



Email: 

Dear 

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

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Education Directorate (the Directorate) on 17 December 2025, in which you sought access to records relating to:

*Copies of Briefs and correspondence between the Education Directorate and relevant Ministers (Education, Health and/or Chief Minister) in relation to the decision to close ACT public schools because of asbestos contaminated sand since 1 November 2025.*

Thank you for your time over the phone today. I am pleased to advise the consultation process was able to be completed today. No objections were received from the third party.

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 4 February 2026.

On 2 February 2026, the Directorate contacted you to advise of an anticipated delay. We appreciate your cooperation and your agreement to extend the processing period until 18 February 2026.

#### **Decision on access**

Searches were completed for relevant records and 14 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 9 records, and
- partial access to five records with deletions applied.

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

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 16, 17, 35 and 50, and schedules 1 and 2
- the content of the records that fall within the scope of your request,
- the *Human Rights Act 2004*,
- the views of third parties consulted,
- the *Information Privacy Act 2014*, and
- the FOI Guidelines issued under section 66 of the FOI Act by the Ombudsman.

### **Reasons for decision**

I have considered the records that are relevant to your request in accordance with the requirements of 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 taken to be contrary to the public interest to disclose**

None of the records contain information that is taken to be contrary to the public interest to disclose.

*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 decided that the factors favouring disclosure, as listed at Schedule 2, 2.1 of the FOI Act, are that disclosure of the information could reasonably be expected to:

- contribute to positive and informed debate on important issues or matters of public interest (Schedule 2, 2.1(a)(ii)); and
- reveal environmental or health risks or measures relating to public health and safety (Schedule 2, 2.1(a)(xi)).

The information sought is evidently of interest to members of the public, as the circumstances directly affected ACT public school students, parents, staff and the wider community. Disclosure also promotes transparency around how the Directorate identified, assessed and managed environmental or safety risks within public schools. Therefore, I give strong weight to the factors favouring disclosure.

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the FOI Act, are that disclosure of the information could reasonably be expected to:

- prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004* (Schedule 2, 2.2(a)(ii)), and
- prejudice trade secrets, business affairs or research of an agency or person (Schedule 2, 2.2(a)(xi)).

The consideration of the right to privacy of individuals and their right to have their personal information protected activates provisions of the *Human Rights Act 2004* and the *Information Privacy Act 2014*. Section 12(a) of the Human Rights Act provides that everyone has the right '*not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily*'. Ombudsman review decisions addressing this matter have stated that this "can essentially be viewed as the right of an individual to preserve their personal sphere from interference by others". In addition, the Territory Privacy Principles contained in the *Information Privacy Act 2014*, set out the expectation that, in ordinary circumstances, individuals are required to give consent before their personal information, which includes information that could lead to them being identified, is disclosed. Consequently, I have decided that the right to privacy of individuals in relation to their personal information as a factor favouring non-disclosure has significant weight.

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

As the factors favouring disclosure have been given significant weight, compared to the factors favouring disclosure having strong weight, some information deemed contrary to the public interest to disclose. This information has been deleted from the records released.

### **Charges**

Processing charges are not applicable for this request because the number of pages released does not 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 access 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**

#### 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)

#### 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

18 February 2026