

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 2 September 2025. Your application was received by full transfer from the Infrastructure Canberra.

I thank you for engaging with our office on to refine the scope of your application.

On 9 February 2026, your application scope was amended to:

1. In relation to Building Approval (BA) 20222544 - Structural piling and bulk excavation for a three storey carpark:
 - a. Appointment of Certifier/Application for Building Approval form
 - b. Building Approval form
 - c. Supporting documents relating to structural certification, excavation/earthworks or geotechnical reports
 - d. Approved plans
2. In relation to the Construction Audit and Investigation Inspection and Report file
 - a. Investigation reports and attachments

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 third party consultation was required and with your agreement, a decision is due on or by **31 March 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 27 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 3 records.
- grant **partial** access to 7 records.
- **refuse** access to 17 records as I consider the disclosure of the information to be 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.

Deferred release of records

Under section 38 of the FOI Act, CED is required to consult with third parties where disclosure of information may reasonably be expected to affect their interests. In making this decision, I consulted with relevant third parties and considered their views and objections. One third party objected to the release of information in records 3 and 4.

As I have decided to partially release this information, access to these records is deferred under section 38(6)(b) of the FOI Act. This deferral allows the third party 20 working days, or a longer period if granted by the ACT Ombudsman, to seek a review of my decision by the ACT Ombudsman. You will be notified if a review application is received or when access is no longer deferred.

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 views of third parties consulted
- 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.*
- *Section 1.14 - Law enforcement or public safety information.*

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 relation to records 11-18, the information requested falls within the scope of Schedule 1, 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 records to you.

Records 10 and 19-27, contain information which falls within the scope of Schedule 1, 1.14(e) of the FOI Act, being information the disclosure of which would or could be expected to prejudice a person’s fair trial or the impartial adjudication of a matter before a court or tribunal. As confirmed via the Federal Court of Australia website, there is an active legal proceeding which could be effected by disclosure (file number [ACD53/2024](#)).

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.*

In reviewing the remaining information within the scope of your application (records 1 to 9 and part of record 10), I consider that disclosure promotes open discussion of public affairs and enhances government's accountability generally. 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.*

Some of the records relevant to your application contains the personal information of individuals employed by third parties, including names and 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 is 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 relevant public interest factors, I have given significant weight to the public interest in transparency and accountability. However, I consider that the public interest can be substantially met without disclosure of personal information that would unreasonably interfere with individual privacy rights.

In this instance, I am satisfied that the disclosure of personal information would, on balance, be contrary to the public interest. In accordance with section 50(2), I have found that the factors favouring disclosure can be satisfied by deleting only the information that is contrary to the public interest.

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

(Signed electronically)

Craig Weller
Information Officer
City and Environment Directorate
31 March 2026