



**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 2021-091

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)	30
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:** [REDACTED]  
**To:** [CMTEDD.FOI](#)  
**Subject:** CMTEDDFOI2019-269 - RE: Freedom of Information request - New Request  
**Date:** Friday, 14 May 2021 11:22:38 AM

---

**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.

Good Morning

My name is [REDACTED]. I have put in a previous FOI request pertaining to this matter (refer to email to Kelly-Jane Yuel in Nov 2019). This matter has been ongoing and I would like to put in a new FOI.

**Access Canberra Reference**

AC-00200732 Reference: [Viva Leisure Limited] Re: RE: [Viva Leisure Limited] Re: Complaint... [ ref:\_00D281dej1.\_5004a2pSwf:ref ]

**Contact Person in Access Canberra**

Sheikh Lana  
Compliance Regulator | Rapid Regulatory Response Team | Construction Utilities and Environment Protection|  
Access Canberra I ACT Government  
Phone 02 62076387

**Document Requested**

Letter (Warning) issued to PsycheLife (50 EastLake Parade, Kingston ACT)  
dated: 4 May 2021

**Requester:**

[REDACTED]

I look forward to hearing from the FOI Information Access Team.

Kind Regards

[REDACTED]

[REDACTED]



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI2021-091

Attention: [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 14 May 2021, in which you sought access to *“the Letter (Warning) issued to PsycheLife (50 EastLake Parade, Kingston ACT), dated: 4 May 2021.”*

### **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 was required to provide a decision on your access application by 6 July 2021.

### **Decision on access**

Searches were completed for relevant documents and one document was identified that fell within the scope of your request.

I have included as **Attachment A** to this decision the relevant document. I have decided to grant full access to the relevant documents.

### **Charges**

Processing charges are not applicable for this request because the total number of pages 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 1 July 2021. 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-2020>.

### **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](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 02 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Angela Friend  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

29 June 2021



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: [REDACTED]

Access Canberra received a complaint regarding noise pollution from the subject Units currently in operation as a Gym/indoor recreation facility within the building on the subject block and non-compliance with lease regarding noise attenuation measures, with Noise Management Plan. Inspectors from Rapid Regulatory Response Team (RRRT), Access Canberra conducted a visual inspection and a desk top audit. As observed by the inspectors:

- The original approval as per DA 201120072 was for offices (plural form noted, BCA Class 5 activity) and restaurant (singular form noted, BCA Class 6 activity) issued by Environment, Planning and Sustainable Development Directorate (EPSDD) on 15 November 2011.
- Section 1.20 of Schedule 1 of the *Planning and Development Regulation 2008* states, internal alterations leading to change of BCA classification of a space is not exempt from a Development Approval.
- Currently, there are no other DA exemption criteria which permits conversion (either at the pre or post construction stages) of approved offices/restaurant to an indoor recreation use without further design and siting development approvals.
- Therefore, to operate the Gym/indoor recreational use (which is a permissible use under the current Crown lease provisions) within the existing building required a development approval from EPSDD.
- Current Access Canberra records do not indicate that there is a design and siting development approval (DA) to include a gym facility (BCA Class 9b use) in the building. Hence, the issue of building approval (BA) No. B20163015 for a BCA Class 9b gym/indoor recreation facility within the building in RRRT's view is not a valid BA.

Access Canberra would like to advise that immediate attention is required to ensure that the current use (gym facility) within the subject Units is consistent with the applicable legislative requirements and therefore a Development Approval is obtained from EPSDD. Please contact EPSDD, Gateway Team on [EPDcustomerservices@act.gov.au](mailto:EPDcustomerservices@act.gov.au) to discuss the DA approval process.

Yours sincerely

Rapid Regulatory Response Team  
Access Canberra  
[rrt@act.gov.au](mailto:rrt@act.gov.au)

4 May 2021