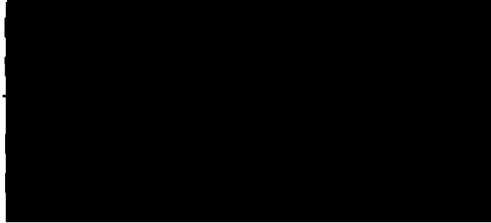




**ACT**  
Government

Education and Training

File Ref: 2015/04307



Dear 

I refer to your request under the ACT *Freedom of Information Act 1989* (the FOI Act) received by the Directorate on 8 May 2015.

#### **Your request**

You are seeking access to

- any Education and Training Directorate documents, decisions and correspondence concerning the provision of a crown lease and title for Block 5 Section 36 Forrest, known as Telopea Park School Playing Fields in 2007-2008. In particular you would like to know why the Directorate sought to assign that land as a permanent asset to Telopea Park School.
- any documents, decisions and correspondence relating to the allocation of Education and Training Directorate funding in 2009-2011 for the purpose of upgrading the Telopea Park School Tennis Courts and the subsequent project. In particular, you would like evidence as to why the upgrade did not proceed.
- any documents, decisions and correspondence relating to the surrender of the crown lease and title of Block 5 Section 36 Forrest in 2015 to the Land Development Agency.
- any reports and impact assessments that were carried out by the Education and Training Directorate regarding child safety, child to open space ratios and curriculum delivery prior to making the decision to surrender the land to the Land Development Agency.

#### **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 several documents. I have also decided to provide access to some documents with redactions and to exempt others in their entirety under sections 11, 36, 41 and 43 of the FOI Act. Information in some documents that is outside the scope of your request has also been redacted.

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

### Section 11 - Part 3 (Access to documents) not to apply to certain documents

Section 11 states:

- (1) *A person is not entitled to obtain access under this part to—*
- (a) *a document that is open to public access, as part of a public register or otherwise, in accordance with another enactment, where that access is subject to a fee or other charge;*

The Crown Lease for Block 5 Section 36 Forrest is part of the ACT Land Titles Public Register and a prescribed fee must be paid to be provided with copies of documents on this register.

Information about the ACT Land Titles Public Register can be found at [http://www.ors.act.gov.au/community/land titles/land titles public register](http://www.ors.act.gov.au/community/land%20titles/land%20titles%20public%20register)

### 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 the provision of a

crown lease for Montgomery Oval and the decision to surrender the lease. These documents were created for the purpose of consultation and seeking further advice and are part of the deliberative processes of the Directorate.

I have also decided to exempt draft versions of documents under this section of the FOI Act, where the draft version is different to the final version of the document. 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 under this section of the FOI Act contains personal information such as names, addresses and mobile telephone numbers. I believe it would be unreasonable to release this information.

#### Section 43 – Documents relating to business affairs

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, 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 redact information in several documents because it is outside the scope of your request. The information withheld from release includes:

- information about other schools that were included in the Installation of Artificial Grass Surfaces Program, and
- information about Telopea Park School Site 2 (Section 29 Block 1 Barton) which was also included in the Installation of Artificial Grass Surfaces Program.

#### Documents not located

No documents have been located that relate to reports and impact assessments carried out by the Education and Training Directorate regarding child safety, child to open space ratios and curriculum delivery prior to making the decision to surrender Block 5 Section 36 Forrest to the Land Development Agency.

#### **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

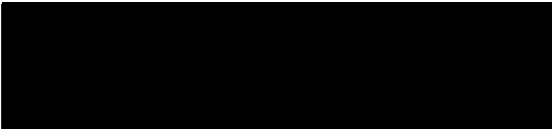
Please be aware that under the ACT Government's Online FOI Publication policy, information released to you under this Freedom of Information request may be released on the internet.

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

Yours sincerely



Mark Whybrów  
Chief Finance Officer

19 August 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](mailto: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](http://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.