



## FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Education Directorate (the Directorate) on 3 March 2023, in which you sought access to:

*Correspondence regarding the Florey Oval Refresh and the Parliamentary motion on the subject from the 30<sup>th</sup> November 2021 which were exchanged between any of the following: Minister Berry's office, Minister Steel's office, CMTEDD, TCCS, the Education Directorate, and Florey Primary School since 23 November 2021.*

It is noted that had request final versions of documents such as briefs to the Minister and Education Directorate executives, communication plans, and similar; but excluded internal working drafts of such documents and documents relating to routine administrative matters as such as arrangements for the pop-up sessions that were held.

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

The Directorate was required to provide a decision on your access application by 5 April 2023. Thank you for agreeing to extensions of processing time requested by the Directorate. Your consideration is greatly appreciated.

### Decision on access

Searches were completed and 58 records were identified that fall within the scope of your request.

I have included as Attachment A to this decision 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.

In summary, my decision is:

- Full access to 17 records; and
- Partial access to 41 records with some information deleted.

The records released to you are provided as Attachment B to this letter.

My access decisions are 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, 50 and Schedule 2;
- the content of the records that fall within the scope of your request;
- the *Human Rights Act 2004*; and
- the *Information Privacy Act 2014*.

### **Reasons for decision**

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

Section 6(a) of the FOI Act provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be removed, which enables the remainder of the record to be released. This provision has been applied where appropriate.

#### *Information taken to be contrary to the public interest to disclose*

One of the records within the scope of your request contains information that is taken to be contrary to the public interest to disclose in accordance with Schedule 1, 1.6 of the Act, as the information is Cabinet information. The information concerned relates to a matter proposed to be submitted to Cabinet for deliberation and the information is not purely factual.

#### *Information, the disclosure of which would, on balance, be contrary to the public interest*

The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the FOI 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, 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 code of conduct followed by the government in its dealings with members of the community (Schedule 2, 2.1(a)(iii));*
- *reveal the reason for a government decision and any background or contextual information that informed the decision (Schedule 2, 2.1(a)(viii)); and*

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the FOI Act, are that disclosure of 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 factor favouring non-disclosure.

I acknowledge the positive contribution of informed debate on matters of public interest and transparency of government processes and decisions.

I place significant weight on the right to privacy of individuals and their right to have their personal information protected. I have decided that their right to privacy in relation to their personal information has a higher standing of public interest not to disclose, than the public interest in disclosing this information. Accordingly, third party personal information, which is predominantly the names of people, their contact information and signatures has been deleted.

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

### **Charges**

There is no charge associated with this request because the information is considered to be of interest to members of the community and in consideration of the processing delay.

### **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 the 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 FOI Act. You have the right to seek Ombudsman review of this outcome under section

73 of the FOI 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 FOI 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, please contact the Directorate's FOI team on 02 6205 0720 or email [EducationFOI@act.gov.au](mailto:EducationFOI@act.gov.au).

Yours sincerely



Information Officer

26 May 2023