



**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 2023-209

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	29
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

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request-CMTEDDFOI 2023-209  
**Date:** Wednesday, 14 June 2023 2:35:19 PM

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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:  
First Name:  
Last Name:  
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory:  
Phone/mobile:  
Email address:

A large grey rectangular area redacting the user's personal details, including title, name, organization, address, and contact information.

### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

Correspondence sent to Minister Yvette Berry's Office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools Briefing notes provided to Minister Yvette Berry's office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools Any documents that include information about the cancellation of the YMCA's or Dickson Aquatic Centre Pty Ltd's contracts of ACT pools

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI2023-209



## **FREEDOM OF INFORMATION REQUEST**

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 14 June 2023, Specifically, you sought:

*“Correspondence sent to Minister Yvette Berry's Office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools. Briefing notes provided to Minister Yvette Berry's office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools. Any documents that include information about the cancellation of the YMCA's or Dickson Aquatic Centre Pty Ltd's contracts of ACT pools.”*

### **Authority**

I am an Information Officer appointed by the 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 by 26 July 2023.

### **Decision on access**

Searches were completed for relevant information and one document was found that falls within the scope of your request. I have decided to grant full access to that document. The information being released to you, is provided as **Attachment A**.

No information was found that meets the last part of your request as the Territory did not cancel the management contracts, the two operators approached the Territory to terminate the management contracts.

## Statement of reasons

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

- the Act
- the content of the documents that fall within the scope of your request.

### Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

#### Public Interest

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 [public interest] 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.

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 in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

- promote open discussion of public affairs and enhance the government’s accountability.*
- contribute to positive and informed debate on important issues or matters of public interest.*

I have placed substantial weight on the above factors favouring disclosure. The release of this information can reasonably be expected to provide information that will inform the community and increase their understanding of government operations. The release of this information provides some insight into the forward planning and decision-making undertaken by the Environmental Protection Authority.

I did not identify any factor favouring non-release and have decided to release this information to you in full.

## Charges

Processing charges are not applicable for this request because the documents being released to you are less than 50 pages.

### **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 to your access application will be published in the CMTEDD disclosure log. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

### **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 on the 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:

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  
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 by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Katharine Stuart  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate

25 July 2023



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Correspondence sent to Minister Yvette Berry's Office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools Briefing notes provided to Minister Yvette Berry's office since 1 February 2022 regarding the YMCA's or Dickson Aquatic Centre Pty Ltd's management of ACT pools Any documents that include information about the cancellation of the YMCA's or Dickson Aquatic Centre Pty Ltd's contracts of ACT pools	CMTEDDFOI 2023-209

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-3	Question Time Brief: Sport & Recreation; 2 - Procurement - Pools	07 June 2023	Full		Yes
<b>Total No of Docs</b>						
1						

**Portfolio/s: Sport & Recreation**

**Procurement – Pools**

**Talking Points:**

- Public pools across our city provide highly valued sporting and recreational amenities to thousands of Canberrans. The ACT Government's priority is to establish long-term operational agreements that enable community pools to continue operating smoothly.
- ACT Property Group issued a tender to market on 3 March 2023 for five aquatic centres service contracts (Dickson Aquatic Centre (DAC), Canberra Olympic Pool (COP), Gungahlin Leisure Centre (GLC), Lakeside Leisure Centre (LLC) and Stromlo Leisure Centre (SLC)). The Tender closed on 18 April 2023.
- As the procurement process is ongoing, no further commentary can be provided at this point of time.
- The approach to market is a result of the current operators, the Young Men's Christian Association (YMCA NSW) and Dickson Aquatic Centre Pty Ltd, independently deciding to cease operating the pools and subsequently reaching mutual agreement around these decisions with the ACT Government.
- It is anticipated the ACT Government will award contracts in the second half of 2023, subject to suitable operators being identified through the procurement process. All pools will remain operational during this time.

**Key Information**

Dickson Aquatic Centre:

- DAC is operated by Dickson Aquatic Centre Pty Ltd under a contract that expires on 30 June 2024.
- The operators have indicated that they wish to terminate this contract early after 26 years of continuous service to the community.
- ACT Government and DAC have agreed to seek an alternate operator through the Pools Procurement process. Once the procurement outcome is known, the ACT Government will commence negotiations with DAC to confirm a termination date and transition period once a new operator can be appointed. This is planned for the second half of 2023.
- The ACT Government aims to have a new operator commencing service delivery for Dickson Pool by the second half of 2023, subject to negotiations and agreement.

Cleared as complete and accurate: 07/06/2023  
Cleared for public release by: Executive Group Manager Ext: 75757  
Graham Tanton  
Contact Officer name: Belinda Hedley Ext: 52250  
Lead Directorate: Chief Minister, Treasury and  
Economic Development  
TRIM Ref: CM23/

DAC are obligated under their contract to operate the DAC for the 2023-24 summer season.

- DAC staffing contracts are seasonal and align with the pool seasons.

#### YMCA NSW:

- COP, GLC and LLC are currently operated by YMCA NSW under contracts that expires on 30 June 2023. SLC is also operated by YMCA NSW under a contract that expires on 30 June 2026.
- YMCA NSW entered discussions with ACT Government in late 2022 regarding the operations of COP, GLC, LLC and SLC. It was mutually agreed in January 2023 that YMCA NSW would transition out of all of its ACT pool operation services.
- The YMCA NSW decision to transition out follows nine years of continuous service delivery for the ACT community and is in line with the organisation's new strategic direction and present increased focus on its NSW operations.
- The continued operations of the facilities will remain with YMCA NSW until a new contract is in place and the transitioning process is anticipated to commence in the second half of 2023 for up to six months.
- YMCA NSW employees at these facilities will remain employed under existing contracts until YMCA NSW is no longer acting as operator. YMCA NSW is committed to supporting employees with available redeployment opportunities with other YMCA NSW associations across the country. YMCA NSW will support eligible employees with relocation expenses where applicable. In addition, local career outplacement support will be offered to all impacted staff. YMCA NSW is committed to working with the new operator(s) to explore the options of continued employment. The new operator(s) have responsibility for all decisions regarding the transfer of employment.

#### **Background**

- The ACT Government owns seven public pools, six of which are managed by ACT Property Group.
- The seventh is the Active Leisure Centre at Erindale and it is managed by the Education Directorate under separate contractual and business arrangements.
- Manuka Pool is operated by Big Island Sports, who were the successful respondents during a 2021 procurement process. They have the contract to operate Manuka Pool until 2027, with the possibility of extension until 2032.
- The Manuka Swimming Pool and the Active Leisure Centre in Erindale are not part of this procurement.

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## QUESTION TIME BRIEF

- The ACT Government developed a Pool Support Package for 2020-21 and 2021-22 for pool operators who experienced operating losses caused by public health restrictions and/or patronage behaviour changes due to the COVID-19 pandemic.
- The ACT Government provided additional support of \$434,000 to the operators for gas price increase costs and the pool fee freeze between 1 July 2020 to 30 September 2021 which impacted their revenue.
- The 2022-23 Budget provides funding for aquatic facilities including:
  - \$4.008 million capital funding over two years for urgent and essential lifecycle replacement and rectification works at Gungahlin Leisure Centre, Dickson Aquatic Centre, and Manuka Pool, including health and safety upgrades, plumbing and sewerage works and refurbishing the heritage listed toddler pool at Manuka Pool;
  - These works also included the addition of an accessibility ramp at Dickson Aquatic Centre enabling easier entry and exit from the pool.
  - \$2.883 million over four years (indexed and ongoing) from 2022-23 for increased subsidies to pool operators;
  - \$1.581 million for a new, one-year operational contract with YMCA NSW for the Canberra Olympic Pool;
  - \$1.1 million for a feasibility study into a new diving facility at Stromlo Leisure Centre;
  - \$400,000 for a consultancy into the future of the Canberra Olympic Pool and the site, including options for its closure and necessary site remediation works;
  - \$722,000 in capital funding to undertake critical repairs and maintenance of the Canberra Olympic Pool on the aging facility; and
  - \$370,000 in 2022-23 to undertake a scoping study and detailed costings for future capital upgrades at Gungahlin Leisure Centre and Lakeside Leisure Centre.

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