

15 June 2016

Mr Noel Seletto

Via email: [foi+request-1977-d153bb51@righttoknow.org.au](mailto:foi+request-1977-d153bb51@righttoknow.org.au)

Dear Mr Seletto

### **Freedom of Information Request – Camberwell Grammar**

I refer to your application under the *Freedom of Information Act 1982* (the Act) received by Council on 3 June 2016, seeking the following documents:

*"I request a copy of all correspondence between the Council and Camberwell Grammar regarding the existing contract between the council and the school limiting the number of students which can attend."*

Section 17(2a) of the Act requires that an application fee of \$27.20 accompany a request for access. Such a fee did not accompany your request. Accordingly, I cannot process your request until you pay the application fee.

If you are unable to pay the fee on the basis of hardship, please state your reasons in writing and provide any evidence that you believe supports your claim. A decision will then be made as to whether your hardship claim is accepted or not and you will be advised of the outcome.

In addition to this, your application is invalid in its current form under section 17(2) of the Act as it fails to provide information that is reasonably necessary to identify the document(s) which you seek.

An applicant must strive to define with as much precision as possible the documents sought in terms that would enable an appropriate Council officer to search for those documents. If a request is ambiguous, unclear or otherwise ill defined, it is not a valid request and need not be processed. Officers should not be left guessing as to what documents are being sought.

Pursuant to section 17(4) of the Act, it is Council's duty to assist you to make a request in a manner that complies with section 17. I must give you a reasonable opportunity to consult with Council with a view to making a request in a form that does comply with section 17(2) of the Act. As it presently stands, aspects of your request are unclear and need to be clarified.

In order to assist this process, I make the following specific comments in relation to your request:

- I believe your reference to *'the existing contract between the council and the school'* refers to a Section 173 Agreement made under the Planning and Environment Act 1987, dated 23 April 2002. Item 3 of that agreement makes reference to the number of students in total that can be on the land at any one time. I would be grateful if you would confirm this is the case.
- In the context of this request, I am uncertain what is meant by the term *'correspondence'*. Confirmation is requested as to whether you are interested in obtaining copies of "correspondence" in its ordinary meaning of letters or emails exchanged between the parties; or whether it should be interpreted to include a broader range of documents such as permit applications submitted to Council. Clarification regarding the specific documents sought will enable me to design a search plan that will confidently locate the documents you are seeking.
- The phrase *'regarding the existing contract'* is unclear, particularly because you have not provided a date range for the documents requested. As indicated, the Section 173 agreement in question is dated 23 April 2002. I am uncertain whether to interpret your request as seeking documents which came into existence after 23 April 2002, or whether your request also seeks earlier correspondence exchanged with Council leading up to the agreement being executed. I note that if the latter is correct, the Act would require me to design a search plan for relevant documents anywhere in the period from 1 January 1989 (the date the Act commenced for Councils) up to the date your application was received. I also note that the larger the relevant date range, the more hours may be required to search for documents and this may increase the costs associated with your request.

It would also be beneficial if you could explain whether *"regarding the existing contract"* seeks correspondence which merely mentions the existence of Section 173 agreement, or which specifically discusses the Section 173 agreement.

I therefore invite you to contact me on 9278 4473 to discuss this matter or submit the attached application form with an amended request via:

- post to Private Bag 1, Camberwell 3124; or
- email to [elizabeth.manou@boroondara.vic.gov.au](mailto:elizabeth.manou@boroondara.vic.gov.au).

Please note that until your request is accompanied by the prescribed fee (or a waiver is granted) and made in a manner required by the Act, it cannot be processed and the 45 day time period within which Council must decide your application has also not commenced to run.

If you have any questions in regard to your request, please contact me on 9278 4473.

Yours sincerely



Elizabeth Manou

**ACTING GOVERNANCE PROJECTS OFFICER**