



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-273
Date of Application	28 August 2024
Date of Decision	10 October 2024
Processing time (in working days)	30
Fees	N/A
Decision on Access	Partial Release
Information Requested (summary)	Documentation on Sports Needs Analysis for Woden.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	Varied
Additional information identified by Ombudsman	No
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

**From:** [REDACTED]  
**To:** [CMTEDD FOI](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Freedom of Information Request - CMTEDDFOI 2024-176 - Decision  
**Date:** Wednesday, 28 August 2024 10:40:16 AM  
**Attachments:** [Rebecca Kelly - Woden aquatics facilities needs and analysis.pdf](#)  
[EPSSD Email - Woden District Plan, Aquatics facilities needs and analysis.pdf](#)

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir / Madam,

On the 11th of June 2024 I was sent an email with the formal decision letter which I stated for my FOI request of :

*Seeking the sports and recreation needs analysis report. 2022 or earlier. This report determined that an Indoor 25m pool and associated aquatic facilities would meet the requirements of Woden, as referred to in the Woden district plan, The Territory Plan consultation report and the Proposed New Territory Plan – Supporting Report – Nov 2022. This was regarding individual project sites, specifically the Phillip Swimming and Ice Skating Centre (PSISC) at Block 2 Section 22 Phillip.*

*Also the report/ document that suggests 'In recognition of changes to indoor swimming pool community preferences'. How was this used to determine the needs of the Woden Valley community? Was it a consultation report, Aquatic facilities industry document or consultant report recommendation?*

The response letter and subsequent decision stated that :

*A search of CMTEDD records has failed to identify any documentation in relation to your request. I am satisfied that appropriate searches were completed and that no documents relevant to your request are held by CMTEDD.*

Attached is an email from the executive branch manager for sports and recreation Rebecca Kelly which stated that :

*The analysis referred to was undertaken internally by Sport and Recreation and was then approved by EPSSD to be included in the Woden District Policy when the interim Territory Plan took effect.*

This analysis was a documented internal (report) which was provided to EPSSD and included in the Woden District strategy. How was this not found in the so-called search of CMTEDD records ?

EPSSD has also stated to me in an email that :

*A sport and recreational needs analysis, undertaken by CMTEDD – Sport and Recreation, determined that a 25m pool and associated aquatic facilities (i.e. separate 20 metre warm water program pool, water play splash pad, toddlers pool) would support a diverse range of programs and uses for the Woden community. It was approved by EPSSD to be included in the Woden District Policy when the interim Territory Plan took effect.*

So again, I ask that under the Freedom of Information Act 2016 (the Act), that all documentation ( internal and external) including emails, on the **Sports and Needs**

**Analysis** for Woden, which sited : *contemporary trends in aquatic facility provision, usage data for local ACT Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capability) and overall aquatic facility provision in the Territory.* Be provided to me which formed the **Sports and Needs Analysis** for Woden and Aquatics facilities which also relates to the Phillip Pool and Ice skating centre.

Yours Sincerely



On Wed, 19 Jun 2024 at 10:00, CMTEDD FOI <[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)> wrote:

OFFICIAL

Good morning

Please see the attached decision letter relating to your recent Freedom of Information request.

Regards

Freedom of Information Coordinator | Information Access Team

Phone: 02 6207 7754 | Email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

**Corporate | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

Level 5, 220 London Circuit, Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | [act.gov.au](http://act.gov.au)

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## Woden aquatics facilities needs and analysis

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Kelley, Rebecca <Rebecca.Kelley@act.gov.au>

21 August 2024 at 16:57

To: [REDACTED]

Dear [REDACTED]

Thank you for your email and my apologies for the delay in replying to you as I have been on leave.

In response to your queries, please see below:

*Was the sports and recreation needs analysis on Woden's aquatic facilities provided by ACT Sports and Recreation or a consultant?*

The analysis referred to was undertaken internally by Sport and Recreation and was then approved by EPSDD to be included in the Woden District Policy when the interim Territory Plan took effect. The ACT Legislative Assembly approved the interim Territory Plan. Extensive consultation was undertaken on the draft new Territory Plan and comments were received from the public about the Phillip pool.

The analysis considered contemporary trends in aquatic facility provision, usage data for local ACT Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capability) and overall aquatic facility provision in the Territory.

*Also why hasn't Sports and recreation updated the ACT Aquatics facilities planning management framework 2013 -2033*

The ACT Government Aquatic Facilities Framework continues to provide guidance in relation to relevant ACT aquatic facility matters. Renewal of this document sits within the future workplan for Sport and Recreation however this is now dependent on the priorities within the new term of government. Other infrastructure planning work (e.g. Sport and Recreation Infrastructure Survey) has taken recent priority, with this work informing facility needs from user group perspectives.

Kind regards

Rebecca

Rebecca Kelley

**Executive Branch Manager |Sport and Recreation**

Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 3, Canberra Nara Centre, [1 Constitution Ave, Canberra City, ACT](#) | PO Box 147, Civic Square, ACT 2608 | [www.sport.act.gov.au](http://www.sport.act.gov.au)

Phone 02 62074389 Mobile [REDACTED]



## Woden District Plan, Aquatics facilities needs and analysis

**Kaucz, Alix** <Alix.Kaucz@act.gov.au>

21 August 2024 at 14:35

To: [REDACTED]

Cc: "OBrien, Freya" <Freya.OBrien@act.gov.au>, "Green, Ben" <Ben.Green@act.gov.au>

**OFFICIAL**

Dear [REDACTED]

My apologies for the delay in responding to you.

A sport and recreational needs analysis, undertaken by CMTEDD – Sport and Recreation, determined that a 25m pool and associated aquatic facilities (i.e. separate 20 metre warm water program pool, water play splash pad, toddlers pool) would support a diverse range of programs and uses for the Woden community. It was approved by EPSDD to be included in the Woden District Policy when the interim Territory Plan took effect.

I trust that this information addresses the questions you have asked.

Kind regards

Alix

**Alix Kaucz** | Senior Director – Territory Plan & Coordination, Planning and Urban Policy

Environment, Planning and Sustainable Development Directorate | ACT Government

Phone: 02 6205 0864 | Email: [alix.kaucz@act.gov.au](mailto:alix.kaucz@act.gov.au)

Level 2, Murrumbidgee, [480 Northbourne Ave, Dickson, ACT 2602](#) | GPO Box 158, Canberra 2601

[www.environment.act.gov.au](http://www.environment.act.gov.au) | [www.planning.act.gov.au](http://www.planning.act.gov.au)

**Support and education resources are available to help navigate the new planning system.**



Find out more at [planning.act.gov.au/planning-system](http://planning.act.gov.au/planning-system)



## FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 August 2024.

Specifically, you have sought access to the following information:

*“... all documentation (internal and external) including emails, on the Sports and Needs Analysis for Woden, which sited: contemporary trends in aquatic facility provision, usage data for local ACT Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capability) and overall aquatic facility provision in the Territory. Be provided to me which formed the Sports and Needs Analysis for Woden and Aquatics facilities which also relates to the Phillip Pool and Ice skating centre.”*

### Authority

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

### Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application within 30 days. Therefore, a decision is due by **10 October 2024**.

### Decision on access

Searches of CMTEDD records have identified eight documents within the scope of your request.

I have decided to grant **partial access** to seven documents and **full access** to one document. Information within the documents that is out of scope of your request has been redacted and duplicate information removed.

The records identified as relevant to your application are listed in the schedule enclosed at **Attachment A**. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

### Release of documents

The information being released to you is provided at **Attachment B**.

## Statement of Reasons

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request
- *Human Rights Act 2004*

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in **Schedule 2** of the Act.

There are no **Schedule 1** factors relevant to the information in scope of your request.

### **Public Interest Test**

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and nondisclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

### **Schedule 2: Factors to be considered when deciding the public interest.**

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

#### ***Factors favouring disclosure (Section 2.1)***

- *Section 2.1(a)(iii) - inform the community of the government’s operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.*
- *Section 2.1(a)(viii) - reveal the reason for a government decision and any background or contextual information that informed the decision.*

I have placed substantial weight on the above factors favouring disclosure. The release of this information will provide you with contextual information and background on the decision made by the ACT Government relating to Woden and Aquatics facilities.

However, these factors are to be balanced against the factors favouring nondisclosure.

#### ***Factors favouring nondisclosure (Section 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.*

- *Section 2.2(a)(xvi) - prejudice a deliberative process of government.*

Having reviewed the documents, release of information concerning individuals working within the ACT Public Service is generally not considered to prejudice the protection of an individual's right to privacy. However, mobile phone numbers that may be used for home and work purposes have been redacted, as they are for other individuals. Releasing these could reasonably be expected to prejudice an individual's right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

## **Charges**

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

## **Online publishing – Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a [disclosure log](#).

Your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

## **Ombudsman Review**

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

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

## **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the 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  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the Information Access Team by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely



Emma Hotham  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate

10 October 2024



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

*"I ask that under the Freedom of Information Act 2016 (the Act), that all documentation internal and external) including emails, on the Sports and Needs Analysis for Woden, which sited: contemporary trends in aquatic facility provision, usage data for local ACT Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capability) and overall aquatic facility provision in the Territory. Be provided to me which formed the Sports and Needs Analysis for Woden and Aquatics facilities which also relates to the Phillip Pool and Ice skating centre."*

CMTEDDFOI 2024-273

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-5	Email trail – 10.57am	18 Oct 2022	Full	Out of Scope	Yes
2	6-8	Email trail – 4.55pm	18 Oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
3	9	Email trail – 9.53am	20 oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
4	10-11	Email trail – 9.41am	20 Oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
5	12-13	Email trail – 11.29am	20 Oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
6	14-16	Email trail – 4.51pm	20 Oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
7	17-18	Email trail – 4.58pm	20 oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
8	19-20	Email trail 10.45am	24 oct 2022	Partial	Sch 2 s2.2 (a)(ii)	Yes
<b>Total No of Docs</b>						<b>Yes</b>
8						

**From:** "Jeffrey, David"  
**Sent:** 18/10/2022 10:57 AM  
**To:** "Rosser, Thomas" <Thomas.Rosser@act.gov.au>  
**Cc:** "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>; "Bailey, Daniel" <Daniel.Bailey@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks

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**From:** Rosser, Thomas <Thomas.Rosser@act.gov.au>  
**Sent:** Tuesday, 18 October 2022 10:56 AM  
**To:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Cc:** Kelley, Rebecca <Rebecca.Kelley@act.gov.au>; Bailey, Daniel <Daniel.Bailey@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Seem sensible to us and the Gentleman office so happy for it to be put forward for inclusion

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**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 10:12 AM  
**To:** Rosser, Thomas <[Thomas.Rosser@act.gov.au](mailto:Thomas.Rosser@act.gov.au)>  
**Cc:** Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool

Hi Tom,

As discussed – please see below.

Let me know if you have any questions.

Cheers

DJ

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 9:19 AM  
**To:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi Daniel/Bec,

See below – I think it is worth incorporating the point detailed by Rod below as this is a matter (access to some outdoor areas) will be important to some segments of the community (i.e. Woden Valley Community Council).

Therefore, the preferred option would be as detailed below.

- Area "A" on Figure 12 must provide a 50m public swimming pool and an ice-skating rink for national competitions.
- Any redevelopment requires the provision of an indoor ice-skating rink for national competitions and the provision of a public indoor swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. The design and inclusions for the indoor pool must be approved by the ACT Government and provide the following minimum requirements:

- Indoor 25m x 20m (8 lanes x 2.5m) pool. Water depth of 1.35m to 2.0m.
- Indoor warm water program pool – minimum dimensions of 20m x 10m.
- Indoor toddlers/leisure pool, learn to swim pool and water play splash pad – minimum size of 500m<sup>2</sup>.
- Associated amenities/facilities to support the operation of the pool facilities.
- Transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).

As detailed below, there is a risk the proposed changes will not be well received by some segments of the community or the current lessee, but what has been suggested is consistent with new pool facilities being delivered around Australia (i.e. the new pool at Batemans Bay - [Aquatic – Bay Pavilions](#)).

Can you please confirm you are happy for this feedback to be provided back to Territory Plan team in EPSDD.

Happy to discuss.

Cheers

DJ

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**From:** Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 8:01 AM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Cc:** Green, Ben <[Ben.Green@act.gov.au](mailto:Ben.Green@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Interesting DJ.

The brief for CCJ aquatic facilities was basically the same as your 4 dot points. An additional requirement, that will be an issue for the community is:

- Transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).

Rod

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**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Monday, 17 October 2022 7:03 PM  
**To:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>  
**Subject:** Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi all,

Draft for urgent review, noting the timeframe specified by Alix Kaucz below (any revised words required by 18/10).

Rod – I have looked at a few past documents to inform the pool size requirements. Did you provide any guidance for the different pool spaces for your recent diagrams prepared by CCJ (in particular the toddler's, leisure, learn to swim and splash pad space)?

It would be appreciated if you could provide any feedback/comments by midday tomorrow (Tuesday). If there is time, I would ideally like to run the proposed words past a consultant/architect that specialises in the delivery of aquatic facilities.

Cheers

### **Current Wording in Draft Territory Plan**

- Area 'A' on Figure 12 must provide a 50m public swimming pool and an ice-skating rink suitable for national competitions. Any redevelopment requires an all year with reasonable opening hours, publicly available, indoor swimming pool to be provided.

#### Notes

- Doesn't provide any sufficient detail regarding the scale of the pool facilities to be provided. Could be interpreted by the lessee as simply needing to provide a 50 metre pool that only has 1 lane (2.5 metres wide) and shallow depth (1.35 metres deep).
- There is a risk the wording as currently drafted could lead to a poor outcome for the community.

### **Alternate Option 1 (if there is only scope/capacity to update the Territory Plan relevant to the 50 metre pool).**

- Area 'A' on Figure 12 must provide a 50m public swimming pool and an ice-skating rink suitable for national competitions. Any redevelopment requires the provision of an indoor ice-skating rink for national competitions and the provision of a public indoor swimming pool (50m x 20m – 8 lanes with water depth of 1.35m to 2.0m) that operates all year with reasonable opening hours, similar to other ACT public swimming pools.

#### Notes

- Provides greater clarity regarding the size requirements for an indoor 50 metre pool.
- Doesn't provide any detail regarding any of the other pool facilities that should be provided (as per Alternate Option 2).
- Might be difficult for the ACT Govt to justify the enforcement of an indoor 50 metre pool and the other pools detailed in Alternate Option 2.

### **Alternate Option 2 – Preferred Option**

- Area "A" on Figure 12 must provide a 50m public swimming pool and an ice-skating rink for national competitions.
  - Any redevelopment requires the provision of an indoor ice-skating rink for national competitions and the provision of a public indoor swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. The design and inclusions for the indoor pool must be approved by the ACT Government and provide the following minimum requirements:
    - Indoor 25m x 20m (8 lanes x 2.5m) pool. Water depth of 1.35m to 2.0m.
    - Indoor warm water program pool – minimum dimensions of 20m x 10m.
    - Indoor toddlers/leisure pool, learn to swim pool and water play splash pad – minimum size of 500m<sup>2</sup>.
    - Associated amenities/facilities to support the operation of the pool facilities.

#### Notes

- This is the preferred option as it provides clarity regarding the type of facilities that should be incorporated in a contemporary indoor 25 metre pool should the site be redeveloped.
- Reducing the main pool, down from 50 metres to 25 metres, justifies the inclusion of the other pool facilities that have been detailed.
- Option represents a departure from the existing Territory Plan requirements (i.e. provision of 50 metre indoor pool). Some segments of community may challenge the provision of a smaller main pool (only 25m and less than other public pools such as Gungahlin, Stromlo), but this option will provide a better all round outcome in relation to the capital cost, ongoing financial viability and future maintenance/upgrade requirements.

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**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Monday, 17 October 2022 1:56 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** RE: Draft Territory Plan

Hi David

There is a small window to amend the wording in the draft new Territory Plan but I would need to get the revised words by tomorrow (Tuesday 18<sup>th</sup>). This would mean I would be able to make the change to the draft plan before sending it up for clearance (due back to MO on Friday).

Please feel free to give me a call if you would like to discuss the wording.

Kind regards

Alix

Alix Kaucz | Senior Director, Territory Plan  
**Phone 02 6205 0864**  
**Planning and Urban Policy** | Environment, Planning and Sustainable Development | **ACT Government**  
Level 2, 480 Northbourne Avenue Dickson ACT 2602 | [www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Monday, 17 October 2022 1:36 PM  
**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** Draft Territory Plan

Hi Alix,

Just wanted to touch base regarding the proposed wording detailed in the draft Territory Plan for Phillip Swimming and Ice Skating Centre.

My Deputy Director-General (Kareena Arthy) has had a couple of conversations with Ben Ponton recently and it has been suggested might be a small window to amend the stated requirements for the Phillip site as part of the current planning work that is underway (i.e. tighten the words around what the minimum requirements should be for a new pool should the site be redeveloped in the future). I am not quite sure what potential process has been contemplated by Ben – would this be amending the wording in the draft Territory Plan? The current wording is detailed below.

# Out of Scope

- |         |  |
|---------|--|
| Phillip | <ul style="list-style-type: none"><li>• Ground level dwellings are not permitted in areas 'a', 'b' &amp; 'e' of Figure 11. <a href="#">Figure 11</a></li><li>• Area 'A' on Figure 12 must provide a 50m public swimming pool and an ice-skating rink suitable for national competitions. Any <a href="#">Figure 12</a></li></ul> |
|---------|--|

**CABINET**

**CABINET**

Locality	Assessment requirement	Reference
	<p>redevelopment requires an all year with reasonable opening hours, publicly available, indoor swimming pool to be provided.</p> <ul style="list-style-type: none"><li>• Development of dwellings and commercial accommodation on Section 7 is only permitted within 36m of Callum Street.</li><li>• A public road and 20m wide public landscaped area must be provided in accordance with Figure 13.</li><li>• Development proposals demonstrate no additional overshadowing to Woden Town Square between 10am and 2pm on 21 June.</li><li>• The maximum height to area 'c' in Figure 14 is 11m except within 52m of Yarralumla Creek, where the maximum height is 21m.</li><li>• The minimum front setback to the boundary to Athliff Drive is 4m.</li><li>• Residential development is not permitted within the 1 in 100-year flood level of Yarralumla Creek.</li></ul>	<p>Figure 13</p> <p>Figure 14</p>

**From:** "Jeffrey, David"  
**Sent:** 18/10/2022 4:55 PM  
**To:** "Clapham, David" <David.Clapham@act.gov.au>  
**Cc:** "Bailey, Daniel" <Daniel.Bailey@act.gov.au>; "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool

Hi David,

As discussed, please refer below regarding proposed changes to the Draft Territory Plan for the Phillip Pool and Ice Skating Centre. We have provided this feedback directly to EPSDD, which is in follow up to conversations Kareena has been having with Ben Ponton.

Happy to discuss.

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**  
**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**  
**Phone: 02 6207 5815 | Mobile** Sch 2.2(a)(ii)  
<http://www.sport.act.gov.au/> #CBR



---

**From:** Jeffrey, David  
**Sent:** Tuesday, 18 October 2022 2:46 PM  
**To:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Cc:** Bailey, Daniel <Daniel.Bailey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>; Baxter, Rod <Rod.Baxter@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

Given this was in part discussed by the CM in talkback recently. I believe there would be merit to add flexibility that a ice rink would not be required where agreed by the ACT Government (i.e. if/when a new ice sports facility has been constructed and open for public use in another location).

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**  
**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**  
**Phone: 02 6207 5815 | Mobile** Sch 2.2(a)(ii)  
<http://www.sport.act.gov.au/> #CBR



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**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 12:04 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks David

Did you want me to add flexibility in the requirement for the ice rink so that it doesn't need to be provided if agreed by ACT Govt, or if another facility is in the ACT?

Kind regards

Alix

Alix Kaucz | Senior Director, Territory Plan  
**Phone 02 6205 0864**  
**Planning and Urban Policy** | Environment, Planning and Sustainable Development | **ACT Government**  
Level 2, 480 Northbourne Avenue Dickson ACT 2602 | [www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 10:19 AM  
**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

Please see proposed wording below.

We have shared this information with Minister Berry's Office to ensure they are across this.

Happy to discuss.

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development** | Chief Minister, Treasury and Economic Development Directorate | **ACT Government**  
Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608  
**Phone: 02 6207 5815** | **Mobile: Sch 2.2(a)(ii)**  
<http://www.sport.act.gov.au/> #CBR



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**From:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 9:45 AM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks DJ,

I am happy with what is provided below. I think it would be worth just checking in with the office to make sure they are OK. Did you want to call Tom?

Regards  
Daniel

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Tuesday, 18 October 2022 9:19 AM  
**To:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi Daniel/Bec,

See below – I think it is worth incorporating the point detailed by Rod below as this is a matter (access to some outdoor areas) will be important to some segments of the community (i.e. Woden Valley Community Council).

Therefore, the preferred option would be as detailed below.

- Area “A” on Figure 12 must provide a 50m public swimming pool and an ice-skating rink for national competitions.
- Any redevelopment requires the provision of an indoor ice-skating rink for national competitions and the provision of a public indoor swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. The design and inclusions for the indoor pool must be approved by the ACT Government and provide the following minimum requirements:
  - Indoor 25m x 20m (8 lanes x 2.5m) pool. Water depth of 1.35m to 2.0m.
  - Indoor warm water program pool – minimum dimensions of 20m x 10m.
  - Indoor toddlers/leisure pool, learn to swim pool and water play splash pad – minimum size of 500m<sup>2</sup>.
  - Associated amenities/facilities to support the operation of the pool facilities.
  - Transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).

As detailed below, there is a risk the proposed changes will not be well received by some segments of the community or the current lessee, but what has been suggested is consistent with new pool facilities being delivered around Australia (i.e. the new pool at Batemans Bay - [Aquatic – Bay Pavilions](#)).

Can you please confirm you are happy for this feedback to be provided back to Territory Plan team in EPSDD. Do we need to run this past the MO?

Happy to discuss.

Cheers

DJ

**From:** "Bailey, Daniel" <Daniel.Bailey@act.gov.au>  
**Sent:** 20/10/2022 9:53 AM  
**To:** "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>; "Jeffrey, David" <David.Jeffrey@act.gov.au>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi Bec and DJ,

Can we ensure these go back to EPSDD as formal comments too. David Clapham is coordinating all of the CMTEDD comments.

Regards  
Daniel

---

**From:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Sent:** Tuesday, 18 October 2022 2:46 PM  
**To:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Cc:** Bailey, Daniel <Daniel.Bailey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>; Baxter, Rod <Rod.Baxter@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

Given this was in part discussed by the CM in talkback recently. I believe there would be merit to add flexibility that a ice rink would not be required where agreed by the ACT Government (i.e. if/when a new ice sports facility has been constructed and open for public use in another location).

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**  
**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**  
**Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)**  
<http://www.sport.act.gov.au/> #CBR



---

**From:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Sent:** Tuesday, 18 October 2022 12:04 PM  
**To:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Cc:** Bailey, Daniel <Daniel.Bailey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>; Baxter, Rod <Rod.Baxter@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks David

Did you want me to add flexibility in the requirement for the ice rink so that it doesn't need to be provided if agreed by ACT Govt, or if another facility is in the ACT?

**From:** "Kaucz, Alix" <Alix.Kaucz@act.gov.au>  
**Sent:** 20/10/2022 9:41 AM  
**To:** "Jeffrey, David" <David.Jeffrey@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

My understanding is the new TP will go out in early November though I don't know an exact date. Potentially between 1-4 Nov?

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**From:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Sent:** Wednesday, 19 October 2022 6:30 PM  
**To:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

I will review and come back to you. What is the proposed timing when this will go out on public consultation? I will just need to consider the wording relevant to other govt public messaging regarding the ice sports facility.

Cheers

David

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**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Wednesday, 19 October 2022 6:01 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi David

Are you OK with these draft words explaining the changes in the supporting report? This is the higher level document explaining the changes to the community. Happy to make any changes you recommend (particularly re the ice rink)

Alix

## **Phillip Swimming and Ice Skating Centre**

The current Territory Plan contains a requirement for the Phillip Swimming and Ice Skating Centre (PSISC) at Block 2 Section 22 Phillip to:

- provide or retain an ice-skating rink suitable for national ice hockey competition
- provide or retain a 50m public pool with direct public address to Irvine Street, and
- that any redevelopment for other uses involves the inclusion of the pool as an indoor facility.

In 2016, the ACT Government made a commitment to look at options for a new ice sports facility, preferably in south Canberra. A site was identified on Rowland Rees Crescent in Greenway (Block 17, Section 46) to be near other sporting facilities and in close proximity to the Tuggeranong Town Centre with access to public transport. Noting the impact a new twin sheet ice rink facility in Greenway would have on the viability of the Phillip facility, the provisions in the new Woden District Policy will provide flexibility in the requirement to provide an ice sports facility on the site. This means an ice-skating rink would not be required at Block 2 Section 22 Phillip if agreed by the ACT Government if an alternate ice rink is developed in the ACT.

In recognition of changes to indoor swimming pool preferences, the requirement for a 50m indoor pool to be provided if the site is redevelopment has been amended. The new Territory Plan will instead require the site to have:

- indoor 25m 8-lane public pool;
- indoor warm water program pool – minimum dimensions of 20m x 10m
- indoor toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size of 500m<sup>2</sup>
- associated amenities to support the operation of the pool facilities
- a transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>

**Sent:** Tuesday, 18 October 2022 2:46 PM

**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>

**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>

**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

Given this was in part discussed by the CM in talkback recently. I believe there would be merit to add flexibility that a ice rink would not be required where agreed by the ACT Government (i.e. if/when a new ice sports facility has been constructed and open for public use in another location).

Cheers

**David Jeffrey**

**Senior Director**

**Sport and Recreation**

**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**

**Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)**

<http://www.sport.act.gov.au/> #canberra



---

**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>

**Sent:** Tuesday, 18 October 2022 12:04 PM

**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>

**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>

**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks David

Did you want me to add flexibility in the requirement for the ice rink so that it doesn't need to be provided if agreed by ACT Govt, or if another facility is in the ACT?

Kind regards

Alix

**From:** "Barnett, Vanessa" <Vanessa.Barnett@act.gov.au>  
**Sent:** 20/10/2022 11:29 AM  
**To:** "Jeffrey, David" <David.Jeffrey@act.gov.au>  
**Cc:** "Clapham, David" <David.Clapham@act.gov.au>; "Bailey, Daniel" <Daniel.Bailey@act.gov.au>; "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>; "Arthy, Kareena" <Kareena.Arthy@act.gov.au>; "CMTEDD, Economic Development" <ecodev@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thank you David.

I will ensure these are included in the final agency comments for 22-437.

Please let me know if anything else arises in the meantime.

Regards,  
Vanessa

**From:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Sent:** Thursday, 20 October 2022 11:21 AM  
**To:** Barnett, Vanessa <Vanessa.Barnett@act.gov.au>  
**Cc:** Clapham, David <David.Clapham@act.gov.au>; Bailey, Daniel <Daniel.Bailey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>; Arthy, Kareena <Kareena.Arthy@act.gov.au>; CMTEDD, Economic Development <ecodev@act.gov.au>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi Vanessa,

As discussed, Sport and Recreation has been working with EPSDD in relation to proposed changes to the draft Territory Plan relating to the Phillip Swimming and Ice Skating Centre site.

Following a meeting earlier today, my Executive Group Manager (Daniel Bailey) advised Ben Ponton has requested that our comments be included in the formal CMTEDD Cabinet response.

The key information to include is detailed below.

#### **Current Wording in Draft Territory Plan (pages 214/215)**

- Area 'A' on Figure 12 must provide a 50m public swimming pool and an ice-skating rink suitable for national competitions. Any redevelopment requires an all year with reasonable opening hours, publicly available, indoor swimming pool to be provided.

#### **Proposed amendment**

- Area "A" on Figure 12 must provide a 50m public swimming pool and an ice-skating rink for national competitions.
  - Any redevelopment requires the provision of an indoor ice-skating rink for national competitions and the provision of a public indoor swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. The design and inclusions for the indoor pool must be approved by the ACT Government and provide the following minimum requirements:
    - Indoor 25m x 20m (8 lanes x 2.5m) pool. Water depth of 1.35m to 2.0m.

- Indoor warm water program pool – minimum dimensions of 20m x 10m.
  - Indoor toddlers/leisure pool, learn to swim pool and water play splash pad – minimum size of 500m<sup>2</sup>.
  - Associated amenities/facilities to support the operation of the pool facilities.
  - Transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).
- Consideration should also be given to providing flexibility for the removal of the need to provide an indoor ice-skating rink on the site in Phillip should the ACT Government agree this is no longer required – subject to a new ice sports facility being constructed and open for public use in Tuggeranong.

Let me know if you have any questions.

Kind regards,

**David Jeffrey**

**Senior Director**

**Sport and Recreation**

**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government  
Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**

**Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)**

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---

**From:** Jeffrey, David

**Sent:** Tuesday, 18 October 2022 4:56 PM

**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>

**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>

**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool

Hi David,

As discussed, please refer below regarding proposed changes to the Draft Territory Plan for the Phillip Pool and Ice Skating Centre. We have provided this feedback directly to EPSDD, which is in follow up to conversations Kareena has been having with Ben Ponton.

Happy to discuss.

Cheers

**David Jeffrey**

**Senior Director**

**Sport and Recreation**

**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

**From:** "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>  
**Sent:** 20/10/2022 4:51 PM  
**To:** "Bailey, Daniel" <Daniel.Bailey@act.gov.au>; "Jeffrey, David" <David.Jeffrey@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks DJ – good by me too (and a good outcome if it is the case!).

Cheers  
Bec

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**From:** Bailey, Daniel <Daniel.Bailey@act.gov.au>  
**Sent:** Thursday, 20 October 2022 4:10 PM  
**To:** Jeffrey, David <David.Jeffrey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks DJ,

I am happy with those changes.

Regards  
Daniel

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Thursday, 20 October 2022 3:53 PM  
**To:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool  
**Importance:** High

Hi Daniel/Bec,

Please refer to the couple of emails below.

Can you please confirm you are ok with my proposed changes (please note there are changes in 2 emails).

This information relates to other documents that are being drafted by EPSDD as part of the new draft Territory Plan. The new documentation will include a Woden District Policy and an additional explanatory supporting document that will assist the public to understand the proposed changes.

Happy to discuss.

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**  
**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**  
**Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)**  
<http://www.sport.act.gov.au/> #CBR



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**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Thursday, 20 October 2022 12:11 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Here's the proposed wording for the district policy

Area 'A' on Figure 12 must provide an ice-skating rink suitable for national competitions, unless agreed by the ACT Government.

Area 'A' on Figure 12 must retain a 50m public swimming pool, or if the site is redevelopment, a publicly available, indoor facility is provided that includes:

- A 25m x 20m 8-lane swimming pool – water depth 1.35m to 2.0m
- Warm water program pool – minimum dimensions of 20m x 10m
- A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m<sup>2</sup>
- A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities
- Associated amenities to support the operation of the pool facilities

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Wednesday, 19 October 2022 6:30 PM  
**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

I will review and come back to you. What is the proposed timing when this will go out on public consultation? I will just need to consider the wording relevant to other govt public messaging regarding the ice sports facility.

Cheers

David

---

**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Wednesday, 19 October 2022 6:01 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi David

Are you OK with these draft words explaining the changes in the supporting report? This is the higher level document explaining the changes to the community. Happy to make any changes you recommend (particularly re the ice rink)

Alix

## Phillip Swimming and Ice Skating Centre

The current Territory Plan contains a requirement for the Phillip Swimming and Ice Skating Centre (PSISC) at Block 2 Section 22 Phillip to:

- provide or retain an ice-skating rink suitable for national ice hockey competition
- provide or retain a 50m public pool with direct public access to Irvine Street, and
- that any redevelopment for other uses involves the inclusion of the pool as an indoor facility.

In 2016, the ACT Government made a commitment to look at options for a new ice sports facility, preferably in south Canberra. A site was identified on Rowland Rees Crescent in Greenway (Block 17, Section 46) to be near other sporting facilities and in close proximity to the Tuggeranong Town Centre with access to public transport. Noting the impact a new twin-sheet ice rink facility in Greenway would have on the viability of the Phillip facility **The ACT Government has received a proposal from a private sector entity to develop a new ice sports facility in Tuggeranong. Subject to the private sector entity delivering the proposed new ice sports facility in Tuggeranong,** the provisions in the new Woden District Policy will provide flexibility in the requirement to provide an ice sports facility on the **Phillip** site. This means an ice-skating rink would not be required at Block 2 Section 22 Phillip if agreed by the ACT Government if an alternate ice rink is developed in the ACT.

In recognition of changes to indoor swimming pool preferences, the requirement for a 50m indoor pool to be provided if the site is redevelopment has been amended. The new Territory Plan will instead require the site to have:

- indoor 25m x 20m 8-lane public pool – **water depth of 1.35m to 2.0m;**
- indoor warm water program pool – minimum dimensions of 20m x 10m
- indoor toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size of 500m<sup>2</sup>
- associated amenities to support the operation of the pool facilities
- a transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities).

---

**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>

**Sent:** Tuesday, 18 October 2022 2:46 PM

**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>

**Cc:** Bailey, Daniel <[Daniel.Bailey@act.gov.au](mailto:Daniel.Bailey@act.gov.au)>; Kelley, Rebecca <[Rebecca.Kelley@act.gov.au](mailto:Rebecca.Kelley@act.gov.au)>; Baxter, Rod <[Rod.Baxter@act.gov.au](mailto:Rod.Baxter@act.gov.au)>

**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

Given this was in part discussed by the CM in talkback recently. I believe there would be merit to add flexibility that a ice rink would not be required where agreed by the ACT Government (i.e. if/when a new ice sports facility has been constructed and open for public use in another location).

Cheers

**David Jeffrey**

**Senior Director**

**Sport and Recreation**

**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**

**Phone: 02 6207 5815 | Mobile: [Sch 2.2\(a\)\(ii\)](#)**

<http://www.sport.act.gov.au/> #CBR



**From:** "Kaucz, Alix" <Alix.Kaucz@act.gov.au>  
**Sent:** 20/10/2022 4:58 PM  
**To:** "Jeffrey, David" <David.Jeffrey@act.gov.au>  
**Cc:** "Bailey, Daniel" <Daniel.Bailey@act.gov.au>; "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Thanks for the comments – will make the changes now

---

**From:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Sent:** Thursday, 20 October 2022 4:57 PM  
**To:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Cc:** Bailey, Daniel <Daniel.Bailey@act.gov.au>; Kelley, Rebecca <Rebecca.Kelley@act.gov.au>  
**Subject:** FW: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

I have included some proposed changes in the emails below – both for the words in the District Policy and the supporting explanatory document that is further below.

We are keen to keep the additional dimension requirements to avoid any issues where a developer may look to reduce the width of the lanes or the depth of the pool to save space and/or dollars.

Happy to discuss if you have any questions.

Thanks for your assistance with this.

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
**Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government**  
**Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608**  
**Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)**  
<http://www.sport.act.gov.au/> #CBR



---

**From:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Sent:** Thursday, 20 October 2022 12:11 PM  
**To:** Jeffrey, David <David.Jeffrey@act.gov.au>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Here's the proposed wording for the district policy

Area 'A' on Figure 12 must provide an ice-skating rink suitable for national competitions, unless agreed by the ACT Government.

Area 'A' on Figure 12 must retain a 50m public swimming pool, or if the site is redevelopment, a publicly available, indoor facility is provided that includes:

- A 25m x 20m 8-lane swimming pool – water depth 1.35m to 2.0m

- Warm water program pool – minimum dimensions of 20m x 10m
- A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m<sup>2</sup>
- A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities
- Associated amenities to support the operation of the pool facilities

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**From:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Sent:** Wednesday, 19 October 2022 6:30 PM  
**To:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi Alix,

I will review and come back to you. What is the proposed timing when this will go out on public consultation? I will just need to consider the wording relevant to other govt public messaging regarding the ice sports facility.

Cheers

David

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**From:** Kaucz, Alix <[Alix.Kaucz@act.gov.au](mailto:Alix.Kaucz@act.gov.au)>  
**Sent:** Wednesday, 19 October 2022 6:01 PM  
**To:** Jeffrey, David <[David.Jeffrey@act.gov.au](mailto:David.Jeffrey@act.gov.au)>  
**Subject:** RE: Draft Territory Plan Amendments - Phillip Pool

Hi David

Are you OK with these draft words explaining the changes in the supporting report? This is the higher level document explaining the changes to the community. Happy to make any changes you recommend (particularly re the ice rink)

Alix

## Phillip Swimming and Ice Skating Centre

The current Territory Plan contains a requirement for the Phillip Swimming and Ice Skating Centre (PSISC) at Block 2 Section 22 Phillip to:

- provide or retain an ice-skating rink suitable for national ice hockey competition
- provide or retain a 50m public pool with direct public address to Irvine Street, and
- that any redevelopment for other uses involves the inclusion of the pool as an indoor facility.

In 2016, the ACT Government made a commitment to look at options for a new ice sports facility, preferably in south Canberra. A site was identified on Rowland Rees Crescent in Greenway (Block 17, Section 46) to be near other sporting facilities and in close proximity to the Tuggeranong Town Centre with access to public transport. ~~Noting the impact a new twin sheet ice rink facility in Greenway would have on the viability of the Phillip facility~~ **The ACT Government has received a proposal from a private sector entity to develop a new ice sports facility in Tuggeranong. Subject to the private sector entity delivering the proposed new ice sports facility in Tuggeranong,** the provisions in the new Woden District Policy will provide flexibility in the requirement to provide an ice sports facility on the **Phillip** site. This means an ice-skating rink would not be required at Block 2 Section 22 Phillip if agreed by the ACT Government if an alternate ice rink is developed in the ACT.

**From:** "Jeffrey, David"  
**Sent:** 24/10/2022 10:45 AM  
**To:** "Stewart, Di" <Di.Stewart@act.gov.au>; "Kaucz, Alix" <Alix.Kaucz@act.gov.au>  
**Cc:** "Kamarul, Matthew" <Matthew.Kamarul@act.gov.au>; "Bailey, Daniel" <Daniel.Bailey@act.gov.au>; "Kelley, Rebecca" <Rebecca.Kelley@act.gov.au>  
**Subject:** RE: Final words for Phillip

Hi Alix,

I am happy with the below.

Thanks for your assistance with this.

Cheers

**David Jeffrey**  
**Senior Director**  
**Sport and Recreation**  
Economic Development | Chief Minister, Treasury and Economic Development Directorate | ACT Government  
Level 3, Canberra Nara Centre, 1 Constitution Avenue, Canberra City ACT 2608  
Phone: 02 6207 5815 | Mobile: Sch 2.2(a)(ii)  
<http://www.sport.act.gov.au/> #CBR



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**From:** Stewart, Di <Di.Stewart@act.gov.au>  
**Sent:** Friday, 21 October 2022 4:51 PM  
**To:** Kaucz, Alix <Alix.Kaucz@act.gov.au>; Jeffrey, David <David.Jeffrey@act.gov.au>  
**Cc:** Kamarul, Matthew <Matthew.Kamarul@act.gov.au>  
**Subject:** RE: Final words for Phillip

Fine by me

**Di Stewart**  
Executive Branch Manager, PaGa Coordination | Planning & Urban Policy  
Environment, Planning and Sustainable Development Directorate | ACT Government  
(02) 6205 4141 | Sch 2.2(a)(ii) | Email: [di.stewart@act.gov.au](mailto:di.stewart@act.gov.au)



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**From:** Kaucz, Alix <Alix.Kaucz@act.gov.au>  
**Sent:** Friday, 21 October 2022 4:47 PM  
**To:** Jeffrey, David <David.Jeffrey@act.gov.au>; Stewart, Di <Di.Stewart@act.gov.au>

**Cc:** Kamarul, Matthew <[Matthew.Kamarul@act.gov.au](mailto:Matthew.Kamarul@act.gov.au)>

**Subject:** Final words for Phillip

Hi David and Di,

I've adjusted the words of the Phillip pool requirement to reflect the recently received CMTEDD comments. It mainly adds the requirement for year round use and opening hours.

Area 'A' on Figure 12 must provide an ice-skating rink suitable for national competitions, unless agreed by the ACT Government.

Area 'A' on Figure 12 must retain a 50m public swimming pool that operates all year with reasonable opening hours, similar to other ACT public swimming pools. If the site is redeveloped, a publicly available, indoor facility is provided that includes:

- A 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m
- Warm water program pool – minimum dimensions of 20m x 10m
- A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m<sup>2</sup>
- A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities
- Associated amenities to support the operation of the pool facilities

The public indoor swimming pool must operate all year with reasonable opening hours, similar to other ACT public swimming pools. The design and inclusions for the indoor pool must be approved by the ACT Government.

Let me know if you think this is OK to go

Alix

## Decision and reasons of Senior Assistant Ombudsman

Application number:	AFOI-RR/25/80003
Applicant:	'DU'
Respondent:	Chief Minister, Treasury and Economic Development Directorate
Respondent reference:	CMTEDDFOI 2024-273
Date:	24 October 2025
Decision reference:	[2025] ACTOFOI 19
Catchwords:	Freedom of Information Act 2016 – reasonable steps to identify all government information within scope – information not held by respondent.

### Decision

1. For the purpose of s 82 of the *Freedom of Information Act 2016* (**FOI Act**), I am a delegate of the ACT Ombudsman.
2. The applicant applied for Ombudsman review of a decision by the Chief Minister, Treasury and Economic Development Directorate (**CMTEDD**) on 10 October 2024 in response to a request for information related to a Sports and Needs Analysis for Woden, and in particular the Phillip Pool and Ice-Skating Centre.
3. For the reasons set out below, my decision is to **vary** the decision made by CMTEDD under s 82(2)(b) of the FOI Act that, in addition to the full release of one document and partial release of 7 documents, no Sports and Recreation Needs Analysis is held.

## Background to Ombudsman review

4. Prior to the access application subject of this Ombudsman review, the applicant made several applications for access to information about the Woden Valley District Plans,<sup>1</sup> and changes related to the Phillip Pool and Ice-Skating Centre, including to the Environment, Planning and Sustainable Development Directorate (EPSDD)<sup>2</sup> on 8 March 2024, and to CMTEDD on 20 May 2024.
5. EPSDD made a decision on 18 April 2024 that no information was held<sup>3</sup> and CMTEDD made a decision on 19 June 2024 that no information was held.<sup>4</sup> These decisions are not the subject of this Ombudsman review but led to the applicant making the access application subject of this Ombudsman review.
6. Following further correspondence with both EPSDD and CMTEDD in response to their FOI access decisions, on 28 August 2024, the applicant contacted CMTEDD to ask about a Sports and Recreation Needs Analysis EPSDD had referred to in correspondence with the applicant.
7. On 28 August 2024, the applicant applied to CMTEDD for:

... all documentation (internal and external) including emails, on the Sports and Needs Analysis for Woden, which cited: [sic] contemporary trends in aquatic facility provision, usage data for local ACT Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capacity) and overall aquatic facility provision in the Territory. Be provided to me which formed the Sports and Needs Analysis for Woden and Aquatics facilities which also relates to the Phillip Pool and Ice Skating centre.

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<sup>1</sup> [District Strategies 2023 Volume 2 – District Strategies – Woden](#).

<sup>2</sup> On 1 July 2025, the [Administrative Arrangements 2025 \(No 1\)](#) commenced which abolished EPSDD and established the City and Environment Directorate (CED).

<sup>3</sup> [EPSDD 24/024403](#).

<sup>4</sup> [CMTEDDFOI 2024-176](#).

8. On 10 October 2024, CMTEDD identified 8 documents within the scope of the application and decided to grant full access to one document and partial access to 7 documents.<sup>5</sup>
9. The documents are email chains dated between 18 October and 24 October 2022 and refer to amendments to the Territory Plan to change the pool size requirements for an aquatic facility in Phillip. The documents do not include a Sports and Recreation Needs Analysis.
10. On 29 November 2024, the applicant applied for Ombudsman review of CMTEDD's decision. Due to an internal administrative oversight, the application was not correctly identified as an application for Ombudsman review until 22 January 2025.
11. On 22 January 2025, the delegate granted the applicant additional time to apply for Ombudsman review, under s 74(1)(b) of the FOI Act.
12. On 23 January 2025, the Office of the ACT Ombudsman (the Office) sought information from CMTEDD for the purpose of the review, including evidence of searches conducted by CMTEDD to identify relevant information.
13. On 11 February 2025, CMTEDD provided information relevant to the review to the Office.
14. On 30 September 2025, I provided my preliminary view to the parties in a draft consideration.
15. On the same day, the applicant provided their response to the draft consideration, including additional submissions.

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<sup>5</sup> [CMTEDDFOI 2024-273](#).

16. On 9 October 2025, CMTEDD confirmed they had no further submissions to make but noted the feedback to be more specific when stating that CMTEDD does not hold a particular document.

### **Delay**

17. I acknowledge that this matter has been subject to delays during the Ombudsman review process.

18. I note the objects of the FOI Act include facilitating and promoting, prompt disclosure of government information, and I acknowledge that the delays are in contrast to the objects of the FOI Act.

### **Scope of Ombudsman review**

19. In the application for review, the applicant questioned the absence of a Sports and Recreation Needs Analysis.

20. The applicant has not sought review of the decision by CMTEDD to give partial access to information.

21. The key issue to be decided in this Ombudsman review is whether CMTEDD has taken all reasonable steps to identify all government information within the scope of the access application, as it required to do so under s 34 of the FOI Act.

22. In making my decision, I have had regard to:

- the applicant's Ombudsman review application dated 29 November 2024 and response to the draft consideration dated 30 September 2025
- the FOI access application dated 28 August 2024
- CMTEDD's decision of 10 October 2024
- CMTEDD's FOI processing file including records of searches

- an unredacted copy of the information identified within the scope of the access application
- the FOI Act, particularly ss 7, 34, 35 and 82
- the [Freedom of Information Guidelines](#) (FOI Guidelines) made under s 66 of the FOI Act, and
- relevant case law, including *AF and Community Services Directorate [2018] ACTOFOI 11*.

### **Relevant law**

23. Section 7 of the FOI Act gives every person an enforceable right of access to government information. This right is subject to other provisions of the FOI Act, including grounds on which access may be refused.<sup>6</sup>
24. Section 34(1) of the FOI Act provides that an agency or Minister deciding an access application must take reasonable steps to identify all government information within the scope of the application.
25. Section 35(1)(b) of the FOI Act provides that an access application may be decided by the respondent deciding that the information is not held by the respondent.
26. Section 35(2) of the FOI Act provides that an access application can be decided in more than 1 way.
27. Section 82(4) of the FOI Act provides that the Ombudsman may exercise any function given under the FOI Act to the agency or Minister for making the decision.

### **The submissions of the parties**

28. In the decision notice, CMTEDD said:

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<sup>6</sup> Section 35(1)(c) of the [Freedom of Information Act 2016 \(ACT\)](#).

Searches of CMTEDD records have identified eight documents within the scope of your request.

29. In the Ombudsman review application, the applicant said:

To me all I was provided with were a document with emails between EPSDD and ACT Sports and Recreation from October 2022.

No Sports and Recreation needs analysis/report. No other documentation/reports that determined the change to the pool size or in recognition to changes to indoor pool community preferences.

30. In response to my draft consideration, the applicant submitted:

On the 25th of August 2025 the Minister for Sport and recreation Yvette Berry finally acknowledged that there was no 'Sports and recreation needs analysis' that determined, that a 25m indoor pool and associated pools would meet the needs of the Woden community. That is despite the Deputy director general Kareena Arthy stating that they had provided the information several times before. That is despite Executive branch manager of ACT Sports and recreation Rebecca Kelley stating, *"The analysis referred to was undertaken internally by Sport and Recreation and was then approved by EPSDD to be included in the Woden District Policy when the interim Territory Plan took effect as a reason to change the Phillip Pool site lease conditions in the new draft territory plan"*.

It should also be noted that there were no 'changes to indoor swimming pool community preferences' or contemporary trends in aquatic facility provision in any referenced documents that determined that a 25m indoor pool and associated pools would meet the needs of the Woden community.

The recommendation made on the Phillip site which was incorporated into the new territory, was predicated on false information which ultimately determined the private sale of the facility to a high rise housing developer. The decision was used by the developer to progress a development application which is now under consideration by EPSSD.

31. The applicant also included a response to a question taken on notice by Yvette Berry MLA during question time on 2 September 2025. In the response dated 26 September 2025, Ms Berry wrote:

The term "sport and recreation needs analysis" appeared in the 2023 consultation report to describe advice provided by Sport and Recreation. The advice was not the result of a formal assessment, but reflected the best available information at the time, drawing on sector knowledge and preliminary research about contemporary trends in aquatic facility provision, usage data for local ACT

Government pools, locality to other aquatic facilities, access and diversity requirements for sustainable pools (including recreational activities and program capability).

32. I have considered these submissions below.

## **Consideration**

### ***Preliminary issue - did the Sports and Recreation Needs Analysis exist?***

33. A Sports and Recreation Needs Analysis evaluates community needs to determine the facilities, programs or services required to be provided.

34. The applicant had been advised by the ACT Government that a Sports and Recreation Needs Analysis had been undertaken by CMTEDD and approved by EPSDD before determining that a 25m pool and associated aquatic facilities would support the Woden community.

35. The applicant made several access applications to CMTEDD and EPSDD, seeking access to the Sports and Recreation Needs Analysis, as noted above at paragraph [4].

36. On 6 August 2025, during an inquiry into Appropriation Bill 2025–2026 and Appropriation (Office of the Legislative Assembly) Bill 2025–26 by the Select Committee on Estimates 2025–2026, Fiona Carrick MLA asked the Minister for Sport and Recreation, Yvette Berry MLA:<sup>7</sup>

Where is the Sports and Recreation Needs Analysis that determined that only a 25-metre pool and associated smaller pools would meet the need for the Woden, Weston Creek, Inner South catchment?

37. Ms Berry took the question on notice, and on 19 August 2025, provided the following answer:

The information is included in the CMTEDD Disclosure Log 2024 – Reference No. CMTEDDFOI 2024-273 ([2024-273.pdf](#)).

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<sup>7</sup> [Estimates QTON 276 ANSWER - CMTEDD ED - Sport and Recreation - Decision on 25 metre pool - CARRICK.](#)

38. Following a request for more information from the Chair of the Select Committee, Ed Cocks MLA, Ms Berry wrote to Mr Cocks and advised:<sup>8</sup>

Your letter seeks advice to the following questions.

1. Does a specific Sports and Recreation Needs Analysis document for the proposed 25m pool in Woden exist; or
2. Does the needs assessment referred to in the hearing consist solely of advice to EPSDD contained in emails or other communications discussing the appropriate pool size for Woden?

The answer to the questions is as follows:

1. No - background information is available here - [2024-273.pdf](#).
2. Yes.

39. I am satisfied that the Sports and Recreation Needs Analysis did not exist.

### ***Identifying information within the scope of the application***

40. The FOI Act requires that an agency or Minister must take 'reasonable steps' to identify all the government information within the scope of the access application.<sup>9</sup>

41. In *AF and Community Services Directorate*<sup>10</sup> the Senior Assistant Ombudsman observed:

The FOI Act is silent on what constitutes 'reasonable steps'. The meaning of 'reasonable', in the context of searches for documents sought under FOI legislation, has been construed as not going beyond the limit assigned by reason, not extravagant or excessive, moderate and of such an amount, size or number as judged to be appropriate or suitable to the circumstances or purpose.<sup>11</sup>

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<sup>8</sup> [Submission-013-Ms-Yvette-Berry-MLA.pdf](#).

<sup>9</sup> Section 34(1) of the [FOI Act](#).

<sup>10</sup> [\[2018\] ACTOFOI 11](#).

<sup>11</sup> *Ibid*, citing *Re Cristovao and Secretary, Department of Social Security* (1998) 53 ALD 138 and *De Tarle and Australian Securities and Investments Commission (Freedom of Information)* [2015] AATA 770.

42. What amounts to reasonable steps may vary in different circumstances. It would, however, include a search of electronic records and a manual search of physical records, where applicable.<sup>12</sup>
43. I have reviewed the evidence of searches provided by CMTEDD. Noting the evidence of searches by CMTEDD and the confirmation from Ms Berry that the Sports and Recreation Needs Analysis did not exist, I am satisfied CMTEDD took reasonable steps to identify all government information within the scope of the access application, as it is required to do so under s 34(1) of the FOI Act.
44. However, I am not satisfied that CMTEDD clearly articulated, in its decision notice, what information was not held.
45. In my view, I consider CMTEDD should have identified that it did not hold the Sports and Recreation Needs Analysis and consequently should have decided this part of the access application under s 35(1)(b) of the FOI Act.
46. The applicant identified the Sports and Recreation Needs Analysis in their access application and CMTEDD did not address this document in their decision notice. I am of the view that CMTEDD should have included in its decision notice that the document sought is not held by CMTEDD as the document does not exist.

## **Conclusion**

47. I am of the view that CMTEDD took reasonable steps to identify all government information but did not adequately articulate that it did not hold the Sports and Recreation Needs Analysis.

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<sup>12</sup> Clause 23 of the [Explanatory Statement](#) to the Freedom of Information Bill 2016 (ACT).

## **Decision**

48. For the reasons set out above in this decision, I **vary** the respondent's decision under s 82(2)(b) of the FOI Act.

49. The effect of my decision will be that the access application will be decided in more than one way. In addition to the original decision by CMTEDD to give full access to one document and partial access to 7 documents, I have decided that the information sought is not held by CMTEDD by virtue of the Sports and Recreation Needs Analysis not existing.

**Katrina Dwyer**

**Senior Assistant Ombudsman**

**24 October 2025**