

[REDACTED]
Via email: [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 27 June 2023, in which you sought access to:

Copies of any records and/or notes regarding official contact, complaints, phone calls, emails or meetings that the Aranda Primary School P&C has had with the Education Directorate on all topics over the last 12 months.

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 29 August 2023. On 18 August you were notified third party consultation would be required, which resulted in the decision due date being revised to 8 September 2023. You advised via telephone you would prefer the consultation process to not commence until 7 September at the earliest, which would result in an expected due date to around 29 September 2023. On 18 August you were sent an email requesting confirmation of your preference. On 21 August we received confirmation of your preference to not commence the third-party process until 7 September. On 7 September we sent you an email seeking confirmation to proceed with the third-party consultation. On 12 September we received confirmation from you to commence the third-party process, which resulted in the decision due date being revised to 11 October 2023.

Decision on access

Searches were completed for relevant records and 48 records were identified that fall within the scope of your request.

In summary, I have decided to grant:

- full access to 5 records,
- partial access to 43 records with deletions applied.

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.

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, 35 and 50, and schedules 1 and 2,
- the content of the records that fall within the scope of your request,
- the views of third parties consulted,
- the *Human Rights Act 2004*,
- the *Information Privacy Act 2014*, and
- the FOI Guidelines issued under section 66 of the FOI Act by the Ombudsman.

Reasons for decision

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

Section 6(a) of the 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 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 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

None of the records contain information that is taken to be contrary to the public interest to disclose.

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

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, 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)); or*
- *prejudice trade secrets, business affairs or research of an agency or person (Schedule 2, 2.2(a)(xi)).*

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

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. This position is informed by considerations of the requirements of the *Human Rights Act 2004* and the *Information Privacy Act 2014*. Section 12(a) of the Human Rights Act provides that everyone has the right '*not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily*'. Ombudsman review decisions addressing this matter have stated that this "can essentially be viewed as the right of an individual to preserve their personal sphere from interference by others". In addition, the Territory Privacy Principles contained in the *Information Privacy Act 2014*, set out the expectation that, in ordinary circumstances, individuals are required to give consent before their personal information, which includes information that could lead to them being identified, is disclosed. Accordingly, third party personal information has been deleted.

I have decided that external organisations are entitled to have information relating to their business affairs not disclosed if it would be prejudicial to their commercial interests. This is particularly relevant in this case where the organisation's business information was had not directly relevant to the matters being discussed between the Directorate and the P&C, and was provided as an example of a project at a different location. I have given this factor stronger weight than the public interest that would be served by disclosure of the information and have deleted it from the records released to you.

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

Charges

Processing charges are not applicable for this request because I have decided 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. 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.

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
Allara House, 15 Constitution Ave
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.

Yours sincerely



Paula Murray
Information Officer

11 October 2023