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## 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 16 November 2020, in which you sought access to:

*'information regarding the background for installation of new portable classrooms at Garran Primary School in 2020.*

*Specifically, I request access to any ACT Education Directorate documents and communication informing the decision leading the installation of these classrooms, incl. demand assessments, assessment of various options for extended space (e.g. portable classrooms, permanent classrooms or new school) across key decision criteria (e.g. longer term demand, cost, classroom quality, implementation timeframes).'*

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 Directorate was required to provide a decision on your access application by 6 January 2021, a decision date which included 15 working days to conduct consultation processes with third parties in accordance with the Act.

### Decision on access

Searches were completed for relevant documents and 27 documents were identified that fall within the scope of your request.

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.

My decision in relation to the documents relevant to your request is summarised as follows:

- full release of 6 documents; and
- partial access to 21 documents.

My access decisions are detailed further in the following statement of reasons.

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 16, 17 and 50, and schedule 2;
- the content of the documents that fall within the scope of your request;
- the views of third parties consulted; and
- the *Human Rights Act 2004*

### **Reasons for decision**

Documents that are partially released with deletions applied in accordance with Section 50 of the FOI 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 FOI Act.

The public interest test has been applied in accordance with Section 17 of the FOI Act, which 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.

As education facilities are a matter of public interest, I have decided that the factor favouring disclosure is that disclosure of the information could reasonably be expected to 'contribute to positive and informed debate on important issues or matters of public interest' (Schedule 2.1(a)(ii)).

I have decided that the factors favouring non-disclosure as listed at Schedule 2.2 of the 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(a)(ii));
- Prejudice trade secrets, business affairs or research of an agency or person (Schedule 2.2(a)(xi)); and
- Prejudice a deliberative process of government; (Schedule 2.2(a)(xvi)).

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. This position is also informed by consultation undertaken with third parties. Therefore, I have decided that the third party's right to privacy in relation to the personal information of their employees, and in agreement with their expressed desire to maintain their confidentiality, has a higher standing of public interest not to disclose, than the public interest in disclosing this information. Consequently, information relating to persons, or information that could enable the persons to be identified, has been deleted from the information being provided to you.

I also place significant weight on an organisation's right to have their business affairs, trade secrets, confidential information and commercial interests protected. Following consultation with the organisations concerned, I have decided to delete this information from the documents released to you.

Further, many of the documents contain information that is not relevant to the scope of your request. This information has been deleted.

### **Charges**

Processing charges are not applicable for this request because I have decided that the number of pages involved that are material to your request does not significantly exceed the threshold of 50 pages.

### **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 documents 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 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](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 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

6 January 2021