

[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

Freedom of Information – Notice of Decision

I refer to your application under section 30 of the Freedom of Information Act 2016 (the FOI Act), received by the City and Environment Directorate (CED) on 18 November 2025 Specifically, you sought access to the following information:

“There is currently building activity on this block. We contacted the Gateway Team to be advised of the Development Application details. Apparently, the work currently being undertaken is an 'exempt' development. We would appreciate you providing details of this development under FOI provisions.”

Timeframes

In accordance with section 40 of the FOI Act, CED is required to provide a decision on your access application within 30 working days. As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the FOI Act. Therefore, a decision is due on or by **19 February 2026**.

Authority

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

Decision on access

A search for CED records has been completed and 32 records within the scope of your application have been identified. The records are listed in the schedule at **Attachment A**.

I have decided to:

- grant **full** access to nine records.
- grant **partial** access to 16 records.
- **refuse** access to two records as disclosure of the information is contrary to the public interest.

The reasons for my decision are detailed in the *statement of reasons* section below. The records being released to you are provided at **Attachment B** with redactions applied to any information contrary to the public interest to release.

Statement of reasons

The FOI Act has a pro-disclosure bias, which requires information to be disclosed unless doing so would be contrary to the public interest. As an Information Officer, I am responsible for determining whether disclosure of the information within the scope of your application would be contrary to the public interest.

My assessment begins with Schedule 1 of the FOI Act, which outlines categories of information that are taken to be contrary to the public interest to disclose. If the information does not fall within any of these categories, I must then apply the public interest test under section 17 of the FOI Act. This test involves weighing the factors favouring disclosure against those favouring nondisclosure, as set out in Schedule 2.

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

- the FOI Act
- the information that falls within the scope of your application
- the *Human Rights Act 2004*
- the ACT Ombudsman FOI Guidelines
- the *Building Act 2004*

I confirm that I have not considered any of the factors listed in section 17(2) of the FOI Act, which outlines a list of considerations that must not be taken into account when applying the public interest test.

Schedule 1 – Information taken to be contrary to the public interest

- *Section 1.3 - Information disclosure of which is prohibited under law.*

Under section 35(1)(c) of the FOI Act, an agency may refuse to give access to information if the information is considered contrary to the public interest. In this case, the information requested falls within the scope of Schedule 1, clause 1.3(6) of the FOI Act, which provides that “*any other information the disclosure of which is prohibited by a secrecy provision of a law*” is taken to be contrary to the public interest.

A *secrecy provision* is defined in clause 1.3(7) as a provision that:

- applies to information obtained in the exercise of a function under the law; and
- prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

The relevant secrecy provision in this case is section 145 of the *Building Act 2004*, which restricts the provision of building plans to specific parties. It states:

145 Giving copies of documents

(1) Copies of plans submitted under the Act must not be given to anyone except in accordance with the instructions of—

(a) the lessee or the owner of the parcel of land where the building to which the plans relate is erected; or

(b) if the plans relate to a unit within the meaning of the [Unit Titles Act 2001](#)—the proprietor of the unit.

- (2) Despite subsection (1) (b), if the plans relate to the common property of a units plan (whether or not the plans also relate to individual units), the following people are entitled to copies of the plans, including any documents attached to the plans:
- (a) the owners corporation for the units plan;
 - (b) the owners corporation manager, if the owners corporation has given the manager written authority to have the plans.
- (3) However, plans given to a person under subsection (2) must not include identifying information for the proprietor of a unit, other than the proprietor's name.

This provision prohibits disclosure of building plans except in limited circumstances and therefore qualifies as a secrecy provision under the FOI Act. As you do not fall within the categories authorised to receive the plans under section 145, we are prohibited from disclosing these documents to you. Accordingly, disclosure of the information you have requested is taken to be contrary to the public interest under Schedule 1, clause 1.3(6), and access is refused under section 35(1)(c) of the FOI Act.

Schedule 2 – Public interest test

Factors favouring disclosure (Schedule 2.1)

- *Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.*

Factors favouring nondisclosure (Schedule 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 2004.*

Documents relevant to your application contain personal information of individuals and details of a residence. I have considered how the public interest would be advanced by releasing this information in part or in whole. It is my view that the information if disclosed, could reasonably be expected to prejudice the protection of an individual's right to privacy under section 12 of the *Human Rights Act 2004*. On balance, and the information available to me, I am satisfied that the disclosure of this personal information is not in the public interest.

To provide you with the information that I have determined to be in the public interest to release, some documents have been prepared with personal information redacted in accordance with section 50 and the Objects of the Act.

Charges

Processing charges are not applicable for this application because the fee has been waived in accordance with section 107 of the FOI Act.

Online publishing – Disclosure Log

Under section 28 of the FOI Act, CED maintains a disclosure log, which is a public record of access applications and decisions. Your original access application and my decision will be published on the CED disclosure log. Your personal contact details will not be published.

ACT Ombudsman Review

My decision on your access application is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek ACT Ombudsman review of this outcome under section 73 of the FOI Act within 20 working days from the day that my decision is provided to you, or a longer period allowed by the ACT Ombudsman. If you wish to request a review of my decision, you may write to the ACT Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the FOI Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<https://www.acat.act.gov.au/>

Please contact the CED Information Access team if you have any queries in relation to your application via 6207 2987 or CEDFOI@act.gov.au.

Yours sincerely

Craig Weller
Information Officer
City and Environment Directorate
19 February 2026