

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received originally by Justice and Community Services Directorate (JACS) and transferred under Section 57 of the FOI Act to the ACT Health Directorate (ACTHD) on **Friday 6 August 2021** also being rescoped on **Tuesday 7 September 2021**.

This application requested access to:

'This request relates to the "Public Health (Emergency) Declaration 2020", its subsequent extensions and the directions made pursuant to it, by the Minister for Health and the Chief Health Officer since 16 March 2020.

A number of claims are made in, or can be reasonably inferred from, the declaration, directions and supporting material available online, which I am seeking material evidence for under this Freedom of Information request. I have summarised these claims in the points that follow (which are based on information published on the ACT government's website):

- 1) That there is a novel coronavirus designated SARS-CoV-2 that has been reliably identified according to the scientific method.*
- 2) That SARS-CoV-2 is the sole cause of a new coronavirus disease 2019 (COVID-19), which is a distinct disease that is reliably differentiated from other diseases.*
- 3) That COVID-19 presents a public health risk to the ACT community in general that exceeds the public health risk from other diseases in the community to date.*
- 4) That people who are asymptomatic but diagnosed with COVID-19 spread the disease to others in a substantial enough way that merits concern.*
- 5) That the polymerase chain reaction (PCR) method and all of its derivatives are a reliable diagnostic test for whether a person has the SARS-CoV-2 virus and are infectious.*
- 6) That the SARS-CoV-2 virus is transmitted from person to person in a manner that face masks prevent, and the benefits of face mask use outweigh any harms to the wearer in the short, medium and long term, and other harms to the public and the environment.*
- 7) That testing, quarantining, limiting gatherings, social distancing, contact tracing, lock downs, border closures, travel restrictions, frequent hand sanitisation and vaccination using novel technologies are justified in the circumstances and that there are no other viable alternatives to better respond to the perceived risks posed.*
- 8) That people who have had COVID-19 should still get a vaccine for COVID-19 as it will protect the person from getting COVID-19 again or passing it onto someone else.*
- 9) That the COVID-19 vaccines currently available are safe and do not contain potential toxic ingredients or cause potential toxicity within the body.*

It is in the public interest that material evidence is supplied to substantiate these claims as the broader community has patiently endured infringements to their rights for approximately 18 months without being able to truly ascertain whether there is justifiable cause. There have been additional impacts on local businesses and the local economy, which will have long standing consequences for the community, and must be well evidenced particularly if they are to continue.

The specific Freedom of Information request I am making is split into parts as follows in descending order of priority, which can be responded to separately according to the effort estimated and capacity of the ACT Health Directorate:

a) I request all decision support materials (e.g. briefing materials) in the possession, custody or control of the ACT Health Directorate, that were supplied to the Minister for Health to support their declaration and/or extension of a public health emergency and/or the chief health officer to support their consideration prior to issuance of a public health direction, describing the real world (i.e. not simulated, modelled or theorised) isolation and purification of the novel coronavirus designated SARS-CoV-2 from a diseased patient anywhere in the world, which evidences that the patient was infected by this isolated and purified novel coronavirus and that the disease they were suffering from was solely caused by this isolated and purified novel coronavirus.

b) I request all decision support materials (e.g. briefing materials) in the possession, custody or control of the ACT Health Directorate, that were supplied to the Minister for Health to support their declaration and/or extension of a public health emergency and/or the chief health officer to support their consideration prior to issuance of a public health direction, describing the public health risk to the ACT community in general, and also according to particular groups who may be more at risk than others, in relation to:

b.i. the infection fatality rate of SARS-CoV-2 and COVID-19, and also with reference to how this compares to seasonal Influenza and recorded Influenza outbreaks; and

b.ii. the estimated prevalence of natural immunity and robust immune responses for SARS-CoV-2 and COVID-19 from individuals that have been previously exposed to the SARS-CoV-2 virus and/or other viruses that enable cross-reactivity.

c) I request all records in the possession, custody or control of the ACT Health Directorate's COVID-19 response areas, and the Pathology area of Canberra Health Services, describing the following in relation to testing and diagnosis for SARS-CoV-2 and/or COVID-19:

c.i. the diagnostic sensitivity and diagnostic specificity of each type of test used within the ACT;

c.ii. the cycle threshold that laboratories adhere to when using the PCR method on specimens, and whether this threshold has changed over time, and whether this threshold is different for different groups of people including but not limited to vaccinated and unvaccinated individuals;

c.iii. the known limitations and the estimated false positive rate of tests used within the ACT; and

c.iv. the clinical diagnostic criteria for differentiating a case of COVID-19 from a case of another disease with similar clinical characteristics, in conjunction with, and also in the absence of, a laboratory test result.

d) I request all decision support materials (e.g. briefing materials) in the possession, custody or control of the ACT Health Directorate, that were supplied to the Minister for Health to support their declaration and/or extension of a public health emergency and/or the chief health officer to support their consideration prior to issuance of a public health direction, describing the extent to which asymptomatic individuals have been a significant contributor in driving:

d.i. the spread of SARS-CoV-2; and

d.ii. the spread of any virus in any previous viral epidemic or pandemic.

e) I request all decision support materials (e.g. briefing materials) in the possession, custody or control of the ACT Health Directorate, that were supplied to the Minister for Health to support their declaration and/or extension of a public health emergency and/or the chief health officer to support their consideration prior to issuance of a public health direction, describing the real world (i.e. not simulated, modelled or theorised)

effectiveness of cloth, surgical and respirator face mask use in the general community for preventing the contraction and transmission of the SARS-CoV-2 virus or any other Influenza or coronavirus, as well as the individual, societal and environmental harms that can occur from general community use of these face masks in the short, medium and long term.

f) I request all records in the possession, custody or control of the ACT Health Directorate's COVID-19 response vaccination program areas describing the potential and/or known toxicity, including but not limited to reproductive toxicity and genotoxicity, of current COVID-19 vaccines and the same for their individual ingredients.

g) I request all records in the possession, custody or control of the ACT Health Directorate's COVID-19 response vaccination program areas describing the absolute risk reduction from COVID-19 vaccination per type of vaccine for people who:

g.i. have never been diagnosed with COVID-19, covering risk reduction from disease, risk reduction from death, and risk reduction from transmission to others; and

g.ii. have recovered from COVID-19, covering risk reduction for recurrence of disease, risk reduction from death and risk reduction for transmission to others.

h) I request all decision support materials (e.g. briefing materials) in the possession, custody or control of the ACT Health Directorate, that were supplied to the Minister for Health to support their declaration and/or extension of a public health emergency and/or the chief health officer to support their consideration prior to issuance of a public health direction, describing the alternatives that have been considered to date to mitigate perceived risks to the ACT community from SARS-CoV-2 and COVID-19 in relation to:

h.i. focused protection of the most vulnerable groups;

h.ii. use of re-purposed medicines and supplements individually or in combination including but not limited to Hydroxychloroquine, Ivermectin, Favipirivir, Fluvoxamine, Quercetin, Metformin, Vitamin D, Vitamin C, and Zinc either in prophylaxis or treatment; and

h.iii. promotion of dietary and lifestyle changes that can improve the immune system, including but not limited to reduced stress, exercise, a diet full of essential vitamins and minerals linked to a healthy immune system, and avoiding exposure to known toxins that can impair the immune system.'

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Wednesday 6 October 2021**.

I have not identified documents holding the information within scope of your access application. My access decisions are detailed further in the following statements addressing each part of your application.

In reaching my access decision, I have taken the following into account:

- The FOI Act;
- The contents of the documents that fall within the scope of your request; and
- The *Human Rights Act 2004*.

Decisions on access

ACTHD does not hold documents relevant to the scope of your application in accordance with Section 35(1)(b) of the Act. Information regarding each section is provided as follows;

Part a

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. The ACT Government only collects patient samples for the purpose of detecting the presence of SARS-CoV-2. We do not have the ability to isolate the virus from the patient sample.

Part b

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to statements from the Australian Health Protection Principle Committee [Australian Health Protection Principal Committee \(AHPPC\) | Australian Government Department of Health](#) and World Health Organization [Coronavirus disease \(COVID-19\) \(who.int\)](#)

Part c

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. COVID-19 testing in the ACT is carried out in accordance with the manufacturer's specifications. Please refer to peer reviewed studies undertaken by academic bodies in relation to this matter.

Part d

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to peer reviewed studies undertaken by academic bodies in relation to this matter.

Part e

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to the World Health Organization advice and to peer reviewed studies undertaken by academic bodies in relation to the use of face masks.

Part f

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to peer reviewed studies undertaken by academic bodies in relation to this matter.

Part g

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to the advice of Australian Technical Advisory Group on Immunisation (ATAGI) <https://www.health.gov.au/committees-and-groups/australian-technical-advisory-group-on-immunisation-atagi#atagi-advice>

Part h.i.

ACT Government have published the following information in relation to this matter
[Advice for high-risk settings - COVID-19 \(act.gov.au\)](#)
[Aged care - COVID-19 \(act.gov.au\)](#)
<https://www.covid19.act.gov.au/stay-safe-and-healthy/aged-care>

Part h.ii.

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. ACT Health follows the guidance of the TGA and AHPPC in relation to approved and recommended treatments for COVID-19.

Part h.iii.

ACT Health Directorate was not able to identify specific documents in scope of this part of your request. Please refer to peer reviewed studies undertaken by academic bodies in relation to this matter.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD maintains an online record of access applications called a disclosure log. The scope of your access application and my decision released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in ACT Health's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: ACTFOI@ombudsman.gov.au
Website: ombudsman.act.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Vanessa Dal Molin
Executive Branch Manager
Policy and Support Services, COVID-19

6 October 2021