



ACT

Government

City and Environment

OFFICIAL

Our ref: CED FOI 26-043

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 16 February 2026. It is my understanding you are seeking access to the following:

Information regarding the Controlled Activity Order that applies to the property located at 36 Kitty McEwan Circuit McKellar ACT. I would appreciate any available information regarding:

- *The reason the Controlled Activity Order was issued*
- *The date it was imposed*
- *Any identified contamination, compliance, or planning issues*
- *Any environmental or site assessment reports*
- *Current requirements for remediation or compliance*
- *Conditions for the order to be lifted*

If possible, I would also like to know whether there are any outstanding obligations that would transfer to a new owner.

I thank you for engaging with our office on 1 May 2026, in which you discussed the publicly available information regarding controlled activity orders and whether they transfer with the Crown lease and amended the scope of your application to include only the notice of decision containing background facts and the controlled activity order.

This information is available on the Access Canberra website:

<https://www.accesscanberra.act.gov.au/business-and-work/building-and-construction/controlled-activity-orders>.

Timeframes

In accordance with section 40 of the FOI Act, CED was required to provide a decision on your access application within 30 working days. Under section 41 of the FOI Act, you agreed an additional amount of time to decide your application. Therefore, a decision is due on or by **8 May 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 records held by CED has been completed and two 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 **partial** access to two records.

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

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

- No relevant sections identified.

Schedule 2 – Public interest test

Factors favouring disclosure (Schedule 2.1)

- *Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.*
- *Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.*

In reviewing the information within the scope of your application, I consider that disclosure would contribute to positive and informed debate on this matter. Disclosure would also reveal the reason for a government decision and any background or contextual information that informed the decision. I have placed significant weight on these factors.

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.*

In limited instances, I have identified third party personal information, such as names and personal circumstances. I have considered that this information is not readily available to the public and has been provided to CED with the expectation that it is handled in accordance with territory privacy principles. I consider that the disclosure of this information is likely to prejudice the protection of an individual's right to privacy under the Human Rights Act 2004. I have attributed significant weight to this factor.

Balancing the factors

In balancing the factors favouring disclosure against those favouring nondisclosure, I have carefully considered the public interest in contributing to informed public debate and revealing the reasons for government decisions. I acknowledge that disclosure of certain information would advance these interests, particularly where it relates to the context surrounding government decisions.

However, I must also consider the strong public interest in protecting personal privacy. The likelihood and degree of prejudice that could result from disclosure is significant.

On balance, I find that in the circumstances of this matter, the factors against disclosure carry greater weight than the factors favouring disclosure for the relevant information. As such, I have decided to withhold the information where the public interest against disclosure outweighs the public interest in favour of release.

Having applied the public interest test outlined in section 17 of the FOI Act, I have concluded that some information contained in the records is not in the public interest to disclose. Accordingly, I have redacted this specific information under section 50(2) of the FOI Act.

Consistent with the pro-disclosure intent of the FOI Act, I am satisfied that redacting only the information that is contrary to the public interest ensures compliance with the FOI Act while still providing access to the majority of the information held by CED within the scope of your application.

Charges

Processing charges are not applicable for this application because the number of pages released to you is below the charging threshold of 50 pages.

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

Signed electronically

Craig Weller
Information Officer
City and Environment Directorate
8 May 2026