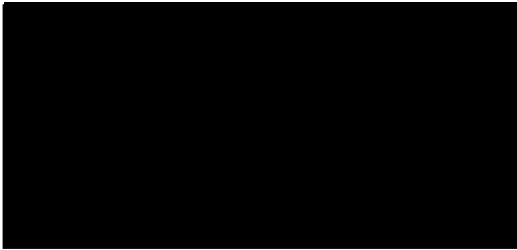




ACT
Government

Education and Training

File reference: 2015/03040



Dear 

I refer to your request under the ACT *Freedom of Information Act 1989* (the FOI Act) received by the Directorate on 13 March 2015.

Your request

You are seeking access to all documents relating to the provision of a new location for the Canberra Services Club and the Manuka Occasional Child Care Centre and the upgrade to Telopea Park School's sporting facilities.

The Directorate apologises for the delay in providing a response to your request. I understand you were advised of the delay.

My decision

I am authorised under section 22 of the FOI Act to make a decision in respect of your request.

A schedule setting out the relevant documents located and my decisions in relation to their release is at [Attachment A](#), and the released documents are at [Attachment B](#).

You will note from the schedule that I have decided to provide access in full to a number of documents. I have also decided to provide access to some documents with deletions and to exempt others in their entirety under sections 36, 41 and 43 of the FOI Act.

Details of the exemption provisions, together with my reasons for applying them, are set out below.

Section 36 – Internal working Documents

Section 36 states:

- (1) *Subject to this section, a document is an exempt document if its disclosure under this Act—*
 - (a) *would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and*
 - (b) *would be contrary to the public interest.*

A number of documents have been exempted in full and others in part under this section of the FOI Act as their release would disclose the considerations of ACT Government officers and consultations undertaken in regard to identifying a new location for the Manuka Occasional Child Care Centre and the upgrades to Telopea Park School's sporting facilities. These documents were created for the purpose of consultation and seeking further advice and are part of the deliberative processes of the Directorate. It would not in my view be in the public interest to release these documents as disclosure would, or could reasonably be expected to, compromise the effectiveness of the Directorate's process of efficient administration and discourage the recording of preliminary thoughts and options in writing.

Section 41 – Documents affecting personal privacy

Section 41 states:

- (1) *A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*

The material deleted from a number of documents contains personal information such as names, addresses and mobile telephone numbers. I believe it would be unreasonable to release this information.

Section 43(1) exempts:

- (a) *trade secrets; or*
- (b) *any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or*

diminished if the information were disclosed; or

(c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—

(i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.

The material deleted in a number of documents is of a sensitive commercial nature, including pricing and contract terms, which is not publicly known. The disclosure of this information could result in an adverse affect on the lawful business interests of the organisation concerned.

Information outside the scope of your request

I have also decided to delete information in several documents because it is outside the scope of your request. The information has been withheld from release includes:

- matters raised at Telopea Park School Board meetings that are not related to the proposed transfer of part of Montgomery Oval
- information regarding a meeting where matters other than the proposed transfer of land were listed for discussion
- information about current lease arrangements between MOCCA and the Education and Training Directorate, and
- information in documents such as the Chief Minister's Talkback that does not relate to the provision of a new location for the Canberra Services Club and the Manuka Occasional Child Care Centre or the upgrade to Telopea Park School's sporting facilities.

Your rights for review

My decision not to release all the information relevant to your request is subject to review under section 59 of the Act. It is also appealable if, in your opinion, you do not believe that all the documents relevant to your request in the possession of the Directorate have been located.

An information sheet outlining the review and appeal process provided for in the Act is attached to this letter.

Online publication

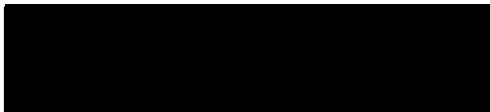
Please be aware that under the ACT Government's Online FOI Publication policy, information released to you under this Freedom of Information request may be released on the internet.

Personal information or business affairs information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the internet, is available at:

http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online

Yours sincerely



Mark Whybrow
Chief Finance Officer

12 June 2015

Freedom of Information Act 1989 **Review and Appeal Processes**

Internal review

You may request a review of a decision made under the *Freedom of Information Act 1989* (ACT). Requests for review must be made in writing to the Education and Training Directorate. Requests can be sent by fax (02 6205 9453) or by mail to:

The Director-General
C/- Governance and Assurance Branch
ACT Education and Training Directorate
PO Box 158
CANBERRA CITY ACT 2601

You have **28 days** from the date you were notified of the decision to request a review. This period may be extended by the Director-General.

ACT Civil and Administrative Tribunal

If you are not satisfied after the Directorate has conducted an internal review, you may seek an independent review of the decision by the ACT Civil and Administrative Tribunal. The Tribunal is an independent body which can affirm, change or reject the decision made by the Directorate and either substitute its own decision or send the matter back to the Directorate for reconsideration in accordance with the Tribunal's recommendations.

The Tribunal can be contacted by fax (02 6205 4855), email (tribunal@act.gov.au) or by mail to:

ACT Civil and Administrative Tribunal
DX5691
GPO Box 370
CANBERRA CITY ACT 2601

An appeal must be filed in the Tribunal within 28 days after the internal review decision is made although you may seek an extension of time in certain circumstances.

An application for a review may be made by writing to the Tribunal, or by completing the *Application for Review of a Decision* form (available on the Tribunal's website at www.acat.act.gov.au). There is a fee for lodging an appeal with the Tribunal. This fee may be remitted under certain circumstances.

ACT Ombudsman

You also have the right to complain to the ACT Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

ACT Ombudsman
GPO Box 442
CANBERRA CITY ACT 2601

The ACT Ombudsman cannot override a decision made by the Directorate.