

Mr Michael Bradley
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Corporate Affairs

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Dear Mr Bradley

FOI REQUEST - REFERENCE NUMBER 2012-21

I refer to your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) in your letter of 3 December 2012. In our subsequent correspondence, the scope of your request was refined to access to the following documents

all emails, letters, memos, notes and briefing notes between 1 September 2012 and 30 November 2012 (both dates inclusive) between, to, or from the following ABC staff:

- a) Ben Hawke;
- b) Clay Hichens;
- c) Phil Kwok
- d) Peter McCutcheon;
- e) John Taylor;
- f) Wendy Carlisle; and
- g) Mathew Carney.

on the subject of coal seam gas development, shale gas development, hydraulic fracturing and/or fugitive emission.

The following were specifically excluded from your request:

- Drafts of any of the above documents;
- Documents (or parts of any documents) which are legally privileged; and
- Documents (or parts of any documents) which consist of 'program material'.

I am authorised by the Managing Director under section 23 of the FOI Act to make decisions in respect of requests made under that Act. Following is my decision in relation to your request.

I have conducted a search for documents which involved consulting with the ABC's News and Radio Divisions, who have liaised directly with each of the individuals you have listed. Specifically, this involved discussions with the Head of Policy and Strategy in the News Division; *Talks* program editor in Radio National; and the Manager ABC Radio National. Each of the named individuals in your request was contacted, and they reviewed their records for emails, letters, memos, notes and briefing notes.

No documents have been identified which fall within the scope of your request which are not 'program material'. As you are aware, the ABC is specifically excluded from the operation of the FOI Act in

relation to its 'program material' by virtue of s7(2) and Part II, Schedule 2 of the FOI Act. 'Program material' for the purposes of that Part has been interpreted to mean:

"the program and all versions of the whole or any part of the program, any transmission broadcast or publication of the program, and includes a document of any content or form embodied in the program and any document acquired or created for the purpose of creating the program, whether or not incorporated into the completed program...[and including] a document created after a program is broadcast [such as] transcripts of programs ... and documents produced by the ABC or incorporated in its records directly concerning the substantive content of the broadcast program" (my emphasis)

I have identified the following two (2) documents which are not program material, however they do not appear to be directly relevant to your request:

- 1 Email exchange with Peter McCutcheon dated 28 November 2012; and
- 2 Email from Peter McCutcheon to Christopher Ward dated 28 November 2012.

In any event, the ABC has no objection to providing access to these documents, and copies are attached.

If you are dissatisfied with this decision you can apply for Internal or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review. Information about your review rights is attached.

Yours sincerely

Judith Maude

Head, Corporate Governance Direct line 02 8333 5316