approach to the identification of documents undertaken.

Signed / not signed

Approved / not approved

Noted / please discuss

Minister for Home Affairs, Minister for Immigration and
Multicultural Affairs, Minister for Cyber Security

Signature.....

Date:...../...../2024

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Minister's Comments	

1. On 11 September 2024 the Senate agreed to Motion 592 (by Senator James Paterson) ordering the production of documents containing *all advice provided by the Department of Home Affairs to the former Minister for Home Affairs, the Hon Clare O’Neil MP, and the former Minister for Immigration, Citizenship and Multicultural Affairs, the Hon Andrew Giles MP, relating to the issuance of visas to Palestinians in response to the Israel – Hamas conflict.* A copy of Senator’s Paterson’s Notice of Motion is at **Attachment B**.
2. The Department requires additional time to consult with the Department of Foreign Affairs and Trade (DFAT) and the **s. 7(2A)** to ensure we have properly identified any information contained in the documents that would not be in the public interest to release. Recognising the focus on this matter, we will work with your Office to provide the requested documents for tabling by 19 September 2024.

3. s. 47C(1)

4. s. 47C(1)

5. The Department has identified documents that are potentially in scope. Although in scope, some documents or parts of documents, would not be in the public interest to release. An initial review of the documents, indicates that this may be because the release of that information would:
- Disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures
 - Be an unreasonable invasion of privacy

- Damage Australia's national security, defence or international relations
- Disclose the deliberations of Cabinet
- Prejudice the impartial adjudication of a particular case
- Damage relations between the Commonwealth and the States.

6. As an example, s. 47C(1)

[REDACTED]

7. Most of the documents identified provide information about the actions and decisions of other agencies, such as DFAT and s. 7(2A). They are best placed to advise on whether release is in the public interest. As such, a short extension is required to allow us to consult.

Consultation – internal/external

8. Legal Group has been consulted on and supports the approach to the interpretation of the scope outlined in this submission and did not raise concerns.
9. Refugee, Humanitarian and Settlement Division has been consulted on this approach and supports the approach.

Consultation – Secretary / Associate Secretary Immigration / ABF Commissioner

10. The Secretary was consulted on the approach in the submission.
11. The Associate Secretary Immigration was consulted on the approach in the submission.
12. The ABF Commissioner was not consulted on the approach in the submission as the scope of the request relates to the Department only.

Client service implications

13. This submission does not impact on client services. The careful consideration of the release of documents is necessary to protect the privacy of individuals.

Risks and Sensitivities

14. Although not uncommon, requesting the extension to comply with the Order to Produce Documents could result in criticism of the Government. To mitigate this risk it is recommended that Senator the Hon Murray Watt provide the President of the Senate with the date of 19 September 2024 and an explanation.
15. Should you not support the approach in this submission, the risk that information is released when it is not in the public interest to do so, would increase.

Financial/systems/legal/deregulation/media implications

16. Proactive media points will be developed to address any media inquiries about the delay.

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Attachments

- Attachment A** Letter to Senator the Hon Murray Watt outlining the requirement for additional time
- Attachment B** The Order to Produce Documents
- Attachment C** Draft letter to the President of the Senate from Senator the Hon Murray Watt

Authorising Officer
Cleared by: Michael Willard Group Manager Immigration Operations Date: 13/09/2024 Mob: s. 22(1)(a)(ii)

Contact Officer Michael Willard, Group Manager, Immigration Operations, Ph: s. 22(1)(a)(ii) / Mob: s. 22(1)(a)(ii)

- CC**
- Secretary
 - Associate Secretary Immigration
 - DS Executive
 - DS Chief Operating Officer
 - DS National Security and Resilience
 - Group Manager Legal
 - Group Manager Immigration Compliance
 - FAS Refugee Humanitarian and Settlement
 - FAS Executive Coordination

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The Hon Tony Burke MP
Minister for Home Affairs
Minister for Immigration and Multicultural Affairs
Minister for Cyber Security
Minister for the Arts
Leader of the House

Ref No: MS24-001756

Senator the Hon Murray Watt
Minister for Employment and Workplace Relations
Parliament House
Canberra ACT 2600

Dear Minister


Please find enclosed a draft letter to the President of the Senate, Senator the Hon Sue Lines, containing advice that the Department of Home Affairs will require additional time to obtain advice as to whether there are impediments to the release of the documents requested by Senator James Paterson.

The Department assesses that the documents identified contain information about the operations of other agencies such as the Department of Foreign Affairs and Trade and the Australian Security and Intelligence Organisation. Those agencies are being consulted on the release of those documents.

I would be grateful if you could please submit the relevant letter on my behalf to the President of the Senate by 13 September 2024 to advise that we will not be able to table the requested documents by the Senate order deadline.

Yours sincerely


TONY BURKE

13 / 9 / 2024

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