



14 September 2021

Our ref: FOI2021/36

Right to Know
Attention: Jaay-H

Via Email: Jaay-H foi+request-7542-3ea93c1c@righttoknow.org.au

Dear Jaay-H

FREEDOM OF INFORMATION REQUEST – DECISION FOI2021/36

I refer to your request of **16 August 2021**, under which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:

“Australian media recently stated: “it was revealed CSIRO and Australian universities have participated in at least ten joint projects with the Wuhan Institute of virology over the last decade.”....

I hereby request a copy of a document that lists the titles, authors and abstracts for each of the joint research projects involving the CSIRO and the Wuhan Institute of Virology.”

Decision maker

I am an authorised decision maker under section 23 of the FOI Act. This letter sets out my decision and reasons for the decision in relation to your request.

Decision

1. CSIRO has been unable to identify the document requested. I must therefore refuse access, pursuant to section 24A of the FOI Act on the basis that the document sought do not exist or cannot be found.
2. I do however advise that CSIRO has publicly responded to the article which you cite in your application: <https://www.csiro.au/en/news/News-releases/2021/Response-to-The-Australian-25-June-2021>.
3. I also draw your attention to the following answer to a question taken on notice from the Australian Senate’s Economics Legislation Committee Senate Estimates hearings: <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld3-EstimatesRoundld11-Portfoliold34-QuestionNumber74>

I hope that the responses above may satisfy all, or a significant part, of your request.

In relation to point 1, I refer you to paragraph 3.85 of the Office of the Australian Information Commissioner's FOI Guidelines:

An agency or minister may refuse a request if it has taken 'all reasonable steps' to find the document requested, and is satisfied that the document cannot be found or does not exist (s 24A(1)). There are two elements that must be established before an agency or minister can refuse a request for access to a document under s 24A:

- the agency or minister must have taken all reasonable steps to find the document, and
- the agency or minister is satisfied that the document cannot be found or does not exist.

Further the OAIC Guidelines provide at paragraph 3.202 that the FOI Act 'gives a legally enforceable right of access to documents that already exist, and an agency is not required to create a new document to satisfy an FOI request' (added emphasis).

Searches conducted

Searches were conducted by relevant CSIRO staff and it was confirmed that CSIRO does not hold a document that matches the scope of your request.

I am satisfied that CSIRO has undertaken all reasonable steps to find the document in question and on that basis, I am satisfied that the document requested does not exist, but note as indicated in points 2 and 3, that this information may satisfy all, or a significant part, of your request.

Rights of Review

In accordance with section 26(1)(c) of the FOI Act, a statement setting out your rights of review under the Act is at **Attachment A**. Since my decision is that no documents exist, an application for review would be limited to a situation where you consider that I have not identified all the documents in the CSIRO's possession that are relevant to your request.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Stephen Jones', with a long horizontal line extending to the right.

Stephen Jones
Legal Counsel
CSIRO

Review rights

You are entitled to seek review of this decision.

Internal Review

Firstly, under section 54 of the FOI Act, you may apply for an internal review of the decision. Your application must be made by whichever date is the later between:

30 days of you receiving this notice; or 15 days of you receiving the documents to which you have been granted access.

An internal review will be conducted by a different officer from the original decision-maker. No particular form is required to apply for review although it will assist your case to set out in the application the grounds on which you believe that the original decision should be overturned. An application for a review of the decision should be addressed to:

FOI Coordinator,
FOI@csiro.au

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commissioner for a review of the internal review decision.

External review by the Australian Information Commissioner

Alternatively, under 54L of the FOI Act, you may seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of you receiving this notice.

The Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Information Commissioner's website www.oaic.gov.au.

You can contact the Information Commissioner to request a review of a decision online or by writing to the Information Commissioner at:

GPO Box 2999
Canberra ACT 2601

Complaints to Ombudsman or Information Commissioner

You may complain to either the Commonwealth Ombudsman or the Information Commissioner about action taken by CSIRO in relation to the application. The Ombudsman will consult with the Information Commissioner before investigating a complaint about the handling of an FOI request.

Your enquiries to the Ombudsman can be directed to:

Phone 1300 362 072 (local call charge)
Email ombudsman@ombudsman.gov.au

Your enquiries to the 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 Ombudsman or the 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 CSIRO as the relevant agency.