



14 September 2021

**Our ref: FOI 2021/37**

Right to Know  
Attention: Jaay-H

Via Email: Jaay-H [foi+request-7543-4f4ed0ba@righttoknow.org.au](mailto:foi+request-7543-4f4ed0ba@righttoknow.org.au)

Dear Jaay-H

### **FREEDOM OF INFORMATION REQUEST – DECISION FOI2021/37**

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

*... a copy of the risk assessments, due diligence and bioethics assessment documents relied upon to grant CSIRO approval to collaborate in GMO and/or Gain-of-Function research with 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**

Despite an extensive search, CSIRO has been unable to identify any documents relevant to your request (i.e. copies of risk assessments, due diligence or bioethics documents within the specified context). I must therefore refuse access, pursuant to section 24A of the FOI Act on the basis that the documents sought do not exist or cannot be found.

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.

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.

### **Searches conducted**

Searches were conducted by relevant CSIRO staff/Records Staff and it was confirmed that CSIRO does not hold any documents relevant to the scope of your request.

### **Further information**

I would like to draw your attention to questions asked as part of the Australian Senate's Economics Legislation Committee Senate Estimates hearings concerning 'gain of function' research on 3 June 2021. The Department of Industry, Science, Energy and Resources and CSIRO's responses may be of interest to you.

The questions and their answers can be accessed via the following hyperlinks:

<https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld3-EstimatesRoundId11-PortfolioId34-QuestionNumber3>

<https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld3-EstimatesRoundId11-PortfolioId34-QuestionNumber74>

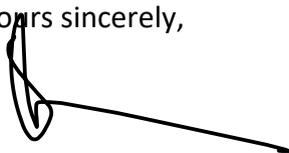
<https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld3-EstimatesRoundId11-PortfolioId34-QuestionNumber75>

The questions and answers form part of the public record and thus are not 'documents of an agency' as defined in the FOI Act.

### **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,



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](mailto: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](http://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](mailto: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](mailto: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.