



Email: 

Dear 

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 19 July 2019, in which you sought access to documents . The documents you have requested relate  to asbestos dust and fibre at Weston Creek High School (renamed as Mount Stromlo High School) and Holder Primary School in 1971/1972.

The documents you have specifically requested are:

- (a) Hazardous Material Survey and Management Plans, inspection and survey reports, site maps, asbestos registers;*
- (b) Logs of repair, maintenance and other works involving asbestos containing materials;*
- (c) Any document relating to the schools named above and the use or presence of asbestos containing materials including but not limited to: "asbestos lagging", "asbestos insulation", "asbestos cement sheeting", "A/C sheeting", "Super Six" "corrugated sheeting", "corrugated A/C sheeting", "Tilux", "Hardiflex", "Fibrolite", "Villaboard", "Durabestos" and/or "Wunderflex" sheeting; and*
- (d) All documents relating to the maintenance activities at Mount Stromlo High School involving the replacement of asbestos cement fibro eaves in the Technical Block and other buildings in January 2016.*

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 6 September 2019. In discussions with your office it was agreed we would supply documents for Holder Primary School by 6 September 2019, and documents for Mount Stromlo High School by 20 September 2019 due to the need for extensive third party consultation. Thank you for agreeing to this approach.

Decision on access

Searches were completed for relevant documents and 15 documents were identified that fall within the scope of your request that relate to Holder Primary School. I note that the documents for Holder Primary School are more than 20 years old and as such could have been processed under the *Territory Records Act 2002*. However, noting that your request includes a substantial amount of more recent material for Mount Stromlo High School to be released, I have decided to process the Holder Primary School material under the *Freedom of Information Act 2016* to ensure a consistent approach.

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.

I have decided to grant access to the documents relevant to your request as follows:

- full access to two documents; and
- partial access to 13 documents with deletions applied.

For documents where access is partially provided, I have decided that they contain information that I consider to be contrary to the public interest to disclose or would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act. Access is partially provided to these documents under section 50 of the Act.

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 17 and 50, and schedule 2;
- the content of the documents that fall within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

In making my decision I have applied the public interest test set out in section 17 of the Act.

I have decided that the applicable 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 the government's accountability (Schedule 2.1 (a)(i));
- contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1 (a)(ii)); and
- reveal environmental or health risks or measures relating to public health and safety (Schedule 2.1 (a)(xi)).

I have decided that the applicable factors favouring non-disclosure, 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(a)(ii)).

I have considered the factors favouring disclosure and the factors favouring non-disclosure and place significant weight on the factors favouring disclosure.

However, some of the documents contain information relating to the personal information of third parties. I have concluded 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, and this information, which is minor in nature, has been deleted. Material that is outside of the scope of the request has also been deleted.

Charges

I have decided that processing charges are not applicable to your request because it is for information [REDACTED]

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 the request, decision and documents released in response to an access application is required to be published in the Directorate's disclosure log between three and 10 working days after a decision on access has been provided to the applicant. Personal information of the applicant is not published in the disclosure log.

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
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 Coordinator on 02 6205 0720 or email EDULegalliaison@act.gov.au.

Yours sincerely



Information Officer

6 September 2019