

12 March 2021

Email: vk2acr@aussiebb.com.au

ACMA file reference: ACMA2021/128

Dear Mr Campiciano

Notice of intention to refuse access to documents under the *Freedom of Information Act 1982*

I refer to your *Freedom of Information Act 1982* (FOI Act) request dated and received on 10 March 2021, in which you seek access to documents that:

relate to the [*Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* (Reform Act)] In particular:

- a) Radiocommunications (Class Licence) Amendment Instrument 2021 and any other related information and documents leading to the instrument.
- b) the Radcomms licensing and allocation reform and associated internal communications with in ACMA.

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI Act requests.

Intention to refuse access

The FOI Act provides that an agency may refuse access to documents in accordance with a request where a practical refusal reason exists (practical refusal decision). Pursuant to paragraph 24AA(1)(a) of the FOI Act, if the work involved in processing a request would substantially and unreasonably divert the resources of the ACMA from its operations, the request may be refused (the practical refusal reason). The purpose of this letter is to advise you that it is my intention to refuse access for this reason.

Before making a practical refusal decision, the FOI Act requires the ACMA to undertake a request consultation process. Under this process, you have an opportunity to revise your request so as to remove this ground for refusal; for example, the request can be narrowed to make it more manageable. I have set out below why I consider the practical refusal reason exists. as this may assist you to make a revised request.

Practical refusal reason

Your request to access documents, information and internal ACMA communications relates to a broad area of the ACMA's spectrum reform work program. The Reform Act makes many changes to large parts of the *Radiocommunications Act 1992*; even if you were to confine your request to the work that relates to the draft *Radiocommunications (Class Licence) Amendment Instrument 2021 (No. 1)* (draft amendment instrument) and the ACMA's licensing and allocation work that arises from the Reform Act, that remains a broad area of the work program.

You have also not confined your request to a particular timeframe, which would require the ACMA to search relevant records dating back to the commencement of the Spectrum Review in 2014. The ACMA has been preparing to implement the reforms proposed by the Spectrum Review since March 2015.

A preliminary search for documents that fall within this broad scope of your request has identified more than 600 documents. Based on my experience with the ACMA's reform work and some preliminary consultation with colleagues, I would expect that there might be many more documents that fall within the scope of your request.

Some of these documents may also require the ACMA to undertake consultation with third parties before a decision on access can be made, or to consider whether the request should be transferred to another agency in accordance with subsection 16(1) of the FOI Act.

Having regard to the complexity of processing your request, and the time it is likely to locate and prepare all relevant documents (including possible redaction of exempt information from documents pursuant to section 22 of the FOI Act) for release, I have come to the view that processing your request would take at least 120 hours. This is calculated on the number of documents identified in the preliminary search, retrieval, assessment, and third-party consultation. As such, processing your FOI request is likely to take considerably longer. Further, given its size and scope of its legislative responsibilities, the ACMA does not have an FOI team dedicated to processing FOI requests.

For these reasons, subject to the outcome of consultation with you, it currently appears that processing a request of this size would be a substantial and unreasonable diversion of the resources of an agency the size of the ACMA away from its normal operations.

Effect of the notice

Under section 24AB of the FOI Act you now have a period of 14 days commencing from the day after you receive this notice (the consultation period) to do one of the following in writing:

- > withdraw your request
- > make a revised request
- > indicate that you do not wish to revise your request.

During the consultation period you may wish to contact the officer listed below, who may be able to assist you to revise your request.

Please note that if you do not advise the contact officer to withdraw, revise or indicate that you do not wish to revise your request during the 14-day consultation period (i.e., by 29 March 2021), your request will be taken to have been withdrawn.

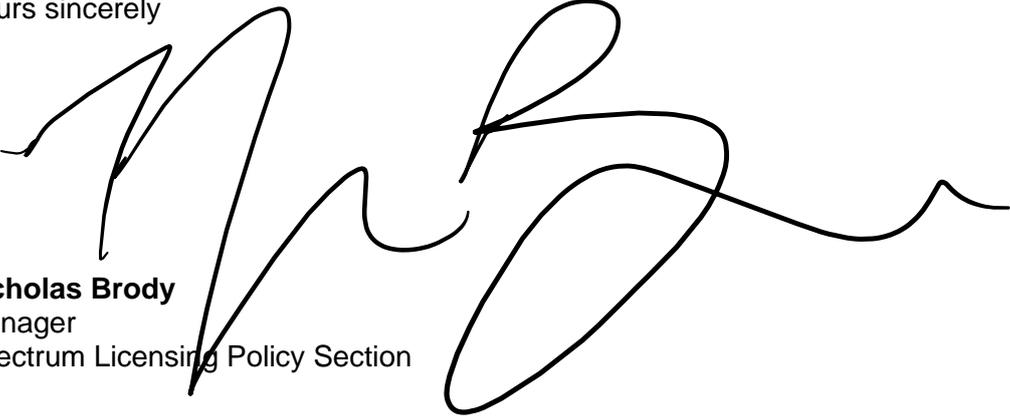
Please also note that the time taken to undertake this consultation is not taken into account for the purposes of the 30-day time limit for processing your FOI request. Time for processing will recommence when you make a revised request or indicate that you do not wish to revise your request.

Further information about the power to make a practical refusal decision can be found on the Office of the Australian Information Commissioner's website. In particular, see the text beginning at paragraph 108 of Part 3 of the FOI Guidelines: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-3-processing-and-deciding-on-requests-for-access/>

Contact details

As noted above, if you would like assistance to revise your request you may contact Mary Stavropoulos on (03) 9963 6993 or at mary.stavropoulos@acma.gov.au

Yours sincerely



Nicholas Brody
Manager
Spectrum Licensing Policy Section

OFFICIAL: Sensitive