



**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 2018-0119

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	Waived
6. Processing time (in working days)	11
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:** [Johnston, HeatherG](#)  
**To:** [CMTEDD FOI](#)  
**Cc:** [EPSDFOI](#)  
**Subject:** FW: request for information regarding complaint reference No: 180605-000035 – raising safety concerns regarding Pool Safety fence - [REDACTED] [SEC=UNCLASSIFIED]  
**Date:** Monday, 18 June 2018 11:59:45 AM

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Hi CMTEDD FOI

The below FOI should have been directed to you. Do you accept a transfer?

Regards

Heather

Heather Johnston  
Information and Systems Support (Freedom of Information)  
**Phone 02 6207 1941**  
**Information Management** | Environment, Planning and Sustainable Development | **ACT Government**  
Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | [www.environment.act.gov.au](http://www.environment.act.gov.au)

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**From:** [REDACTED]  
**Sent:** Thursday, 14 June 2018 4:54 PM  
**To:** EPSDFOI <EPSDFOI@act.gov.au>  
**Cc:** Bond, Mathew <Mathew.Bond@act.gov.au>  
**Subject:** request for information regarding complaint reference No: 180605-000035 – raising safety concerns regarding Pool Safety fence - [REDACTED]

To whom it may concern,

I am aware from an email response today (14/06/2018 02.28 PM) that a Certificate of Occupancy and Use has been issued for the pool safety barrier on 14 June 2018 at [REDACTED] reference [REDACTED]

In the interests of openness, transparency and clarity about this matter. I would be very grateful if you could please provide a timeline of events that occurred between the 5/06/2018 and 14/06/2018. I have provided an example of the detail I am requesting for my records so that an external observer can be clear of what was required/done by the relevant parties over this period.

I have highlighted an example of the type of relevant unknown information I would like in yellow for your convenience.

#### Time line of events:

05/06/2018 at 7.40am: (member of public) raised complaint reference No: [REDACTED] raising safety concerns regarding Pool Safety fence - [REDACTED]

6/06/2018 at 07.34 AM: (government employee) escalated complaint to Building and

planning for investigation

??/06/2018 : Private certifier inspected pool fence and found to be non-compliant due to???

??/06/2018: Private contractor engaged to repair fence???

??/06/2018: Private certifier re-inspected pool fence and found it to be compliant???

??/06/2018: Private certifier lodged documents with act government???

14/06/2018 (ACT Government) Certificate of Occupancy and Use issued for the pool safety barrier at [REDACTED]

I have discussed this matter with Mathew Bond of the Building and Planning compliance area. He is aware of the matter and suggested that I lodge this FOI request.

I would very much appreciate any information that you could provide about the sequence of events over the specified period. I am not interested in breaching anyone's privacy over this matter and am happy for you to redact any personal details as you see fit from any of the requested documents. I am solely interested in the timeline of events and whether the pool fencing was inspected prior to 14/06/2018 and found to be non-compliant. If so the reasons for it being non-compliant if possible.

Sincerely,

[REDACTED]



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2018-0145

[REDACTED]  
via email: [REDACTED]

Dear [REDACTED]

## **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 18 June 2018, in which you sought access to documents regarding the compliance of a pool fence at [REDACTED]

Specifically, your requested stated: *"I am solely interested in the timeline of events and whether the pool fencing was inspected prior to 14/06/2018 and found to be non-compliant. If so the reasons for it being non-compliant if possible"*.

### **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.

### **Timeframes**

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 16 July 2018.

### **Decision on access**

Searches were completed for relevant documents and 2 documents were identified that fall within the scope of your request.

I have decided to grant full access to 1 document and partial access to 1 document. The information redacted in the documents I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as Attachment B to this letter.

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

## Statement of Reasons

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

- the Act;
- the content of the documents that fall within the scope of your request; and
- the *Human Rights Act 2004*.

## Exemption claimed

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

### Public Interest

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

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.

### Factors favouring disclosure (Schedule 2.1)

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':

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

The information contained in the documents shows the interactions between the ACT Government and other relevant stakeholders and the steps taken in relation to the compliance of a pool fence at 25 Kidston Crescent Curtin. This includes the steps taken to address these issues. I am satisfied the information contained within these documents is within the public interest to release as they reveal the reason for a government decision.

### Factors favouring non-disclosure (Schedule 2.2)

Taking into consideration the information contained in the documents found to be within the scope of your request, I have also identified the following public interest factors in favour of non-disclosure are relevant to determine if release of the information contained within these documents is within the 'public interest':

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

- (ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.

Having reviewed the documents, I have considered the impact that releasing personal information contained in the documents, including the name and contact information of the property owner could have on the individual involved in this matter and I am satisfied the release of this information is unreasonable or could prejudice their right to privacy.

I am satisfied that the protection of an individual's right to privacy, especially in the course of assisting in a line of enquiry with a government agency, is a significant factor as the party involved has provided their personal information for the purposes of meeting obligations under relevant legislation which, in my opinion, outweighs the benefit which may be derived from releasing the personal information of the individual's involved in this matter. Individuals are entitled to expect that the personal information they have supplied as part of this process will be dealt with in a manner that protects their privacy. Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of the individuals involved.

I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (any identifying features within the submission) could prejudice their right to privacy under the *Human Rights Act 2004*.

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that is not in the public interest to release, while releasing the rest of the documents will ensure the intent of the Act is met and will provide you with access to the majority of information held by CMTEDD within the scope of your request.

Accordingly, I have chosen to redact parts of folios 2-3 and 7 of the documents within Attachment B.

### **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number folio's to be released to you is below the charging threshold of 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, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 26 June 2018. Your personal contact details will not be published.

You may view 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.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@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,



Daniel Riley  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

25 June 2018



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	Request for documents regarding a pool safety barrier at 25 Kidston Crescent Curtin	CMTEDDFOI2018-0145

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
	1-7	Certificate of Completion and Application for Certificate of Occupancy and Use – Swimming Pool Fencing or Barrier	13 May 2018	Partial Release	Sch 2 s2.2 (a)(ii)	No
	8	Certificate of Occupancy and Use	14 June 2018	Full Release	N/A	No

Total No of Docs
2



9607-SCANNED



Access Canberra

Certificate of Completion and Application for Certificate of Occupancy and Use – Swimming Pool Fencing or Barrier Building Act 2004, S151

(SP 2923 - BK08912)

Under section 76 of the Building Act 2004 it is an offence for a person to use, or to permit another person to use, a regulated swimming pool (including a regulated spa pool) unless the requirements of the Building Act 2004 have been met, including the issue of a certificate of occupancy or use for the swimming pool where required.

This form is to be used to certify that pool fencing or other pool barriers are compliant with the requirements of Building (General) Regulation 2008, Schedule 1 (Exempt buildings & building work), Part 1.3, Item 13, column 4.

PART A PROJECT DETAILS

Block [redacted] Section [redacted] Suburb [redacted] Unit No. [redacted]

Street Address [redacted]

Description of pool fencing or other relevant barrier component, tick all that apply:

- metal rod or tube pool fencing, timber paling fencing, metal sheet fencing, glass panel fencing, masonry fence or freestanding wall, building enclosing the indoor pool, exterior walls of a building, window of a building, door of a building, other



PART B BUILDING SURVEYOR DETAILS

In accordance with Building (General) Regulation 2008, Schedule 1 (Exempt buildings & building work), Part 1.3, item 13, column 4, paragraph (c) I/we hereby advise that I/we the lessee/s have engaged the building surveyor whose details appear below as the certifier to inspect and certify the work described above.

Company Details (if applicable) ACT Property Inspections Pty Ltd
Name of Building Surveyor Scott Wrigley ABN/ACN 600 397 466
Postal Address PO Box 576
Suburb Erindale State ACT Postcode 2903
Phone Number Business Hours (02) 6232 4540 Mobile

PART C AUTHORITY TO ACCESS BUILDING FILE

By signing Part F of this form I/we the lessee/s of the above-mentioned property hereby authorise the building surveyor to access the building file for the purposes of obtaining information relevant to this application.

PART D DOCUMENTATION TO BE SUBMITTED WITH THIS FORM

The following documents MUST be submitted with this form:

- A site plan showing:
the block or unit boundaries
the location and description of the subject pool fencing or pool barrier

Approved form AF2016-74 approved by David Middlemiss, Construction Occupations Deputy Registrar on 02 August 2016 under section 151 of the Building Act 2004 and revokes AF2014-75

**PART E****BUILDING SURVEYOR DECLARATION**

I hereby certify that:

- I have inspected the fencing and/or barrier;
- The fencing and/or barriers comply with the building code;
- The fencing and/or barriers have been constructed in a proper and skilful way;
- The fencing and/or barriers are compliant with the Building Act 2004 (other than part 3).

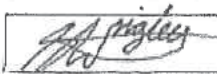
Building Surveyor Name:  
Please Print

Scott Wrigley

ACT Licence Number:

2016969

Building Surveyor Signature:



DATE: 13 / 6 / 2018

**PART F****APPLICATION FOR CERTIFICATE OF OCCUPANCY AND USE**

I am/we are: the owner(s) of the above land described in Part A of this form. I am/we are satisfied that the building work and related requirements have been completed and hereby apply for a Certificate of Occupancy and Use in respect of the work described above to be issued.

FULL NAME OF ALL OWNERS Please Print

Owner 1

Sch 2.2(a)(ii) ✓

Signature

Sch 2.2(a)(ii)

Owner 2

Signature

Owner 3

Signature

Owner 4

Signature

DATE: 13 / 6 / 2018

Note: The Certificate of Occupancy and Use once issued will be emailed to the Lessee and Building Surveyor.

Lessee email address (please print)

Sch 2.2(a)(ii)

Building Surveyor email address (please print)

scott@actpropertyinspections.com.au

FEES: There is a fee payable to submit this application. Once this form is complete it can be forwarded to EPD



NOTE: If sending via email – a customer service officer will contact you by telephone for payment once form has been received

**Privacy Notice**

The personal information on this form is provided to Access Canberra to enable the processing of your application. The collection of personal information is authorised by the *Building Act 2004*. If all or some of the personal information is not collected Access Canberra cannot process your application. The personal information you provide may be disclosed to Australian Bureau of Statistics, ACT Revenue Office and the Taxation Office. The information may also be disclosed where authorised by law or court order, or where the Directorate reasonably believes that the use or disclosure of the information is reasonably necessary for enforcement-related activities conducted by, or on behalf of, an enforcement body. Access Canberra's Information Privacy Policy contains information about how you may access or seek to correct your personal information held by Access Canberra, and how you may complain about an alleged breach of the Territory Privacy Principles. Access Canberra Information Privacy Policy can be found at [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)

**CONTACT INFORMATION****Email:**

ACTPLAdevelopmentBA@act.gov.au

**Post:**

Access Canberra  
Building Services  
Shopfront Mitchell  
GPO Box 158  
Canberra, ACT 2601

**In Person:**

Please visit  
[www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)  
Or call 132281 to find an  
Access Canberra Shopfront.

Approved form AF2016-74 approved by David Middlemiss, Construction Occupations Deputy Registrar on 02 August 2016 under section 151 of the *Building Act 2004* and revokes AF2014-75

**Bunk, Carl**

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**From:** Scott Wrigley | ACT Property Inspections Pty Ltd  
<Scott@actpropertyinspections.com.au>  
**Sent:** Wednesday, 13 June 2018 1:39 PM  
**To:** Bunk, Carl  
**Subject:** Curtin Block 9 Section 3, 25 Kidston Crescent - Pool fence COU Package  
**Attachments:** Pool Fence COU Package.pdf

Hi Carl,

Please see attached the Pool Fence COU Package as discussed earlier today.

Please give the owner, [redacted] a call for the \$22.

If you have any issues let me know. Let me know with regards to the electrical.



Sch 2.2(a)(ii)

Thanks.

Kind regards,

Scott Wrigley

**General Building Certifier**

ACT Property Inspections Pty Ltd

Licence No. 2016969

ACN: 600 397 466

T: (02) 6232 4540 | M: [redacted]

A: Unit 2, 32-38 Townshend Street, Phillip ACT 2606 | P: PO Box 576, Erindale Centre ACT 2903

E: [scott@actpropertyinspections.com.au](mailto:scott@actpropertyinspections.com.au) | W: [www.actpropertyinspections.com.au](http://www.actpropertyinspections.com.au)

Find us on

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**WINNER REIACT BEST SERVICE PROVIDER 2016 & 2017**





# INSPECTION REPORT

Date: 13/06/2018  
 Job Number: C17173

Suburb, Block/Section:	[REDACTED]
Street Address:	[REDACTED]
Description of Building Work:	Swimming Pool Fence
BCA Occupancy Class/s:	10b
BCA Construction Type:	N/A
Inspection Stage:	Final
Inspection Passed <input checked="" type="checkbox"/> Inspection Failed/Re-inspection required <input type="checkbox"/> In accordance with Section 42 of the Building Act, 2004.	
<b>Certifiers Declaration:</b> Under Section 48 of the Building Act, 2004. The building or part of the building as erected or altered is structurally sufficient, sound and stable for the purposes for which it is to be occupied or used. No Structural Engineers certificate in accordance with Section 47 of the Building Act, 2004 is required.	
<b>Comments:</b>  Swimming Pool Fence in accordance with AS1926.1-2012 Swimming Pool Safety. Additional 1.8m colorbond fence installed to section of fencing to ensure compliance with non-climbable zones.  Regular maintenance to pool fence gate is required to ensure the gate self closes and latches from all positions.  Circuit breaker installed in meter board. See photos attached.  Ok to issue pool fence COU.	

If you have any questions with regards to the comments made in this inspection report, I can be contacted on (02) 6232 4540

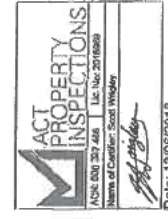
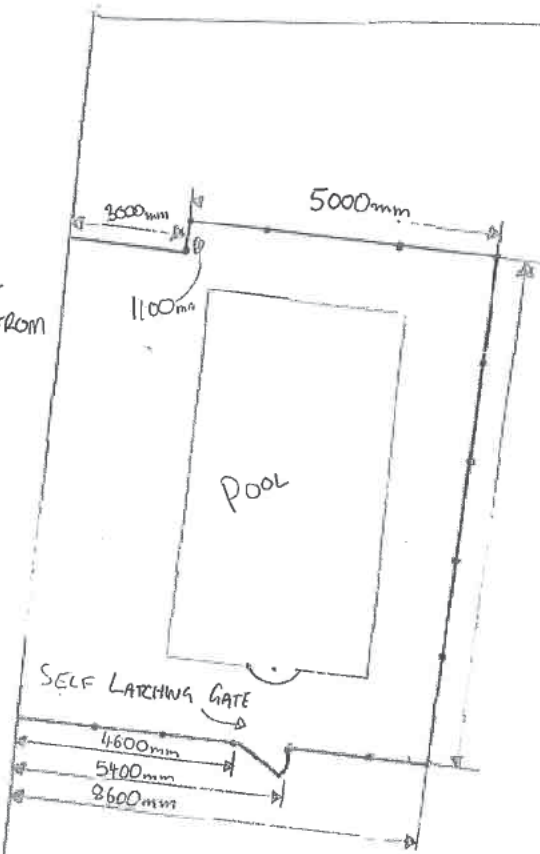
Kind regards,



Scott Wrigley  
 General Building Surveyor  
 ACT Property Inspections Pty Ltd – Lic. No: 2016969  
 ACN: 600 397 466



BOUNDARY FENCE IS CONSTRUCTED FROM VERTICAL TIMBER PALISADES



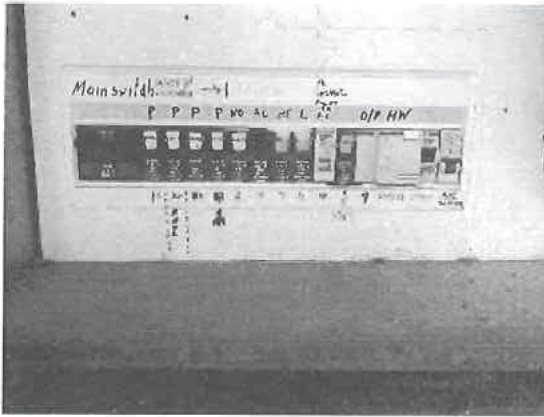
NOTE: Pool fencing including boundary fencing to comply with AS1926.1-2012 Swimming Pool Safety Part 1

INTERNAL FENCING IS CONSTRUCTED FROM TUBE POOL FENCING



PAGE 1 OF 1







Receipt

Sch 2.2(a)(ii)

ABN: 68 367 113 536  
Receipt Reference: 326896.1314.9  
Date: 14-Jun-2018 12:50  
Cashier: AA  
Counter: Counter 3  
Location: Access Canberra Bldg Serv

Receipt Item:	Amount
ABN: 16 479 763 216 - Building Levy Sch 2.2(a)(ii) Suburb/Section/Block - CURTIN-3-9 Remarks - Swimming Pool Barrier Application	\$22.00
<b>Total</b>	<b>\$22.00</b>
<b>Payment Details:</b> EFTPOS	<b>\$22.00</b>





# Access Canberra Building Services

ABN 16 479 763 216  
8 Darling Street Mitchell  
GPO Box 158, Canberra ACT 2601  
www.act.gov.au/accesscbr

## Certificate of Occupancy and Use

This Certificate is issued in accordance with Section 69 (2) of the ACT Building Act 2004.

The building work listed on this certificate has been completed substantially in accordance with the prescribed requirements and is considered fit for occupancy and use.

Builder: <b>NO BUILDER REQUIRED</b>	Site Address: [REDACTED]
Permit number:	Suburb: [REDACTED]
N/A	Plans: Metal rod, timber paling & metal sheet barriers as noted on plan dated 13/06/2018.

### Building work

Nature of work	Project item description	Unit	Other description	Occupancy class	Type of construction
	<b>SWIMMING POOL FENCING OR BARRIER</b>			<b>10b</b>	<b>N/A</b>

### Note:

This certificate is issued in response to an 'Application for Certificate of Occupancy and Use – Swimming Pool Fencing or Barrier' dated 13.06.2018 completed by Mr. S. Wrigley from ACT Property Inspections Pty Ltd.

The issue, under this Part, of a certificate in respect of a building or portion of a building does not affect the liability of a person to comply with the provisions of a law of the Territory (including this Act) relating to the building or portion of the building.

Carl Bunk  
Delegate of the Registrar: *[Signature]*

Date 13/6/2018