



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-154
Date of Application	3 May 2024
Date of Decision	5 July 2024
Processing time (in working days)	43
Fees	N/A
Decision on Access	Refusal
<b>Information Requested (summary)</b>	Documents related to two investigations at Brindabella Christian College
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents Not Released; Schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

**From:** [CMTEDD FOI](#)  
**To:** [EPSDFOI](#)  
**Cc:** [Kramarzewski, Lisa](#)  
**Subject:** RE: FOI Request - BCC  
**Date:** Friday, 3 May 2024 10:01:20 AM

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OFFICIAL: Sensitive

Hi Angelina

Thanks for your time just now and for confirming that EPSDD has not had any contact with the applicant re this request. CMTEDD accepts transfer of this one in full.

Kind regards  
Emma

**Emma Hotham (she/her) | Director, Freedom of Information**

Phone: 02 6207 0811 | [emma.hotham@act.gov.au](mailto:emma.hotham@act.gov.au)  
Chief Minister, Treasury and Economic Development Directorate | **ACT Government**  
Level 1, 220 London Circuit, Canberra City | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** EPSDFOI <EPSDFOI@act.gov.au>  
**Sent:** Friday, April 26, 2024 8:58 AM  
**To:** CMTEDD FOI <CMTEDDFOI@act.gov.au>  
**Subject:** RE: FOI Request - BCC

OFFICIAL: Sensitive

Hi Emma

Please see the below application received by EPSDD yesterday.  
Happy to chat when you get some time.

Kind regards

**Angelina Aloisi (she/her) | A/g Assistant Director Information Governance (FOI and Information Access)**  
Phone: 02 6207 7912 | Email: [angelina.aloisi@act.gov.au](mailto:angelina.aloisi@act.gov.au)  
**Legal Policy and Information Access | Environment, Planning and Sustainable Development Directorate | ACT Government**  
480 Northbourne Avenue, Dickson | GPO Box 158, Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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**From:** [REDACTED]  
**Sent:** Thursday, April 25, 2024 9:35 PM  
**To:** EPSDFOI <[EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)>

**Subject:** FOI Request

**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good morning FOI Team

We are in receipt of Notice of a Decision concerning a Controlled Activity Order Application [REDACTED] [REDACTED]. The notice indicates we may apply for access to documents relevant to the decision under the Freedom of Information Act 2016. Accordingly, we seek documents related to Brindabella Christian College, 136 Brigalow St, Lyneham held by EPSDD, CMTEDD and/or the Minister for Planning's Office concerning:

Investigation [REDACTED]  
Investigation [REDACTED]

as identified in the Preliminary Investigation Report provided by CMTEDD [REDACTED]  
[REDACTED]

We do not seek duplicates or drafts. We seek any/all site notes, correspondence, inspections, photographs, records, orders or notices issued (including Stop Work Orders) and any compliance action regarding either or both of these buildings since 1 January 2023.

We also seek any responses made to media enquiry regarding these buildings, noting the following reports:

The Canberra Times reported 1 Sept 23 <https://www.canberratimes.com.au/story/8329820/stop-work-notice-issued-to-canberra-school-over-building-compliance-issue/> and 30 Oct 23 <https://www.canberratimes.com.au/story/8389568/private-school-did-not-get-approval-for-demountable-classrooms/>.

Riot Act also reported 12 Sept 23 <https://the-riotact.com/brindabella-christian-college-using-uncertified-structures-as-classrooms-community-association-says/700785>

Appendix 1 of Attachment E being a Photo Description of the buildings is attached below to ensure correct identification of unapproved demountable Building 2 and Building 5.

Thank you for your assistance with this request.

regards


[REDACTED]



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## Appendix -1 – Photos

Photo No.	Photo Description	Taken From
1		ACTMapi aerial imagery 2022 July – Location of buildings mentioned in the CAO.



## FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

I refer to your application [redacted] to Environment, Planning and Sustainable Development Directorate (EPSDD) made under section 30 of the *Freedom of Information Act 2016* (the Act). This application was transferred to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) in full and was received by CMTEDD on 3 May 2024.

Specifically, you have sought access to the following information:

*“We are in receipt of Notice of a Decision concerning a Controlled Activity Order Application [redacted]. The notice indicates we may apply for access to documents relevant to the decision under the Freedom of Information Act 2016. Accordingly, we seek documents related to Brindabella Christian College, 136 Brigalow St, Lyneham held by EPSDD, CMTEDD and/or the Minister for Planning’s Office concerning:*

*Investigation [redacted]*

*Investigation [redacted]*

*as identified in the Preliminary Investigation Report provided by CMTEDD - AC Investigation Number [redacted]*

*We do not seek duplicates or drafts. We seek any/all site notes, correspondence, inspections, photographs, records, orders or notices issued (including Stop Work Orders) and any compliance action regarding either or both of these buildings since 1 January 2023.*

*We also seek any responses made to media enquiry regarding these buildings, noting the following reports:*

*The Canberra Times reported 1 Sept 23 <https://www.canberratimes.com.au/story/8329820/stop-work-notice-issued-to-canberra-school-over-building-compliance-issue/> and 30 Oct*

23 <https://www.canberratimes.com.au/story/8389568/private-school-did-not-get-approval-for-demountable-classrooms/>.

Riot Act also reported 12 Sept 23 <https://the-riotact.com/brindabella-christian-college-using-uncertified-structures-as-classrooms-community-association-says/700785>

*Appendix 1 of Attachment E being a Photo Description of the buildings is attached below to ensure correct identification of unapproved demountable Building 2 and Building 5."*

## **Authority**

I am an Information Officer appointed by the CMTEDD Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

## **Timeframes**

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act.

Therefore, a decision is due by **9 July 2024**.

## **Decision on access**

Searches of CMTEDD records have identified 24 documents within the scope of your request, which includes some duplicate documents. I note that your application was transferred from EPSDD under 57 of the Act as the documents within scope of your request are not held by EPSDD. Your application was processed under section 58 of the Act and documents within scope of your request have been provided by the Office for the Minister for planning. I am the decision-maker on these documents under section 58(c)(ii) of the Act.

I have decided to refuse access to 24 documents.

The records identified as relevant to your application are listed in the schedule enclosed at **Attachment A**. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

Searches for records were undertaken for records within your requested scope as held by CMTEDD and the Office of the ACT Minister for Planning.

## **Release of documents**

The information is not being released to you. Therefore, there is no additional attachment containing documents.

## **Statement of Reasons**

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- *Human Rights Act 2004*
- the information that falls within the scope of your request

- ACT Ombudsman Freedom of Information Guidelines (FOI Guidelines)

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in **Schedule 2** of the Act.

## **Exemptions claimed**

### **Schedule 1: Information taken to be contrary to the public interest.**

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

- *Section 1.14 - Law enforcement or public safety information.*

Documents within your requested scope include emails, Official Notices, preliminary investigation reports, Official Notices and Letters by the Regulators, and compiled documents concerning two investigations and a statutory declaration, [REDACTED]. I have decided to refuse access as the material is exempt from release under schedule 1, section 1.14 of the Act.

Documents within your requested scope are connected with matters currently before the ACT Supreme Court and the ACT Civil and Administrative Tribunal (ACAT.) Therefore, I and therefore refuse access to documents within your requested scope as the material may reasonably be expected to:

- *(b) identify the existence or identity of a confidential source of information in relation to the enforcement or administration of the law; or*
- *(e) prejudice a person's fair trial or the impartial adjudication of a matter before a court or tribunal.*

I have decided to refuse access in whole, to documents that contain information that can identify confidential sources of information related to investigation of possible contraventions of the law and would be reasonable be expected to be prejudicial to lawful methods or procedures for protecting public safety including revealing sources of confidential information. This includes complaint information.

Acting Justice Ainslie-Wallace made orders on 6 February 2024, in the ACT Supreme Court of Appeal and issued a stay for matter CA/2/2024 Brindabella Christian Education Ltd ACN 100 229 669 trading as Brindabella Christian College v Lyneham Community Association Inc & Ors.

Noting that there are matters currently before the ACT Supreme Court, there are also current proceedings before ACT Civil and Administrative Tribunal (ACAT) that are currently listed for hearing in July and August 2024, for case number AT/006/24, in the matter of Community for Constitutional Reform at Brindabella Christian College Inc v Territory Planning Authority.

Therefore, at this time, the material is exempt from release under schedule 1, s 1.14(1)(e) of the Act that states that disclosure of the information could reasonably be expected to "prejudice a person's fair trial or the impartial adjudication of a matter before a court or

tribunal.” In these circumstances, the disclosure of the information may reduce the effectiveness of a court’s power to make suppression or non-publication orders, reveal information that may enable a witness to alter their evidence, or undermine the witness’ credibility by creating the perception they may have altered their evidence, prematurely reveal an aspect of a party’s case that the party would not otherwise be required to disclose in preparation for the trial or adjudication. In this respect additional searches were undertaken when processing your request that confirmed that the matters concerning litigation continue to be ongoing.

### **Additional Information**

I note that a decision has been published on the CMTEDD disclosure log refusing access to documents for CMTEDD FOI 2023-437 refusing access to documents, which can be accessed here:

[https://www.cmtedd.act.gov.au/\\_data/assets/pdf\\_file/0003/2422128/2023-437.pdf](https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0003/2422128/2023-437.pdf)

### **Charges**

Processing charges are not applicable for this request as no documents are being released to you.

### **Online publishing – Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a [disclosure log](#).

Your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

### **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, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via 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  
GPO Box 370  
Canberra City ACT 2601  
Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the FOI Team by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely



Emma Hotham  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate

5 July 2024



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference No.
<p>"We are in receipt of Notice of a Decision concerning a Controlled Activity Order Application [REDACTED]. The notice indicates we may apply for access to documents relevant to the decision under the Freedom of Information Act 2016. Accordingly, we seek documents related to Brindabella Christian College, 136 Brigalow St, Lyneham held by EPSDD, CMTEDD and/or the Minister for Planning's Office concerning:</p> <p>Investigation [REDACTED] Investigation [REDACTED]</p> <p>as identified in the Preliminary Investigation Report provided by CMTEDD - [REDACTED]</p> <p>We do not seek duplicates or drafts. We seek any/all site notes, correspondence, inspections, photographs, records, orders or notices issued (including Stop Work Orders) and any compliance action regarding either or both of these buildings since 1 January 2023.</p> <p>We also seek any responses made to media enquiry regarding these buildings, noting the following reports:</p> <p>The Canberra Times reported 1 Sept 23 <a href="https://www.canberratimes.com.au/story/8329820/stop-work-notice-issued-to-canberra-school-over-building-compliance-issue/">https://www.canberratimes.com.au/story/8329820/stop-work-notice-issued-to-canberra-school-over-building-compliance-issue/</a> and 30 Oct 23 <a href="https://www.canberratimes.com.au/story/8389568/private-school-did-not-get-approval-for-demountable-classrooms/">https://www.canberratimes.com.au/story/8389568/private-school-did-not-get-approval-for-demountable-classrooms/</a>. Riot Act also reported 12 Sept 23 <a href="https://the-riotact.com/brindabella-christian-college-using-uncertified-structures-as-classrooms-community-association-says/700785">https://the-riotact.com/brindabella-christian-college-using-uncertified-structures-as-classrooms-community-association-says/700785</a></p> <p>Appendix 1 of Attachment E being a Photo Description of the buildings is attached below to ensure correct identification of unapproved demountable Building 2 and Building 5."</p>	<p>CMTEDDFOI 2024-154</p>

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
Investigation - [REDACTED]		(Binder Part 1)				
1	1-2	Email	28/09/2023	Exempt	Sch 1, s 1.14	No
2	3-13	Preliminary Investigation Report	18/10/2023	Exempt	Sch 1, s 1.14	No
3	14	Email	23/10/2023	Exempt	Sch 1, s 1.14	No
4	15-16	Letter – Attachment to Folio 3	23/10/2023	Exempt	Sch 1, s 1.14	No
5	17-18	Email	02/11/2023	Exempt	Sch 1, s 1.14	No

6	19-21	Email chain	05/04/2024-08/04/2024	Exempt	Sch 1, s 1.14	No
7	22-24	Salesforce record – 11/10/2023 to 24/10/2023	14/05/2024	Exempt	Sch 1, s 1.14	No
8	25-26	Email	14/05/2024	Exempt	Sch 1, s 1.14	No
9	27-29	Email chain	05/04/2024-08/04/2024	Exempt	Sch 1, s 1.14	No
Investigation – [REDACTED] (Binder Part 2)						
10	1-8	Preliminary Investigation Report	10/08/2023	Exempt	Sch 1, s 1.14	No
11	9	Email	10/08/2024	Exempt	Sch 1, s 1.14	No
12	10-12	Stop Notice	10/08/2023	Exempt	Sch 1, s 1.14	No
13	13	Email	18/09/2024	Exempt	Sch 1, s 1.14	No
14	14-16	Stop Notice-copy	10/08/2023	Exempt / Not released	Duplicate Sch 1, s 1.14	No
15	17-20	Email chain	06/10/2024	Exempt	Sch 1, s 1.14	No
16	21-25	Salesforce record – 26/07/2023 to 24/10/2023	14/05/2024	Exempt	Sch 1, s 1.14	No
17	26	Email - Note Duplicate of Folio 3	23/10/2023	Exempt / Not released	Duplicate Sch 1, s 1.14	No
18	-	For Attachment – see Folio 4	23/10/2023	Exempt / Not released	Duplicate Sch 1, s 1.14	No
Ministerial Documents (Binder Part 3)						
19	1-2	Email chain	09/04/2024-12/04/2024	Exempt	Sch 1, s 1.14	No
20	3-8	Attachment to Folio 19 - Statutory Declaration	11/04/2024	Exempt	Sch 1, s 1.14	No
21	9-10	Email chain	05/04/2012-09/04/2012	Exempt	Sch 1, s 1.14	No
22	11-13	Email chain	05/04/2012-09/04/2012	Exempt	Duplicate Sch 1, s 1.14	No
23	14-15	Email – [REDACTED]	05/04/2012	Exempt/ Not released	Duplicate Sch 1, s 1.14	No

Additional Documents (Binder Part 4)						
24	1-15	Document – Combined media enquiries and responses	undated	Exempt	Sch 1, s 1.14	No
<b>Total No of Docs</b>						
24						