



## FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: 23-002

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Published
4. Documents	Published
5. Additional information identified	Not Applicable
6. Fees	Not Applicable
7. Processing time (in working days)	31 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not Applicable
10. Decision made by ACAT	Not applicable

11. Additional information identified by ACAT	Not applicable
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FOI TCCS 16.01.23

Good afternoon,

Thank you for processing the recent FOIs. I very much appreciate your help getting to the bottom of how, why and who constructed a car park on the Lyneham Neighbourhood Oval.

I really do apologise for draining so much of your time and resources.

There is, unfortunately, a considerable gap in the documents that the ACT government has released.

So far, the TCCS, CMTEDD and EPSDD have been unable to provide any documents regarding the actual development/sealing of the car park in late 2016, or even the existence of the sealed car park.

The documents that the ACT Government have released span right up until late 2016 (directly before the car park was sealed). These documents provide evidence that the ACT government determined that the BCC were **not** successful in gaining a direct sale of the site, for the purpose of developing a sealed car park, and that BCC **did not** have permission to seal a car park on the site.

The FOIs to date have been able to confirm that:

- The Brindabella Christian College sublease a part of block 23, section 41, Lyneham from the crown. The sublease commenced on the 1st of May 2009, for the purpose of “outdoor sports facility and ancillary thereto car parking” (refer to Item 9, Schedule 1, of the sublease). Section 8 and Schedule 1 of the sublease clearly states that the site can only be used for an ‘Outdoor Sports Facility and ancillary thereto car parking’, and that no other development is permitted (section 8.1 and 8.2 of the sub lease).
- The TCCS FOI (22-146) confirmed that no further records are held by TCCS in regards to an agreement that would allow the Brindabella Christian College permission to use block 23, section 41, Lyneham for the purposes of a car park.
- The TCCS FOI (22-146), EPSDD FOI (22/142874) and FOI EPSDD 19/28355 confirmed that the BCC sought a development exemption, to seal the car park, and sought a direct sale of the site in 2016 for the purpose of sealing the car park. However the TCCS FOI (22-146), EPSDD FOI (22/142874) confirmed that neither a relevant **development application for the car park development, nor a direct sale of land proceeded**. The TCCS FOI (22-146) confirmed that as neither process went ahead, an amended or new sublease for Brindabella Christian College was not pursued.

Despite the direct sale falling through, and after the college was told that they would NOT be exempt from needing a development approval if they wanted to seal the car park, the car park was sealed anyway, in late 2016.

All the current evidence indicates that the car park was developed by and for the Brindabella Christian College.

The main record keeping issue is that the TCCS are the custodians of the site. The land is reserved under s315 of the planning and development legislation and has a plan of management in place. They have been given the administrative responsibility for this public land, with Minister Steel as the responsible Minister for the custodianship of the site. The TCCS FOI (22-146) was able to confirm this.

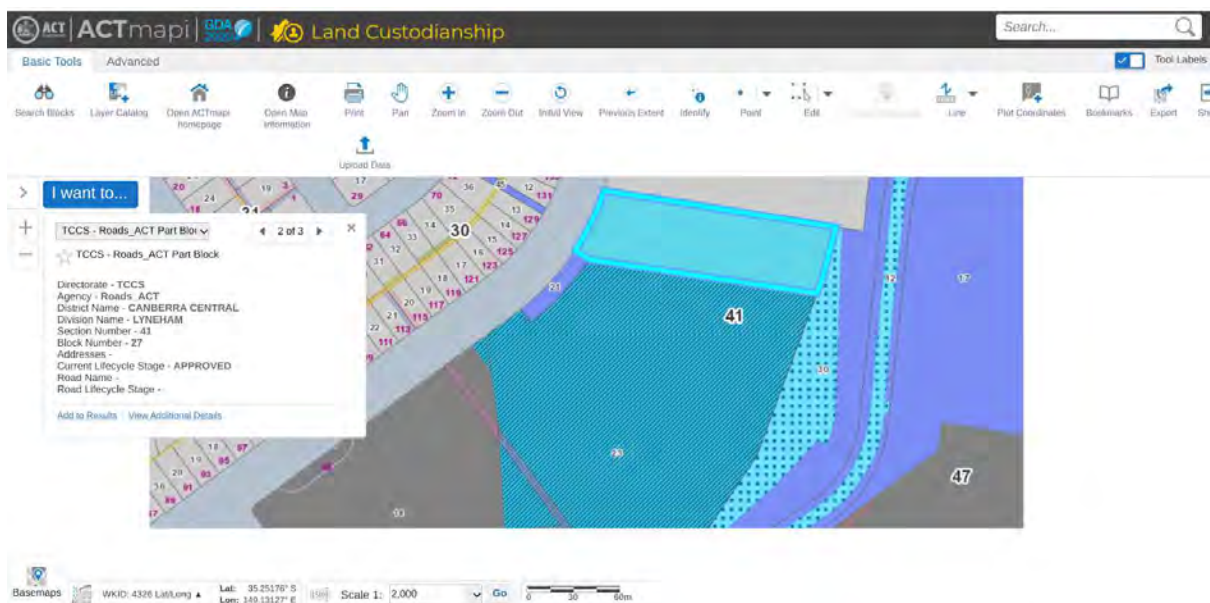
Considering that the ACT Government (TCCS) are the custodians of this public land, it's reasonable to assume that TCCS, CMTEDD or EPSDD must have some correspondence or awareness regarding the use of the site. They must have been aware of the sealing/development of the car park in late 2016, and the existence of the sealed car park on the site.

It could not have just appeared without the ACT Government having any awareness, especially considering the extensive relevant correspondence and discussion amongst the government in the 5 years directly leading up to the development of the car park.

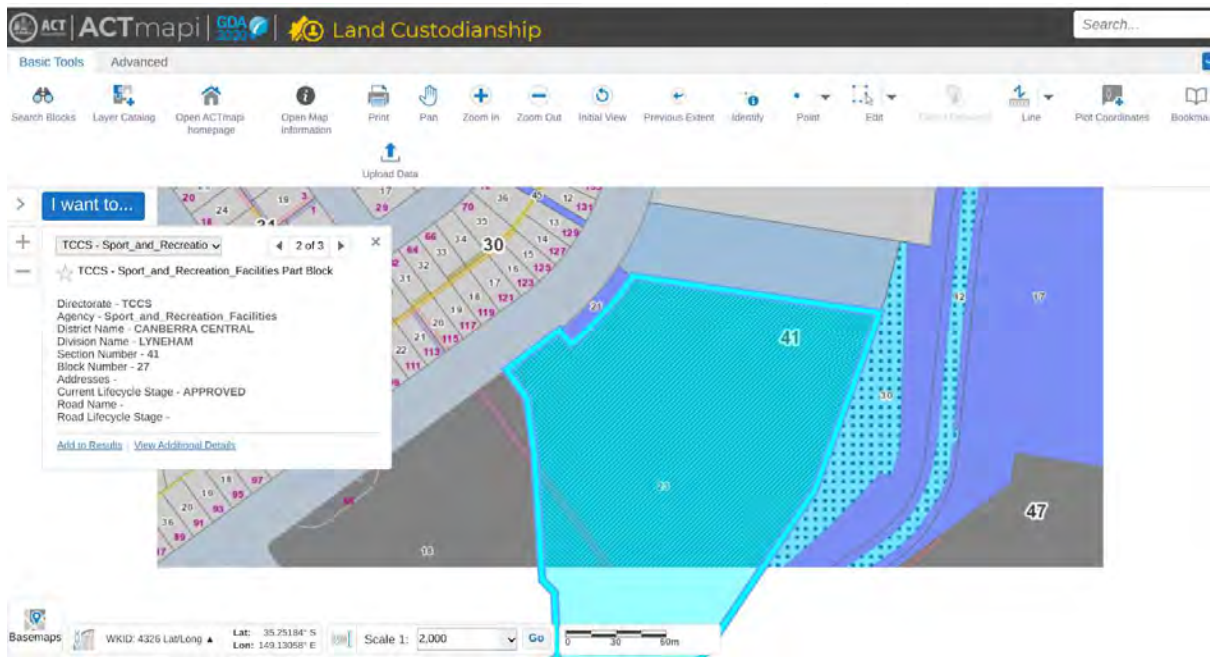
If the ACT Government genuinely had no awareness of the car park development, this is alarming and may indicate mis-management of the public land.

Furthermore, the ACTmapi land custodian map has been updated with the boundary of the car park distinguished from the remaining recreational public land area of block 23, (aka block 27), section 41, Lyneham. This strongly implies that the ACT Government has some awareness about the location of the car park, and that it exists.

- On the ACTmapi Land Custodian map, it states that the part of block 23 (represented as block 27) is managed by TCCS Roads ACT on the custodian map. This is the site of a car park development that the Lyneham community is seeking information about.



- The remainder of block 23 (aka block 27) is managed by TCCS Sport and Recreation Facilities on the custodian map.



This FOI is seeking:

- Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding the development and/or the existence of a car park on block 23, (or also known as block 27), section 41, Lyneham.
- Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding Brindabella Christian Colleges use of the site (block 23, aka block 27, section 41, Lyneham), including correspondence with Brindabella Christian College.
- Any other documents or correspondence regarding the use of block 23, section 41 (or also known as block 27, section 41), Lyneham, between the dates of June 2016 till December 2018, including correspondence with other ACT Government agencies.
- If the car park was sealed as a public car park by or for the ACT Government, it would be reasonable to assume that some design plans, contracts, tenders, Works as Executed (WAE), drawings, AP diagrams, handover maintenance plans, public Infrastructure project minutes, file notes or some planning, public Infrastructure and/or maintenance discussions would have occurred. Please share any documents regarding the development and existence of the car park between the dates of June 2016 till December 2018.

The Lyneham community are trying to understand how and why a dangerous car park was developed on a section of public land, and to what extent the ACT government were aware of the development.

Please let me know if no documents exist. I really do apologise for the persistent requests, and hope that this can be the final request.

Thank you, I am genuinely sorry to be asking so much and for being so persistent. My aim is to keep the community safe and protect public land.

██████████



[REDACTED]

Dear [REDACTED]

### **Freedom of Information Request - Reference 23-002**

I refer to your application for access to government information received by Transport Canberra and City Services (TCCS) on 16 January 2023. It is my understanding that you are seeking access to the following government information:

- *Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding the development and/or the existence of a car park on block 23, (or also known as block 27), section 41, Lyneham.*
- *Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding Brindabella Christian Colleges use of the site (block 23, aka block 27, section 41, Lyneham), including correspondence with Brindabella Christian College.*
- *Any other documents or correspondence regarding the use of block 23, section 41 (or also known as block 27, section 41), Lyneham, between the dates of June 2016 till December 2018, including correspondence with other ACT Government agencies.*
- *If the car park was sealed as a public car park by or for the ACT Government, it would be reasonable to assume that some design plans, contracts, tenders, Works as Executed (WAE), drawings, AP diagrams, handover maintenance plans, public Infrastructure project minutes, file notes or some planning, public Infrastructure and/or maintenance discussions would have occurred. Please share any documents regarding the development and existence of the car park between the dates of June 2016 till December 2018.*

### **Timeframes**

TCCS was required to decide on your application by 14 February 2023. I thank you for agreeing to an extension to 3 March 2023.

### **Authority**

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the FOI Act.

### **Decision on access**

In accordance with the FOI Act, a search of TCCS records has been completed and 7 records have been identified as relevant to your application.

Upon reviewing the information within the records and applying the public interest test under section 17 of the FOI Act, I have decided to provide you with partial access to these records.

The records identified as relevant to your application are listed in the schedule enclosed at Attachment A. A copy of the records with is enclosed at Attachment B.

### **Statement of Reasons**

In reaching my access decision, I have taken the following into account:

- The FOI Act; and
- The *Human Rights Act 2016*.

In making my decision on disclosing the relevant government information, I must identify all relevant factors in schedule 1 and 2 of the FOI Act and determine, on balance, where the public interest lies.

#### **Schedule 1:**

- No relevant sections identified.

#### **Schedule 2:**

##### **Factors favouring disclosure in the public interest (Section 2.1)**

- Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability; and
- Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.

##### **Factors favouring non-disclosure (Section 2.2)**

- Section 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2016.

In reviewing the relevant records, personal information relating to third parties, including information which is likely to identify a third party, has been identified. This includes the names of some members of the Committee of the Lyneham Community Association. While the names of these members were publicly available at the time when the records were created, there is currently no information that is publicly available to confirm that these individuals are still members. I have considered that this information is not readily available to the public and the disclosure of this information is likely to prejudice the protection of an individual's right to privacy under the Human Rights Act 2004 and carries significant weight. In this instance, I have found the disclosure of personal information to be, on balance, contrary to the public interest.

I have found that the factors favouring disclosure can be satisfied with the deletion of information which is contrary to the public interest. A copy of the relevant information is enclosed at Attachment B.

A copy of the relevant information is enclosed at Attachment B.



### **Charges**

In accordance with [Freedom of Information \(Fees\) Determination 2018](#), a fee of \$0.35 per page of information disclosed, except for the first 50 pages, may be applied to an access application. As the total number of pages in your application does not exceed the fee-free threshold, a fee is not relevant.

### **Online publishing – disclosure log**

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents will be published in the TCCS disclosure log between 3 – 10 business days from the date of this decision. Your personal contact details will not be published. You may view the TCCS' disclosure log [here](#).

### **Ombudsman review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' disclosure log 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  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) review**

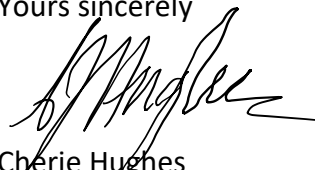
Under section 84 of the Act, if a decision is made under section 82 on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore Street  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740  
[www.acat.act.gov.au](http://www.acat.act.gov.au)

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely



Cherie Hughes  
Information Officer

1 March 2023

## FREEDOM OF INFORMATION REQUEST SCHEDULE

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: [https://www.tccs.act.gov.au/about-us/freedom\\_of\\_information/disclosure-log](https://www.tccs.act.gov.au/about-us/freedom_of_information/disclosure-log)

File number	WHAT ARE THE PARAMETERS OF THE REQUEST
FOI – 23-002	<ul style="list-style-type: none"> <li>• Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding the development and/or the existence of a car park on block 23, (or also known as block 27), section 41, Lyneham.</li> <li>• Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding Brindabella Christian Colleges use of the site (block 23, aka block 27, section 41, Lyneham), including correspondence with Brindabella Christian College.</li> <li>• Any other documents or correspondence regarding the use of block 23, section 41 (or also known as block 27, section 41), Lyneham, between the dates of June 2016 till December 2018, including correspondence with other ACT Government agencies.</li> <li>• If the car park was sealed as a public car park by or for the ACT Government, it would be reasonable to assume that some design plans, contracts, tenders, Works as Executed (WAE), drawings, AP diagrams, handover maintenance plans, public Infrastructure project minutes, file notes or some planning, public Infrastructure and/or maintenance discussions would have occurred. Please share any documents regarding the development and existence of the car park between the dates of June 2016 till December 2018.</li> </ul>

Ref No	Page	Description	Date	Status	Reason for non-release or deferral	Open Access release status
01	01	IAMS Enquiry - Fix My Street	01 May 2018	Full Access	N/A	To be published on the TCCS Disclosure log, with the applicant's personal information removed.
02	02	CRM Enquiry - Fix My Street	28 November 2018	Full Access	N/A	
03	03 - 05	Email - FW: Redirection requested - 18/15961, - Ministerial Correspondence - Breach of sub-lease – Brindabella Christian College - Lyneham Community Association	Multiple	Partial access	Sch 2, Section 2.2 (a)(ii)	
04	06	Response from Minister Yvette Berry - MIN 18/0873	09 July 2018	Full Access	N/A	
05	07 - 09	Email - FW: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548	Multiple	Partial access	Sch 2, Section 2.2 (a)(ii)	

<b>06</b>	<b>10 - 15</b>	Email - Breach of sub-lease by Brindabella Christian College B2018/0548	Multiple	Partial access	Sch 2, Section 2.2 (a)(ii) Committee Member Names at pages 5 & 6	
<b>07</b>	<b>16 - 17</b>	Response from Minister Yvette Berry - MIN 18/0548	19 February 2019	Partial access	Sch 2, Section 2.2 (a)(ii)	

ENQUIRY_ID	CREATED DATE	COMPLETE DATE	LOCATION	DESCRIPTION	ACTION
1054668	1/05/2018		Brigalow Street, Lyneham	<p>Brindabella Christian College, 136 Brigalow St, Lyneham has a pedestrian crossing upon entering &amp; exiting their driveway. It works well for both pedestrians &amp; bike riders.</p> <p>The path along Brigalow Street is very busy with families coming &amp; going to school each day. Can a similar pedestrian crossing be placed at the entrance of the driveway to the oval car park (Brigalow Street, Lyneham)?</p> <p>This car park is very busy at school pick up &amp; drop off with a potential risk for a child or family being struck by a vehicle.</p>	No action requires as one pedestrian crossing is already existing there.

Applied filters:CREATED\_DATE is on or after 01/06/2016 00:00:00 and is before 01/01/2019 00:00:00LOCATION contains 'brigalow'CLASS is not Community Paths, Pedestrian Paving, Stormwater, Streetlight, Toilet, Traffic Lights, or Bus stop/shelter

REFERENCE NUMBER	DATE CREATED	DATE LAST UPDATED	SUBJECT	DESCRIPTION	SUBURB	ADDRESS	ADDITIONAL INFORMATION	CATEGORY_LEV EL_1	CATEGORY_LEV EL_2
181128-001572	28/11/2018	11/04/2019	Roads : Fix My Street Report Submission	Huge pothole, 2metres square in govt mini car park near BCC school on Brigalow street. On a wet day one needs a submarine to negotiate and traverse the pothole. Please fix!	LYNEHAM	129 Brigalow St, Lyneham ACT 2602, Australia	Region: North Work Details: completed on 28/03/2019 By Terri SMith Initial Completion: 11-04-2019 Work Completed on: 28-03-2019 CGD Source: CRM_ACT_ROADS_INCIDENTS_V2	Fix My Street	Roads

Applied filters: CLOSEST\_RESIDENTIAL\_ADDRESS contains 'brigalow' CATEGORY\_LEVEL\_2 is not Abandoned Vehicles, Bus Stops, Cycle Lanes (on-road), Election Signs, Footpaths, Graffiti, Grass, Grass, tree & shrubs, Litter & Illegal Dumping, Mountain Bike Trails (Nature Parks only), Outdoor Fitness Equipment, Pets & Wildlife, Pot Holes, Shared Paths (walk/bike), Sharps (Needles), Shopping Trolley, Stormwater, Street Lights, Street Sweeping, Suburban Parks & Playgrounds, Traffic, Traffic & Road Signs, Traffic Lights, Trees & Shrubs, Weeds, or Worksafe  
DATE\_CREATED is on or after 01/06/2016 00:00:00 and is before 01/01/2019 00:00:00

MIN 18/0873  
DUE TO MACS 27/6  
MIN 3/7

**Clancy, Maree**

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**From:** Kennedy, Karen on behalf of TCCS\_DLO  
**Sent:** Monday, 18 June 2018 4:31 PM  
**To:** TCCS\_Ministerial  
**Subject:** RESPONSE BY MINSITR BERRY PLS - Redirection requested - 18/15961 - Ministerial Correspondence - Breach of sub-lease - Brindabella Christian College - Lyneham Community Association [SEC=UNCLASSIFIED]  
**Attachments:** FW: Breach of sub-lease [SEC=UNCLASSIFIED]  
**Categories:** Maree

Hi MACS,

For response by Minister Berry please.

Thanks  
KK

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**From:** McMullen, Stephanie **On Behalf Of** EnterpriseCBR DLO  
**Sent:** Monday, 18 June 2018 4:23 PM  
**To:** TCCS\_DLO <TCCS.DLO@act.gov.au>; EPSDD DLO <EPSDDDLO@act.gov.au>  
**Subject:** RE: Redirection requested - 18/15961 - Ministerial Correspondence - Breach of sub-lease - Brindabella Christian College - Lyneham Community Association [SEC=UNCLASSIFIED]

Sorry – attached

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**From:** Kennedy, Karen **On Behalf Of** TCCS\_DLO  
**Sent:** Monday, 18 June 2018 4:22 PM  
**To:** EnterpriseCBR DLO <EnterpriseCBRDLO@act.gov.au>; EPSDD DLO <EPSDDDLO@act.gov.au>  
**Subject:** RE: Redirection requested - 18/15961 - Ministerial Correspondence - Breach of sub-lease - Brindabella Christian College - Lyneham Community Association [SEC=UNCLASSIFIED]

Hi Steph,

Can you please forward me the corro, as I am not sure about this one, may be Active.

Let me have a look and get back to you.

Thanks  
KK

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**From:** McMullen, Stephanie **On Behalf Of** EnterpriseCBR DLO  
**Sent:** Monday, 18 June 2018 4:11 PM  
**To:** EPSDD DLO <EPSDDDLO@act.gov.au>  
**Cc:** TCCS\_DLO <TCCS.DLO@act.gov.au>  
**Subject:** RE: Redirection requested - 18/15961 - Ministerial Correspondence - Breach of sub-lease - Brindabella Christian College - Lyneham Community Association [SEC=UNCLASSIFIED]

Hi Kim

I think this one should be TCCS – Sportsgrounds. KK – is that right?

Cheers  
Steph

**From:** EPSDD DLO  
**Sent:** Monday, 18 June 2018 3:08 PM  
**To:** EnterpriseCBR DLO <EnterpriseCBRDLO@act.gov.au>  
**Subject:** FW: Redirection requested - 18/15961 - Ministerial Correspondence - Breach of sub-lease - Brindabella Christian College - Lyneham Community Association [SEC=UNCLASSIFIED]

Hi Steph,

EPSD have advised that this corro should be redirected to Active Canberra for response.

Advice from EPSD is that:

This seems more a matter between the sub-lessee and sub-lessor.

If there is a sublease between Sport and Rec and BCC, and Sport and Rec wanted our view on how to interpret this matter, we would generally say the following.

A lease (or by extension a sublease) might provide for a particular purpose (the dominant purpose) and an ancillary purpose might also be allowed. If the dominant purpose does not proceed, then the ancillary purpose also cannot proceed. Hence, the ancillary purpose cannot operate in the absence of an active dominant purpose.

Can you please advise if you accept and if so let me know if you want any other input from us.

Kind Regards  
Kim Bailey | EPSD DLO  
#54521



Minister Yvette Berry  
Minister for Sport and Recreation  
[berry@act.gov.au](mailto:berry@act.gov.au)



Dear Minister Berry

**Re: Breach of sub-lease by Brindabella Christian College**

We wish to draw your attention to an apparent breach by Brindabella Christian College of the sub-lease they hold over part of Lyneham Neighbourhood Oval.

The sub-lease is administered by Sport and Recreation Facilities, and covers the portion of the PRZ1-zoned Lyneham Neighbourhood Oval designated "Area 1". The clearly noted purpose of the sub-lease is for:

**"outdoor sports facility and ancillary thereto car parking"**.

The only purpose to which the land in question is currently being used is for car parking for the school. There is no outdoor sports facility, and never has been. Clearly the sub-lease purpose requires that the car parking be ancillary to a sports facility. It follows then that if there is no sports facility, there can be no car parking under the sub-lease conditions.

Therefore, by using the sub-leased land for car parking (not ancillary to an outdoor sports facility), Brindabella Christian College is in breach of the sub-lease.

Given that Brindabella Christian College is in breach of the sub-lease, we request that the sub-lease be terminated immediately.

Sincerely,

The Committee of the Lyneham Community Association  
Karlene Dickens, [REDACTED], Gordon McAllister, [REDACTED],  
[REDACTED]  
[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

12 June 2018

**E-MAILED**  
9.7.18



**Yvette Berry MLA**  
**Deputy Chief Minister**

Member for Ginninderra

Minister for Education and Early Childhood Development  
Minister for Housing and Suburban Development  
Minister for the Prevention of Domestic and Family Violence  
Minister for Women  
Minister for Sport and Recreation

The Committee  
Lyneham Community Association  
[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

Dear Committee Members

Thank you for your email of 12 June 2018 regarding an alleged breach of the sub-lease by Brindabella Christian College.

I have requested the Transport Canberra and City Services Directorate (TCCS) to investigate your complaint and seek legal advice if required. I have asked TCCS to provide a response back to the Lyneham Community Association when a position has been determined.

Thank you for bringing this matter to my attention.

Yours sincerely

Yvette Berry MLA  
Deputy Chief Minister

9 JUL 2018

**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

London Circuit, Canberra ACT 2601, Australia  
Phone +61 2 6205 0233

GPO Box 1020, Canberra ACT 2601, Australia  
Email [berry@act.gov.au](mailto:berry@act.gov.au)



@YvetteSBerry



YvetteSBerry

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**From:** Burden, Ross  
**Sent:** Tuesday, 15 January 2019 4:05 PM  
**To:** Hart, Meaghan  
**Subject:** FW: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Meaghan

Have we not dealt with this one? This is a legal issue and we are unable to let the Community group know of any outcomes?

Ross

Ross Burden | Senior Manager  
Phone 02 6207 2307 | Email: ross.burden@act.gov.au  
Sport and Recreation Facilities | City Presentation | Transport Canberra and City Services Directorate | ACT Government  
496 Northbourne Ave, Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Clancy, Maree  
**Sent:** Tuesday, 15 January 2019 10:23 AM  
**To:** Burden, Ross <Ross.Burden@act.gov.au>  
**Subject:** FW: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Reminder of due date.

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**From:** Kennedy, Karen **On Behalf Of** TCCS\_DLO  
**Sent:** Tuesday, 13 November 2018 3:33 PM  
**To:** TCCS\_Ministerial <[TCCS.Ministerial@act.gov.au](mailto:TCCS.Ministerial@act.gov.au)>  
**Subject:** RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College [DLM=For-Official-Use-Only] B2018/0548

Hi MSU,

For response by Minister please.

Thanks  
KK

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**From:** BERRY  
**Sent:** Tuesday, 13 November 2018 12:36 PM  
**To:** TCCS\_DLO <[TCCS.DLO@act.gov.au](mailto:TCCS.DLO@act.gov.au)>  
**Cc:** Paillas, Stephen <[Stephen.Paillas@act.gov.au](mailto:Stephen.Paillas@act.gov.au)>  
**Subject:** FW: Breach of sub-lease by Brindabella Christian College

Please find the attached correspondence relating to Sport and Recreation. For appropriate action/response

Karen let me know if this should go somewhere else 😊

Cheers,  
Grace

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**From:** Lyneham Community Association [<mailto:contact@lyneham.org.au>]  
**Sent:** Tuesday, 13 November 2018 7:27 AM  
**To:** BERRY <[BERRY@act.gov.au](mailto:BERRY@act.gov.au)>  
**Cc:** BARR Reception <[BARR@act.gov.au](mailto:BARR@act.gov.au)>; CANDICE <[CANDICE@parliament.act.gov.au](mailto:CANDICE@parliament.act.gov.au)>; LE COUTEUR <[LECOUTEUR@parliament.act.gov.au](mailto:LECOUTEUR@parliament.act.gov.au)>; LEE <[LEE@parliament.act.gov.au](mailto:LEE@parliament.act.gov.au)>; RATTENBURY <[RATTENBURY@act.gov.au](mailto:RATTENBURY@act.gov.au)>; STEPHEN-SMITH <[STEPHEN-SMITH@act.gov.au](mailto:STEPHEN-SMITH@act.gov.au)>  
**Subject:** Re: Breach of sub-lease by Brindabella Christian College

Minister Yvette Berry  
Minister for Sport and Recreation  
[berry@act.gov.au](mailto:berry@act.gov.au)

Dear Minister Berry

**Re: Breach of sub-lease by Brindabella Christian College**

In June 2018 the Lyneham Community Association drew your attention (see below) to an apparent breach by Brindabella Christian College of the sub-lease they hold over part of Lyneham Neighbourhood Oval. You kindly responded on 9 July to say TCCS was investigating and would inform us of the outcome.

We have heard nothing in the intervening time, and would like to know the state of the investigation. Would you please advise us about the outcome of the TCCS investigation.

Sincerely,

Karlene Dickens

Chair, Lyneham Community Association  
[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

13 November 2018

Cc: Andrew Barr, Candice Burch, Caroline Le Couteur, Elizabeth Lee, Shane Rattenbury, Rachel Stephen-Smith

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Previous correspondence:

Minister Yvette Berry  
Minister for Sport and Recreation  
[berry@act.gov.au](mailto:berry@act.gov.au)

Dear Minister Berry

**Re: Breach of sub-lease by Brindabella Christian College**

We wish to draw your attention to an apparent breach by Brindabella Christian College of the sub-lease they hold over part of Lyneham Neighbourhood Oval.

The sub-lease is administered by Sport and Recreation Facilities, and covers the portion of the PRZ1-zoned Lyneham Neighbourhood Oval designated "Area 1". The clearly noted purpose of the sub-lease is for:

**"outdoor sports facility and ancillary thereto car parking".**

The only purpose to which the land in question is currently being used is for car parking for the school. There is no outdoor sports facility, and never has been. Clearly the sub-lease purpose requires that the car parking be ancillary to a sports facility. It follows then that if there is no sports facility, there can be no car parking under the sub-lease conditions.

Therefore, by using the sub-leased land for car parking (not ancillary to an outdoor sports facility), Brindabella Christian College is in breach of the sub-lease.

Given that Brindabella Christian College is in breach of the sub-lease, we request that the sub-lease be terminated immediately.

Sincerely,

The Committee of the Lyneham Community Association

Karlene Dickens, [REDACTED], Gordon McAllister, [REDACTED]

[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

12 June 2018

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**From:** Beveridge, Fleur  
**Sent:** Thursday, 7 February 2019 12:30 PM  
**To:** Mohindra, Aditi; Hart, Meaghan  
**Subject:** Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

UNCLASSIFIED For-Official-Use-Only

Thanks Aditi. Ok to go Meaghan.

**Fleur Beveridge | Executive Assistant to Director Communications Ed O'Daly |**  
**Phone 6205 6051 | E: [fleur.beveridge@act.gov.au](mailto:fleur.beveridge@act.gov.au) |**  
**Communications | Transport Canberra and City Services Directorate | ACT Government |**  
**GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au) |**

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**From:** Mohindra, Aditi  
**Sent:** Thursday, 7 February 2019 12:10 PM  
**To:** Beveridge, Fleur <[Fleur.Beveridge@act.gov.au](mailto:Fleur.Beveridge@act.gov.au)>  
**Cc:** Scheul, Kristine <[Kristine.Scheul@act.gov.au](mailto:Kristine.Scheul@act.gov.au)>  
**Subject:** RE: Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Fleur

Thanks for the email and providing the letter. It looks ok to me and I have suggested no further changes.

Thanks  
Aditi

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**From:** Beveridge, Fleur  
**Sent:** Thursday, 7 February 2019 11:52 AM  
**To:** Mohindra, Aditi <[Aditi.Mohindra@act.gov.au](mailto:Aditi.Mohindra@act.gov.au)>  
**Cc:** Scheul, Kristine <[Kristine.Scheul@act.gov.au](mailto:Kristine.Scheul@act.gov.au)>  
**Subject:** Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

UNCLASSIFIED For-Official-Use-Only

Hello Aditi,

Could you please review the attached response to the Lyneham Community Association in relation to the attached Ministerial. Thanks Aditi.

**Fleur Beveridge | Executive Assistant to Kristine Scheul |**  
**Phone 6205 6051 | E: [fleur.beveridge@act.gov.au](mailto:fleur.beveridge@act.gov.au) |**  
**Legal | Transport Canberra and City Services Directorate | ACT Government |**  
**GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au) |**

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**From:** Hart, Meaghan  
**Sent:** Thursday, 7 February 2019 9:38 AM  
**To:** Beveridge, Fleur <[Fleur.Beveridge@act.gov.au](mailto:Fleur.Beveridge@act.gov.au)>  
**Subject:** FW: MIN B2018/0548 : RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Fleur

This is the draft letter that we want to send to the Lyneham Community Association – can you get this cleared by Legal ?

Meaghan

---

**From:** Burden, Ross  
**Sent:** Thursday, 7 February 2019 9:22 AM  
**To:** Hart, Meaghan <[Meaghan.Hart@act.gov.au](mailto:Meaghan.Hart@act.gov.au)>  
**Subject:** RE: MIN B2018/0548 : RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Meaghan

The same response stands this is a legal matter which cannot be shared with the Lyneham Community Group, there is no information that we can share with them, I have almost finished drafting a letter to Brindabella for legal to approve

Ross

**Ross Burden | Director**  
Phone 02 6207 2307 | Email: [ross.burden@act.gov.au](mailto:ross.burden@act.gov.au)  
**Sport and Recreation Facilities | City Presentation | Transport Canberra and City Services Directorate | ACT Government**  
496 Northbourne Ave, Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Hart, Meaghan  
**Sent:** Thursday, 7 February 2019 9:18 AM  
**To:** Burden, Ross <[Ross.Burden@act.gov.au](mailto:Ross.Burden@act.gov.au)>  
**Subject:** FW: MIN B2018/0548 : RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Ross

I have reassigned this one back to you, Can you please update the response, as per below, and then legal will review it?

Thanks  
Meaghan

---

**From:** Beveridge, Fleur  
**Sent:** Tuesday, 22 January 2019 10:30 AM  
**To:** Hart, Meaghan <[Meaghan.Hart@act.gov.au](mailto:Meaghan.Hart@act.gov.au)>  
**Cc:** Burden, Ross <[Ross.Burden@act.gov.au](mailto:Ross.Burden@act.gov.au)>; Roberts, Mick <[Mick.Roberts@act.gov.au](mailto:Mick.Roberts@act.gov.au)>; Scheul, Kristine <[Kristine.Scheul@act.gov.au](mailto:Kristine.Scheul@act.gov.au)>; Mohindra, Aditi <[Aditi.Mohindra@act.gov.au](mailto:Aditi.Mohindra@act.gov.au)>  
**Subject:** MIN B2018/0548 : RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

**UNCLASSIFIED For-Official-Use-Only**

Hi Meaghan,

I've spoken to both Kristine and Aditi. Ross spoke to them last year about this issues. He was going to prepare a response letter and supply it to Legal for review. It was not submitted.

Legal will not be preparing the letter but will review a response provided to them. Thanks.

**Fleur Beveridge | Executive Assistant to Kristine Scheul |**

Phone 6205 6051 | E: [fleur.beveridge@act.gov.au](mailto:fleur.beveridge@act.gov.au) |  
Legal | Transport Canberra and City Services Directorate | ACT Government |  
GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au) | [www.tccs.act.gov.au](http://www.tccs.act.gov.au) |

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**From:** Hart, Meaghan

**Sent:** Tuesday, 22 January 2019 9:03 AM

**To:** Beveridge, Fleur <[Fleur.Beveridge@act.gov.au](mailto:Fleur.Beveridge@act.gov.au)>

**Subject:** MIN B2018/0548 : RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Fleur

We need some advice from Legal for this response. Ross Burden has advised that we can't response to the community association about the outcome of the breach?

Can you please pass this onto the legal team ?

Thanks  
Meaghan

---

**From:** Burden, Ross

**Sent:** Wednesday, 16 January 2019 5:39 PM

**To:** Hart, Meaghan <[Meaghan.Hart@act.gov.au](mailto:Meaghan.Hart@act.gov.au)>

**Subject:** RE: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hi Meaghan

When I go into Objective it states that this task is already completed and has been for some time now

Ross

**Ross Burden | Senior Manager**

Phone 02 6207 2307 | Email: [ross.burden@act.gov.au](mailto:ross.burden@act.gov.au)

**Sport and Recreation Facilities | City Presentation | Transport Canberra and City Services Directorate | ACT Government**

496 Northbourne Ave, Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Hart, Meaghan

**Sent:** Wednesday, 16 January 2019 9:32 AM

**To:** Burden, Ross <[Ross.Burden@act.gov.au](mailto:Ross.Burden@act.gov.au)>

**Subject:** RE: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Hey

It's still with you in objective.

Can you please return it to previous with a note regarding that we can't provide advice?

Meaghan

---

**From:** Burden, Ross

**Sent:** Tuesday, 15 January 2019 4:05 PM

**To:** Hart, Meaghan <[Meaghan.Hart@act.gov.au](mailto:Meaghan.Hart@act.gov.au)>

**Subject:** FW: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]



Hi Meaghan

Have we not dealt with this one? This is a legal issue and we are unable to let the Community group know of any outcomes?

Ross

**Ross Burden | Senior Manager**

Phone 02 6207 2307 | Email: [ross.burden@act.gov.au](mailto:ross.burden@act.gov.au)

**Sport and Recreation Facilities | City Presentation | Transport Canberra and City Services Directorate | ACT Government**

496 Northbourne Ave, Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** Clancy, Maree

**Sent:** Tuesday, 15 January 2019 10:23 AM

**To:** Burden, Ross <[Ross.Burden@act.gov.au](mailto:Ross.Burden@act.gov.au)>

**Subject:** FW: RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College B2018/0548 [DLM=For-Official-Use-Only]

Reminder of due date.

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**From:** Kennedy, Karen **On Behalf Of** TCCS\_DLO

**Sent:** Tuesday, 13 November 2018 3:33 PM

**To:** TCCS\_Ministerial <[TCCS.Ministerial@act.gov.au](mailto:TCCS.Ministerial@act.gov.au)>

**Subject:** RESPONSE BY MINISTER BERRY - Breach of sub-lease by Brindabella Christian College [DLM=For-Official-Use-Only] B2018/0548

Hi MSU,

For response by Minister please.

Thanks

KK

---

**From:** BERRY

**Sent:** Tuesday, 13 November 2018 12:36 PM

**To:** TCCS\_DLO <[TCCS.DLO@act.gov.au](mailto:TCCS.DLO@act.gov.au)>

**Cc:** Paillas, Stephen <[Stephen.Paillas@act.gov.au](mailto:Stephen.Paillas@act.gov.au)>

**Subject:** FW: Breach of sub-lease by Brindabella Christian College

Please find the attached correspondence relating to Sport and Recreation. For appropriate action/response

Karen let me know if this should go somewhere else 😊

Cheers,

Grace

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**From:** Lyneham Community Association [<mailto:contact@lyneham.org.au>]

**Sent:** Tuesday, 13 November 2018 7:27 AM

**To:** BERRY <[BERRY@act.gov.au](mailto:BERRY@act.gov.au)>

**Cc:** BARR Reception <[BARR@act.gov.au](mailto:BARR@act.gov.au)>; CANDICE <[CANDICE@parliament.act.gov.au](mailto:CANDICE@parliament.act.gov.au)>; LE COUTEUR <[LECOUTEUR@parliament.act.gov.au](mailto:LECOUTEUR@parliament.act.gov.au)>; LEE <[LEE@parliament.act.gov.au](mailto:LEE@parliament.act.gov.au)>; RATTENBURY <[RATTENBURY@act.gov.au](mailto:RATTENBURY@act.gov.au)>; STEPHEN-SMITH <[STEPHEN-SMITH@act.gov.au](mailto:STEPHEN-SMITH@act.gov.au)>

**Subject:** Re: Breach of sub-lease by Brindabella Christian College

Minister Yvette Berry  
Minister for Sport and Recreation  
[berry@act.gov.au](mailto:berry@act.gov.au)

Dear Minister Berry

**Re: Breach of sub-lease by Brindabella Christian College**

In June 2018 the Lyneham Community Association drew your attention (see below) to an apparent breach by Brindabella Christian College of the sub-lease they hold over part of Lyneham Neighbourhood Oval. You kindly responded on 9 July to say TCCS was investigating and would inform us of the outcome.

We have heard nothing in the intervening time, and would like to know the state of the investigation. Would you please advise us about the outcome of the TCCS investigation.

Sincerely,

Karlene Dickens

Chair, Lyneham Community Association  
[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

13 November 2018

Cc: Andrew Barr, Candice Burch, Caroline Le Couteur, Elizabeth Lee, Shane Rattenbury, Rachel Stephen-Smith

-----  
Previous correspondence:

Minister Yvette Berry  
Minister for Sport and Recreation  
[berry@act.gov.au](mailto:berry@act.gov.au)

Dear Minister Berry

**Re: Breach of sub-lease by Brindabella Christian College**

We wish to draw your attention to an apparent breach by Brindabella Christian College of the sub-lease they hold over part of Lyneham Neighbourhood Oval.

The sub-lease is administered by Sport and Recreation Facilities, and covers the portion of the PRZ1-zoned Lyneham Neighbourhood Oval designated "Area 1". The clearly noted purpose of the sub-lease is for:

**"outdoor sports facility and ancillary thereto car parking".**

The only purpose to which the land in question is currently being used is for car parking for the school. There is no outdoor sports facility, and never has been. Clearly the sub-lease purpose requires that the car parking be ancillary to a sports facility. It follows then that if there is no sports facility, there can be no car parking under the sub-lease conditions.

Therefore, by using the sub-leased land for car parking (not ancillary to an outdoor sports facility), Brindabella Christian College is in breach of the sub-lease.

Given that Brindabella Christian College is in breach of the sub-lease, we request that the sub-lease be terminated immediately.

Sincerely,

The Committee of the Lyneham Community Association

Karlene Dickens, [REDACTED], Gordon McAllister, [REDACTED]  
[REDACTED]

[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

12 June 2018



**ACT**  
Government

Transport Canberra and  
City Services

**RECEIVED**  
DATE 12.2.19 BY *to COS*

### Ministerial Cover Sheet

SUBJECT: Karlene Dickens - Breach of Sub-lease by Brindabella Christian College
OBJECTIVE FILE NUMBER: MIN B2018/0548
MINISTER: Berry
CRITICAL DATE:
CRITICAL REASON:
CONTACT OFFICER: Ross Burden/Aditi Mohindra

COMMENTS:

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**RECEIVED**  
19.2.19

**Deputy Chief Minister**

Minister for Education and Early Childhood Development  
Minister for Housing and Suburban Development  
Minister for the Prevention of Domestic and Family Violence  
Minister for Sport and Recreation  
Minister for Women  
Member for Ginninderra

Karlene Dickens  
Chair  
Lyneham Community Association  
[contact@lyneham.org.au](mailto:contact@lyneham.org.au)

Dear Ms Dickens

Thank you for your follow up email of 13 November 2018 on behalf of the Lyneham Community Association regarding a potential breach of the sub-lease on Lyneham Community Oval. I apologise for the delay in responding.

Transport Canberra and City Services (TCCS) is investigating the matter and is seeking legal advice regarding any potential breach of the sub-lease by Brindabella Christian College.

I note your interest and concerns as a local residents' group, however, as this is a matter between the ACT Government and Brindabella Christian College, I will be unable to provide a detailed response regarding the outcomes of the investigation.

Thank you for raising this matter with me.

Yours sincerely

A handwritten signature in blue ink, consisting of several overlapping loops and lines.

Yvette Berry MLA  
Deputy Chief Minister

19 FEB 2019

**ACT Legislative assembly**

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia

Phone +61 2 6205 0233 Email [berry@act.gov.au](mailto:berry@act.gov.au)



@YvetteSBerry



YvetteSBerry



yvettesberry

