Dear Mr Thomson

Freedom of Information (FOI) Request

I refer to your email dated 17 March 2011 in which you seek access to information under the Freedom of Information Act 1982 (Cth) (‘the Act’). You specifically seek access to documentation regarding:

A. Professor Young’s salary for his first year of employment;

B. Documents relating to the conditions of Professor Young’s employment—including the offer of employment letter;

C. Any correspondence between the University and Professor Young about Professor Young’s appointment as ANU vice-chancellor;

D. Documents outlining Professor Young’s salary package, including fringe benefits;

E. Documents relating to the refurbishment of the vice-chancellor’s residence completed before Professor Young moved into the residence, including documents that show quotes for work to be completed and the cost;

F. Documents—including receipts—relating to expenses incurred by Professor Young’s stay in temporary accommodation while the upgrade of the residence was being completed; and

G. Any correspondence relating to this FOI request.

I have conducted a search of the University’s records and I 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:

- 5 documents are suitable for full release and are enclosed in Appendix A
- 15 documents are suitable for partial release and are enclosed in Appendix B
A. Professor Young’s salary for his first year of employment.

Redacted documents in relation to this aspect of your request are enclosed in Appendix B. I have determined that portions of the document(s) identified are partially exempt under Section 47F.

Documents to which Section 47F applies:

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 individuals if the personal information were to be released.

I have considered the public interest factors in favour and against disclosure and I find that the factors at (c) to (e) 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.

B. Documents relating to the conditions of Professor Young’s employment—including the offer of employment letter.

Redacted documents in relation to this aspect of your request are enclosed in Appendix B. I have determined that portions of the document(s) identified are partially exempt under Section 47F. I made my findings and reasons for so concluding based on the considerations explained in paragraph A above. Where I have determined that Section 47F is applicable, I masked identifying information that details the personal affairs of individuals.

C. Any correspondence between the University and Professor Young about Professor Young’s appointment as ANU Vice-Chancellor.

Redacted documents in relation to this aspect of your request are enclosed in Appendix B. I have determined that portions of the document(s) identified are partially exempt under Sections 45 and 47C of the Act.

Documents to which Section 45 applies:

Section 45 provides that:

(1) A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth, or Norfolk Island), for breach of Confidence.

(2) Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or
her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:

(a) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
(b) an agency, the Commonwealth or Norfolk Island.

The documents or portions of documents identified in the Appendix as exempt under Section 45 were supplied to the University on a confidential basis by third parties. I have determined that if the University were to disclose the information, the disclosure could result in claims against the University. In making my decision I considered the following factors:

(a) The information identified as confidential is not publicly available;
(b) The information was provided to and received by the University on the basis that the information would remain confidential;
(c) The information provided to the University did not originate from the Commonwealth or another Commonwealth agency; and
(d) The disclosure of the information would likely have a negative financial impact on those who provided the information.

I have therefore masked material obtained in confidence relating to comparative salaries.

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 Appendix as exempt under Section 47C contain exempt information on the basis that the documents are internal working documents. 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 deliberative processes involving operational functions of the University. The documents identified record recommendations and opinions.

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 Appendix B 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 matters 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 purely factual material and 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; and

(d) 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 I find that the factors identified at (c) and (d) 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. I therefore have masked information relating to deliberations regarding accommodation.

D. Documents outlining Professor Young’s salary package, including fringe benefits

Redacted documents in relation to this aspect of your request are enclosed in Appendix B. I have determined that portions of the document(s) identified are partially exempt under Section 47F. I made my findings and reasons for so concluding based on the considerations explained in paragraph A above. Where I have determined that Section 47F is applicable, I redacted identifying information that details the personal affairs of individuals.

E. Documents relating to the refurbishment of the Vice- Chancellor’s residence completed before Professor Young moved into the residence, including documents that show quotes for work to be completed and the cost.

The Vice-Chancellor’s residence is a structure of historical significance to the University and the community of the Australian Capital Territory. Due to the structure’s age, the residence is in need of structural repairs and refurbishment.

At this time the process to assess the process of repair and refurbishing of the residence has only just begun and no decisions have been made as to what works will be undertaken. In terms of your request, no documents have been generated as refurbishments have not been completed to allow Professor Young to move into the residence.

Once assessments have been made, decisions will be taken as to the level of repair and refurbishment that will be undertaken and works will commence. Once works have been completed and Professor Young has taken up occupancy of the residence, the University will provide you with a breakdown of the refurbishments undertaken and the costs incurred. The expectation is that this process will take the next several months.
F. Documents—including receipts—relating to expenses incurred by Professor Young's stay in temporary accommodation while the upgrade of the residence was being completed

The documents or parts of documents identified in Appendix B as exempt or conditionally exempt under Section 47F of the Act contain personal information and/or personal information of third parties. I made my findings and reasons for so concluding based on the considerations explained in paragraph A above. Some documents also contain information that is exempt under Section 47G.

Documents to which Section 47G 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 of the 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.

G. Any correspondence relating to this FOI request

Documents suitable for full release have been provided to you in Appendix A. The documents or portions of documents considered partially exempt under Section 47F have been provided to you in Appendix B. I made my findings and reasons for so concluding based on the considerations explained at paragraph A above. Where I have determined that Section 47F is applicable, I redacted identifying information of third parties.
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:

Level 3, 25 National Circuit
Forrest, ACT

Yours sincerely

[Signature]

Cameron Neal
FOI Coordinator
Encl.