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## FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under the *Freedom of Information Act 2016* (the Act) received by the Education Directorate (the Directorate) on 3 March 2022, in which you are seeking access to:

1. *(a) Internal correspondence between Directorate staff members relating to the prepared response to questions (15) sent by [REDACTED] on 16 February 2022 at 4:23PM to Louise Momber regarding the Campbell Primary School modernisation project, and*  
  
*(b) All correspondence, not limited to emails, that were sent between Directorate staff members and Louise Momber relating to the prepared response to the questions referred to in (a).*
2. *Final briefs produced by the Directorate relating to the management of the Campbell Primary School modernisation project created between 1 January 2018 and 3 March 2022, excluding routine financial management reports, addressed to:*
  - *Executive Group Managers,*
  - *Deputy Director-General,*
  - *Director-General, or*
  - *the Education Minister*

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.

A decision on your access application was required to be provided by 1 April 2022, in line with section 40 of the Act.

### **Decision on access**

Searches were completed for relevant records and 31 records were identified that fall within the scope of your request.

In summary, I have decided to grant:

- full access to seven records,
- partial access to six records with deletions applied,
- non-release of 18 records.

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 Act, particularly sections 16, 17 and 50, and Schedules 1 and 2;
- the content of the documents that fall within the scope of your request; and
- the *Human Rights Act 2004*.

### **Reasons for decision**

I have considered the records that are relevant to your request in accordance with the requirements of the FOI Act.

Records that are partially released under the Act have had deletions applied in accordance with Section 50 of the Act. Deletions have been applied to information that is taken to be contrary to the public interest to disclose, or would, on balance, be contrary to the public interest to disclose in accordance with the public interest test set out in Section 17 of the FOI Act. Section 50 provides for information that is contrary to the public interest to be deleted from the records, enabling the remainder of the record to be released.

### Information that is publicly available

In accordance with sections 43(1)(d) and 45(a) of the Act, information within the scope of your request that has been addressed in a previous FOI application has not been provided because it is publicly available on the Directorate's website. It has been referenced in the Schedule and information provided about where it can be sourced on the Directorate's Disclosure Log – see [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).

Information taken to be contrary to the public interest to disclose

Record 23 contains information that is contrary to the public interest to disclose and is not released. This is because it contains information subject to legal professional privilege in accordance with Schedule 1, 1.2

Information that would, on balance, be contrary to the public interest to disclose

I have decided that the applicable factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that the released information could reasonably be expected to:

- *promote open discussion of public affairs and enhance the 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));*
- *ensure effective oversight of expenditure of public funds (Schedule 2, 2.1(a)(iv));* 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));*
- *prejudice trade secrets, business affairs or research of an agency or person (Schedule 2, 2.2(a)(xi));* or
- *prejudice the competitive commercial activities of an agency (Schedule 2, 2.2(a)(xiii)).*

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, particularly as they relate to expenditure of public monies. As such, most of the information is released.

Personal information of individuals has been deleted as I have concluded that the individual's right to privacy has a higher standing of public interest not to disclose, than the public interest in disclosing this information. This applies to signatures of ACT public servants.

I also place significant weight on protecting the business affairs of the Directorate where I have deemed that it would impact the Directorate's ability to achieve good value for money in its procurement and project management activities if certain cost breakdowns or components were publicly released.

In addition, information that is outside the scope of your request has been deleted from the records.

### **Charges**

Processing charges are not applicable for this request because I have decided that the number of pages involved that are material to your request does not significantly exceed the threshold of 50 pages and the subject matter is in the public interest.

### **Online publishing – disclosure log**

Under section 28 of the Act, the Directorate maintains an online record of access applications called a disclosure log. The Directorate is required to publish the information released in response to an access application on the disclosure log between three and ten days after the decision is released to the applicant.

For your information, the Directorate's disclosure log is available 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 released to you, or a longer period allowed by the Ombudsman. Whilst information released in response to your request will be made available via the disclosure log, your personal information will not be published.

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)  
Telephone: (02) 6276 3773

### **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  
Website: <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).

Yours sincerely



Paula Murray  
Information Officer

1 April 2022