

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 6 May 2026. It is my understanding you sought access to the following information:

“...all documents from January 2025 to present regarding the approved variations for DA 202342447 (Block 4 Section 57 Turner), including:

- 1. The Final Notice of Decision: The formal approval for the Section 197 amendments which abandoned the pavilion design in favour of a continuous "Long Wall" and removed rooftop solar arrays.*
- 2. Statement of Reasons: The justification for approving these variations despite formal objections from my wife and myself regarding overshadowing, the loss of Deep Planting Zones, and the "flowerpot effect" on protected trees.*
- 3. Boundary Excavation Approvals: Reports or file notes justifying the excavation to the periphery on all sides, which contradicts the original "Garden City" design intent.*
- 4. Internal Correspondence: File notes regarding my unacknowledged technical enquiries to the Conservator's office regarding soil moisture and morphological testing”*

I thank you for providing the following context in your application:

“To assist your search, I wish to clarify that a critical component of this request is the internal correspondence and file notes regarding technical enquiries I submitted to the Conservator's office.

These enquiries specifically addressed:

Soil Moisture & Morphological Testing: Technical data regarding the impact of the "Long Wall" excavation on the root zones of protected trees.

The "Flowerpot Effect": Concerns regarding the viability of deep planting zones following the approved variations.

As these technical submissions have, so far, remained unacknowledged, please ensure the FOI release includes all internal deliberations, emails, or file notes where these specific technical concerns were reviewed or discounted”.

I thank you for engaging with our office on 29 June 2026 to clarify the scope of your application, in which you amended the scope of your application as follows:

“To eliminate any administrative hurdles and ensure the immediate resumption of processing, my final positions regarding the scope of this request are as follows:

- 1. Third-Party Notifications: Yes, I require copies of the administrative emails notifying*

the applicant, lessee, commenting agencies, and representors of the decision.

2. *Self-Sent/Received Correspondence: Yes, to expedite the release, you may exclude emails that I have personally sent to or received from the Directorate from this specific search scope”.*

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. The application was suspended on the 24 June 2026 while clarification of scope was sought. As you provided clarification on 29 June 2026, a decision is due on or by **15 July 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 22 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 10 records.
- grant **partial** access to one record.
- **refuse** access to 11 records as I consider the disclosure of the information to be contrary to the public interest.

This does not include public register associated records, which were provided to you separately.

In relation to those records, under section 43(1)(d) of the *Freedom of Information Act 2016* (FOI Act), a respondent agency may refuse to deal with an access application, wholly or in part, where the government information is already available to the applicant. Section 45 of the FOI Act sets out the circumstances in which government information is already available to an applicant, including where the information is publicly available (section 45(g)).

I have decided to refuse to deal with the parts of your application relating to public register associated records under sections 43(1)(d) and 45 of the FOI Act. These records are publicly available and were also provided to you separately on 16 June 2026. Accordingly, I am satisfied that this information is already available to you for the purposes of the FOI Act.

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**.

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
- your views regarding the public interest
- the views of third party consulted
- 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)(i) - promote open discussion of public affairs and enhance the government's accountability.*
- *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.*

In reviewing the relevant information, I am of the view that disclosure is likely to contribute to the open discussion of a matter relating to a development application. I also acknowledge that disclosure of the information is likely to enhance the government's accountability by revealing contextual information which informed a decision. I have attributed moderate weight to these factors.

Some of the records relevant to your application contain the personal information of third party individuals. 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*. I have considered that the information has been provided to CED with the expectation that it would be handled in accordance with published privacy statements and policies, and authority to access this information, or evidence of

identity to validate authority to release of personal information, was not provided with your application. I consider that the personal information is not readily available to the public and has not otherwise been disclosed by CED. I have attributed significant weight to this factor.

Balancing the factors

As detailed above, I have attributed moderate weight to the factors favouring disclosure. In limited instances, however, I identified personal information and attributed significant weight to protecting an individual's right to privacy under the *Human Rights Act 2004*. On balance, I find that disclosure of that personal information would be contrary to the public interest.

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. I have redacted some information in accordance with section 50(2) of the FOI 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

Signed electronically.

Craig Weller
Information Officer
City and Environment Directorate
15 July 2026