



**ACT**  
Government

Environment, Planning and  
Sustainable Development

Phone: 6207 1923  
Reference: 19/29874

Dear [REDACTED]

### **Freedom of Information 19/29874**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), partially transferred by the Education Directorate to the Environment, Planning and Sustainable Development Directorate (EPSDD) on 16 September 2019, in which you sought access to documents relating to Brindabella Christian College.

EPSDD holds documents relating to one part of your application, being:

*"Details of all ACT Government grants received by Brindabella Christian College in the past 5 years."*

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

As third party consultation was undertaken, the EPSDD is required to make a decision on your access application by 5 November 2019.

### **Decision on Access**

Searches of documents relevant to your request were conducted, four documents relevant to your application were identified.

I have included at **Attachment A** to this decision, the schedule of documents. This provides a description of each document that falls within the scope of your request and the access decision for each of these documents.

I have decided to release two documents relevant to your request in full.

Two documents contain information that I consider to be contrary to the public interest to disclose under the test set out in section 17 of the Act I have decided to release these documents under section 50 of the Act, with deletions applied to information that I consider would be contrary to the public interest to disclose.

Third party consultation was undertaken with Brindabella Christian Education Ltd (BCC). BCC objected to release of all documents. Access to these documents is to be deferred, providing BCC the opportunity to seek a review of this decision with the Ombudsman.

### **Objections Raised by the Third Party**

On 25 October 2019, a response regarding release of the four relevant documents was received from BCC. The objections to release are as follows:

- Disclosure may prejudice the protection of an individual's right to privacy

- Disclosure may prejudice BCC's business affairs
- Disclosure may prejudice an agency's ability to obtain confidential information
- Disclosure may prejudice the deliberative process of government

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, 38, 50 and Schedule 2
- the content of the documents that fall within the scope of your request
- the views of the relevant third party
- the *Information Privacy Act 2014*
- information which is publicly available

### **Public Interest Considerations**

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

#### **Information Disclosure – Contrary to the Public Interest under schedule 2 of the Act**

The Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the Act). As an Information Officer, I am required to allow access to information subject to the Act unless, on balance, disclosure would be contrary to the public interest.

In assessing the public interest, I must apply the test set out by section 17 of the Act which requires consideration of factors favouring disclosure, any factors favouring nondisclosure and the balance of those factors when considered cumulatively.

#### Personal Information

Scheduled items 1 and 4 contain personal information (contact details and signatures) of individuals, which are not publicly available. I have considered the release some of the personal information contained within the documents, and my view in this instance is that it would not serve to further open discussion, government accountability, informed debate and the provision of contextual or background information.

I am satisfied that the disclosure of identified personal information could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 2.2(a)(ii) of the Act.

#### Business Affairs

Consideration has been given to the documents and information provided by a third party, and whether the information identified within these documents contains information contrary to the public interest. The release of this information could prejudice the trade secrets and business affairs of an individual or agency, factor favouring nondisclosure under Schedule 2.2(a)(xi) of the Act.

The release of this information may serve to further open discussion, government accountability, informed debate and reveal the reason for a government decision and any contextual or background information. However, on balance release of this information

would reveal the research and methodology of a grant application. The information contains substantial detail about the proposal from which competitors could discern their approach and methodology, consequently leaving them at an advantage.

### **Charges**

No charges are applicable to this application, in accordance with the Act.

### **Online Publication**

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the EPSDD disclosure log no earlier than 3 days, and no later than 10 days after you are provided this decision. Your personal contact details will not be published.

You may view the EPSDD's disclosure log at

<https://www.environment.act.gov.au/about/access-government-information/disclosure-log>

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. As your request sought your own personal information, section 28(6) of the Act provides that your access application will not be published in EPSDD's 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 disclosure log, or a longer period allowed by the Ombudsman. For more information and the application form for Ombudsman review, please visit:

[http://www.ombudsman.act.gov.au/data/assets/pdf\\_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf](http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf)

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

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  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

**Further Information**

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 02 6207 1923 and ask for the FOI team, or email to [EPSDFOI@act.gov.au](mailto:EPSDFOI@act.gov.au)

Yours sincerely



Gene McGlynn

Information Officer

Environment, Planning and Sustainable Development Directorate

 November 2019