



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

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

FOI Reference: CMTEDDFOI 2021-256

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	N/A
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	13
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

27 September 2021

By Email: epsdfoi@act.gov.au

FOI – Information Management Team
Environment, Planning and Sustainable
Development Directorate
GPO Box 158,
CANBERRA CITY ACT 2601

Dear Sir/Madam,

FREEDOM OF INFORMATION REQUEST

We make a request for documents pursuant to *Freedom of Information Act 2016* (ACT) regarding unimproved land value assessments, including supporting documents in relation to the following tabled locations (**Properties**):

Name	Location
Canberra PCYC Erindale Centre	17 Grattan Ct, Wanniasa ACT 2903
YMCA Canberra	25 Geils Ct, Deakin ACT 2600
YWCA Canberra	2/71 Northbourne Ave, Canberra ACT 2601
Gungahlin Leisure Centre	71 The Valley Ave, Gungahlin ACT 2912
AIS Aquatic and Fitness Centre	Leverrier St, Bruce ACT 2617
Dickson Pool	69 Antill St, Downer ACT 2602
Canberra Olympic Pool	36 Constitution Ave, Canberra ACT 2601
Manuka Pool	New South Wales Cres, Griffith ACT 2603
Stromlo Leisure Centre	Corner of Uriarra Road and, Dave McInnes Rd, Stromlo ACT 2611
Phillip Swimming and Ice Skating Centre	1 Irving St, Phillip ACT 2606
Lakeside Leisure Centre	Athllon Dr &, Anketell St, Greenway ACT 2900
Active Leisure Centre Erindale	McBryde Cres, Wanniasa ACT 2903
Aqua Calwell	61 Girdlestone Cct, Calwell ACT 2905

Canberra International Sports and Aquatic Centre	100 Eastern Valley Way, Bruce ACT 2617
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Therefore we request, in the period 1 January 2018 to todays date, the following documents in the possession, custody or control of the Environment, Planning and Sustainable Development Directorate (**EPSDD**) in respect of the Properties:

1. any rates assessment notices, including amended notices;
2. any reports prepared or commissioned by the EPSDD involving the Properties, including any valuations or reports of the ACT Valuations Office;
3. any documents in the form of correspondence (including emails, letters, meeting minutes, or records of meetings, including any personal notes) in relation to numbered paragraphs 1 and 2;
4. any working papers prepared by, or on behalf of, the EPSDD involving the Properties; and
5. any objections lodged by land owners of the Properties including any documents provided by the land owner;
6. copies of any of the documents sought in paragraph 1 to 5 above where the original documents are no longer in the possession, custody or control of the EPSDD.

Please note that the definition of documents in this Freedom of Information request is as is outlined in the definition of 'documents' as defined in the *Legislation Act 2001* (ACT).

If you have any questions associated with the request, we would be grateful if you could contact Mr Steven McMahon of our office in the first instance. Please be so kind to advise of any fees associated with the request.





ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-256

FREEDOM OF INFORMATION REQUEST

I refer to your application dated 27 September 2021 under section 30 of the *Freedom of Information Act 2016* (the Act), that was transferred to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 September 2021. In the application you sought access to:

... documents pursuant to Freedom of Information Act 2016 (ACT) regarding unimproved land value assessments, including supporting documents in relation to the following tabled locations (Properties):

Name	Location
<i>Canberra PCYC Erindale Centre</i>	<i>17 Grattan Ct, Wanniasa ACT 2903</i>
<i>YMCA Canberra</i>	<i>25 Geils Ct, Deakin ACT 2600</i>
<i>YWCA Canberra</i>	<i>2/71 Northbourne Ave, Canberra ACT 2601</i>
<i>Gungahlin Leisure Centre</i>	<i>71 The Valley Ave, Gungahlin ACT 2912</i>
<i>AIS Aquatic and Fitness Centre</i>	<i>Leverrier St, Bruce ACT 2617</i>
<i>Dickson Pool</i>	<i>69 Antill St, Downer ACT 2602</i>
<i>Canberra Olympic Pool</i>	<i>36 Constitution Ave, Canberra ACT 2601</i>
<i>Manuka Pool</i>	<i>New South Wales Cres, Griffith ACT 2603</i>
<i>Stromlo Leisure Centre</i>	<i>Corner of Uriarra Road and, Dave McInnes Rd, Stromlo ACT 2611</i>
<i>Phillip Swimming and Ice Skating Centre</i>	<i>1 Irving St, Phillip ACT 2606</i>
<i>Lakeside Leisure Centre</i>	<i>Athllon Dr &, Anketell St, Greenway ACT 2900</i>
<i>Active Leisure Centre Erindale</i>	<i>McBryde Cres, Wanniasa ACT 2903</i>
<i>Aqua Calwell</i>	<i>61 Girdlestone Cct, Calwell ACT 2905</i>
<i>Canberra International Sports and Aquatic Centre</i>	<i>100 Eastern Valley Way, Bruce ACT 2617</i>

... we request, in the period 1 January 2018 to today's date, the following documents in the possession, custody or control of the Environment, Planning and Sustainable Development Directorate (EPSDD) in respect of the Properties:

- 1. any rates assessment notices, including amended notices;*
- 2. any reports prepared or commissioned by the EPSDD involving the Properties, including any valuations or reports of the ACT Valuations Office;*
- 3. any documents in the form of correspondence (including emails, letters, meeting minutes, or records of meetings, including any personal notes) in relation to numbered paragraphs 1 and 2;*
- 4. any working papers prepared by, or on behalf of, the EPSDD involving the Properties; and*
- 5. any objections lodged by land owners of the Properties including any documents provided by the land owner;*
- 6. copies of any of the documents sought in paragraph 1 to 5 above where the original documents are no longer in the possession, custody or control of the EPSDD.*

Please note that the definition of documents in this Freedom of Information request is as is outlined in the definition of 'documents' as defined in the Legislation Act 2001 (ACT).

Save for the working papers sought in paragraph 4, the application relates to documents held by the ACT Revenue Office (this Office).

Authority

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

I am also a tax officer for the purposes of the *Taxation Administration Act 1999* (TAA), and a delegate of the Commissioner of ACT Revenue Office (the Commissioner) for the purpose of section 96 of the TAA.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 27 October 2021.

Decision on access

Searches were completed for relevant documents held by this Office and a large number of documents were identified that fall within the scope of the application.

On 5 October 2021, I contacted your law firm regarding the scope of the application. On 6 October 2021, an email addressed to Mr McMahon was sent to clarify the scope and enquire whether your law firm acts for and on behalf of the owners of the properties listed in the application. To date, I have not received a response.

I have decided to refuse access to all identified documents as I consider them to be contrary to the public interest information under Schedule 1.3(6) of the Act.

Information covered under Schedule 1 is taken to be contrary to the public interest to disclose unless the information identifies corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

In accordance with section 54(2) of the Act, a statement of reasons outlining my decision follows.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act, particularly Schedule 1.3(6) and (7);
- the TAA, particularly the secrecy provisions under Division 9.4; and
- the content of the documents that fall within the scope of your request.

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Contrary to the public interest information under Schedule 1 of the Act

The identified documents are entirely composed of, or contain information, that is, or is considered to be contrary to the public interest under Schedule 1 of the Act.

In particular, Schedule 1.3(6) states:

1.3 - Information disclosure of which is prohibited under law

(6) Any other information the disclosure of which is prohibited by a secrecy provision of a law.

Schedule 1.3(7) provides:

(7) In this section:

secrecy provision — a provision of a law is a secrecy provision if it —

(a) applies to information obtained in the exercise of a function under the law; and

(b) prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

The secrecy provisions of Division 9.4 of the TAA prohibit the disclosure of information obtained under, or in relation to the administration of tax laws (section 95(2) of the TAA).

Disclosure **may** be made, but only in certain limited circumstances, such as: where the information disclosed does not and is not likely to directly or indirectly identify a particular taxpayer or disclose matters about the personal affairs of a particular taxpayer; or where the disclosure is with the consent of the person to whom the information relates, or of a person acting on behalf of that person (sections 96 and 97 of the TAA).

The documents your firm have requested are documents that were obtained by this Office under or in relation to the administration of tax laws. They are prohibited from disclosure.

The information contained in these documents would directly or indirectly identify particular taxpayers, or disclose matters about taxpayer personal affairs. Further, your firm has not responded to advise that you act on behalf of the owners of the properties listed. As such, I am satisfied that none of the permitted circumstances of disclosure under the TAA could apply in this instance.

In light of the above, I have therefore decided to refuse your access application.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because no documents are being released to you.

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 in response will be published in the CMTEDD disclosure log after 27 October 2021. Your personal contact details will not be published. You may view the CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

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 published in CMTEDD disclosure log, 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

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
Level 4, 1 Moore St
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 me on 02 6205 9626 or email ACTRO.FOI@act.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shu-Yen Ee', with a long horizontal flourish extending to the right.

Shu-Yen Ee
Information Officer
Revenue Management
Chief Minister, Treasury and Economic Development Directorate
18 October 2021