

[REDACTED]

Via email: [REDACTED]

Dear [REDACTED]

### **FREEDOM OF INFORMATION (FOI) REQUEST**

I refer to your application under the *Freedom of Information Act 2016* received by the ACT Education Directorate on 26 June 2023, in which you sought access to records relating to the Children's Education and Care Assurance (CECA). Your application referred to multiple decisions in relation to Block 18, Section 11, Mitchell, ACT, that were made by the CECA in the period 13 July 2021 to 26 June 2023. In a subsequent application received on 8 August 2023, you also sought records from the period 27 June 2023 to 8 August 2023. The records you specifically sought access to are:

1. *all correspondence (including emails) sent to or received from:*
  - a. *the Health Protection Service (HPS);*
  - b. *the Environment Planning Authority (EPA);*
  - c. *the ACT Planning and Land Authority (ACTPLA);**from officers of these relevant organisations;*
2. *all correspondence (including emails) sent to or received from the relevant Minister;*
3. *any reports prepared or commissioned by the CECA;*
4. *any memoranda;*
5. *any recommendations;*
6. *any proposals;*
7. *any records of inspections;*
8. *any minutes or other records of meetings;*
9. *any notes of attendees of any meeting, including any personal notes by attendees;*
10. *any diary entries of attendees of meetings;*
11. *any working papers prepared by, or on behalf of, the CECA; and*
12. *copies of any of the documents sought in paragraph 1 to 11 above where the original documents are no longer in the possession, custody, or control of the CECA.*

The decisions for your two FOI requests were released to you on XXXX and YYYY respectively. On 18 October 2023, the Directorate's FOI team was contacted by your office enquiring about the absence of records of meetings referred to in the records released.

A further search for records has been undertaken and two records that are relevant to your request were located. The records are:

1. Meeting notes – 11 April 2023
2. Meeting invitation and notes – 25 May 2023

As previously advised, the regulatory activities of CECA are governed by the *Education and Care Services National Law 2011*, and your requests were processed under the *Commonwealth Freedom of Information Act 1982 (the Cth FOI Act)*, as modified by the *Education and Care Services National Regulations 2011*.

I am authorised under section 23 of the Cth FOI Act to make a decision on behalf of the Directorate in relation to the records that are within the scope of your requests.

**Decision on access**

My decision is to release both records in full. They are provided as Attachment A to this letter.

**Your rights for review**

My decision is appealable if, in your opinion, you do not believe that all records relevant to your request in the possession of the Directorate have been located.

Information about the review and appeal process provided for in the Cth FOI Act is attached to this letter.

**Online publication**

Section 11C of the Cth FOI Act requires that information made available to an applicant be published to members of the public generally on a website, subject to exceptions including for personal information and information relating to business affairs. The publication must occur within ten working days after the day the applicant is given access to the records.

Please contact the Directorate's FOI team on 02 6205 0720 or email [EducationFOI@act.gov.au](mailto:EducationFOI@act.gov.au) if you require any further information regarding your request.

Yours sincerely



Paula Murray  
Senior Director, Information Access

17 November 2023

## ***Cth Freedom of Information Act 1982: Review and Appeal Processes***

### **Internal review**

Under s 53A of the Cth FOI Act you may request a review of a decision made under the *Freedom of Information Act 1982* (Cth). Requests for review must be made in writing to the Education Directorate. Requests can be sent by mail to:

The Director-General  
C/- Information Access team,  
Governance Branch  
ACT Education Directorate  
GPO Box 158  
CANBERRA CITY ACT 2601

Or email: EducationFOI@act.gov.au

You have **30 days** from the date you were notified of the decision to request a review. This period may be extended by the Director-General.

### **National Education and Care Services FOI Commissioner**

If you are not satisfied after the Directorate has conducted an internal review, you may seek an independent review of the decision by the Information Commissioner: s 54L Cth FOI Act. In this instance the relevant person is the National Education and Care Services FOI Commissioner (NECS FOI Commissioner). The NECS FOI Commissioner undertakes a review and can then either affirm, vary or substitute the decision, under s 55K of the Cth FOI Act.

### **Commonwealth Administrative Appeals Tribunal**

The Administrative Appeals Tribunal (AAT) is an independent body which undertakes independent merits review of administrative decisions made under Commonwealth laws. The AAT can affirm or vary a decision made by the Directorate, or set aside the decision and substitute its own decision. Alternatively, the AAT can send the matter back to the Directorate for reconsideration in accordance with the Tribunal's recommendations.

You can find out further information on the AAT website:

<http://www.aat.gov.au/applying-for-a-review>

You can contact the AAT via telephone on 1800 228 333.

Or you can make an application online via:

<https://forms.aat.gov.au/landing.htm?formCode=app-for-review>

An appeal must be filed in the Tribunal within **28 days** after the internal review decision is made although you may seek an extension of time in certain circumstances.

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Mitchell

11/4/23

- June/July check Dec highlighted
- limit use in the area
- Part in time. permitted activities
- Re-verified.
- Worst case scenario for zone: industrial accident

Accepted on 25/05/2023 10:15 AM.

### Early Childhood - request for CECA endorsement - EPA discussion

Organizer ● Wild-River, Su

Time Thursday, 25 May 2023 12:00 PM-12:30 PM

Location [Microsoft Teams Meeting](#)

Response ✓ Accepted [Change Response](#)

-  FW: Request for Written CECA Endorsement - DA201733198-S197D (Block 18 Section 11 Mitchell) Outlook item
-  RE: Request for Written CECA Endorsement - DA201733198-S197D (Block 18 Section 11 Mitchell) Outlook item

Hi Colleagues,

Apologies that I missed this in the mix of emails, and thanks Clare and William for the reminders.

Can we please have a quick catch up tomorrow to discuss the request for CECA endorsement.

Cheers

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### Microsoft Teams meeting

**Join on your computer, mobile app or room device**  
[Click here to join the meeting](#)

Meeting ID: 427 402 042 256  
Passcode: jCMN47  
[Download Teams](#) | [Join on the web](#)



25/5/23

Middell

50 - technical questions about air testing.

- air samples - time of year? inadequate.
- point in time readings - first principles do not support putting sensitive operations in industrial areas.
- AGAT - 2017 why the crown lease - permit as a use. add to crown lease. Amenity included in all crown leases for industrial zones. only lease variation appeared. Air quality removed. - No right to activate the use.
- WM - legal advice.

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EPA will rely on previous advice.

- Is it an appealable decision?
- EPA re-send original advice.
- GSO separate advice?
- How details does the advice need to be. - basis in law, reasons and supporting documentation, relevant and material considerations. Appropriate authority refer their expert report.

SM - Review is on reasonableness of the conditions not exercising a power - responding to what the DA is asking us to do. Planning law not National Law substance of the decision and not involving ourselves in the EPA's advice unless if remit.