

Decision and reasons of Senior Assistant Ombudsman

Application number:	AFOI-RR/24/80014
Applicant:	Vamos Group Pty Ltd (Vamos)
Respondent:	Chief Minister, Treasury and Economic Development Directorate (CMTEDD)
Respondent reference:	CMTEDDFOI 2024-289
Participants:	Community for Constitutional Reform at Brindabella Christian College (Reform BCC) Lyneham Community Association (LCA) Fleetwood Australia (Fleetwood)
Date:	5 February 2026
Decision reference:	[2026] ACTOFOI 1
Catchwords:	<i>Freedom of Information Act 2016</i> - deciding access - whether information is contrary to the public interest information - national, Territory or State security information - law enforcement or public safety information - contribute to positive and informed debate on important issues or matters of public interest - prejudice the protection of an individual's right to privacy or any other right under the <i>Human Rights Act 2004</i>

- prejudice trade secrets, business affairs or research of an agency or person -prejudice an agency's ability to obtain confidential information - prejudice security, law enforcement or public safety; and impede the administration of justice generally, including procedural fairness - prejudice a deliberative process of government.

Decision

1. For the purpose of s 82 of the *Freedom of Information Act 2016* (FOI Act), I am a delegate of the ACT Ombudsman.
2. The applicant requested Ombudsman review of the Chief Minister, Treasury and Economic Development Directorate's (CMTEDD) decision of 15 November 2024 to give partial access to information about construction works at Brindabella Christian College, Lyneham.
3. My decision is to **set aside** the decision made by CMTEDD under s 82(2)(c) of the FOI Act and make a substitute decision to grant access to the information, excluding financial information, technical drawings and plans, a performance-based design report, signatures and the mobile number of a former Brindabella Christian College (BCC) board member.

Background to Ombudsman review

4. On 12 September 2024, CMTEDD received an access application for the following information:

Under the FOI Act, we are writing to request all documents held by CMTEDD related to the approval status, including any compliance action and/or notices, related to a new block of four demountable classrooms installed along Brigalow St in July 2023, identified as Building 5 in the image below, at Brindabella Christian College's Lyneham campus since 1 April 2024.

5. CMTEDD conducted searches and located 41 documents within the scope of the access application. As the documents were related to building and construction work, CMTEDD identified a relevant third party, Vamos Group Ptd Ltd (Vamos) who may be concerned should the information be released.
6. The applicant, who is a director of Vamos, was formally consulted on information within 15 documents as a relevant third party in accordance with s 38 of the FOI Act.
7. On 2 November 2025, the applicant objected to the release of all the information they were consulted on and provided submissions that the information was contrary to the public interest information. These grounds are discussed further in this decision.
8. On 15 November 2024, CMTEDD decided to give partial access to the information the applicant was consulted on.
9. On 12 December 2024, the applicant applied for Ombudsman review of CMTEDD's decision.
10. On 18 December 2024, CMTEDD provided submissions to our Office and information requested for the purpose of the Ombudsman review.
11. On the same day, the FOI applicant (Reform BCC) applied to participate in this Ombudsman review. On 28 January 2025, the Lyneham Community Association (LCA) applied to participate in this Ombudsman review. On 15 April 2025, Fleetwood applied to participate in this Ombudsman review.
12. All requests from third parties to participate in the review were approved.
13. On 29 September 2025, the parties were provided with my draft consideration. On the same day LCA accepted the draft consideration.
14. On 30 September 2025, Reform BCC accepted the draft consideration.
15. On 9 October 2025, CMTEDD accepted the draft consideration.

16. On 20 October 2025, Fleetwood confirmed they had no further comments to make in response to the draft consideration.
17. On 22 October 2025, the applicant responded to the draft consideration requesting additional time to provide further submissions. Our Office gave the applicant some additional time to explain why an extension was required or to provide submissions.
18. Our Office did not receive additional submissions from the applicant.

Key issue in Ombudsman review

19. The information at issue in this review is the documents the applicant was consulted about which CMTEDD decided to partially release.¹
20. I will refer to the documents the applicant objected to the release of collectively as 'the subject documents'. I note the applicant was not consulted on all the documents in scope.
21. The subject documents relate to business affairs of the applicant being information about building and construction work at Brindabella Christian College's Lyneham campus which now has been finalised.
22. The subject documents include various material such as a fire performance-based design report, certificates of compliance, a geotechnical investigation report and other design material such as maps, drafts, layouts and schemes.
23. In making my decision, I have had regard to:
 - the application for Ombudsman review made by Vamos, their submissions to CMTEDD provided on 2 November 2024 and response provided on 22 October 2025 to our Office
 - submissions received from Reform BCC and Fleetwood
 - CMTEDD's decision of 15 November 2024 and additional submissions
 - the FOI Act, particularly ss 7, 16, 17, 35, 38, 72 and Schedules 1 and 2

¹ Part of document 2, part of document 4, part of document 10, 15, 18, 20-24, part of document 25, part of document 29, 33, 35.

- the Freedom of Information Guidelines (**FOI Guidelines**) made under s 66 of the FOI Act, and
- relevant case law, including:
 - *Alistair Coe and ACT Health Directorate* [\[2018\] ACTOFOI 4](#) (5 September 2018)
 - *Australian Broadcasting Corporation and Australian Fisheries Management Authority* [\[2016\] AICmr 43](#)
 - *Boston Consulting Group and Australian National University (Freedom of information) (No 2)* [\[2022\] AICmr 16](#) (2 March 2022)
 - *Stewart and SunWater Limited* [\[2012\] QICmr 70](#)
 - *Google Australia Pty Ltd and Wing Aviation Pty Ltd and Environment, Planning and Sustainable Development Directorate* [\[2019\] ACTOFOI 14](#) (24 August 2019)
 - *Pialligo Estate Operations Pty Ltd and Chief Minister, Treasury and Economic Development Directorate* [\[2020\] ACTOFOI 17](#) (24 June 2020)
 - *Reform BCC and Transport Canberra and City Services* [\[2025\] ACTOFOI 2](#) (12 February 2025).

Relevant law

24. Section 7 of the FOI Act gives every person an enforceable right of access to government information. This right is subject to other provisions of the FOI Act, including grounds on which access may be refused.²

25. Section 9 of the FOI Act expressly provides that it is the intention of the Legislative Assembly that the FOI Act be administered with a pro-disclosure bias and discretions given under the FOI Act should be exercised as far as possible in favour of disclosing government information.

² [FOI Act](#) s 35(1)(c).

26. Section 35(1) of the FOI Act provides that an access application may be decided, including by deciding to give access to the information (s 35(1)(a)) or by refusing to give access to the information sought because it is contrary to the public interest information (s 35(1)(c)).
27. Contrary to the public interest information is defined in s 16 of the FOI Act as information:
 - (a) that is taken to be contrary to the public interest to disclose under schedule 1;
 - or
 - (b) the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17 under schedule 2.
28. The public interest test as stated in s 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring nondisclosure to decide whether, on balance, disclosure would be contrary to the public interest.
29. Schedule 1 of the FOI Act sets out categories of information which are taken to be contrary to the public interest to disclose, unless the information (other than exempt information) would identify corruption, the commission of an offence by a public official; or that the scope of a law enforcement investigation has exceeded the limited imposed by law.
30. Schedule 2 of the FOI Act sets out a list of non-exhaustive public interest factors (for and against disclosure) which must be considered, where relevant, when determining the public interest.
31. Section 38 of the FOI Act requires an agency to consult with a third party where they are considering disclosure of information that may reasonably be expected to be of concern to a relevant third party.

32. Importantly, third party consultation does not discharge the obligation on the decision-maker to apply the public interest test, where required under s 17 of the FOI Act, and proceed to make a decision on the relevant access application; nor does it in any way bar the decision-maker from making a decision about whether the material is contrary to the public interest information.
33. Section 72 of the FOI Act provides that the person seeking to prevent disclosure of the government information has the onus of establishing the information is contrary to the public interest information.

The submissions of the parties

34. In the decision notice to the applicant, CMTEDD said:

I have decided to grant partial access to the documents within scope of this request. I have redacted personal information from the documents such as names, contact details and signatures of personnel where not already publicly available under Section 2.2(a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the Human Rights Act 2004.

I have also redacted commercial in confidence information from the documents under section 2.2(a)(xi) – prejudice trade secrets, business affairs or research of an agency or person.

35. In submissions to the Office, CMTEDD stated:

When considering the release of information relating to Vamos and [applicant], I weighed information that was already publicly available against information that could reasonably be considered personal information and/or commercially sensitive. Where information was already publicly available such as site signage and information included in the works notices I favoured release.

36. In the Ombudsman review application, the applicant stated:

I object to the partial release of documents and the redactions made based on Section 2.2(a)(ii) (prejudice to an individual’s privacy under the Human Rights Act 2004) and Section 2.2(a)(xi) (prejudice to trade secrets, business affairs, or research).

While I understand the need to balance transparency and confidentiality, I believe that decision for partial release of information with the inclusions of redactions is not sufficient nor satisfy or support the release of information of public interest over non-disclosure in this matter.

I believe the public interest test (Section 17 of the FOI Act) has not been appropriately applied and the release of this information does not justify the risks posed to security, privacy and commercial interests.

Furthermore, the Notice of Decision does not provide sufficient clarity regarding the specific details of the redactions, making it difficult to assess the appropriateness of the exemptions applied.

37. In response to the draft consideration, the applicant said:

Since receiving the draft consideration, new and significant information has emerged that materially affects the public-interest assessment:

- Commercial and Technical Sensitivity – Vamos Group employs a proprietary hybrid modular-integration methodology that merges prefabricated structural cores with conventional construction systems. This process represents extensive in-house R&D and constitutes intellectual property unique to Vamos Group. Disclosure of the documents under review would expose our competitive methodologies, engineering design frameworks, and supplier networks to competitors, causing ongoing commercial prejudice.
- Ongoing Legal and Regulatory Processes – Brindabella Christian College entered voluntary administration in March 2025 and remains under liquidation proceedings in which Vamos Group is a creditor. Disclosure at this time risks prejudicing both regulatory deliberations and active legal processes connected with the administration.
- Reputational and Safety Risks – The FOI applicants, including the Lyneham Community Association (LCA) and Reform BCC, have maintained a sustained public campaign targeting the school and its contractors through media and online forums. Disclosure of internal technical material to these parties creates a foreseeable risk of misuse, misrepresentation, and further reputational and economic damage.
- Third-Party Consultation Requirements – Several documents were authored by or include material belonging to but not limited to Fleetwood Australia, Vortex Fire Pty Ltd as well as several other third parties connected within the subject material and matter. These entities have not been adequately re-consulted considering the draft findings. Under section 38(3) of the Act, further consultation is warranted before any release.

38. The Community for Constitutional Reform at Brindabella Christian College (Reform BCC), who was the FOI applicant, provided submissions explaining why the documents should be released. In particular, Reform BCC referred to:

- accountability for public funds
- child safety and welfare
- regulatory compliance and governance
- governance and accountability, and
- urgency in public interest.

39. Reform BCC also disagreed that factors favouring nondisclosure identified in the decision apply or alternatively should be given minor weight and without disclosure it is not possible to independently verify compliance with the education and building regulatory obligations concerning construction work.
40. Another third party, Lyneham Community Association (LCA) has also participated in the review however, they did not provide any submissions.

Consideration

41. I have examined unredacted copies of the subject documents.

National, Territory or State security information—Schedule 1, section 1.13; Law enforcement or public safety information—Schedule 1, section 1.14

42. Information that is taken to be contrary to the public interest to disclose includes information the disclosure of which would, or could reasonably be expected to damage the security of the Commonwealth, the Territory or a State (Schedule 1, s 1.13 of the FOI Act).
43. In submissions to CMTEDD when consulted during the processing of the access application, the applicant initially raised disclosure of the information at issue could damage the security of the Territory and prejudice public safety. The applicant submitted release of information about the layout and structural details of classrooms could be used in a way that endangers the students, staff and community.
44. The applicant was required to identify the potential harms which could be a result of disclosure and demonstrate that these harms would, or could reasonably be expected to occur.
45. I examined all subject documents, and I do not have evidence or reasoning showing that release of information in relation to the school building designs can reasonably be expected to damage the security of the Commonwealth, Territory or State.

46. Schedule 1, s 1.14 of the FOI Act provides information is taken to be contrary to the public interest information where disclosure would or could reasonably be expected to endanger a persons' life or physical safety.
47. The applicant was required to identify and explain how the disclosure of the information would affect public safety but did not provide any evidence or reasoning, apart from the fact it would disclosure information about the location of school buildings.
48. I do not consider there is a reasonable expectation release of demountable building plans would or could reasonably result in potential harm to students, staff or the community. I note detail about classroom locations or information about the buildings could be obtained by observation or using services like digital maps services which show satellite views.
49. I do not consider the subject documents are taken to be contrary to the public interest information under Schedule 1, s 1.13 or s 1.14 of the FOI Act.

Public interest test

50. To determine whether information is, on balance, contrary to the public interest to disclose, s 17(1) of the FOI Act prescribes the following five steps:
- identify any factor favouring disclosure that applies in relation to the information (a *relevant factor favouring disclosure*), including any factor mentioned in schedule 2, section 2.1
 - identify any factor favouring nondisclosure that applies in relation to the information (a *relevant factor favouring nondisclosure*), including any factor mentioned in schedule 2, section 2.2
 - balance any relevant factor or factors favouring disclosure against any relevant factor or factors favouring nondisclosure
 - decide whether, on balance, disclosure of the information would be contrary to the public interest

- unless, on balance, disclosure would be contrary to the public interest, allow access to the information subject to this Act.

51. In addition, there is the initial step of ensuring that none of the irrelevant factors listed in s 17(2) are considered. I have not identified any irrelevant factors in my review.

Factors favouring disclosure

52. In the primary decision, CMTEDD relied on one factor favouring disclosure.

Contribute to positive and informed debate on important issues or matters of public interest—Schedule 2, s 2.1(a)(ii)

53. A factor favouring disclosure of information is where release could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest.

54. Brindabella Christian College was a large, registered education institution. The registration of a non-governmental educational institution is subject to conditions including compliance with various legal regulations as it provides secondary education to children and must be safe.

55. The college received media attention following regulatory action involving the school's governance and concerns about financial management.³ While the school has since changed proprietors following voluntary administration processes, I consider disclosure could contribute to positive and informed discussion about the regulation of building works.

56. Although the documents consist of technical material, they are also descriptive in nature and contain many references to Australian legislation and regulations in relation to building and construction work.

³ *Reform BCC and Transport Canberra and City Services* [2025] ACTOFOI 2 (12 February 2025) at [35].

57. The building and construction work in the college has been finalised however I consider the release of the information may provide insight into how the building work was carried out and certified; and whether the completed work is in accordance with its plans, designs and other regulatory requirements.
58. I agree this factor is relevant to the subject documents and I award moderate weight to this factor.

Factors favouring nondisclosure

59. In the original decision, CMTEDD relied on 2 factors favouring nondisclosure.
60. CMTEDD explained disclosure of personal information such as names and contacts details which are not in the public domain could prejudice an individual's right to privacy under the Human Right Act.
61. Further, CMTEDD noted businesses undertaking development activities in the ACT may reasonably expect that any sensitive business information provided to government will be held in confidence (but noted they may also recognise government held information may be sought under the FOI Act).
62. The applicant referred to a number of factors favouring nondisclosure in their submission and their relevance in their Ombudsman review application.

Prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004—Schedule 2, s 2.2(a)(ii)

63. This factor applies when the information at issue contains personal information of other people including their names and contact details, where disclosure could reasonably be expected to cause harm to those individuals by interfering with their privacy contrary to law or in a manner which in the circumstances is arbitrary.
64. 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'.

65. In determining whether disclosure could be an unlawful or arbitrary interference with a person's privacy, the following may be relevant:

- the nature, age and current relevance of the information
- whether the information is well known or available from other public sources
- any detriment that disclosure may cause to the person to whom the information relates
- any opposition to disclosure expressed or likely to be held by that person
- the circumstances of an agency's collection and use of the information
- whether disclosure of the information might advance the public interest in government transparency and integrity
- the fact that the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act.

66. I am satisfied the subject documents contain 'personal information' for the purposes of Schedule 2, s 2.2(a)(ii) of the FOI Act.

67. In my view, this information can be characterised as routine work information and includes work contact details, work responsibilities or positions, appearance of the names on certificates or professional communications, information about their classifications and education, and their licensing details.

68. This information came into existence for the purpose of the construction work and was held by CMTEDD for the purpose of regulating the business and investigating complaints and issues with the construction work.

69. Relevantly, this personal information appears on formal documents prepared during the construction such as certificates of compliance and approval documents.⁴

⁴ Documents 18, 20, 20 - 25 and 29.

70. These individual decision-makers / approved certifiers or licenced professionals in designing and approving construction work at a private school. I consider these individuals acted in their professional capacity rather than in their personal capacity.
71. There is a requirement for a variety of professionals to obtain and maintain government registration and licensing for the purpose of obtaining an official permission or authorisation to do the job in a regulated industry. ⁵
72. Further, it is an offence to advertise that a person provides or will provide a service in a construction occupation or occupation class, and the advertisement does not include the person's name as recorded on their licence and their licence number. ⁶
73. In the *Alistair Coe and ACT Health Directorate*⁷, it was established that if a person:
- ...was not acting in a personal capacity but rather represented his firm in business dealing with the ACT Government, and it is reasonable to expect to be open to a reasonable level of public scrutiny in these circumstances.
74. The activities of those individuals are subject to public accountability and transparency, including obtaining permits, managing environmental impacts, and complying with planning and development rules (e.g. appropriate signage on building sites with contact details of site manager).
75. I also note that generally names, positions and contact details are publicly available on a company's domain and on other documents of a similar nature prepared for other projects. For example, the applicant's mobile phone number is published on their corporation's website.

⁵ *Construction Occupations (Licensing) Act 2004* (ACT) Part 3.

⁶ *Ibid* s 83.

⁷ *Alistair Coe and ACT Health Directorate* [\[2018\] ACTOFOI 4](#) (5 September 2018) at [45].

76. As this personal information is generally available in the public domain for the purpose of advertising their services and performing regulated activities, I do not agree that in the circumstances the release of the names and contact details would involve an unlawful or arbitrary disclosure of personal information. I find disclosure of this information could not reasonably be expected to prejudice the protection of these individuals right to privacy and this factor does not apply.
77. In relation to the name and email address of the Brindabella Christian College's former staff member, I consider this individual is publicly known to be associated with their position at the school as a result of media reporting involving Brindabella Christian College.⁸
78. For this reason, disclosure of the subject documents would only reveal that staff member was contacted in relation to the construction works at the school as part of their employment duties. Further, following the change in proprietors of the school, it is likely that email address is no longer in use. I do not consider release of this personal information would be an unlawful or arbitrary interference with the protection of their privacy and therefore this factor does not apply to this information.
79. However, document 33 contains the mobile number of a former BCC board member. I consider the individual to whom this mobile number relates would not reasonably expect their personal mobile number (listed as a contact in relation to construction works) to be disclosed in circumstances where they are no longer a board member and for an unrelated purpose.
80. In relation to this mobile number, I consider disclosure could be contrary to the Territory Privacy Principles and amount to an unlawful interference with their privacy.

⁸ The Canberra Times, ['Auditors raised concerns over Brindabella Christian College finances'](#) (5 September 2023).

81. I have also identified the subject documents contain the signatures of third parties. While I recognise the inclusion of the signatures within the subject documents reflects their approval of notices or certification documents in their professional capacity, I find disclosure of the signatures of these individuals could reasonably be expected to be an arbitrary interference with their privacy.
82. Signatures are unique to individuals and reflect that person's consent, agreement or approval where included. Having regard to the circumstances in which the information was collected by CMTEDD (i.e. response to reports of concerns about building works), I find disclosure of the signatures of these individuals, particularly where other personal information has been disclosed to confirm the identify and authority of those individuals to sign those documents, would be arbitrary interference with their privacy.
83. I attribute significant weight to this factor as it relates to the mobile number in document 33 and signatures where they appear in the subject documents.

***Prejudice trade secrets, business affairs or research of an agency or person—
Schedule 2, s 2.2(a)(xi)***

84. A factor favouring nondisclosure of information is where release could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
85. In considering whether the information constitutes a 'trade secret' it must contain information which give an agency or person an advantage over their competitors while the information remains generally unknown.⁹ A trade secret may be prejudiced where the disclosure of the information in question will destroy or diminish the commercial value of the information.

⁹ *Australian Broadcasting Corporation and Australian Fisheries Management Authority* [2016] [AICmr 43](#) at [19].

86. In determining whether, on balance, disclosure of information could reasonably be expected to prejudice trade secrets, business affairs or research it is important to establish:

...that the particular prejudice or adverse effect... could reasonably be expected to flow from disclosure. This phrase requires an expectation that is reasonably based... it is not enough to simply assert that disclosure will result in some kind of adverse consequence¹⁰.

87. In other words, 'the test of reasonableness applies not to the claim of harm but to the objective assessment of the expected adverse effect.'¹¹

88. CMTEDD redacted a significant part of the subject documents on the ground this factor applies but did not specify which adverse effect may occur (i.e. prejudice to trade secrets, business affairs or research).

89. CMTEDD simply stated in its decision notice to the applicant that it had redacted 'commercial in confidence information from the documents.' It is necessary to demonstrate the effect of disclosure rather than only describing the nature of the information.¹²

90. It is not apparent the subject documents contain information that would reasonably constitute a trade secret, and I do not see any information relevant to research. I consider the subject documents contain information regarding the business affairs of the applicant, in accordance with interpretations of 'business affairs' from previous decisions as 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'.¹³

¹⁰ *Stewart and SunWater Limited* [2012] QICmr 70 at [83] – cited in *Google Australia Pty Ltd and Wing Aviation Pty Ltd and Environment, Planning and Sustainable Development Directorate* [2019] ACTOFOI 14.

¹¹ *Searle Australia Pty Ltd v Public Interest Advocacy Centre and Department of Community Services and Health* [1992] FCA 241; (1992) at [46].

¹² *Boston Consulting Group and Australian National University (Freedom of information) (No 2)* [2022] AICmr 16 (2 March 2022) at [18].

¹³ *Cockroft and Attorney-General's Department and Australian Iron Steel Pty Ltd* [1986] 64 ALR 97, 106.

91. The applicant in their objection letter to CMTEDD stated the subject documents contain 'design methodologies and engineering solutions developed through a significant investment by Vamos' and 'the release could devalue specialised services paid for by the school and Vamos constituting an unjustifiable loss.'
92. The applicant explained release of subject documents could expose their methodologies, engineering design frameworks and supplier networks to competitors causing ongoing commercial prejudice - as they use this specific method (merge prefab cores with conventional construction systems) for their works.
93. The applicant stated these methods required extensive in-house research and development to establish and constitutes their intellectual property. The applicant also described the specific operational and financial impact disclosure of this information would have on their business - that is, that a competitive advantage could be gained from using this information without the need for a similar level of investment to deliver construction projects.¹⁴
94. The Office also contacted 2 relevant third parties who were the owners/authors of part of the information within the subject documents.
95. In submissions to our Office, Fleetwood objected to the release of their proprietary information stating it contains 'commercial in confidence information associated with our modular building methodology', and they 'did not wish these be provided to competitors in the industry'.
96. The information of concern to Fleetwood includes building plans and technical drawings. I find this information was prepared by Fleetwood for Vamos as the project client for the construction of the demountable building.

¹⁴ *Pialligo Estate Operations Pty Ltd and Chief Minister, Treasury and Economic Development Directorate* [\[2020\] ACTOFOI 17](#) (24 June 2020) at [82].

97. Vortex Fire Pty Ltd (Vortex) did not respond to our Office. The document authored by Vortex is a performance-based design (the Vortex report) report prepared for the applicant regarding the building fire safety system and fire hazards, based on the documents provided by the applicant.
98. It is a legislative requirement to comply with building and construction codes and other relevant legislation in all aspects of building works. The purpose of the document, as stated on page 7, is 'to evaluate the nominated performance requirements to demonstrate that the relevant performance requirements of the National Construction Code Volume One - Building Code of Australia 2022 are maintained'.
99. While the Vortex report was prepared in relation to a specific building and site which may not be applicable to another site, I am satisfied it contains recommendations for proposed fire safety solutions to ensure compliance, based on the knowledge and expertise of Vortex employees.
100. I consider release of this technical information and advice could reasonably be expected to prejudice the business affairs of Vortex and the applicant, who engaged Vortex to provide this service, because release would reveal detail about their methodology and potential solutions in relation to fire safety.
101. I consider release of the subject documents which were prepared for the building approval and construction works would demonstrate how the building is to be completed in compliance with relevant standards and requirements. Noting the competitive nature of the construction industry, it is reasonable to expect that disclosure could give a competitor insight into the operations of the applicant and other third parties.
102. I am satisfied disclosure of these parts of the subject documents could reasonably be expected to prejudice the business affairs of the applicant and other third parties.

103. Document 35 contains financial information about the costs of works and invoices. I consider disclosure of this information would show the amounts paid for the construction works.
104. Release of this information could reasonably be expected to allow competitors to understand their pricing structure and profitability for services, giving them an advantage when competing for projects.
105. I attribute significant weight to this factor in relation to the above information within the subject documents.
106. CMTEDD also determined this factor applied to information such as a certificate of compliance for air conditioner installation, hydraulic design certificate, certificate of design and other similar materials (certification information).
107. I am not convinced by the applicant's submissions that disclosure of information about their supplier networks or individuals contracted to perform these services within these documents could reasonably be expected to prejudice their ability to operate competitively within the construction industry or cause harm to their ability to engage trades for future works.
108. CMTEDD also refused access to information about the insurance policy held by the applicant in relation to the building works within document 33 (identification of provider, policy numbers and date issued). I am not satisfied there is a reasonable basis to conclude release of this information could result in harm to the applicant's business affairs.
109. I have found this factor does not apply to the certification information or the insurance policy information.

Prejudice an agency's ability to obtain confidential information—Schedule 2, s 2.2(a)(xii)

110. This factor favouring nondisclosure was raised by the applicant in their review application. The applicant did not mention any particular document but stated in general that the release of documents 'could devalue specialized services paid for by the school and Vamos Group constituting an unjustifiable loss'.
111. The subject documents contain material in relation to the construction works including documents supplied to CMTEDD for the purpose of reporting finishing the project or obtaining building approval.
112. None of this information contained a notice or marking that they are provided in confidence or contain commercially sensitive information. I note some of the documents state they are the intellectual property of a third party.
113. Furthermore, providing this kind of information was mandatory in the construction process and I do not think its release would prevent CMTEDD from obtaining confidential information in the future.
114. I do not consider such material can be treated as confidential and I am not satisfied that this factor applies to the subject documents.

Prejudice security, law enforcement or public safety; and impede the administration of justice generally, including procedural fairness—Schedule 2, s 2.2(a)(iii)(iv)

115. Another factor favouring nondisclosure raised by the applicant applies in situations where release could be reasonably expected to prejudice security, law enforcement or public safety. For example, this factor may be relevant if the information sought related to security arrangements where disclosure could reduce the effectiveness of those protective mechanisms.
116. The documents within the scope in this matter do not contain public safety information although there are some materials in relation to the fire safety. This material was drafted with references to legal and regulatory requirements which are publicly available, and because of that, I do not consider the information is sensitive or would prejudice those safety mechanisms.

117. I also considered the factor favouring nondisclosure, where disclosure could reasonably be expected to impede the administration to the administration of justice generally, including procedural fairness.

118. The review matter is about a commercial contract between the government and private business, and it is not related to administration of justice. Further, noting the regulatory action has been finalised I do not consider disclosure would impede procedural fairness in that process.

119. I find these factors do not apply to the subject documents.

Prejudice a deliberative process of government—Schedule 2, s 2.2(a)(xvi)

120. A deliberative process involves the weighing up or evaluation of arguments or considerations related to a process that is being undertaken within government to consider whether and how to make or implement a decision.

121. The applicant referred to that factor because they stated the documents were under internal review. The applicant did not specify the documents under review and the authority who conducted that review and for which purpose.

122. However, this factor may apply only if the disclosure would prejudice the deliberative process of the government meaning that the material constitutes opinion, advice and consideration for decision-making purposes. Given the nature of the subject documents, I do not consider this factor applies here.

Balancing the factors

123. Having identified public interest factors favouring disclosure and factors favouring nondisclosure, I now must consider the public interest balancing test set out in s 17 of the FOI Act.

124. In this matter, I identified one factor favouring disclosure and attributed moderate weight to it.

125. I identified one factor favouring nondisclosure applied to the mobile number of a former BCC within document 33 and signatures of third parties, and I attributed significant weight to this factor. I found this factor did not apply to the remainder of the subject documents.
126. I identified one factor favouring disclosure applied to the subject documents excluding certification or insurance information and attributed significant weight to this factor.
127. I found 5 other factors favouring nondisclosure did not apply to the subject documents.
128. Balancing public interest factors is not simply a case of quantifying the number of relevant factors for disclosure and nondisclosure, with the higher quantity being considered in the public interest. The decision-maker's task is to consider the relative importance and weight of each factor identified. The weight given to a factor will depend on the effect that disclosing the information has on the public interest.
129. The FOI Act has a pro-disclosure bias,¹⁵ and as a result, the public interest test should not be approached on the basis that there are empty scales in equilibrium, waiting for arguments to be put on each side. Rather, the scales are 'laden in favour of disclosure'.¹⁶

Conclusion

130. In my view, the public interest factors favouring nondisclosure of the mobile number of the former BCC board member, signatures, technical drawings and plans and financial information outweigh the public interest factors favouring disclosure of this information.

¹⁵ Section 17 of the [FOI Act](#).

¹⁶ [Explanatory Statement, Freedom of Information Bill 2016](#).

131. On balance, the public interest factor favouring disclosure outweighs the public interest factors favouring nondisclosure of the remainder of the subject documents.

Decision

132. For the reasons set out above, I have decided to set aside CMTEDD's decision under s 82(2)(c) of the FOI Act and substitute a decision to grant partial access to the subject documents, excluding from release the mobile number of the former BCC board member, signatures, technical drawings and plans and financial information.

Katrina Dwyer

Senior Assistant Ombudsman

5 February 2026