

File Ref: [REDACTED]

[REDACTED]

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 8 July 2019, in which you sought access to documents relating to:

*Final Ministerial briefs prepared for the 2019-20 Estimates hearings.*

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 5 August 2019.

**Decision on access**

Searches were completed for relevant documents and 53 documents were identified that fall within the scope of your request.

I have included at [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 41 documents;
- partial access to 10 documents with deletions applied; and
- not release two documents.

For documents where access is refused or partially provided, I have decided that, in accordance with Schedule 1 of the FOI Act, 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 schedules 1 and 2;
- the content of the documents that fall within the scope of your request; and
- the *Human Rights Act 2004*.

### **Reasons for decision**

I have decided to not release one document in accordance with Schedule 1, 1.6 of the Act because it contains information that has been submitted to Cabinet for its consideration and that was brought into existence for that purpose. Therefore, it is taken to be contrary to the public interest to disclose this document.

I have decided not to release another document in accordance with Section 45(a) of the Act as the material contained in this document is already publicly available. This contains a summary of Questions Taken On Notice and Questions On Notice during 2019.

In making my decision in relation to all other documents I have applied the public interest test that is set out in section 17 of the Act.

I have decided that the 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 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));
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2.1(a)(iii)); and
- *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 in the public interest, as listed at Schedule 2.2 of the Act, are that the information could reasonably:

- *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)); or*
- *prejudice intergovernmental relations (Schedule 2.2(a)(x)).*

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

I have placed significant weight on the positive contribution of open discussion of public affairs, contributing to informed debate on important issues and the factors that underpin transparency of government processes. As such, the bulk of the material within the scope of this request is to be released with no redactions applied.

There are eight documents with redactions applied to information relating to third parties or for which the release of this information could lead to the identification of individuals. I have concluded that the individual's right to privacy has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

Document 31 has business names redacted where the information pertaining to that business is not publicly available. I have concluded that their right to privacy in relation to their business affairs has a higher standing of public interest not to disclose, than the public interest in disclosing this information. There is also information within this document relating to a Cabinet Submission that has been redacted (Schedule 1, 1.6).

Document 40 has material within it that could reasonably impact on intergovernmental relations due to ongoing negotiations between state and territory governments and the Commonwealth. As such, I have placed greater weight on maintaining intergovernmental relations than the public interest to disclose this information.

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

Yours sincerely



Information Officer

5 August 2019