

File Ref: [REDACTED]

[REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST:

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate (the Directorate) on 14 January 2019. Your request was for:

A copy of the Review of NAPLAN Data Presentation Interim Report, presented to the Education Council at its December 2018 meeting.

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

The Education Directorate was required to provide a decision on your access application by 5 March 2019.

Decision on access

Searches were completed for relevant documents and one document was identified that falls within the scope of your request.

I have decided to refuse access to the document as I consider it to wholly contain information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decision is detailed further in the following statement of reasons.

Material considered

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

- the FOI Act, particularly sections 17 and 50, and schedules 1 and 2;

- the content of the documents that fall within the scope of your request; and
- the views of the Education Council.

Reasons for decision

In making my decision I have applied the public interest test that is set out in section 17 of the Act. I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that disclosure of the information could reasonably be expected to:

- promote open discussion of public affairs and enhance the government's accountability (Schedule 2.1(a)(i)); and
- contribute to positive and informed debate on important issues of matters of public interest (Schedule 2.1(a)(ii)).

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the Act, are that the information could reasonably be expected to prejudice intergovernmental relations (Schedule 2.2(a)(x)).

I have considered the factors favouring disclosure and the factors favouring non-disclosure. I also sought the views of the Education Council (Council) because, whilst the Directorate led and coordinated the production of the report, it was commissioned by Council and is a Council document. It was not an initiative of the Directorate.

My weighting of the factors favouring non-disclosure was particularly influenced by the importance that Council places on the confidentiality of its documents and its need to ensure that it continues to receive frank and accurate information in future briefings.

I have decided that disclosure of the document would be prejudicial to intergovernmental relations because release could:

- interrupt or create difficulty in negotiations or discussion that are underway, including in the development of joint or parallel policy;
- adversely affect the continued level of trust and cooperation in inter-jurisdictional relationships;
- impair or prejudice the future flow of information; and
- adversely affect the development of future Commonwealth-State projects.

Consequently, I have decided that the factors favouring non-disclosure outweigh the factors favouring disclosure with respect to this document and my decision is to not release it.

Online publishing – disclosure log

Under section 28 of the Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and documents released to you in response to your access application will be published in the Directorate's disclosure log between three and 10 working days after a decision on access has been provided to you. Your personal information will not be published.

You may view the Directorate's disclosure log at
https://www.education.act.gov.au/about_us/freedom_of_information/disclosure-log.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the 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 the Directorate'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

Email: actfoi@ombudsman.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/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact the Directorate's FOI Coordinator on 02 6205 0720 or email EDULegalLiaison@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

19 February 2019