

File Ref: 2019/TBA



Email: 

Dear 

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate on 17 April 2019, seeking access to documents relating to Melrose High School playing fields.

Your request was specifically for:

*Briefs to the Directorate's executive relating to the refurbishment of Melrose High School's playing fields in the period 1 January 2015 to 17 April 2019, particularly identifying the reasons for and costs of work undertaken, and management arrangements when completed.*

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

The Directorate was required to provide a decision on your access application on 20 May 2019.

**Decision on access**

Searches were completed for relevant documents and 17 documents were identified that fall within the scope of your request.

My decision is to provide access to the documents as follows:

- Full access to eight documents; and
- Partial access to nine documents with deletions applied.

This decision is detailed further in the following statement of reasons.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

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

### **Material considered**

In reaching my access decision, I have taken the following into account:

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

### **Reasons for decision**

My reasons for deciding not to grant access to parts of some documents are because they contain information that:

- is taken to be contrary to the public interest to disclose in accordance with Schedule 1 of the Act, or
- I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act, or
- is publicly available; or
- is outside of the scope of your request.

I have decided to grant access, where possible, under section 50 of the Act, to copies of documents with information deleted that I consider is contrary to the public interest to disclose.

### **Information that is considered, on balance, to be contrary to the public interest**

In applying the public interest test I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that the information would:

- promote open discussion of public affairs and enhance the government's accountability (Schedule 2.1(a)(i)); or
- contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1(a)(ii)); or
- ensure effective oversight of expenditure of public funds (Schedule 2.1(a)(iv)); or
- reveal the reason for a government decision and any background or contextual information that informed the decision (Schedule 2.1(a)(viii)).

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the Act, are that disclosure of the information would:

- prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004* (Schedule 2.2(a)(ii)); or
- prejudice a deliberative process of government (Schedule 2.2(a)(xvi)).

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

In accordance with Section 50 of the FOI Act, I have decided to delete information from some of the documents being provided to you because they contain personal information of third parties. I have decided that the individual's right to privacy of this information has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

In addition, some of the documents contain information about the proposed naming of the facility. As this has not formally been decided and announced, I have determined that disclosure of the information could reasonably be expected to be prejudicial to the government's decision-making processes about this matter. Therefore, this information has been deleted from the documents provided to you.

#### **Additional information**

You will note that one of the documents (Document 11) identifies concerns raised by the Principal of Melrose High School about accessibility of the facilities and reputational risks for the school of potential vandalism to be attributed to Melrose High students. It may assist your consideration of this information to be aware that a perimeter fence around the school was completed in 2018.

#### **Charges**

Processing charges are not applicable for this request.

#### **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 Education 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 our FOI Coordinator on (02) 6205 0720 or email [EDULegalLiaison@act.gov.au](mailto:EDULegalLiaison@act.gov.au)

Yours sincerely



Paula Murray  
Information Officer  
Education Directorate

20 May 2019