



Dear [REDACTED]

Freedom of Information – section 36 – 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 4 August 2025. It is my understanding you sought access to the following information:

Application 1:

“Request the Claim Statistics (ie. sub section/clauses a through e in the table below) for:

- The Insurer (QBE) for FY23-24 & FY=24-25*
- Approved Fidelity Fund Scheme (MBFF) for FY23-24 (may be 4 separate quarterly reports) and first 3 quarters of FY24-25.”*

Application 2:

“Request the following Administrative Documents be released:

- Master Builders Fidelity Fund (MBFF) Trust Deed (latest version)*
- Any updated versions of the MBFF Compliance and Contingency Plans from those released under FOI 23/030654.”*

Application 3:

“Request responses to the following:

- In the 11.5 months since the Appointment of the Consumer Representative by the Minister for Sustainable Building and Construction under Notifiable Instrument NI2024-469 and Terms of Reference under NI2024-470: o How many meetings of the Trustees of the Master Builders Fidelity Fund has the Representative attended?*
- o How has the Representative consulted with homeowners about the operation of the approved scheme (Master Builders Fidelity Fund)?*
- o What reports, advice or information has the Representative provided the Minister? and*
- o What interaction has the Minister had with the Representative?”*

Application 4:

“...the following Master Builder’s Fidelity Fund (MBFF) Annual Report:

- Master Builder’s Fidelity Fund Financial Report for the Year Ended 30 Jun 2020”*

In a letter dated 9 October 2025 you were provided a decision in relation to the four applications. You sought the ACT Ombudsman’s review of the decision in relation to application 1.

The Ombudsman’s office has now requested CED that resolve this matter informally by conducting another concentrated search within Access Canberra to identify the claim statistics for the approved Master Builders Fidelity Fund Scheme (MBFF) for FY23-24 and first 3 quarters of FY24-25.

Authority

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

Decision on access

Further searches have been conducted by CED and five further records relevant to your application have been identified.

Section 36 of the FOI Act provides that if, after making a decision, the respondent finds additional government information that was held by the respondent when the application was decided, the respondent may make a further decision under section 35 in relation to the additional information.

Accordingly, I have decided to grant partial access to these five records. The information being withheld is the names and direct contact details of third parties, which I consider contrary to the public interest to disclose. The full reasons for my decision are detailed in the *Statement of reasons* section below.

The records are listed in the schedule at **Attachment A**. The records being released to you are provided at **Attachment B**.

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
- advice and recommendations from the ACT Ombudsman's office.
- the *Human Rights Act 2004* and *Information Privacy Act 2014*
- 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)(i) - promote open discussion of public affairs and enhance the government's accountability.*
- *Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.*
- *Section 2.1(a)(iii) - inform the community of the government's operations, including policies, guidelines and codes of conduct followed followed by the government in its dealings with members of the community.*

In reviewing the information within the scope of your application, I consider that disclosure promotes open discussion of public affairs and enhances government's accountability generally. The release of this information can reasonably be expected to provide information that will inform the community and increase their understanding of government operations, particularly in relation to the MBFF. I have placed significant weight on this factor.

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.*

The records relevant to your application contains the personal information of employees of a third-party business, including names and direct contact details. I have considered that this information is not readily available to the public and has not otherwise been disclosed by CED. I further consider that this information has come to be held by CED with the expectation that it will be handled in accordance with the *Information Privacy Act 2014*.

It is my view that this 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*. I have placed substantial weight on this factor.

Balancing the factors

In balancing the factors favouring disclosure against those favouring nondisclosure, I have carefully considered the public interest in promoting transparency, accountability and understanding government processes. I acknowledge that disclosure of certain information would advance these interests, particularly where it relates to the government's operations.

However, I must also consider the strong public interest in protecting personal privacy. I am of the view that individuals are entitled to expect that the personal information they provide to government agencies will be managed in a way that safeguards their privacy.

On balance, the weight of the privacy considerations outweighs the factors favouring disclosure of this specific information. While releasing the remaining information promotes government transparency and accountability, disclosing the personal information would be contrary to the public interest. Accordingly, I am satisfied that this information should not be disclosed and have applied redactions 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.

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 the ACT Ombudsman's 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 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

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's 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)

Adam Roach
Information Officer
City and Environment Directorate
24 April 2026