



## 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 3 November 2021, in which you sought access to:

*'any final briefs prepared for any ACT Minister(s) or ACT Government witnesses during 2021–2022 Budget Estimates Hearings.'*

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 1 December 2021. On 30 November 2021 you agreed to an extension to 7 December 2021 and on 7 December 2021 you agreed to a staged release of the records relevant to this FOI request.

Thank you for agreeing to the extension and to a staged release. This letter addresses Stage 2 which is due to be provided to you on 14 December 2021.

### Decision on access

Searches were completed for relevant records and 68 records were identified that fall within the scope of your request.

In summary, I have decided to grant access to the records as follows:

- full access to 58 records; and
- partial access to nine records with deletions applied.

One record has been withheld at this stage because, in accordance with section 38 of the Act, consultation with a third party is required. Unfortunately, this was not realised until

late in the processing of your request. However, I have decided to release all other records whilst the consultation is undertaken. The Directorate is working to resolve this as soon as possible.

Included as Attachment A to this decision is the schedule of relevant records. This provides a description of each record that falls within the scope of your request and the access decision for each of those records.

The records released to you are provided at Attachment B.

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 16, 17 and 50, and schedule 2;
- the content of the records that fall within the scope of your request; and
- the *Human Rights Act 2004* [if applicable]

### **Reasons for decision**

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 government's accountability* (Schedule 2, 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2, 2.1(a)(ii));
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2, 2.1(a)(iii)); and
- *reveal the reason for a government decision and any background or contextual information that informed the decision* (Schedule 2, 2.1(a)(viii)).

I have decided that the applicable factors favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, are that the information could reasonably be expected to *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004* (Schedule 2, 2.2(a)(ii)).

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

I place significant weight on the positive contribution of open discussion of public affairs, contributing to informed debate on important issues and the factors that underpin transparency of government processes. As such, most of the information is fully released.

Information relating to third parties, or that could lead to the identification of individuals has been deleted as I have concluded that their right to privacy has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

**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 records 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](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](mailto: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 team on 02 6205 0720 or email [EducationFOI@act.gov.au](mailto:EducationFOI@act.gov.au).



Paula Murray  
Information Officer  
14 December 2021