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13 June 2013

Our ref: FOI 2013/63

Mr Malcolm-Ieuan: Roberts
180 Haven Road
Pullenvale Qld 4069

Via email: malcolmr@conscious.com.au

Dear Mr Roberts,

FREEDOM OF INFORMATION REQUEST

I refer to your request of 16 May 2013, under which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:

Copies of CSIRO advice, briefings, analysis and reports discussing human causation of global warming (aka climate change) from CSIRO's Chief Executive to the following members of federal parliament during the respective periods as defined:

- *To John Howard Prime Minister from 2005 to 2007;*
- *To the Minister for the Environment being Senator Ian Campbell in 2005 and January 2006 and Malcolm Turnbull from January 2006 to December 3, 2007;*
- *To Kevin Rudd when Leader of the Opposition in 2007;*
- *To Penny Wong when Climate Change Minister from 2007 to 2010;*
- *To Greg Combet when Climate Change Minister from 2010 to present.*

I specifically exclude the following from the scope of my request:

- *Output from computerised numerical models* and empirical observational data*;*
- *Material already published and available to the public;*
- *Third party material.*

** Note that outputs from computerised numerical models are not required since they are not empirical scientific evidence. Observational data is not required since I do not wish to cause CSIRO to do extensive analysis specifically to fulfil my request.*

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 document relevant to your request. I must therefore refuse access, pursuant to section 24A of the FOI Act on the basis that the document[s] sought do not exist or cannot be found.

Searches conducted:

The time frame for your request captures correspondence from CSIRO's former and present CEO[s] Dr Geoff Garratt (2001 – 2008) and Dr Megan Clark (2009 to present), respectively.

Extensive searches were undertaken of Dr Clark's email correspondence, including outlook searches (searching all Inbox folders, sent mail and etc) and archived information of CSIRO CEO's records. The total time spent searching was 7 hours.

In relation to Dr Garrett's records, CSIRO records searched all CEO electronic databases on TRIM. The searches were refined by name, e.g. 'Penny Wong', 'Malcolm Turnbull' and derivatives thereof, i.e 'Turnbull'. There were a total of 63 TRIM records located; none of which related to the scope of your request 'human causation of climate change'. Total time spent approximately 5 hours.

I note the searches as described revealed very little direct contact between CSIRO's CEO and the federal members of parliament as named in your request. None of the emails sent to the named members of parliament was in relation to 'human causation of climate change' and were usually administrative in nature, e.g. 'Minister Wong announces water grant funding tomorrow, CSIRO Black Mountain'. Another example of the types of correspondence captured by the searches is an email to Malcolm Turnbull (noting that the author was a CSIRO Officer not the CEO but the CEO was cc-ed into the correspondence) entitled 'Re: clean coal etc'.

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



Beth Maloney
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:

Rosemary Caldwell, 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.

Relevant provisions of the FOI Act

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent:

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract:

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.