

File Ref: [REDACTED]

[REDACTED]  
Via email: [REDACTED]

Dear [REDACTED]

### **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 27 May 2020, in which you sought access to:

- 1. a copy of all the submissions made to the 2013 Review of Approval and Registration Processes.*
- 2. a copy of the confirmation from the ACT Minister of Education or its delegate of receipt of the Annual Statement of Assurance for Brindabella Christian College (BCC) in 2016, 2017, 2018 and 2019 from the Association of Independent Schools, and any correspondence related to this confirmation of receipt.*
- 3. If there is no evidence of confirmation of receipt by the Department to the AIS, I request the confirmation from Association of Independent Schools to the Department that it received and approved the Statements of Assurance from BCC in 2016, 2017, 2018 and 2019.*
- 4. I request the community comments about the application by BCC for the registration at additional education levels (year 5 & 6) at the Charnwood campus and the documentation about the reasons to the application's approval by the Department.*
- 5. a copy of the most recent application forms for the application of registration renewal for BCC for both the Lyneham and Charnwood campuses.*
- 6. a copy of BCC's submitted complaints policy, supplied to the Directorate as part of the most recent registration process.*
- 7. I seek the total number of complaints received by the ACT Government about BCC during 2019, and a summary of the type of request, and any actions taken by the Directorate in response to them.*

*8. a copy of the most recent audit of student enrolments at BCC.*

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 is due by 17 July 2020.

**Decision on access**

Searches were completed for relevant documents and fifteen documents were identified that fall within the scope of your request. No documents were identified that addressed points 2 and 4 of your request.

In relation to point 4 of your request, a document that was not within the scope of your request was found that indicated there were no community comments received about the application by BCC to expand its offerings at the Charnwood campus to include year 5 and 6 classes.

Documents relevant to point 7 of your request are subject to another FOI request that the Directorate is currently processing and we will inform you when these are publicly available.

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

- full release of one document; and
- partial access to eight documents.

As advised by the Directorate on 24 June 2020, third party consultation was undertaken in accordance with section 38 of the Act in relation to some of the documents within the scope of your request. I have withheld six documents at this time pending the outcome of the consultation processes. I am awaiting responses from two organisations in relation to documents for point 1 of your request and these are unlikely to be received until schools resume for Term 3 on 20 July 2020. The Directorate will keep you informed about the expected timing of the resolution of this matter.

Another organisation has objected to the release of documents relating to points 1, 5, 6 and 8 of your request. They have been advised that I do not agree with their objection. Accordingly they have 20 working days (until 13 August 2020) to seek review of my decision by the Ombudsman. I am unable to release the documents until the review processes are completed.

I have included as Attachment A to this decision, the schedule of relevant documents that are released. This provides a description of each document and its access decision.

The documents released 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 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**

Documents that are partially released with deletions applied in accordance with Section 50 of the Act, contain information that:

- 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 Act; or
- is outside of the scope of your request.

In applying the public interest test in accordance with Section 17 of the Act. I have decided that, whilst the factors favouring disclosure in the public interested listed at Schedule 2.1 of the Act may not be directly applicable to this request, the list is not exhaustive, as stated in the Ombudsman's guidelines for 'Considering the Public Interest' – available at

[https://www.ombudsman.act.gov.au/\\_\\_data/assets/pdf\\_file/0010/110800/4.-](https://www.ombudsman.act.gov.au/__data/assets/pdf_file/0010/110800/4.-Ombudsman-Guidelines-Considering-the-public-interest.pdf)

[Ombudsman-Guidelines-Considering-the-public-interest.pdf](https://www.ombudsman.act.gov.au/__data/assets/pdf_file/0010/110800/4.-Ombudsman-Guidelines-Considering-the-public-interest.pdf) - section 8.1. It is my view that matters relating to children's education are of broad public interest, and I am aware that there have been a number of media stories and letters to the Minister about BCC which indicates to me that it is of community concern.

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

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. Accordingly, signatures, email addresses and the names of personnel in other organisations have been deleted from the information being provided to you.

### **Charges**

Processing charges are waived for this request because the number of pages being released to you does not exceed 50, and the Act requires that the first 50 pages must be provided free of charge.

### **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. Whilst information released in response to your request will be made available via the disclosure log, your personal information will not be published.

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.

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**

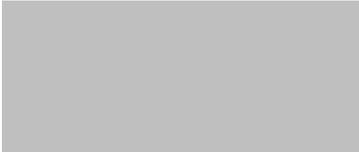
Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

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

17 July 2020