



Via email:



Dear



## **FREEDOM OF INFORMATION (FOI) REQUEST**

I refer to your application under the *Freedom of Information Act 2016* (the FOI Act) received by the Education Directorate (the Directorate) on 6 November 2025, in which you are seeking access to:

*“Records relating to Tharwa preschool from 1 January to 6 November 2025, specifically:*

- 1. The decision not to operate the preschool in 2026*
- 2. Enquiries about enrolments in 2026, including enrolment applications”.*

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

In accordance with section 40 of the FOI Act, the Directorate was required to provide a decision on your access application within 30 working days of receipt, being 18 December 2025.

### **Decision on access**

Searches were completed and 16 records were identified that fall within the scope of your request.

I have included as Attachment A to this decision the schedule of relevant records. This provides a description of each record that falls within the scope of your request and the access decision for each of those records.

In summary, my decision is:

- Full access to 8 records, and
- Partial access to 8 records with deletions applied.

The records released to you are provided as Attachment B to this letter.

### **Material considered**

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 16, 17, 35 and 50, and schedule 2, 2.2(a)(ii),
- the content of the records that fall within the scope of your request,
- the *Human Rights Act 2004*, and
- the *Information Privacy Act 2014*.

### **Reasons for decision**

I have considered the records that are relevant to your request in accordance with the requirements of the FOI Act.

#### Records considered under the FOI Act

Section 6(a) of the FOI Act provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be removed, which enables the remainder of the record to be released. This provision has been applied where appropriate.

#### *Information, the disclosure of which would, on balance, be contrary to the public interest*

The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

I have considered the following public interest factors in favour of disclosing records relating to the Tharwa Preschool:

Schedule 2, section 1 (a):

- **(i)** It would promote open discussion of public affairs and enhance the government's accountability by allowing the community to understand the basis for the decision.
- **(ii)** It would contribute to positive and informed debate on an issue of significant public interest, namely the provision of early childhood education services.
- **(viii)** It would reveal the reasons for the government's decision and provide background and contextual information that informed that decision.

I find one factor in favour of non-disclosure.

- 2(a)(ii) prejudice the protection of an individual's right to privacy or any other right under the [Human Rights Act 2004](#)

In weighing these factors, I have given significant weight to the benefits of releasing information about the closure of Tharwa Preschool, as it promotes transparency, enhances government accountability, and supports informed public debate on an issue of considerable community importance. Disclosure also provides insight into the reasons for the decision and the context in which it was made.

Against these factors, I have considered the potential harm in releasing personal information of individuals who submitted enrolment applications, as this would constitute an unreasonable intrusion into their privacy. Protecting personal details is an important public interest consideration.

On balance, I am satisfied that the public interest in disclosing information about the decision outweighs the interest in withholding it, except where personal details are involved. Accordingly, I have decided to grant access to relevant documents with deletions made to personal information to protect individual privacy.

### **Charges**

Processing charges are not applicable for this request because I have decided that the number of pages involved that are material to your request does not significantly exceed the threshold of 50 pages as set out at section 104(4) of the FOI Act.

### **Online publishing – disclosure log**

Under section 28 of the FOI Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and records released to you in response to your 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 [www.act.gov.au/open/foi-disclosure-logs/education-foi-disclosure-logs](http://www.act.gov.au/open/foi-disclosure-logs/education-foi-disclosure-logs)

### **Review of decision**

#### FOI Act - Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the FOI Act within 20 working days from the day my decision is provided to you, 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)

FOI Act - ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the FOI 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  
Allara House, 15 Constitution Ave  
GPO Box 370  
Canberra City ACT 2601

Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>

If you have any questions concerning the Directorate's processing of your request, please contact the Directorate's FOI team on 02 6205 0720 or email [EducationFOI@act.gov.au](mailto:EducationFOI@act.gov.au).

Yours sincerely



Lisa Guteridge  
Information  
Officer

16 December 2025