



**Australian Government**

**Department of Health**

Department Reference: FOI 2652

Ms [REDACTED]

via email: [REDACTED]

Dear Ms [REDACTED]

**NOTICE OF DECISION UNDER SECTION 24A  
OF THE FREEDOM OF INFORMATION ACT 1982**

I refer to your request of 10 August 2021 to the Department of Health (the department) seeking access under the *Freedom of Information Act 1982* (Cth) (the FOI Act) in the following terms:

1. Scientific documentation which shows how Australia Health is testing for the Delta variant, and how it is distinguishing between SARS-Cov-2, the Delta variant (and other variants), when the science is showing that the PCR test is not able to do this.
2. How has it been confirmed that these new "cases" in Melbourne and Sydney are the Delta variant?

**FOI decision**

I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests. I am writing to notify you of my decision in response to your request.

SARS-CoV-2, the virus which causes COVID-19, is real. Multiple scientific studies across the world demonstrate that highly reputable laboratory medicine experts have isolated and sequenced the virus that causes COVID-19, demonstrating that the virus exists, that it exists in variant forms, that it is different from the influenza virus, and that it causes a disease that has resulted in more than 4.5 million deaths worldwide in just over 18 months.

While the department is not the custodian of the scientific studies establishing the existence of SARS-CoV-2, this research has informed the Australian Government's response to the pandemic. You can find those scientific studies in the public domain.

The department is a government agency and does not conduct scientific studies or laboratory testing for the SARS-CoV-2 in a laboratory. Diagnostic assays using reverse transcriptase polymerase chain reaction (RT-PCR) are conducted by testing laboratories throughout Australia. For more information, please see the [Public Health Laboratory Network \(PHLN\) guidance on laboratory testing for SARS-CoV-2](#), which is available online.

In Australia, scientists at the Victorian Infectious Diseases Reference Laboratory at The Peter Doherty Institute for Infection and Immunity were the first to isolate SARS-CoV-2 outside of China, winning the 2020 MJA/MDA National Prize for Excellence in Medical Research. This critical information was immediately shared with local and overseas reference laboratories and major North American and European virus culture collections. These peer-reviewed, evidence-based publications provide scientific evidence for the existence of this deadly virus.

All viruses, including SARS-CoV-2, change over time as part of their natural evolution. A change may or may not give the virus a biological advantage. Existing and emerging variants are constantly monitored using genomic surveillance to detect those that pose or may pose an increased risk to human health.

In Australia, whole genome sequencing (WGS) of the SARS-CoV-2 genome is the preferred way to determine the variant and mutation patterns of the virus. Some PCR tests have been designed to detect specific SARS-CoV-2 variants of concern. The performance of these tests is still being established, and they will not identify variants that they have not been designed for.

Appropriate steps have been taken to find documents you have requested including consultation with relevant departmental officers and searches of departmental file management systems.

I am satisfied, on the basis of the consultation undertaken, the information provided above, and the searches conducted, that the department does not hold any documents referred to in your request. While the department is not the custodian of the information you refer, you can find much of this information in the public domain and this research and information has informed the Australian Government's response to the pandemic.

As a consequence, relying on section 24A of the FOI Act, I cannot provide access to the documents you requested.

### **FOI review rights**

If you are dissatisfied with my decision, you may apply for a review.

## Internal review

Under section 54 of the FOI Act, you may apply for internal review of this decision. In accordance with section 54B of the FOI Act, an application for internal review must be made in writing within 30 days after the day you are notified of this decision (or such further period as the department allows). To assist in the internal review process, please provide reasons you consider the review of my decision is necessary.

The internal review will be carried out by another officer of this department within 30 days of receipt of your application.

An application for an internal review should be addressed to:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)  
Mail: FOI Unit (MDP 516)  
Department of Health  
GPO Box 9848  
CANBERRA ACT 2601

## Information Commissioner review

Alternatively, under section 54L of the FOI Act, you may apply to the Office of the Australian Information Commissioner (OAIC) for review of my decision by the Information Commissioner (IC).

In accordance with subsection 54S(1) of the FOI Act, an IC review application in relation to a decision covered by subsection 54L(2) (access refusal decisions) must be made in writing within 60 days after the day you are notified of this decision (if you do not request an internal review).

More information about IC review is available on the OAIC website at:  
<https://www.oaic.gov.au/freedom-of-information/reviews/>

The OAIC can be contacted by:  
Phone: 1300 363 992  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

## **Complaints**

If you are dissatisfied with action taken by the department, you may also make a complaint.

### Complaint to the department

Complaints to the department are covered by the department's privacy policy. A form for lodging a complaint directly to the department is available on the department's website:

<https://www.health.gov.au/about-us/contact-us/complaints>

### Complaint to the IC

Information about making a complaint to the IC about action taken by the department is available on the OAIC website:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>

### **Relevant provisions of the FOI Act**

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:

<https://www.legislation.gov.au/Details/C2021C00311>

### **Contacts**

If you require clarification of any of the matters discussed in this letter you should contact the department's Freedom of Information Unit on (02) 6289 1666 or at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Yours sincerely



Dr Marcelle Noja  
Acting Assistant Secretary  
Public Health and Surveillance Branch

06 September 2021