Dear [Redacted]

Freedom of Information Request Decision

I refer to your email dated 12 July 2012 and received by this office on 13 July 2012 confirming your revised request that seeks access to documents under the Freedom of Information Act 1982 (Cth) (‘the Act’). I also refer to your email of 10 October 2012 in which you agreed that my office could have an extension of time to respond to your request by 1 November 2012.

Please find below my decision in relation to your request for the following documents:

1. The current operating and capital budgets of the Australian National University as a whole, including and with particular reference to the budgets of the ANU School of Music - documents specifically relating to expenditure;

2. The Minutes of the Finance Committee of the ANU University Council, number 359;

3. The content, excluding any personal information (such as necessary to protect the identity and personal circumstances of the sender and render the receipt of permission to distribute unnecessary), of any and all emails sent to the somconsult@anu.edu.au since its establishment and all emails sent from said address (or its proxy);

4. The official reports of any committees or groups tasked by the University with curriculum oversight and development of the School of Music, in which the School of Music is mentioned, since January 2008;

5. The minutes of all meetings of the Academic Board, Education Committee, and University Council, at which the School of Music was discussed, since January 2008;

6. All internal reports and policy documents (excluding emails, personal memoranda, and communications) pertaining to the future direction of the ANU School of Music created and/or distributed in whole or in part by Jonathan Powles and/or Professor Adrian Walker and/or Professor Marnie Hughes-Warrington since 2008;

7. All submissions to the education program review (as mentioned: http://cass.anu.edu.au/node2958) pertaining to the ANU School of Music as referenced on the student transition web page;

8. The document entitled Towards 2013 - a vision for a 21st Century Music School by Professor Adrian Walter, written in 2010;

Sue Clarke
FOI Officer

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Canberra ACT 0200 Australia
www.anu.edu.au
CRICOS Provider No. 00120C
9. All official, University endorsed school-wide curriculum documents developed for the ANU School of Music from 2008 to the present day;

10. The current operating and capital budgets of the Australian National University as a whole, including with particular reference to the individual budgets of: The ANU college of Arts and Social Sciences; The ANU John Curtin School of Medical Research; and The ANU office of the Vice-Chancellor;

11. The employment contract or agreement of Vice-Chancellor Ian Young, including all appendices, codicils, and pay scales.

DOCUMENTS THAT HAVE BEEN ALREADY PROVIDED TO YOU

I note that during the course of your application I have previously supplied you with the documents in relation to points 10 and 11 above on 16 July 2012.

RELEVANT DOCUMENTS

I have conducted a search of the University’s records and I have reviewed the information available in accordance with the provisions of the Act. The documents were then examined to determine whether any of them may be exempt or conditionally exempt.

As the Freedom of Information delegate I find that:

- 58 documents are suitable for full release and are enclosed in Appendix A
- 12 documents are suitable for partial release and are enclosed in Appendix B
- 75 documents are not suitable for release and are described in Appendix C (please note that the first item consists of 1201 emails sent to somconsult@anu.edu.au)

Academic Board meetings, agendas and minutes are available at:

http://about.anu.edu.au/governance-structure/committees/academic-board/meetings

A. Documents to which Section 47C applies:

Section 47C provides that:

(1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative 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, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister of the Government of the Commonwealth.

The documents or parts of documents identified in the Appendices as conditionally exempt under Section 47C contain information on the basis that the documents are working documents and were used in a deliberative, decision-making process.

Provision of these documents or parts of them would disclose matter in the nature of consultation and deliberation that took place for the purposes of considering operational functions of the University. Further, the documents record advice and recommendations prepared in conjunction with the University and members of the public who communicated directly and freely on matters that are considered to be sensitive. The documents were not final documents and were intended to inform the decision-making process.
There is a public interest in protecting the integrity of the decision-making process by separating the final decision-making policy or steps towards making the final decision from the opinions and advice of persons who provided their opinions into the consideration of the matter. The specific documents listed in the Appendices as conditionally exempt under Section 47C do not constitute final decisions nor were they intended as such. The views expressed in the document(s) are merely preliminary in nature.

- Subsection 47C(2) provides that:

  (2) Deliberative matter does not include either of the following:
  (a) operational information (see section 8A);
  (b) purely factual material.

Because the opinions expressed in the documents involve a portion of the process to form judgment, I am satisfied that the information is not operational information or purely factual material and is therefore not excluded under subsection 47C(2). In reaching my decision, I considered public interest factors in favour and against disclosure of the information.

In relation to factors favouring disclosure, I believe the following are relevant:

  (a) The general public interest in access to information under the Act; and
  (b) The general public interest to scrutinise the operations of a government agency.

In relation to the factors against disclosure, I believe the following are relevant:

  (c) the disclosure of the information would restrict the ability of University employees in future to record their opinions directly and freely during a deliberative process;
  (d) the disclosure of the information would restrict the willingness of the general community to record their opinions directly and freely during a deliberative process; and,
  (e) There is a public interest in protecting the integrity of the decision-making process by separating the final decision-making policy, including the steps and reasons therefore, from the opinions and advice of the employees who contributed to the deliberation.

I have considered the public interest factors both in favour and against disclosure and find that the factors identified at (c), (d) and (e) outweigh the factors in favour of disclosure. I find that the documents or parts of the documents are exempt under section 47C of the Act. Therefore have masked information relating to the deliberative process.

B. Documents to which section 47F apply:

I have determined that portions of the document(s) identified in the Appendices are partially exempt under Section 47F.

Section 47F of the Act provides that:

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

In relation to factors favouring disclosure I believe the following are relevant:

  (a) the general public interest in access to information under the Act;
  (b) the general public interest to scrutinise the operations of a government agency.

In relation to the factors against disclosure, I believe the following are relevant:
(c) the extent to which the information is well known;
(d) the availability of the information from publicly accessible sources; and
(e) the likely impact on the individual(s) if the personal information were to be released, and
(f) whether the individual(s) have a reasonable expectation of privacy in the information.

I have considered the public interest factors in favour and against disclosure and I find that the factors at (c) to (f) outweigh the factors in favour of disclosure. I find that documents or parts of documents would be exempt under section 47F of the Act. Therefore I have masked identifying information of individuals.

C. Documents to which Section 47E(c) applies.

Section 47E(c) of the Act provides that:

A document is conditionally exempt if its disclosure under this Act, would, or could reasonably be expected to, do any of the following:

(c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency...

The documents or parts of documents identified in the Appendices as exempt under this section of the Act contain information, the release of which would have a substantial adverse effect on the management or assessment of University personnel. Specifically, the information contained in these documents relates to the management and assessment of personnel and matters that affect the University's ability to conduct future negotiations in a change-management process. The release of the information could potentially jeopardize the ability of the University to manage its industrial relations.

I have considered the public interest factors both in favour and against disclosure of the information contained in these documents.

In relation to the factors that favour disclosure, I believe the following are relevant:

(a) the general public interest in access to information under the Act;

(b) the general public interest that permits the public to scrutinize the operations of a government agency.

In relation to the factors against disclosure, I believe the following are relevant:

(a) the need for the University to maintain confidentiality in relation to the management and assessment of personnel;

(b) that the release of information in relation to the management of personnel may have an adverse impact on the University's ability to conduct current and ongoing negotiations with respect to industrial relations with its employees;

I have considered the public interest factors in favour and against disclosure and factors (b) and (c) outweigh the factor favouring disclosure. I have determined that documents or parts of the documents are exempt under section 47E(c) as the release of the information will likely have a substantial adverse effect on the management and assessment of University personnel.
D. Documents to which Section 47G (1)(a) applies:

Section 47G provides in relevant part that:

(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or personal affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) 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.

In relation to factors favouring disclosure I believe the following are relevant:

(a) the general public interest in access to information under the Act.

In relation to the factors against disclosure I believe the following are relevant:

(b) the extent to which the information is known to competitors and/or others engaged in similar business; and

(c) the likely impact on the business if the information were disclosed;

I have considered the public interest factors in favour and against disclosure and factors (b) and (c) outweigh the factor favouring disclosure. I find that documents or parts of documents are therefore exempt under section 47G of the Act. Therefore I have redacted account details of businesses from the documents.

Application for Internal Review of Decision

I draw your attention to Section 54A of the Act, which gives you the right to apply for an internal review of my decision. An application for internal review of my decision must be made in writing within 30 days receipt of this letter, no particular form is required but it is desirable to set out in the application the grounds on which you consider the decision should be reviewed.

Application for review of the decision should be addressed to:

Pro Vice-Chancellor
Building 108
Australian National University (ANU)
CANBERRA ACT 2601

Application for Information Commissioner (IC) Review of decision

I draw your attention to Section 54F of the Act, which gives you the right to apply for an Information Commissioner review of my decision. An application for IC review must be made in writing within 30 days receipt of this letter. Application for IC review of the decision can be made via online form on the Office of the Australian Information Commissioners website or posted to:

FOI Review
PO Box 2999,
CANBERRA ACT 2601
Or hand delivered to:
  4 National Circuit
  Barton, ACT

Complaints to the Information Commissioner

You can make a complaint to the Information Commissioner if you have concerns how the University handled your request for documents. Your complaint may be sent in writing to:

    PO Box 2999
    Canberra ACT 2601

Or made online by visiting the OAIC's website at: http://www.oaic.gov.au/

Yours sincerely

Sue Clarke
FOI Officer
Encl.