

ACT AUDITOR–GENERAL'S **PERFORMANCE AUDIT REPORT**

**Changes to the Territory Plan
requirements for the Phillip pool**

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The ACT Audit Office acknowledges and respects their continuing culture and the contribution they make to the life of this city and this region.

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ISSN: 2204-700X (Print) ISSN: 2204-7018 (Online)

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Produced for the Office of the ACT Legislative Assembly by the ACT Audit Office.

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Dear Speaker

I am pleased to forward to you a Performance Audit Report titled 'Changes to the Territory Plan requirements for the Phillip pool' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

The audit has been conducted in accordance with the requirements of the *Auditor-General Act 1996* and relevant professional standards including *ASAE 3500 – Performance Engagements*.

Yours sincerely



Ajay Sharma PSM
Auditor-General
19 June 2026

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Summary

The Phillip Swimming and Ice-Skating Centre (PSISC) is a privately owned ice sports and public swimming pool centre located in Phillip. In the new 2023 Territory Plan the requirements for the PSISC site were changed. Key changes between the requirements in the 2008 Territory Plan and 2023 Territory Plan were:

- allowance for the removal of the requirement for an ice-skating rink, with the agreement of the ACT Government; and
- if the site is redeveloped, allowance for the 50-metre outdoor pool to be replaced by a 25-metre indoor pool with additional aquatic facilities. (The 2008 Territory Plan required any redevelopment of the site to '[provide or retain] a 50-metre public pool with direct public access to Irvine Street' and that 'development for other uses [involve] redevelopment of the pool as an indoor facility').

The change in requirement from a 50-metre outdoor pool to a 25-metre indoor pool has been criticised by some members of the ACT community.

The audit considered the activities of ACT Government agencies to plan for, and change, Territory Plan requirements for the PSISC site, specifically with reference to the pool. The audit focused on the transparency of the administrative processes.



Conclusions

Considerations for the PSISC site

In recent years there have been a number of challenges to the operation of the Phillip Swimming and Ice-Skating Centre (and the Phillip pool specifically), including:

- the ageing nature of the facility and the need for increased maintenance and repair activity; and
- the ACT Government's September 2020 announcement that a new ice sports facility would be built in Tuggeranong.

These challenges were recognised by ACT Government agencies and discussion was underway to identify future options for the site. In May 2021, with the expectation that a new ice sports facility would be built in Tuggeranong, ACT Government agencies were considering the provision of future aquatic facilities on the site in light of potential redevelopment.

The need for 'a detailed aquatic facility planning study' as a precursor to any changes to the Territory Plan requirements for the PSISC site was recognised and approved by the Minister for Planning and Land Management and the Minister for Sport and Recreation. The study did not proceed as CMTEDD advised it was agreed at the officer level that the future requirements for the

site were already well understood. Subsequent activity on the part of CMTEDD and EPSDD officers proceeded on the expectation that the Territory Plan requirements for the site would be changed to remove the requirement for a 50-metre outdoor pool and that a 25-metre indoor pool and associated aquatic facilities would be part of any future redevelopment of the site.

Between July 2022 and November 2022 advice was being prepared for Ministers ‘to provide options and to seek direction about a five-year plan’ for the site. The advice contemplated the acquisition of the site from the former lessee and presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. The advice was not finalised as the Crown lease was sold by the former lessee in December 2022 (following the release of the Draft Territory Plan for public comment).

There was consensus among ACT Government officials as to what the future Territory Plan requirements for the site should be, but this had not been determined or supported by any specific needs analysis or ‘a detailed aquatic facility planning study’ that would ‘determine whether loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community’.

Changes to the Territory Plan

In late October 2022, just prior to the finalisation of the 2023 Draft Territory Plan for presentation to Cabinet, ACT Government officials recognised the opportunity to change the Territory Plan requirements for the PSISC site as part of the broader reform to the Territory planning system. There was no rigorous or specific analysis of needs or options for the PSISC site or Phillip pool, as it was then or into the future, that identified the proposed requirements as appropriate for the site. It was apparent, however, that ACT Government officials:

- recognised there was a body of work underway in relation to the draft Ministerial Brief ‘to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre’. This body of work recognised:
 - the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23);
 - the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong;
 - the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre indoor pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community.

Consultation on changes to Territory Plan requirements

Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. Changes to the requirements of the PSISC site were

specifically identified and referenced in a number of documents released for community consultation.

Some comments were received explicitly in relation to the Phillip pool or the need for a pool in the context of the Woden District Strategy. A Listening Report (May 2023) that summarised feedback received during the consultation period and a Submission Report (July 2023) that summarised and analysed the community feedback on the Draft Territory Plan noted community concern with the potential loss of the Phillip pool.

In response to community concerns on the changed Territory Plan requirements for the site, a Consultation Report (September 2023) noted that ‘a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community’. A sport and recreation needs analysis was not undertaken as described. The assertion was incorrect and misrepresented the nature and extent of analysis that was used to support a change in the Territory Plan requirements for the PSISC.



Key findings

Considerations for the PSISC site

Paragraph

Early plans, studies and assessments (before 2021)

Over time, ACT Government agencies have commissioned a number of plans, studies and assessments that have considered community and recreational facilities in Woden specifically and the ACT more broadly. These plans, studies and assessments had a broader focus on community, sport and recreation needs in Woden and/or the broader ACT but made references and recommendations in relation to the Phillip pool. The plans, studies and assessments identified challenges in relation to the ongoing operation and viability of the Phillip pool and PSISC site including that:

2.25

- the facility was ageing, required increasing maintenance and significant investment to upgrade the facility to meet current standards, community needs and to remain operational; and
- it is an outdoor facility, and a year-round indoor swimming facility may better meet the needs of a greater proportion of residents in the Woden area.

Challenges to the operation of the Phillip pool (2020 to 2022)

The Phillip pool was closed to the public throughout the 2020-21, 2021-22 and 2022-23 summer periods. The former lessee cited COVID-19 restrictions and the need to undertake maintenance work for the ageing pool as the reason for the closures. During this period the former lessee sought rent relief from the Territory on a number of occasions, citing the impact of COVID-19 restrictions on its ability to operate the pool in accordance with the requirements of the Crown lease.

2.36

The former lessee also cited the impact of the ACT Government's September 2020 announcement that a new ice sports facility would be built in Tuggeranong as a key issue of concern and raised concerns about the impact that the facility would have on the viability of the site. The former lessee also sought a technical amendment to the Territory Plan that would remove the mandatory requirement for both an ice rink and pool at the site. The proposal for a technical amendment to the Territory Plan was rejected by the Territory.

2.37

Considerations for the future of the site (after 2021)

On 20 May 2021 the Director-General of EPSDD approved a Ministerial Brief to the Minister for Planning and Land Management and the Minister for Sport and Recreation in relation to the PSISC. The purpose of the Ministerial Brief was 'to enable advice to be provided to the lessee of the block regarding the development provisions applicable to their block'. The Brief explicitly considered the provision of future aquatic facilities on the site in light of potential redevelopment. In doing so, the Brief noted:

2.56

- 'the requirement for a 50m indoor pool, as contained in the Phillip Precinct Map and Code as part of any proposed redevelopment for the site, is structurally difficult and costly to achieve, according to the Lessee'; and
- 'if it is considered difficult to make a 50m indoor pool viable structurally, a 25m pool may be viable and could be used for swim school programs, water aerobics and could have a leisure pool and splash park component as part of the indoor facility'.

The Ministerial Brief contemplated the need for 'a detailed aquatic facility planning study' as a precursor to any changes to the Territory Plan requirements for the PSISC site. The Ministerial Brief recommended that the Ministers 'agree to a planning study being commissioned by the Government to determine whether the loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community'. The Minister for Planning and Land Management and the Minister for Sport and Recreation agreed to the recommendation.

2.57

CMTEDD did not commission 'a detailed aquatic facility planning study' as recommended and agreed to in the Ministerial Brief. CMTEDD advised in December 2025 that it was agreed at the officer level between CMTEDD and EPSDD that the requirements to change the pool were already well understood, and it was subsequently determined that a planning study was not necessary. CMTEDD did not provide:

2.64

- evidence formally documenting the decision to not proceed with a planning study as agreed by the Minister for Planning and Land Management and the Minister for Sport and Recreation in June 2021; nor
- evidence that a decision to not proceed with a planning study had been communicated to the Ministers.

A Ministerial Brief was provided to the Minister for Planning and Land Management and the Minister for Sport and Recreation ahead of a meeting on 19 October 2021. The meeting included ACT Government representatives from the Sport and Recreation Branch, CMTEDD and the Planning and Urban Policy Branch, EPSDD. A PowerPoint presentation was also prepared ahead of a presentation by CMTEDD and EPSDD representatives to the Ministers on 19 October 2021. Neither the Ministerial Brief or the PowerPoint presentation referenced the requirement for a 'detailed aquatic facility planning study' to be commissioned to determine whether the loss of the existing Phillip pool would detrimentally impact public access to swimming facilities for the Woden community, as agreed by the Ministers in June 2021.	2.70
In March 2022, the Executive Group Manager for Statutory Planning wrote a brief to the Minister for Planning and Land Management ahead of a meeting with the Minister for Sport and Recreation on 29 March 2022. The brief summarised operational and financial constraints associated with the ageing facility, including structural deterioration and limitations posed by the existing lease. The brief also identified the ongoing advocacy of community stakeholders seeking to retain public access to aquatic facilities in Woden. Neither CED nor CMTEDD was able to locate written records of the outcomes of the March 2022 meeting. CMTEDD nevertheless advised that EPSDD was tasked with producing a discussion paper on the future of the Phillip pool in July 2022.	2.77
Between July 2022 and November 2022, a Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD was in the process of preparing a brief for the Minister for Sport and Recreation and Minister for Planning and Land Management. The purpose of the Brief was 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'. The draft Ministerial Brief identified the acquisition of the Crown lease from Glencora as a key option noting that 'should the Territory wish to control how the existing PSISC site may be utilised in the future ... the Territory may wish to consider seeking to acquire the Crown lease from the Crown lessee (Glencora)'.	2.96
The draft Ministerial Brief presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. The concept plans showed different configurations for the site, all involving a 25-metre pool and additional aquatic facilities as well as different configurations for indoor sports courts.	2.97
The Ministerial Brief remained in draft and was not finalised. CED advised that the brief was not finalised as the site was acquired by Geocon in December 2022, meaning that exploring options for the Territory to acquire the Crown lease was no longer relevant.	2.98

Changes to the Territory Plan

Changes to Territory Plan requirements for the PSISC

In late October 2022, just prior to the finalisation of the 2023 Draft Territory Plan for presentation to Cabinet, ACT Government officials recognised an opportunity to change the Territory Plan requirements for the Phillip pool site. The changed Territory Plan requirements for the site were first documented late on Monday 17 October 2022 in an email from a Senior Director in the Sport and Recreation Branch of CMTEDD. The preferred option involved the replacement of the 50-metre pool with an indoor 25-metre pool and additional aquatic facilities. The reduction in pool size was justified on the basis of providing ‘a better all round outcome in relation to the capital cost, ongoing financial viability and future maintenance/upgrade requirements’. The proposed wording for the changed Territory Plan requirements for the site were tweaked over the next few days, but remained substantially intact for inclusion in the Draft Territory Plan presented to Cabinet. 3.32

There was no rigorous or specific analysis of needs or options for the PSISC site or Phillip pool, as it was then or into the future, that identified the changed requirements as the best option for the site. It was apparent, however, that ACT Government officials: 3.33

- recognised there was a body of work underway in relation to the draft Ministerial Brief ‘to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre’. This body of work recognised the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23), the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong and the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community. The Batemans Bay experience was identified as an example of this trend and the change in requirements for the PSISC site reflected this broader trend.

Consultation on changes to Territory Plan requirements

Consultation on the Draft Territory Plan

Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. The consultation process included a range of engagement activities over four phases. Consultation was guided by a Communications Plan, which identified the stakeholders that EPSDD would engage with on the Draft Territory Plan and district strategies, including: the Canberra 4.17

community; community, business and interest groups; media outlets; and ACT Government directorates/agencies.

The Communications Plan developed for the release of the Draft Territory Plan and provided to Cabinet in October 2022 was comprehensive and identified: 4.18

- key stakeholders and their expected views;
- risks, sensitivities and mitigation strategies; and
- a detailed timeline of engagement activities before, during and after the consultation period to ensure that the community and stakeholder groups were well informed on how they could provide feedback.

On 1 November 2022 the ACT Government released the Draft Territory Plan and supporting materials for the purpose of community consultation. Consultation commenced on 1 November 2022 and concluded on 3 March 2023. Changes to the requirements of the PSISC site were specifically identified and referenced in a number of documents released for community consultation on the Draft Territory Plan including: 4.30

- *At a glance – Proposed New Territory Plan;*
- *Draft Proposed New Territory Plan – Supporting Report; and*
- *Part D7 Woden District Policy.*

Consideration of community feedback

During the four-month consultation process over 1900 individual comments were received with 393 written submissions received specifically in relation to the Draft Territory Plan. Seventy-nine of the written submissions referenced the Woden district (20 percent of written submissions). Fourteen of the submissions specifically commented on the Phillip pool: 4.43

- the majority of the submissions made minor references to the Phillip pool as part of broader comments on the Woden district. One of the submissions focused on the Phillip pool and summarised feedback from 127 responses to a survey;
- three expressed a preference to retain a 50-metre pool at the site with a further submission expressing concern that a 25-metre pool may not meet the demands of various swimming groups in the Woden area; and
- concerns or issues raised in the submissions generally focused on maintaining the pool in Phillip, ensuring it remained affordable and accessible and that urban densification in Woden may lead to the loss of the Phillip pool.

In addition, 1026 online comments were received as well as 175 online survey responses. Across both the online comments and online surveys, there were 13 submitted comments that either explicitly referenced the Phillip pool or expressed 4.44

support for retaining the pool in their comments about the Woden District Strategy. The main issues identified in relation to the Phillip pool included:

- accessibility of alternate pools and lack of like for like replacement for the Phillip pool (five responses);
- a preference to retain a 50-metre pool instead of having a 25-metre pool (three responses);
- a lack of sporting or recreational facilities not aligned to community needs (three responses); and
- concerns that the developer who purchased the PSISC site would not maintain a publicly accessible facility (two responses).

Outcomes of the consultation process

The feedback received during the consultation process for the Draft Territory Plan was documented through several reports that were made publicly available. These included: 4.65

- a Listening Report (May 2023) that summarised all the feedback received during the Draft Territory Plan consultation period;
- a Submissions Report (July 2023) that summarised and analysed the community feedback on the Draft Territory Plan and made recommendations on how to respond;
- a Consultation Report (September 2023) that responded to feedback provided on the district policies and specifications, and other technical documents; and
- a Consultation Response Report (September 2023) that set out the ACT Government's response to all feedback received.

Both the Listening Report and the Submissions Report noted community concern with the potential loss of the Phillip pool. The Submissions Report noted a 'substantial volume of comments objected to the closure of the Phillip Swimming Pool' and recommended that 'future planning and investigations for the change areas will consider ... the need for commercial and community uses'. 4.66

In response to community concerns on the changed Territory Plan requirements for the site the Consultation Report noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'. The Consultation Response Report similarly noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'. 4.67

Both the Consultation Report and Consultation Response Report referred to a 'sport and recreational needs analysis' as having determined that a 25-metre pool and associated aquatic facilities would meet the needs of the Woden community. This was reiterated by the Minister for Planning in response to a Question on Notice lodged for the purpose of the Select Committee on Estimates 2024-2025. 4.81

A sport and recreation needs analysis was not undertaken as described. This became apparent following an FOI request in August 2024, and a subsequent decision by the ACT Ombudsman in October 2025 that it does not exist. The assertion that a 'sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community' was incorrect. It misrepresented the nature and extent of analysis that was used to support a change in the Territory Plan requirements for the PSISC site. 4.82

Review and approval of the Territory Plan

On 14 September 2023, the Standing Committee on Planning, Transport and City Services commenced an inquiry into the Territory Plan as per its statutory obligations. The inquiry provided further opportunity for individuals, community interest groups and business groups to provide comment and feedback on the Interim Territory Plan prior to the Final Territory Plan being approved. The submissions made to the inquiry and the hearings for the inquiry did not raise any concerns with the change in requirements for the Phillip pool in the Territory Plan. There were no findings or recommendations made in the Committee inquiry report in relation to the Phillip pool site requirements in the Territory Plan. 4.93



Recommendations

Recommendation 1 Documentation of community needs and interests

The Chief Minister, Treasury and Economic Development Directorate should ensure that any advice in relation to future changes to Territory Plan requirements for sport and recreation amenities are supported by documented assessment that takes into account research and analysis of community needs and interests.

Recommendation 2 Documentation of response to community feedback

The City and Environment Directorate should develop and implement procedural guidance to ensure that future public responses to community and stakeholder feedback obtained for planning and development purposes are supported by the nature and extent of analysis undertaken and accurately presented.

Agencies' response

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Chief Minister, Treasury and Economic Development Directorate and City and Environment Directorate were provided with a draft proposed report for comment. In accordance with subsection 18(3) of the *Auditor-General Act 1996* other entities that the Auditor-General considered had a direct interest in the report were also provided with the draft proposed report or extracts thereof. All comments in response to the draft proposed report or its extracts were considered and changes were reflected in a final proposed report.

The agencies were provided with the final proposed report for comment. The other entities were also provided with the final proposed report or extracts thereof. All comments in response to the final proposed report were considered and changes reflected in a final report.

As part of the final proposed report process, the agencies were invited to provide comments for inclusion in the Summary chapter of the final report. No comments were provided for inclusion in this Summary chapter.

1 Introduction

Phillip Swimming and Ice-Skating Centre (PSISC)

- 1.1 The Phillip Swimming and Ice-Skating Centre (PSISC) is a privately owned ice sports and public swimming pool centre located in Phillip.

History of the Phillip Swimming and Ice-Skating Centre (PSISC)

Phillip pool

- 1.2 The Phillip pool was opened in October 1971 by the former National Capital Development Commission (NCDC). The pool had been planned by the NCDC as part of a new sporting and leisure precinct for the Woden town centre.
- 1.3 For the first eight years of its operation, the Phillip pool was operated by the former Commonwealth Department of Territories.

Lease to private operator

10-year lease arrangements

- 1.4 On 1 August 1979 a 10-year Crown lease was granted to Glencora Pty Ltd (Glencora). Glencora took over the operation of the Phillip pool.
- 1.5 Glencora was granted permission under the lease to construct an ice-skating centre. Glencora built an ice-skating centre on the site for the purpose of providing extra sporting facilities and providing a sustainable and economical heating source to the outdoor pool by using the waste heat from the condensing unit used to freeze the ice surface. The ice-skating centre opened in 1980.
- 1.6 The PSISC was managed under a series of 10-year leases from 1979. Following the granting of the original lease the pool was identified as a 'Commonwealth improvement' and in subsequent leases as a 'Territory improvement', meaning the Territory retained control of the asset. Short term leases allowed the government to review the operator's performance and ensure the facility continued to meet public needs.

99-year Crown lease (1999)

- 1.7 Glencora applied for a 99-year Crown lease in January 1998. The Territory's position was that the application would be approved if Glencora purchased the Territory improvements on the site, including the pool.

- 1.8 The finalisation of the application for the 99-year lease was delayed as Glencora disputed the value of the Territory improvements and negotiations regarding repair and maintenance issues continued. Between 1999 and 2008, Glencora occupied the site in accordance with holding over provisions of the earlier 10-year lease.
- 1.9 Agreement was eventually reached between the Territory and Glencora and Glencora paid \$180,000 for the Territory improvements on 20 March 2008. The application was finalised as a result of the payment and a 99-year Crown lease was granted on 28 March 2008 for a term backdated to commence on 31 July 1999.

Announcement of a new ice sports facility (2019)

- 1.10 In 2019 the ACT Government undertook an Expression of Interest process to develop and operate a new ice sports facility in Greenway, Tuggeranong.
- 1.11 It is expected that the new ice sports facility will draw patronage away from the PSISC and this will exacerbate the difficulties of maintaining the financial viability of the PSISC.

Recent operating history

- 1.12 Since 2020 the operation of the Phillip pool has been irregular. The pool was closed to the public for the 2020-21, 2021-22 and 2022-23 summer periods. The reasons cited for the closures were COVID-19 restrictions on public gatherings and maintenance requirements for the ageing facility.

Changed Territory Plan requirements

- 1.13 Changes to the Territory Plan requirements for the PSISC were identified in November 2022 when a revised Territory Plan was issued as a draft.
- 1.14 The changed Territory Plan requirements were finalised when the Interim Territory Plan 2023 came into effect on 27 November 2023. The changes to the Territory Plan requirements are discussed in further detail in paragraphs 1.31 to 1.35.
- 1.15 The circumstances associated with the changes to the Territory Plan requirements are the focus of this audit.

Acquisition by Geocon (December 2022)

- 1.16 In December 2022 the site was sold by Glencora to NG Landholdings No.20 (Geocon).
- 1.17 Following the purchase, Geocon issued a statement in January 2023 stating that it intended to continue operating the PSISC and was working through the rectification works required to repair the ageing facility.

1.18 A timeline for key events in the history of the PSISC is included at Appendix A.

ACT planning system

1.19 The ACT planning system aims to facilitate the growth of Canberra, both in size and population, while retaining the city's unique characteristics. The planning system consists of several elements including:

- **Planning Act 2023** (the Act) is the legal foundation for the planning system. Under the Act, any proposed new developments need to consider surrounding communities and the impacts on wellbeing, health, recreation and the environment.
- **Territory Plan** guides planning and development in the ACT. It outlines what development can take place and where. It guides developers and gives the Territory Planning Authority the discretion to approve or refuse applications for development.
- **District strategies** guide Canberra's growth through to 2050 and beyond. These strategies aim to ensure the Territory is sustainable, competitive and liveable. There are nine districts across Canberra each with an accompanying district strategy. The nine districts are Belconnen, East Canberra, Gungahlin, Inner North and City, Inner South, Molonglo Valley, Tuggeranong, Weston Creek and Woden.

1.20 Appendix B provides an overview of the ACT planning system.

ACT Planning System Review and Reform Project (2019 to 2023)

1.21 In 2019, the ACT Government commenced a review of the ACT planning system known as the *ACT Planning System Review and Reform Project* (the Planning System Reform Project). The objective of the Project was to develop a clear, easy to use planning system that delivers planning, design and development outcomes across the Territory. The Project sought to:

- simplify the planning system;
- improve the balance between having a rules-based system while allowing for flexibility in the planning system; and
- incorporate character, context and design as key elements of the planning system.

1.22 The Planning System Reform Project sought to deliver a more 'spatially-led' and 'outcomes focused' planning system, defined by the ACT Government as follows:

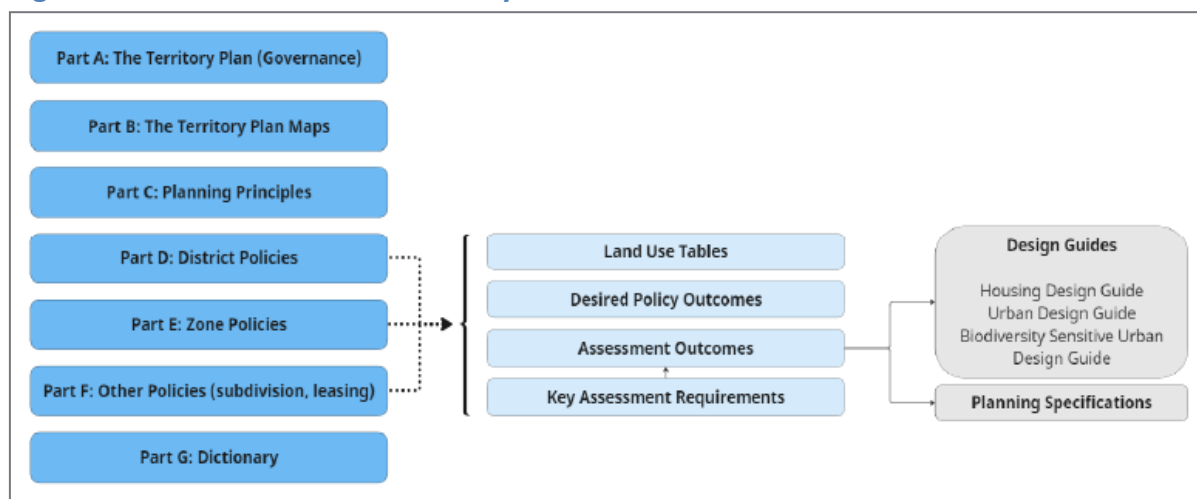
- a **spatially-led** planning system focuses on places and spaces and how these change over time. It focuses on planning for the Territory at different scales, from the city level to the district level and to the site level; and
- **outcomes focused** means the new planning system will outline the desired results of planning rather than prescribe how things need to be done. It means going beyond

looking at buildings and the environment in isolation to incorporate wellbeing, health, recreation, employment, housing and environmental factors into the planning system. It seeks to provide greater flexibility in the way developments can be designed, allowing greater emphasis on improving design quality and built outcomes so that developments can perform well within their local context.

- 1.23 Between 2019 and 2023, the ACT Government undertook consultation with community groups, community representatives and the public on the revised planning system. Key consultation commenced on 1 November 2022 when the Draft Territory Plan and draft district strategies were released for community comment. The documents were available for comment until 3 March 2023.
- 1.24 The Planning System Reform Project concluded in November 2023 and a new ACT planning system was launched. Key features of the new system are:
- a new *Planning Act 2023*;
 - a new 2023 Territory Plan; and
 - the development of nine district strategies.

Territory Plan

- 1.25 The Territory Plan aims to guide planning and development activity in the ACT. The Territory Plan outlines where and under what circumstances development can take place. It guides developers and gives the Territory Planning Authority the discretion to approve or refuse development applications.
- 1.26 The Territory Plan outlines 'district' and 'zone' policies. District policies identify assessment requirements and expected outcomes relevant to each specific district. Zone policies identify the types of developments that can be built.
- 1.27 Figure 1-1 provides an overview of the structure of the Territory Plan.

Figure 1-1 Structure of the Territory Plan

Source: ACT Government, *Territory Plan Explanatory Report* (2023), p. 9.

Development of the new Territory Plan

1.28 In 2023 and 2024, as the new Territory Plan was prepared and approved in accordance with the planning legislation, it went through various iterations:

- a **Draft Territory Plan** was prepared and released for community consultation on 1 November 2022. Comments were requested by 3 March 2023;
- an **Interim Territory Plan** commenced on 27 November 2023 after approval by the Legislative Assembly. From the commencement day, the interim Territory Plan was treated as being in force and development applications needed to comply with it. At the same time the Minister for Planning and Land Management provided the interim Territory Plan to the Legislative Assembly Planning, Transport and City Services Committee to conduct an inquiry into the plan (as per legislative requirements); and
- the **Final Territory Plan** came into effect on 27 September 2024. At the end of the inquiry process, the interim Territory Plan was amended in response to the Committee's inquiry report. The Legislative Assembly approved the amended version of the Territory Plan, which became the finalised Territory Plan.

2023 Territory Plan

1.29 On 27 November 2023, the *Planning and Development Act 2007* was repealed. It was a requirement of the *Planning and Development Act 2007* for there to be a Territory Plan. When the *Planning and Development Act 2007* was repealed, the 2008 Territory Plan was also repealed.

1.30 The *Planning and Development Act 2007* was replaced with the *Planning Act 2023*, which came into effect on 27 November 2023. On the same date, the new 2023 Territory Plan came into effect by way of it being a Notifiable Instrument.

Changes to Territory Plan requirements for the PSISC site

1.31 The Territory Plan requirements for the PSISC site changed when the interim 2023 Territory Plan came into effect on 27 November 2023.

1.32 Table 1-1 shows the requirements for the site under the 2008 Territory Plan.

Table 1-1 2008 Territory Plan requirements

2008 Territory Plan requirements
Development complies with all of the following: a) provides or retains an ice skating rink suitable for national ice hockey competition b) provides or retains a 50-metre public pool with direct public access to Irvine Street c) development for other uses involves redevelopment of the pool as an indoor facility

Source: *Territory Plan 2008 – Phillip Precinct Map and Code*, p. 12.

1.33 Table 1-2 shows the requirements for the site under the 2023 Draft Territory Plan (1 November 2022). This was the version that was released for public consultation and comment.

Table 1-2 2023 Draft Territory Plan requirements

Draft 2023 Territory Plan requirements
Area 'A' ... retains 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) A 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m (b) Warm water program pool – minimum dimensions of 20m x 10m (c) A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m² (d) A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities (e) 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.

Source: *Draft Territory Plan 2023 – Part D7 Woden District Policy*, p. 7.

1.34 Table 1-3 shows the requirements for the site under the 2023 Interim Territory Plan (27 November 2023) and 2023 Final Territory Plan (27 September 2024). (There was practically no change between the Interim Territory Plan and the Final Territory Plan).

Table 1-3 2023 Final Territory Plan requirements

Final 2023 Territory Plan requirements
Area 'A' ... provides all the following: a) An ice-skating rink suitable for national competitions, unless otherwise agreed by the ACT Government. b) 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 minimum: i) 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m. ii) Warm water program pool – minimum dimensions of 20m x 10m. iii) Toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m² iv) A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities. v) Associated amenities to support the operation of the pool facilities. c) The design and inclusions for the indoor pool must be approved by the ACT Government.

Source: *Territory Plan 2023 – Part D7 Woden District Policy*, p. 20.

1.35 As shown in Table 1-1, Table 1-2 and Table 1-3, the key changes between the requirements in the 2008 Territory Plan and 2023 Territory Plan were:

- allowance for the removal of the requirement for an ice-skating rink, with the agreement of the ACT Government; and
- if the site is redeveloped, allowance for the 50-metre pool to be replaced by a 25-metre indoor pool with additional aquatic facilities.

Legislative Assembly motion (December 2024)

1.36 On 3 December 2024, the ACT Legislative Assembly passed a motion regarding the PSISC. The motion noted that:

The development assessment requirements (zoning) in the draft Territory Plan 2023 for the Phillip Swimming & Ice Skating Centre were changed less than two weeks before it was released for consultation, from 1 November 2022 to 3 March 2023.

1.37 The motion further noted:

Geocon bought the site in December 2022, before the consultation period was closed. Until the outcomes of the consultation were known, there should have been uncertainty about the final zoning, this would normally impact the sale price of the site.

1.38 The motion called on the ACT Government to:

- a. provide the evidence that shows:
 - i. how a 25 metre pool best meets the demand of the future population that is forecast to live in the five kilometre catchment surrounding the Woden Town Centre; and
 - ii. the community's views on the size of the pool;
- b. provide written reasons why the pool in Batemans Bay was used as a benchmark when the population of the Woden Town Centre's 5 km catchment was over 65,000 people in 2021;
- c. provide transparency by clarifying in writing the pools and outdoor areas:
 - iii. the funding model and who will pay for maintenance and any operating losses;
 - iv. the operating model and what involvement the ACT Government will have;
 - v. how access (opening times and charges) is assured in the long term;
 - vi. how the interests of the wider community will be represented in the ongoing management of the private pool and grounds; and
 - vii. who is responsible and accountable for ensuring the pool is professionally managed and maintained and delivers the programs and services typical of a public pool, ensuring people can have a sense of belonging to the pool community;
- d. extend the date for comments to be received for the DA until four weeks after the above information is received so the community is informed about the characteristics of the development and can determine whether it will meet their needs;
- e. refers 'swimming pools in the Woden Valley District' to the relevant Assembly Standing Committee for it to consider undertaking an inquiry;
- f. provide a list of other sites that have been identified in central Woden that are suitable for an aquatic centre, including a 50 metre pool; and
- g. report back to the Assembly by the first sitting week in 2025.

ACT Government response to Legislative Assembly motion (February 2025)

1.39 In February 2025, the ACT Government provided a response to the December 2024 Legislative Assembly motion. In its response, the ACT Government noted that:

The Sport and Recreation team in Chief Minister, Treasury and Economic Development Directorate (CMTEDD) provided advice to the Environment, Planning and Sustainable Development Directorate (EPSDD) regarding potential benefits to changing the requirements for the Phillip Swimming and Ice-Skating Centre site under the previous Territory Plan.

Sport and Recreation recommended the Territory Plan could be amended to meet expected standards for contemporary public pool facilities including a warm water program pool, toddlers/leisure pool, learn-to-swim pool and water play splash pad (and the dimensions of each pool).

The proposed changes were endorsed by EPSDD to be included in the Woden District Policy when the interim Territory Plan 2023 took effect.

1.40 The ACT Government advised in its response that:

... extensive community consultation was undertaken where some comments regarding the Phillip pool site were received. These were considered and responded to by the ACT Government in subsequent consultation response reports and explanatory reports.

1.41 The response further noted that some community submissions raised concerns about the 50-metre pool being replaced with 25-metre pool, but that the requirement for a 25-metre pool was retained to meet the changing needs of the Woden demographic and in line with new aquatic facilities being constructed in other parts of Australia.

Roles and responsibilities

Chief Minister, Treasury and Economic Development Directorate

1.42 The Sport and Recreation Branch in the Chief Minister, Treasury, and Economic Development Directorate (CMTEDD) is responsible for assisting in the planning and development of sporting and recreational facilities.

1.43 The Sport and Recreation Branch had a key role in changing the Territory Plan requirements for the PSISC as part of the revised 2023 Territory Plan.

City and Environment Directorate (formerly the Environment, Planning and Sustainable Development Directorate)

1.44 The Strategic Planning and Policy Branch in the Planning and Urban Policy Division of the City and Environment Directorate (formerly the Environment, Planning and Sustainable Development Directorate (EPSDD)) is responsible for:

- the administration of the Territory Plan including ongoing review of policy content, management of the statutory processes for varying the plan; and
- the management of the *ACT Planning System Review and Reform Project* including the development of the new Territory Plan, and consultation process during the project.

Audit objective and scope

Audit objective

- 1.45 The objective of the audit was to assess the effectiveness of administrative processes to change the requirements for the PSISC site (Section 22, Block 2 of Woden Valley) in the Territory Plan.

Audit scope

- 1.46 The audit considered the activities of ACT Government agencies to plan for, and change, Territory Plan requirements for the PSISC site. The audit focused on the transparency of the administrative processes.
- 1.47 The audit considered ACT Government agencies' activities to:
- identify and consider options for the future requirements of the PSISC site within the context of changes to the Territory Plan; and
 - inform and consult with the ACT community on proposed changes to the Territory Plan in relation to the PSISC site.
- 1.48 The audit considered the activities of relevant ACT Government agencies, including the Chief Minister, Treasury and Economic Development Directorate, to identify options for the future use of the site.
- 1.49 The audit considered the activities of the City and Environment Directorate (CED) to plan for, and manage, administrative processes associated with changes to the Territory Plan for the PSISC site.

Out of scope

- 1.50 The audit did not consider broader processes related to:
- the repeal of the *Planning and Development Act* (2007) and implementation of the new *Planning Act* (2023); or
 - the change from the 2008 Territory Plan to the 2023 Territory Plan.
- 1.51 The audit did not consider activities associated with the redevelopment of the site, including processes associated with the development application lodged in November 2024.
- 1.52 The audit did not consider the planning for, or development of, locations for an ice-sports facility in the ACT, unless necessary to achieve the objective of the audit.

Audit criteria, approach and method

Audit criteria

1.53 To form a conclusion against the objective, the following criteria were used:

Criteria 1: Did ACT Government agencies effectively plan for the changes to the Territory Plan in relation to the PSISC site?

- Was timely and sound research conducted to identify options for the redevelopment of the PSISC site?
- Were the outcomes of the research:
 - effectively recognised as an input to the planning process; and
 - communicated effectively and transparently to stakeholders?

Criteria 2: Did ACT Government agencies effectively consult with stakeholders on the changed requirements of the PSISC site in the Territory Plan?

- Were stakeholders, including the community, sufficiently informed of proposed changes to the requirements of the PSISC site?
- Were the outcomes of the consultation:
 - effectively recognised as an input to the planning process; and
 - communicated effectively and transparently to stakeholders?

Audit approach and method

1.54 The audit was performed in accordance with *ASAE 3500 – Performance Engagements*. The audit adopted the policy and practice statements outlined in the Audit Office's *Performance Audit Methods and Practices (PAMPr)* which is designed to comply with the requirements of the *Auditor-General Act 1996* and *ASAE 3500 – Performance Engagements*.

1.55 In the conduct of this performance audit the Audit Office complied with the independence and other relevant ethical requirements related to assurance engagements.

1.56 The audit approach consisted of:

- a review of the *Planning Bill 2022* and *Planning Act 2023*, which have a number of requirements in relation to setting up a new Territory Plan and associated consultation requirements for both government and community stakeholders.
- identification and review of studies and research undertaken in relation to community recreational facilities that referenced the Phillip pool.
- review of research and the decision-making process leading to the changes for the PSISC site requirements in the Territory Plan 2023.

- assessment of written submissions on Phillip pool received during the consultation for the new *Planning Act 2023* and Territory Plan 2023.
- audit interviews with relevant stakeholders including:
 - senior executive and staff from CMTEDD involved in researching and drafting the changes to the PSISC site requirements in the Territory Plan 2023; and
 - staff in CED who managed the community consultation process for the Draft Territory Plan 2023.

2 Considerations for the PSISC site

- 2.1 This chapter discusses plans, studies and assessments of relevance to the Phillip pool specifically and aquatic facilities more generally. The chapter also discusses challenges associated with the operation of the Phillip pool in recent years and ACT Government actions to consider and address the future of the PSISC site.

Summary



Conclusions

In recent years there have been a number of challenges to the operation of the Phillip Swimming and Ice-Skating Centre (and the Phillip pool specifically), including:

- the ageing nature of the facility and the need for increased maintenance and repair activity; and
- the ACT Government's September 2020 announcement that a new ice sports facility would be built in Tuggeranong.

These challenges were recognised by ACT Government agencies and discussion was underway to identify future options for the site. In May 2021, with the expectation that a new ice sports facility would be built in Tuggeranong, ACT Government agencies were considering the provision of future aquatic facilities on the site in light of potential redevelopment.

The need for 'a detailed aquatic facility planning study' as a precursor to any changes to the Territory Plan requirements for the PSISC site was recognised and approved by the Minister for Planning and Land Management and the Minister for Sport and Recreation. The study did not proceed as CMTEDD advised it was agreed at the officer level that the future requirements for the site were already well understood. Subsequent activity on the part of CMTEDD and EPSDD officers proceeded on the expectation that the Territory Plan requirements for the site would be changed to remove the requirement for a 50-metre outdoor pool and that a 25-metre indoor pool and associated aquatic facilities would be part of any future redevelopment of the site.

Between July 2022 and November 2022 advice was being prepared for Ministers 'to provide options and to seek direction about a five-year plan' for the site. The advice contemplated the acquisition of the site from the former lessee and presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. The advice was not finalised as the Crown lease was sold by the former lessee in December 2022 (following the release of the Draft Territory Plan for public comment).

There was consensus among ACT Government officials as to what the future Territory Plan requirements for the site should be, but this had not been determined or supported by any specific

needs analysis or ‘a detailed aquatic facility planning study’ that would ‘determine whether loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community’.



Key findings

Early plans, studies and assessments (before 2021)

Paragraph

Over time, ACT Government agencies have commissioned a number of plans, studies and assessments that have considered community and recreational facilities in Woden specifically and the ACT more broadly. These plans, studies and assessments had a broader focus on community, sport and recreation needs in Woden and/or the broader ACT but made references and recommendations in relation to the Phillip pool. The plans, studies and assessments identified challenges in relation to the ongoing operation and viability of the Phillip pool and PSISC site including that:

2.25

- the facility was ageing, required increasing maintenance and significant investment to upgrade the facility to meet current standards, community needs and to remain operational; and
- it is an outdoor facility, and a year-round indoor swimming facility may better meet the needs of a greater proportion of residents in the Woden area.

Challenges to the operation of the Phillip pool (2020 to 2022)

The Phillip pool was closed to the public throughout the 2020-21, 2021-22 and 2022-23 summer periods. The former lessee cited COVID-19 restrictions and the need to undertake maintenance work for the ageing pool as the reason for the closures. During this period the former lessee sought rent relief from the Territory on a number of occasions, citing the impact of COVID-19 restrictions on its ability to operate the pool in accordance with the requirements of the Crown lease.

2.36

The former lessee also cited the impact of the ACT Government’s September 2020 announcement that a new ice sports facility would be built in Tuggeranong as a key issue of concern and raised concerns about the impact that the facility would have on the viability of the site. The former lessee also sought a technical amendment to the Territory Plan that would remove the mandatory requirement for both an ice rink and pool at the site. The proposal for a technical amendment to the Territory Plan was rejected by the Territory.

2.37

Considerations for the future of the site (after 2021)

On 20 May 2021 the Director-General of EPSDD approved a Ministerial Brief to the Minister for Planning and Land Management and the Minister for Sport and Recreation in relation to the PSISC. The purpose of the Ministerial Brief was ‘to enable advice to be provided to the lessee of the block regarding the development provisions applicable to their block’. The Brief explicitly considered the provision of

2.56

future aquatic facilities on the site in light of potential redevelopment. In doing so, the Brief noted:

- ‘the requirement for a 50m indoor pool, as contained in the Phillip Precinct Map and Code as part of any proposed redevelopment for the site, is structurally difficult and costly to achieve, according to the Lessee’; and
- ‘if it is considered difficult to make a 50m indoor pool viable structurally, a 25m pool may be viable and could be used for swim school programs, water aerobics and could have a leisure pool and splash park component as part of the indoor facility’.

The Ministerial Brief contemplated the need for ‘a detailed aquatic facility planning study’ as a precursor to any changes to the Territory Plan requirements for the PSISC site. The Ministerial Brief recommended that the Ministers ‘agree to a planning study being commissioned by the Government to determine whether the loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community’. The Minister for Planning and Land Management and the Minister for Sport and Recreation agreed to the recommendation. 2.57

CMTEDD did not commission ‘a detailed aquatic facility planning study’ as recommended and agreed to in the Ministerial Brief. CMTEDD advised in December 2025 that it was agreed at the officer level between CMTEDD and EPSDD that the requirements to change the pool were already well understood, and it was subsequently determined that a planning study was not necessary. CMTEDD did not provide: 2.64

- evidence formally documenting the decision to not proceed with a planning study as agreed by the Minister for Planning and Land Management and the Minister for Sport and Recreation in June 2021; nor
- evidence that a decision to not proceed with a planning study had been communicated to the Ministers.

A Ministerial Brief was provided to the Minister for Planning and Land Management and the Minister for Sport and Recreation ahead of a meeting on 19 October 2021. The meeting included ACT Government representatives from the Sport and Recreation Branch, CMTEDD and the Planning and Urban Policy Branch, EPSDD. A PowerPoint presentation was also prepared ahead of a presentation by CMTEDD and EPSDD representatives to the Ministers on 19 October 2021. Neither the Ministerial Brief or the PowerPoint presentation referenced the requirement for a ‘detailed aquatic facility planning study’ to be commissioned to determine whether the loss of the existing Phillip pool would detrimentally impact public access to swimming facilities for the Woden community, as agreed by the Ministers in June 2021. 2.70

In March 2022, the Executive Group Manager for Statutory Planning wrote a brief to the Minister for Planning and Land Management ahead of a meeting with the Minister for Sport and Recreation on 29 March 2022. The brief summarised operational and financial constraints associated with the ageing facility, including structural deterioration and limitations posed by the existing lease. The brief also 2.77

identified the ongoing advocacy of community stakeholders seeking to retain public access to aquatic facilities in Woden. Neither CED nor CMTEDD was able to locate written records of the outcomes of the March 2022 meeting. CMTEDD nevertheless advised that EPSDD was tasked with producing a discussion paper on the future of the Phillip pool in July 2022.

Between July 2022 and November 2022, a Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD was in the process of preparing a brief for the Minister for Sport and Recreation and Minister for Planning and Land Management. The purpose of the Brief was 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'. The draft Ministerial Brief identified the acquisition of the Crown lease from Glencora as a key option noting that 'should the Territory wish to control how the existing PSISC site may be utilised in the future ... the Territory may wish to consider seeking to acquire the Crown lease from the Crown lessee (Glencora)'.

2.96

The draft Ministerial Brief presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. The concept plans showed different configurations for the site, all involving a 25-metre pool and additional aquatic facilities as well as different configurations for indoor sports courts.

2.97

The Ministerial Brief remained in draft and was not finalised. CED advised that the brief was not finalised as the site was acquired by Geocon in December 2022, meaning that exploring options for the Territory to acquire the Crown lease was no longer relevant.

2.98

Early plans, studies and assessments (before 2021)

2.2 Over time, ACT Government agencies have commissioned a number of plans, studies and assessments that have considered community and recreational facilities in Woden specifically and the ACT more broadly. These have included:

- the *Aquatic and Related Facilities: ACT Strategic Plan 2011-2030* (June 2011) prepared by a consultant for the Sport and Recreation Branch in the Chief Minister, Treasury and Economic Development Directorate (CMTEDD);
- *Woden, Athllon, Mawson (WAM) Community, Sport and Recreation Study* (January 2013) prepared by a consultant for the former Environment, Planning and Sustainable Development Directorate (EPSDD);
- the *Woden Town Centre Master Plan* (November 2015) prepared by EPSDD;
- the *ACT Indoor Sports Facilities Study* (December 2015) prepared by the Sport and Recreation Branch in CMTEDD; and
- *Community and Recreational Facilities Assessment – Woden Valley District* (November 2020) prepared by a consultant for EPSDD.

- 2.3 These plans, studies and assessments had a broader focus on community, sport and recreation needs in Woden and/or the broader ACT but made references and recommendations in relation to the Phillip pool.

Aquatic and Related Facilities: ACT Strategic Plan 2011-2030 (June 2011)

- 2.4 In June 2011, a draft *Aquatic and Related Facilities: ACT Strategic Plan 2011-2030* (Aquatic Facilities Strategic Plan) was developed. The Plan sought to 'develop a framework to guide the planning, development and management of aquatic facilities to optimise benefits delivered to the ACT community for the period through to 2030'. The Plan was never finalised.
- 2.5 The draft Aquatic Facilities Strategic Plan made the following observation in relation to the Phillip pool:
- The Phillip venue has aged substantially and is potentially under threat - although any redevelopment of the site is at present compelled by the Territory Plan to retain a 50 metre pool and an international sized ice rink. The outdated nature of the venue means that considerable investment would be needed to upgrade it to meet current day standards and needs. It is questionable if this could be done on the present site and it might be more effective to pursue development of a totally new venue elsewhere in the Woden Town Centre precinct.
- 2.6 The draft Aquatic Facilities Strategic Plan noted that 'some form of aquatic facilities could be included in the Stromlo Forest Park' and that this would 'possibly meet needs for some of the Woden Valley area, dependant on how the Phillip venue is eventually redeveloped'.
- 2.7 The draft Aquatic Facilities Strategic Plan proposed a hierarchy for aquatic facilities in the ACT, as shown in Table 2-1.

Table 2-1 Proposed hierarchy for aquatic facilities in the ACT

Catchment type	Catchment size (population)	Type of aquatic facility
Multi-suburb	Between 25,000-30,000, with the potential to service up to 50,000 residents	25-metre indoor or outdoor heated pool of 6-8 lanes. - Warm water program pool. - Small water play area and fitness space.
District/sub-ACT	Up to 80,000-100,000 residents	25-metre and/or 50-metre indoor or outdoor lap pool of 8-10 lanes. - Warm water program pool of 25-metre and 4 lanes. - Spa pools. - Indoor and outdoor water play areas.

Catchment type	Catchment size (population)	Type of aquatic facility
ACT wide	300,000 to 500,000	• Territory level competition facilities for aquatic sports including possibly, one or two 50-metre indoor pools of 10 lanes. • Other aquatic facilities including outdoor lap pool, indoor and outdoor water play areas, and advanced aquatic health facilities.
National level	-	National level elite aquatic sports venue.

Source: Draft *Aquatic and Related Facilities: ACT Strategic Plan 2011-2030* (June 2011).

- 2.8 In relation to the provision of aquatic facilities against the projected population growth in the ACT, the draft Aquatic Facilities Strategic Plan noted:

The Molonglo population growth, together with the smaller increases in Woden Valley and Weston Creek, will add weight to the on-going calls for provision to service these districts, especially given the ageing/outdated nature of Phillip Pool.

- 2.9 The draft Aquatic Facilities Strategic Plan made two recommendations for the PSISC:

The venue is designated as a District level centre to serve the needs of the Woden Valley and Weston Creek districts and south-western suburbs of the ACT.

The ACT Government initiates negotiations with the owners of the centre for the purpose of initiating a study designed to prepare a redevelopment strategy the Phillip Pool and Ice Skating Centre.

Development of a new ACT Aquatic Strategy (September 2025)

- 2.10 On 29 January 2026, the ACT Government announced that a new ACT Aquatic Strategy would be developed that would consider the future of pools in Canberra. This would include consideration of the provision of competition and recreation dive facilities, the need for new aquatic facilities in growth areas of Canberra and a review of existing aquatic facilities to provide guidance on their operation and maintenance.
- 2.11 The development of the strategy is expected to take 12 months. As of March 2026, consultation for the strategy had not yet commenced.

Woden, Athllon, Mawson (WAM) Community, Sport and Recreation Study (January 2013)

- 2.12 The *Woden, Athllon, Mawson (WAM) Community, Sport and Recreation Study* (Woden Sport and Recreation Study) was undertaken with the purpose of:

[Identifying, collecting and analysing] background information on existing, approved and proposed stock of [community, sport and recreation] facilities and associated land supply/use in the study areas and [identifying] issues.

[Providing] recommendations and options to enhance and/or resolve the issues identified, and suggested recommendations and priorities for any future work.

2.13 In doing so, the Woden Sport and Recreation Study was also expected to:

... enable coordinated planning for a range of [community, sport and recreation] facilities and land use by public, community and private [community, sport and recreation] providers.

2.14 In relation to the Phillip pool, the Woden Sport and Recreation Study noted that:

- the facility was privately owned and there was no confirmation that the owner wanted to upgrade or enhance the facility;
- the facility was ageing and without refurbishment, was nearing the end of its useful life; and
- the pool is an outdoor pool and without heating and roofing does not serve winter demand.

2.15 The Woden Sport and Recreation Study also noted that:

- demand for swimming pools in Canberra's south is high, but the provision of swimming pool facilities was low; and
- if residential growth, particularly higher density growth, proceeded in the Woden town centre it would be highly desirable to have an all year swimming facility.

Woden Town Centre Master Plan (November 2015)

2.16 The purpose of the *Woden Town Centre Master Plan* (Woden Master Plan) was to provide 'a vision, a spatial framework and strategies to guide the development of the Woden town centre over the next 20+ years'.

2.17 To improve access to community, sport and recreation facilities in the Woden area, the Woden Master Plan recommended that planning policies:

Simplify the existing planning controls in the Phillip Precinct Code for the swimming and ice skating site to allow for redevelopment of the pool anywhere on the site. Ensure the site has the potential to accommodate other uses, such as offices, that support the existing facilities and allow for future upgrades and long-term viability.

2.18 In August 2018, a variation was subsequently made to the Territory Plan that permitted mixed use development of up to 12 storeys in the area and on blocks adjacent to the PSISC. The variation has provided greater development flexibility for the PSISC site (noting, however, that the Territory Plan requirements for the site still remained).

ACT Indoor Sports Facilities Study (December 2015)

2.19 CMTEDD commissioned the *ACT Indoor Sports Facilities Study* (Indoor Sports Facilities Study) to examine the provision and utilisation of indoor sports facilities in the ACT. The study is intended to 'establish a framework for provision of indoor sport opportunities over the next 15 years'.

2.20 The Indoor Sports Facilities Study noted that the Phillip pool was ageing and that further investment in the facility by the then lessee was unlikely. It further noted that:

Although the Territory Plan requires any use of the current site to include a pool and ice rink this may become problematic as pressure for residential development in the areas increases making commercially viable models for a pool-ice rink facility less likely.

Community and Recreational Facilities Assessment – Woden Valley District (November 2020)

2.21 The *Community and Recreational Facilities Assessment – Woden Valley District* (Woden Community Facilities Assessment) sought to inform planning for community and recreational facilities arising from the growth of the Woden district.

2.22 Amongst other things, the Woden Community Facilities Assessment considered the adequacy of existing aquatic and indoor sporting facilities. The Assessment made the following observations:

- the Phillip pool is outdoor and cannot be used year-round; and
- the Phillip pool is over 40 years old and has increasing maintenance issues.

2.23 The Woden Community Facilities Assessment also noted:

- there is a potential need for at least one aquatic facility based on the current population;
- there is a relative lack of indoor sports facilities in the Woden district; and
- a facility in Woden would also service demand from Weston Creek and other districts.

2.24 The Woden Community Facilities Assessment identified that, based on the growing population and community demand, the current level of aquatic facilities was approaching capacity and from 2023 there would be insufficient facilities to service the Woden area. The Assessment identified that the Phillip pool and the Stromlo Leisure Centre (which opened in August 2020) were likely to meet the needs of the broader catchment to 2045.



2.25 Over time, ACT Government agencies have commissioned a number of plans, studies and assessments that have considered community and recreational facilities in Woden specifically and the ACT more broadly. These plans, studies and assessments had a broader

focus on community, sport and recreation needs in Woden and/or the broader ACT but made references and recommendations in relation to the Phillip pool. The plans, studies and assessments identified challenges in relation to the ongoing operation and viability of the Phillip pool and PSISC site including that:

- the facility was ageing, required increasing maintenance and significant investment to upgrade the facility to meet current standards, community needs and to remain operational; and
- it is an outdoor facility, and a year-round indoor swimming facility may better meet the needs of a greater proportion of residents in the Woden area.

Challenges to the operation of the Phillip pool (2020 to 2022)

2.26 Prior to the recent change to the requirements for the Phillip pool site in the Territory Plan, the Crown lease reflected the requirements of the 2008 Territory Plan.

2.27 As specified in the Crown lease under the 2008 Territory Plan, the requirements for the operation of the pool were as follows:

- the use of the premises was restricted to a public heated swimming pool and ice-skating rink;
- the lessee was required to ensure that the pool was open to the public on days and times as agreed with the Territory; and
- the lessee was required at all times to maintain and keep in repair the premises to the satisfaction of the Territory.

2.28 The Crown lease required the former lessee to pay annual rent of \$27,000.

2.29 Table 2-2 below summarises engagement between the former lessee and the ACT Government between 2020 and 2022. During this period there were issues and concerns associated with:

- the former lessee's compliance with the lease conditions; and
- the viability of operating the site.

Table 2-2 Summary of engagement between the former lessee and ACT Government (2020 to 2022)

Date	Description
7 July 2020 and 30 September 2020	The former lessee sought rent relief from the ACT Government on two occasions: • from 1 April 2020 to 30 September 2020 (approval was provided on 27 July 2020); and

Date	Description
	from 1 October 2020 to 20 December 2020 (approval was provided on 12 October 2020). The lessee identified COVID-19 restrictions and its impact on operations as the basis for the request for relief. The pool was closed to the public over the 2020-21 summer period.
25 March 2021	Legal representatives, on behalf of the former lessee, wrote to the Territory on 25 March 2021 raising the following concerns: - high ongoing costs associated with maintenance of the public pool; and - concerns about the impact of the development of the new ice sports facility in Tuggeranong on the future viability of the pool and ice-skating rink. As part of the correspondence, a preference for greater flexibility with development options over the site was also expressed. Accordingly, the former lessee sought the following: - rent relief from September 2020 for three years; - relief from the requirements of the lease; and - a technical amendment to the Territory Plan including the removal of the conditions for the site to operate both the ice rink and pool. The Territory met with the former lessee and their legal representatives to discuss these issues on 9 April 2021. The lessee's concerns in relation to seeking a technical amendment were subsequently raised with the Minister for Planning and Land Management in a May 2021 Ministerial Brief (see paragraphs 2.40 to 2.41).
17 August 2021	Legal representatives, on behalf of the former lessee, wrote to the Territory on 17 August 2021 seeking rent relief due to ongoing COVID-19 restrictions. The Territory granted rent relief on 7 September 2021 through to 30 March 2022. The pool was closed to the public over the 2021-22 summer period.
18 February 2022	Legal representatives, on behalf of the former lessee, wrote to the Territory seeking an update on the progress with the development of the new ice sports facility in Tuggeranong, with concerns raised that it may impact its ability to operate the business and invest in the site. The Territory responded to this letter through a letter dated 10 June 2022 (shown below).
15 March 2022	Legal representatives, on behalf of the former lessee, wrote to the Territory seeking: - an extension to the rent relief for a further 12 months; and - an update on the proposal to construct and operate the ice sports facility in Tuggeranong and the effect of this on the operations of the PSISC. On 25 March 2022 the Planning and Land Authority on behalf of the Territory wrote to the legal representatives requesting further information in relation to the request for rent relief. By early June 2022, no response had been provided to this request.
10 June 2022	On 10 June 2022 the Territory responded to the legal representatives, noting that:

Date	Description
	- no further rent relief would be provided and that the former lessee was required to comply with the Crown lease in full, including in respect of rent and operation of the pool; - no changes would be made to the Crown lease, as they would be inconsistent with the requirements of the Territory Plan; and - that there were no proposed amendments to the Territory Plan that would affect the site. The letter also provided a brief update on the progress of the development of the new ice sports facility in Tuggeranong. The pool remained closed to the public over the 2022-23 summer period.

Source: Audit Office, based on City and Environment Directorate documentation.

2.30 As shown in Table 2-2:

- throughout 2020, 2021 and 2022, the former lessee sought rent relief on a number of occasions, citing the impact of COVID-19 restrictions on its ability to operate the pool in accordance with the requirements of the Crown lease; and
- the Phillip pool remained closed to the public throughout the 2020-21, 2021-22 and 2022-23 summer periods. The former lessee cited COVID-19 restrictions and the need to undertake maintenance work for the ageing pool as the reason for the closures.

2.31 The former lessee cited the impact of the ACT Government's September 2020 announcement that a new ice sports facility would be built in Tuggeranong as a key issue of concern. In 2021 and 2022 the former lessee raised concerns about the impact that the new facility would have on the viability of the site.

Request for a technical amendment to Territory Plan (March 2021)

2.32 In March 2021 the former lessee sought a technical amendment to the Territory Plan that would remove the mandatory requirement for both an ice rink and pool at the site.

2.33 Legal representatives, on behalf of the former lessee, wrote to the Leasing Section of EPSDD in March 2021 noting that:

The impact of this decision [the new ice sports facility] on the Land is significant and any future development proposal, needing to accommodate both an ice skating rink and a pool on the Land, is now commercially unviable.

2.34 Accordingly the legal representatives, on behalf of the former lessee, sought:

A technical amendment to the Territory Plan in accordance with Section 87 (1) (a) and (e) of the Planning and Development Act 2007, is warranted in order for [the] ACT Government to proceed with the new facility, indeed it would be contrary to the current plan to facilitate a new ice skating rink without addressing the existing mandatory rule.

- 2.35 In response, the Executive Group Manager of Statutory Planning in EPSDD wrote to the legal representatives noting that:

There is no proposed amendment to the Territory Plan that would affect the Land currently under consideration. Should the Territory consider a future variation to the Territory Plan that may impact the Land, it will be published for public consultation in the manner prescribed in the *Planning and Development Act 2007* and your client will have the normal opportunity to make submissions and otherwise engage in that process.



- 2.36 The Phillip pool was closed to the public throughout the 2020-21, 2021-22 and 2022-23 summer periods. The former lessee cited COVID-19 restrictions and the need to undertake maintenance work for the ageing pool as the reason for the closures. During this period the former lessee sought rent relief from the Territory on a number of occasions, citing the impact of COVID-19 restrictions on its ability to operate the pool in accordance with the requirements of the Crown lease.



- 2.37 The former lessee also cited the impact of the ACT Government's September 2020 announcement that a new ice sports facility would be built in Tuggeranong as a key issue of concern and raised concerns about the impact that the facility would have on the viability of the site. The former lessee also sought a technical amendment to the Territory Plan that would remove the mandatory requirement for both an ice rink and pool at the site. The proposal for a technical amendment to the Territory Plan was rejected by the Territory.

Considerations for the future of the site (after 2021)

- 2.38 Between May 2021 and November 2022, various discussions took place within and amongst ACT Government agencies in relation to the future of the Phillip pool site. These discussions culminated in a series of Ministerial Briefs:

- Ministerial Brief on development provisions applicable to the PSISC site (May 2021);
- Ministerial Brief on the PSISC (October 2021) and supporting presentation;
- Ministerial meeting to discuss the future of the PSISC (March 2022); and
- draft Ministerial Brief outlining a five-year plan for the Phillip pool (November 2022).

Ministerial Brief on development provisions applicable to the PSISC site (May 2021)

- 2.39 On 20 May 2021 the Director-General of EPSDD approved a Ministerial Brief to the Minister for Planning and Land Management and the Minister for Sport and Recreation in relation to the PSISC. The purpose of the Ministerial Brief was 'to enable advice to be provided to the lessee of the block regarding the development provisions applicable to their block'.

2.40 The Ministerial Brief noted that:

The lessee has approached the Environment, Planning and Sustainable Development Directorate (EPSDD) to investigate amending the Phillip precinct map and code to remove the mandatory requirements in the Phillip precinct code for a 50m swimming pool and ice-skating facility on the site. This will mean any future development of the site will not be required to include either of those facilities, irrespective of whether it is the current lessee or a future owner of the site.

2.41 The Ministerial Brief further noted that:

The mandatory provisions for the site in the Phillip Precinct Map and Code are considered onerous and make the site difficult to redevelop. The Lessee has suggested this had contributed to financial institutions not being prepared to lend money for the site's redevelopment.

The Lessee has indicated that the current pool is not profitable and may not comply with contemporary workplace health and safety requirements, thereby not being attractive to schools. The pool also has a structural crack causing it to leak.

Issues and options for the ice-skating facility

2.42 The Ministerial Brief noted the impact on the viability of the PSISC site of the announcement of the new ice sports facility in Tuggeranong:

The existing ice rink in Phillip is unlikely to be viable if a new twin sheet ice rink facility is developed in Tuggeranong.

...

However, the new ice-skating facility proposed for Tuggeranong is not a certainty and has a considerable way to go before being built and operational.

2.43 In recognition of this challenge the Ministerial Brief noted a potential change to the requirements of the Territory Plan:

A criterion could be added to the current precinct code requirement which would mean an ice rink would not have to be provided on the Phillip site if an alternate ice rink is developed in the ACT.

Issues and options for the pool

2.44 The Ministerial Brief explicitly considered the provision of future aquatic facilities on the site in light of potential redevelopment:

The requirement for a 50m indoor pool, as contained in the Phillip Precinct Map and Code as part of any proposed redevelopment for the site, is structurally difficult and costly to achieve, according to the Lessee, given the roof span required if there are to be apartments provided above.

...

If it is considered difficult to make a 50m indoor pool viable structurally, a 25m pool may be viable and could be used for swim school programs, water aerobics and could have a leisure pool and splash park component as part of the indoor facility.

In light of the above matters, EPSDD could consider amending the Phillip precinct code to reduce the current 50m pool requirement to a 25m indoor pool as well as an indoor leisure/program pool and associated amenities. These aquatic facilities would be required as part of any redevelopment of the site.

2.45 The Ministerial Brief further noted that:

Any policy change would require a draft variation to the Territory Plan to be prepared to make the changes to the Phillip Precinct Code. Justification for the change will be required by the proponent in the form of a planning report, that would be required to be submitted to EPSDD for consideration. The outcomes of a detailed aquatic facility planning study ... , if undertaken, would need to be considered prior to a planning report from the proponent being accepted.

Need for a detailed aquatic facility planning study

2.46 The Ministerial Brief contemplated the needs for 'a detailed aquatic facility planning study' as a precursor to any changes to the Territory Plan requirements for the PSISC site.

2.47 The Ministerial Brief recognised the November 2020 *Community and Recreation Facilities Assessment* suggestion that there may be a gap in the provision of aquatic facilities from 2030. Accordingly, the Ministerial Brief identified that a 'detailed aquatic facility planning study'¹ that specifically reviewed the provision of aquatic facilities in Woden and the surrounding area may be required to verify this statement. The Ministerial Brief noted the limitations of the November 2020 assessment and that it only considered 'high-level demographic data and provision ratios'.

2.48 The Ministerial Brief noted that a detailed aquatic facility planning study would likely consider a range of factors, including:

- Detailed analysis of member and casual patronage (e.g. residential postcode, age profile) at nearby public swimming facilities. This information may detail if there is additional capacity at nearby facilities (e.g. Stromlo Leisure Centre) to accommodate the needs of Woden residents and/or confirm the extent Woden residents are already accessing/utilising other nearby pool facilities.
- Financial viability assessment of nearby aquatic facilities, noting the provision of any additional public swimming pools may impact the ongoing sustainability of these facilities.
- Detailed analysis of the projected population growth in Woden, including the mix of residential offerings to be provided. It should be noted that some of the recent apartment complexes that have been constructed in Woden include the provision of residential pool facilities. This may impact the need or financial viability of any future public swimming pool.

¹ Also described in the Ministerial Brief as a 'independent detailed aquatic facility needs assessment study'.

2.49 With respect to funding such a study, the Ministerial Brief noted that:

If an independent planning study is commissioned by the Government, this would require financial expenditure by the Government on a consultancy to undertake the work. Sport and Recreation has advised that it has funds available.

2.50 The Ministerial Brief sought agreement to two recommendations from the Minister for Planning and Land Management and the Minister for Sport and Recreation:

- Agree to a planning study being commissioned by the Government to determine whether the loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community; and
- Agree to further discussion being held about the matter at ministerial and senior executive level with representatives from CMTEDD Sport and Recreation and EPSDD Planning and Urban Policy Division.

2.51 The Minister for Planning and Land Management and the Minister for Sport and Recreation agreed to both recommendations and signed the Ministerial Brief on 1 June 2021 and 8 June 2021 respectively.

Reference to 25-metre pool option for the PSISC site

2.52 The May 2021 Ministerial Brief referred to a 25-metre pool option for the PSISC site. The Brief noted the difficulty in making a 50-metre pool structurally viable, and as a result suggested that a 25-metre pool may be optimal. The Brief then noted:

In light of the above matters, EPSDD could consider amending the Phillip precinct code to reduce the current 50m pool requirement to a 25m indoor pool as well as in indoor leisure/program pool and associated amenities. These aquatic facilities would be required as part of any redevelopment of the site.

2.53 In relation to community sentiment about a possible 25-metre pool option, the Ministerial Brief noted:

The loss of a 50m outdoor pool in the area may not be well received by some member[s] of the local community as they would have to travel further to access a 50m pool. However, a benefit is that a 25m indoor pool would be accessible year-round, whereas the current outdoor pool is only open during the warmer months.

2.54 The Ministerial Brief included an attachment outlining 'Options analysis for the PSISC'. Of the four options presented, Option 3 recommended a variation to the Territory Plan removing the ice rink requirement. Option 3 as presented in the Ministerial Brief is outlined in Table 2-3.

Table 2-3 Option 3 from May 2021 Ministerial Brief

Option 3	Potential outcome if implemented
Territory Plan Variation – remove ice rink and change requirement for any redevelopment of the site to include indoor 25m pool, program pool and associated facilities (rather than a 50m indoor pool). Consider amending the Territory Plan requirement to require an indoor 25m pool, program pool and associated facilities be provided on the exiting PSISC site if it is redeveloped.	• Removing the requirement for an ice rink facility to be provided on the site in Phillip would have minimal impact on the ice sports community should a new twin rink ice sports facility be constructed in another location (e.g. Greenway). • Should a new ice sports facility be constructed in Canberra, it is unlikely the PSISC lessee will continue to provide the ice rink facility in Phillip. • While the site could be potentially redeveloped, it is possible the market will not consider any redevelopment to be financially viable given the costs associated with constructing and operating an indoor 25m pool. As a result, the site could remain undeveloped for a long period of time. • Comparatively, the provision of smaller 25m pool and program pool will be less expensive to construct and will be more financially sustainable in respect to ongoing operation and maintenance costs.

Source: May 2021 Ministerial Brief.

2.55 The discussion around the option of a 25-metre pool for the Phillip pool site shows that this option was under consideration approximately 17 months prior to the changes for the requirements for the site being made in the Draft Territory Plan in October 2022 (discussed in Chapter 3).



2.56 On 20 May 2021 the Director-General of EPSDD approved a Ministerial Brief to the Minister for Planning and Land Management and the Minister for Sport and Recreation in relation to the PSISC. The purpose of the Ministerial Brief was ‘to enable advice to be provided to the lessee of the block regarding the development provisions applicable to their block’. The Brief explicitly considered the provision of future aquatic facilities on the site in light of potential redevelopment. In doing so, the Brief noted:

- ‘the requirement for a 50m indoor pool, as contained in the Phillip Precinct Map and Code as part of any proposed redevelopment for the site, is structurally difficult and costly to achieve, according to the Lessee’; and
- ‘if it is considered difficult to make a 50m indoor pool viable structurally, a 25m pool may be viable and could be used for swim school programs, water aerobics and could have a leisure pool and splash park component as part of the indoor facility’.



2.57 The Ministerial Brief contemplated the need for ‘a detailed aquatic facility planning study’ as a precursor to any changes to the Territory Plan requirements for the PSISC site. The Ministerial Brief recommended that the Ministers ‘agree to a planning study being commissioned by the Government to determine whether the loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community’. The Minister for Planning and Land Management and the Minister for Sport and Recreation agreed to the recommendation.

Action on the planning study

- 2.58 Despite the agreement of the Ministers to the recommendation that a planning study be undertaken ‘to determine whether the loss of the existing Phillip pool will detrimentally impact public access to swimming facilities for the Woden community’, CMTEDD did not commission such a study. CMTEDD advised in December 2025 that it was agreed at the officer level between CMTEDD and EPSDD that the requirements to change the pool were already well understood, and it was subsequently determined that a planning study was not necessary.
- 2.59 The Audit Office sought further information and documentation from CMTEDD on the decision to not proceed with a ‘detailed aquatic facility planning study’ as agreed to in the Minister’s Brief.
- 2.60 CMTEDD subsequently advised that staff within CMTEDD and EPSDD questioned the actual need for the study through a series of email exchanges. The email exchanges provided by CMTEDD are summarised in Table 2-4.

Table 2-4 Email exchanges regarding the need for a ‘detailed aquatic facility planning study’ relevant to the Phillip pool

Email date	Email author and recipient	Content of email
28 March 2022	From Deputy Director-General, Planning and Sustainable Development, EPSDD to the Executive Group Manager, Economic Development, CMTEDD	- The email included comments and changes to a proposed agenda for a meeting with the Ministers for Sport and Recreation and Planning and Land Management in late March 2022. - Under the agenda item ‘Is there a need to plan for a new ACT Government pool in Woden?’, the Deputy Director-General noted that ‘I would suggest that this is more about - Needs assessment for a public outdoor pool in the Woden Valley/South Canberra and this needs to be done first prior to considering options for facilities and/or sites’.
17 June 2022	From a Senior Director, Sport and Recreation Branch, CMTEDD to the Executive Group Manager, Development and Implementation, EPSDD	- The email provided background information on the Phillip pool site for EPSDD consideration. - An attachment to this email was a spreadsheet prepared by the Sport and Recreation Branch that presented scenario and option analysis to help inform future discussions on the Phillip pool site. - In referencing the planning study in this spreadsheet, Sport and Recreation Branch questioned ‘if such a study is actually required’.

Email date	Email author and recipient	Content of email
14 November 2022	From a Senior Director, Development and Implementation, EPSDD to the Executive Branch Manager, Development and Implementation, EPSDD	The email suggested that the <i>Community and Recreational Facilities Assessment – Woden Valley District</i> (November 2020) confirmed ‘the need for water based recreation facilities and indoor sports courts so we don’t need to do that again’.

Source: Audit Office review of emails provided by CMTEDD.

2.61 The emails summarised in Table 2-4 show that staff within CMTEDD and EPSDD discussed the requirement for a ‘detailed aquatic facility planning study’. The email of 28 March 2022 from the Deputy Director-General, Planning and Sustainable Development (EPSDD) appears to endorse the need for a study to be conducted as recommended and agreed to in the May 2021 Ministerial Brief:

I would suggest that this is more about - Needs assessment for a public outdoor pool in the Woden Valley/South Canberra and this needs to be done first prior to considering options for facilities and/or sites.

2.62 Subsequent emails in June and November 2022 show that officers within both CMTEDD and EPSDD questioned the need for such a study. However, they do not demonstrate a formal decision to not proceed with the study as agreed in the 2021 Ministerial Brief.

2.63 CMTEDD did not provide:

- evidence formally documenting the decision to not proceed with a planning study as agreed by the Minister for Planning and Land Management and the Minister for Sport and Recreation in June 2021; nor
- evidence that a decision to not proceed with a planning study had been communicated to the Ministers.



2.64 CMTEDD did not commission ‘a detailed aquatic facility planning study’ as recommended and agreed to in the Ministerial Brief. CMTEDD advised in December 2025 that it was agreed at the officer level between CMTEDD and EPSDD that the requirements to change the pool were already well understood, and it was subsequently determined that a planning study was not necessary. CMTEDD did not provide:

- evidence formally documenting the decision to not proceed with a planning study as agreed by the Minister for Planning and Land Management and the Minister for Sport and Recreation in June 2021; nor
- evidence that a decision to not proceed with a planning study had been communicated to the Ministers.

Ministerial Brief on the PSISC (October 2021)

- 2.65 A Ministerial Brief was provided to the Minister for Planning and Land Management and the Minister for Sport and Recreation ahead of a meeting on 19 October 2021. The Brief was an information brief for the meeting. It noted that the purpose of the meeting was to ‘discuss the future of the Phillip Swimming and Ice-Skating Centre’. The meeting included ACT Government representatives from the Sport and Recreation Branch, CMTEDD and the Planning and Urban Policy Branch, EPSDD.
- 2.66 The Ministerial Brief identified the range of planning, legal, financial and political matters to be considered with respect to the future of the site. The Brief also noted:
- legal representatives for the PSISC lessee had sent correspondence to EPSDD seeking support for a range of concessions and changes to be made to support the site being redeveloped in the future (refer to paragraphs 2.29 to 2.35); and
 - if the ACT Government was to proceed with the new ice sports facility in Tuggeranong, it was expected the PSISC lessee would immediately take steps to seek Government support to vary the Territory Plan and/or seek additional compensation or financial support from the Territory. If this failed, it was expected that the lessee would then consider other more formal legal proceedings.

Presentation

- 2.67 The following information was included in a PowerPoint presentation by CMTEDD and EPSDD representatives to the Ministers on 19 October 2021:
- background on the Territory Plan requirements. The presentation noted that the ‘Territory Plan may protect the existing community uses (pool/ice rink), but these requirements will likely prevent the site ever being redeveloped (new indoor pool/ice rink would like cost more than \$45 million)’;
 - the requirements of the Crown lease including that the site only be used for a public swimming pool and ice rink and that the swimming pool would be open to the public;
 - legal correspondence between the ACT Government and the lessee, including:
 - requests for rent relief;
 - permissions for the pool not to open following COVID-19 restrictions; and
 - request for a technical amendment to the Territory Plan to remove the conditions for an ice rink and pool.
 - background on new ice sports facilities, user group implications for the closure of the PSISC, potential sites for a new pool in Woden (noting these were limited) and the potential opportunity for the ACT Government to acquire the site and build a 25-metre pool.
- 2.68 Neither the Ministerial Brief or the PowerPoint presentation referenced the requirement for a ‘detailed aquatic facility planning study’ to be commissioned to determine whether

the loss of the existing Phillip pool would detrimentally impact public access to swimming facilities for the Woden community, as agreed by the Ministers in June 2021.

- 2.69 CMTEDD did not prepare a written record of the outcomes of the meeting. CMTEDD advised that the draft Ministerial Brief prepared by EPSDD outlining a five-year plan for the Phillip pool (discussed later in paragraphs 2.78 to 2.86) was a progression of work regarding the site.



- 2.70 A Ministerial Brief was provided to the Minister for Planning and Land Management and the Minister for Sport and Recreation ahead of a meeting on 19 October 2021. The meeting included ACT Government representatives from the Sport and Recreation Branch, CMTEDD and the Planning and Urban Policy Branch, EPSDD. A PowerPoint presentation was also prepared ahead of a presentation by CMTEDD and EPSDD representatives to the Ministers on 19 October 2021. Neither the Ministerial Brief or the PowerPoint presentation referenced the requirement for a 'detailed aquatic facility planning study' to be commissioned to determine whether the loss of the existing Phillip pool would detrimentally impact public access to swimming facilities for the Woden community, as agreed by the Ministers in June 2021.

Ministerial meeting to discuss the future of the PSISC (March 2022)

- 2.71 In March 2022, the Executive Group Manager for Statutory Planning wrote a brief to the Minister for Planning and Land Management, which noted that:

You have agreed to meet with the Minister for Sport and Recreation on 29 March 2022, along with representatives from Chief Minister's, Treasury and Economic Development Directorate (CMTEDD) – Sport and Recreation and the Environment, Planning and Sustainable Development Directorate (EPSDD) to discuss the future of the Phillip Swimming and Ice-Skating Centre.

- 2.72 The brief summarised operational and financial constraints associated with the ageing facility, including structural deterioration and limitations posed by the existing lease. The brief also identified the ongoing advocacy of community stakeholders seeking to retain public access to aquatic facilities in Woden.
- 2.73 The brief identified that a Territory Plan variation had not been proposed but that any future changes to the Territory Plan would be subject to community consultation as required under planning legislation.
- 2.74 The agenda items proposed for this meeting covered:
- the lessee's concerns with the continued operation of the PSISC including increasing maintenance costs for the ageing site, the mandatory requirements for the site making redevelopment difficult and the impact of the new ice rink on the current facility;

- the lessee's continual requests for ongoing rent relief through 2020, 2021 and 2022 due to COVID-19 restrictions and ongoing maintenance requirements preventing operation of the site;
- community concerns with the potential loss of a public pool in the Woden area; and
- requirements for changes to the Territory Plan and the Crown lease, noting that there were no plans to change the requirements for the site under consideration.

2.75 Similar to the brief for the October 2021 presentation to the Ministers, the March 2022 brief also does not reference the 2021 Ministerial direction that a 'detailed aquatic facility planning study' be undertaken for the site. Further, despite internal email correspondence showing that EPSDD provided comments to CMTEDD on the agenda for the March 2022 meeting noting that a needs assessment would be required prior to any options being considered for the Phillip pool site (see paragraph 2.60), this was not included in the brief.

2.76 As the meeting involved both EPSDD and CMTEDD staff briefing the Minister for Sport and Recreation and the Minister for Planning and Land Management on the future of the PSISC, the Audit Office requested both CED and CMTEDD to advise on, and provide documented evidence on, the outcomes of this meeting. In response:

- CED advised that it was unable to locate written records of the outcomes of the March 2022 meeting; and
- CMTEDD advised that it was unable to locate written records of the outcomes of the March 2022 meeting, but that EPSDD was tasked with producing a discussion paper on the future of the Phillip pool in July 2022 and provided the draft Ministerial Brief outlining a five-year plan for the Phillip pool (discussed in paragraphs 2.78 to 2.86 as evidence of this).



2.77 In March 2022, the Executive Group Manager for Statutory Planning wrote a brief to the Minister for Planning and Land Management ahead of a meeting with the Minister for Sport and Recreation on 29 March 2022. The brief summarised operational and financial constraints associated with the ageing facility, including structural deterioration and limitations posed by the existing lease. The brief also identified the ongoing advocacy of community stakeholders seeking to retain public access to aquatic facilities in Woden. Neither CED nor CMTEDD was able to locate written records of the outcomes of the March 2022 meeting. CMTEDD nevertheless advised that EPSDD was tasked with producing a discussion paper on the future of the Phillip pool in July 2022.

Draft Ministerial Brief for a five-year plan for the PSISC (November 2022)

2.78 Between July 2022 and November 2022, a Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD was in the process of preparing a brief for the Minister for Sport and Recreation and Minister for Planning and Land Management. The purpose of the Brief was 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'.

2.79 The draft Ministerial brief:

- outlined the history of the PSISC site; and
- identified the recent challenges associated with the operation of the site.

2.80 The draft Ministerial brief sought to identify options to ensure that aquatic facilities remained in Woden into the future:

Given the distribution of public pools across Canberra districts, neither Molonglo nor Tuggeranong pools could reasonably be considered as substitutes for a public pool in the Woden town centre.

2.81 To this end, the draft Ministerial Brief noted risks associated with the Phillip pool remaining in the private sector:

With the likelihood that the PSISC ice rink will be made redundant by the new Greenway ice sports facility, eliminating the cross-subsidy to the swimming pool, the era of a privately owned and operated swimming pool in Woden is inevitably coming to an end under the existing lease arrangement. The lessee has for many years suggested there is interest from private developers to acquire the site and may take steps in the foreseeable future to sell the facility.

2.82 The draft Ministerial Brief identified the acquisition of the Crown lease from Glencora as a key option:

Should the Territory wish to control how the existing PSISC site may be utilised in the future, noting the current lessee has not shown any real intention to upgrade or redevelop the aging facility, the Territory may wish to consider seeking to acquire the Crown lease from the Crown lessee (Glencora).

2.83 The draft Ministerial Brief noted that ‘EPSDD has worked closely with officers in Sport and Recreation, and the brief has been co-signed by CMTEDD Sport and Recreation’. The Brief had been in development for some time and input had been provided by both EPSDD and the Sport and Recreation Branch in CMTEDD. This was prior to the October 2022 changes to the Draft Territory Plan for the Phillip pool site requirements (refer to Chapter 3).

2.84 The draft Ministerial Brief presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. In support of the proposal, the Ministerial Brief cited the November 2020 *Community and Recreational Facilities Assessment – Woden Valley District* (discussed in paragraphs 2.21 to 2.24) and concept plans prepared by an architect. The concept plans showed different configurations for the site, all involving a 25-metre pool and additional aquatic facilities as well as different configurations for indoor sports courts. It also referenced other aquatic infrastructure precedents, most notably the Batemans Bay Pavilion (discussed in paragraphs 2.88 to 2.93), as models for modernising ageing 50-metre pools into more flexible 25-metre configurations.

2.85 The draft Ministerial Brief identified:

Notwithstanding the inevitable tensions, evidence in support of the 25m model with extensive water play areas will likely be compelling. Also, in the Woden context, the loss more than 10 years ago of the two indoor basketball courts remains the source of considerable community concern. This raises another trade-off – Is money best spent on a 50m pool if the same money can create a 25m aquatic centre with indoor sports courts?

2.86 The Ministerial Brief remained in draft and was not finalised. In advice provided to the Audit Office in December 2025, CED advised that the brief was not finalised as the site was acquired by Geocon in December 2022, meaning that the exploration of options for the Territory to acquire the Crown lease was no longer relevant.

Research referenced in the draft November 2022 Ministerial Brief

2.87 The draft November 2022 Ministerial Brief referenced key inputs of relevance to the Phillip pool site. These were:

- the experience of the Batemans Bay Pavillion; and
- drawings of options for the Phillip pool site produced by an architect.

Batemans Bay Pavillion

2.88 The draft Ministerial Brief highlighted that ‘Batemans Bay, NSW offers a recent case study where the original 50-metre pool was replaced with an indoor 8-lane 25-metre pool, water play facilities including water slides, gym and program rooms’.

2.89 The Batemans Bay Pavillion is located in the Eurobodalla Shire in New South Wales and comprises an Arts Pavilion and an Aquatic Pavilion. The Arts Pavilion includes a theatre, bar, gallery and studios whilst the Aquatic Pavilion includes a 25-metre lap pool, warm water pool, gym, water slides and splash park. The precinct is serviced by a café, visitor centre and a retail store.

2.90 In August 2017, consultants Otium Planning Group were engaged by the Eurobodalla Shire Council to prepare a business case for an aquatic and recreation centre and an arts and cultural facility in Mackay Park, Batemans Bay. The purpose of the business case was to:

- determine the most appropriate mix of facilities, support infrastructure and related commercial services for an aquatic and arts/ cultural centre;
- inform the preparation of architectural concept plans and site layout for these facilities; and
- analyse the capital and operational costs of concept plan options.

- 2.91 The business case recommended a 25-metre indoor pool and associated aquatic facilities. To support the case for a 25-metre indoor pool, the business case noted that:

An indoor aquatic centre in Batemans Bay will respond to long standing demands for heated, year round pool access. The proposed different bodies of water with varying depths and temperatures will service a range of demographics and community needs. Leisure and adventure water elements will better service the largely family orientated tourist market and local family recreation demand. Health and fitness facilities are incorporated in order to service all market segments and maximise usage and viability.

A 50m pool is not recommended for the Mackay Park Batemans Bay precinct due to the following:

- It is inconsistent with the recommendations of the Draft Aquatic Strategy (see above)
- There is a limited market for traditional 50m pools and a 25m x 8 lane pool can adequately service the training needs of swim club members, lap swimmers and short course competitions
- The additional capital cost of incorporating a 50m pool in the proposed facility mix would be substantial (estimated at \$6.5m)
- There is a high likelihood that other much higher use and commercially viable water spaces may be sacrificed to include a 50m pool
- A 50m pool would incur higher operating costs and deficits (estimated at between \$260,000 and \$305,000 pa, i.e. an additional \$2.6m to \$3.05m over the first 10 years of operation).

- 2.92 As discussed in Chapter 1, in December 2024 the ACT Legislative Assembly passed a motion which, in part, called on the ACT Government to ‘provide written reasons why the pool in Batemans Bay was used as a benchmark when the population of the Woden Town Centre’s 5 km catchment was over 65,000 people in 2021’.

- 2.93 In its response to the motion in February 2025, the ACT Government noted that:

The business case for the Batemans Bay facility included the demographic reference for the Eurobodalla Shire (as the area to be serviced by the pool) as 38,028 (in 2016) with a projection of 44,774 by 2036, with the addition of increased population during peak tourism periods ...

On this basis it was deemed a reasonable benchmark comparison for the Woden Town Centre. The 2021 Census Population for the Woden Valley was 39,279.

Architect drawings of options for the site

- 2.94 A firm of architects was engaged by EPSDD to provide three sketches that showed how a 25-metre pool and associated facilities could fit on the existing PSISC site. The three options on the PSISC site presented in the sketches included:

- aquatic facilities, gym and two indoor sports courts;
- aquatic facilities and three indoor sports courts; and

- aquatic facilities, gym and three indoor sports courts.

2.95 CED advised in December 2025 that the draft Ministerial Brief influenced the revisions to the Draft Territory Plan for the Phillip pool site. Further, both the experience of the Batemans Bay Pavilion and the architect drawings were identified as supporting evidence for the changes in requirements for the site in the Draft Territory Plan (discussed in Chapter 3).



2.96 Between July 2022 and November 2022, a Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD was in the process of preparing a brief for the Minister for Sport and Recreation and Minister for Planning and Land Management. The purpose of the Brief was 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'. The draft Ministerial Brief identified the acquisition of the Crown lease from Glencora as a key option noting that 'should the Territory wish to control how the existing PSISC site may be utilised in the future ... the Territory may wish to consider seeking to acquire the Crown lease from the Crown lessee (Glencora)'.



2.97 The draft Ministerial Brief presented several options for the use of the site including a preferred option that involved a 25-metre pool, indoor sports courts and multipurpose facilities. The concept plans showed different configurations for the site, all involving a 25-metre pool and additional aquatic facilities as well as different configurations for indoor sports courts.



2.98 The Ministerial Brief remained in draft and was not finalised. CED advised that the brief was not finalised as the site was acquired by Geocon in December 2022, meaning that exploring options for the Territory to acquire the Crown lease was no longer relevant.

3 Changes to the Territory Plan

- 3.1 This chapter discusses the changes to the requirements for the PSISC site in the Draft Territory Plan. The chapter discusses how the changes were identified, documented and agreed by ACT Government officials.

Summary



Conclusions

In late October 2022, just prior to the finalisation of the 2023 Draft Territory Plan for presentation to Cabinet, ACT Government officials recognised the opportunity to change the Territory Plan requirements for the PSISC site as part of the broader reform to the Territory planning system. There was no rigorous or specific analysis of needs or options for the PSISC site or Phillip pool, as it was then or into the future, that identified the proposed requirements as appropriate for the site. It was apparent, however, that ACT Government officials:

- recognised there was a body of work underway in relation to the draft Ministerial Brief ‘to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre’. This body of work recognised:
 - the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23);
 - the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong;
 - the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre indoor pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community.



Key findings

Changes to Territory Plan requirements for the PSISC

Paragraph

In late October 2022, just prior to the finalisation of the 2023 Draft Territory Plan for presentation to Cabinet, ACT Government officials recognised an opportunity to change the Territory Plan requirements for the Phillip pool site. The changed Territory Plan requirements for the site were first documented late on Monday 17 October 2022 in an email from a Senior Director in the Sport and Recreation Branch of CMTEDD. The preferred option involved the replacement of the 50-metre pool with an indoor 25-metre pool and additional aquatic facilities. The reduction in pool size was justified on the basis of providing ‘a better all round outcome in relation to the capital cost, ongoing financial viability and future maintenance/upgrade

3.32

requirements'. The proposed wording for the changed Territory Plan requirements for the site were tweaked over the next few days, but remained substantially intact for inclusion in the Draft Territory Plan presented to Cabinet.

There was no rigorous or specific analysis of needs or options for the PSISC site or Phillip pool, as it was then or into the future, that identified the changed requirements as the best option for the site. It was apparent, however, that ACT Government officials: 3.33

- recognised there was a body of work underway in relation to the draft Ministerial Brief 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'. This body of work recognised the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23), the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong and the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community. The Batemans Bay experience was identified as an example of this trend and the change in requirements for the PSISC site reflected this broader trend.

Changes to the Territory Plan

Development of the Draft Territory Plan

3.2 Part 20.3, Section 605 of the ACT's *Planning Bill 2022* states that 'the territory planning authority must prepare a draft of the territory plan in accordance with this part not later than 6 months after this section commences'. The *Planning Bill 2022* was passed on 21 September 2022, meaning that a Draft Territory Plan needed to be prepared within six months of this date.

3.3 The *Proposed New Territory Plan - Supporting Report* (November 2022) outlined the process undertaken in reviewing and preparing the Draft Territory Plan. This included:

- reviewing feedback from the community and industry; and
- benchmarking the ACT's existing planning system against Australian and international examples.

3.4 The review process for the development the Draft Territory Plan is shown in Figure 3-1.

Figure 3-1 Review process for the development of the Draft Territory Plan

Source: *Proposed New Territory Plan - Supporting Report* (November 2022).

Timeline for the release of the Draft Territory Plan

- 3.5 The Planning System Review and Reform team in EPSDD, and specifically the Territory Plan and District Planning sub-teams, were responsible for preparing the Cabinet submission for the release of the Draft Territory Plan for public consultation. The planning policy and statutory planning areas within EPSDD were involved in setting the form and structure of the Draft Territory Plan and associated documents. Other parts of ACT Government agencies were involved in the process where it was relevant to their subject matter.
- 3.6 Prior to finalisation, the Draft Territory Plan and supporting materials were circulated for comment for six days between 13 October and 19 October 2022 to the following ACT Government directorates and agencies: CMTEDD, Justice and Community Safety Directorate, Education Directorate, Transport Canberra and City Services Directorate, Health Directorate, Major Projects Canberra and the Suburban Land Agency.
- 3.7 Agency comments on the final package for Cabinet were due by close of business on 20 October 2022. Following this date, the Territory Plan team in EPSDD made final changes to the documents in response to comments that had been received. The final revised document was provided to the EPSDD Executive for clearance on 21 October 2022.
- 3.8 Due to the size of the package of material that had been prepared for Cabinet, agreement was received from the Cabinet Office for the then Minister for Planning and Land Management's office to provide the documentation to Cabinet by 24 October 2022.
- 3.9 The Draft Territory Plan was presented to Cabinet on 24 October 2022 by the then Minister for Planning and Land Management. The purpose of the Cabinet submission was to:
- Provide Cabinet with the draft new Territory Plan, Supporting Materials and Supporting Report, and to seek Cabinet agreement to their release for statutory public consultation from early November 2022 for a period of three months.

Changes to Territory Plan requirements for the PSISC

3.10 In October 2022 the preparation of the Draft Territory Plan for presentation to Cabinet was nearing completion. In relation to the PSISC site, and the Phillip pool specifically, the Draft Territory Plan was being prepared in the context of:

- the recent operational history of the Phillip pool, including its closure throughout the 2020-21, 2021-22 and 2022-23 summer periods; and
- the preparation of the draft Ministerial Brief ‘to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre’ (refer to paragraphs 2.77 to 2.92).

Recognition of opportunity to change the Territory Plan requirements

3.11 It was in this context that ACT Government officials recognised an opportunity to change the Territory Plan requirements for the PSISC site. Discussions with senior ACT Government officials that were involved at the time were inconclusive as to:

- how the opportunity was identified;
- who initially identified the opportunity; and
- for what purpose the opportunity was identified.

3.12 Nevertheless, an email from a Senior Director in the Sport and Recreation Branch of CMTEDD to a Senior Director in the Territory Plan, Planning and Urban Policy Branch of EPSDD on Monday 17 October 2022 suggested this was recognised and discussed at senior executive levels across ACT Government agencies:

My Deputy Director-General ... has had a couple of conversations with [Director-General of EPSDD] recently and it has been suggested [there] 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 ... would this be amending the wording in the draft Territory Plan?

3.13 The Senior Director in the Territory Plan, Planning and Urban Policy Branch of EPSDD responded shortly thereafter with the advice that any proposed amendments needed to be prepared by the following day:

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 18th). 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).

Development of revised Territory Plan requirements

3.14 Later that day (Monday, 17 October 2022) the Senior Director in the Sport and Recreation Branch of CMTEDD sent an email to the Executive Branch Manager of the Sport and Recreation Branch of CMTEDD, the Executive Group Manager of the Economic Development Group of CMTEDD and the Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD with the first draft of revised Territory Plan requirements for the PSISC site. Two different options were presented:

- a preferred option that involved changes to Territory Plan requirements for a range of aquatic facilities on the site; and
- an alternate option 'if there is only scope/capacity to update the Territory Plan relevant to the 50 metre pool'.

3.15 The preferred option was:

Area "A" ... must provide a 50 metre 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 500m².
- Associated amenities/facilities to support the operation of the pool facilities.

3.16 In presenting this as the preferred option the Senior Director in the Sport and Recreation Branch of CMTEDD justified the reduction in the pool size as providing 'a better all round outcome in relation to the capital cost, ongoing financial viability and future maintenance/upgrade requirements':

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.

3.17 In presenting this as the preferred option the Senior Director in the Sport and Recreation Branch of CMTEDD sought clarification from the Senior Manager in the Strategic Projects

and Infrastructure, Development and Implementation section of EPSDD with respect to the work that had been commissioned from the architects for the purpose of the draft Ministerial brief:

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)?

- 3.18 Feedback was provided by the Senior Manager in the Strategic Projects and Infrastructure, Development and Implementation section of EPSDD early the following morning (Tuesday 18 October 2022) advising that 'the brief for [the architects'] aquatic facilities was basically the same as your 4 dot points' but that an additional requirement should be:

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

- 3.19 Shortly thereafter this change was endorsed by Senior Director in the Sport and Recreation Branch of CMTEDD who sought confirmation from Executive Branch Manager of the Sport and Recreation Branch of CMTEDD, the Executive Group Manager of the Economic Development Group of CMTEDD that they were satisfied with the proposed changes. In doing so the Senior Director noted:

... 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...)

- 3.20 Later that morning agreement was sought and received from a representative from the office of the Minister for Sport and Recreation for the proposed change.

- 3.21 The proposed wording was then provided to the Senior Director, Territory Plan, Planning and Urban Policy of EPSDD, who requested whether there should be '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?'. This suggestion was acknowledged and agreed to by the Senior Director in the Sport and Recreation Branch of CMTEDD.

- 3.22 Over the ensuing days, between Wednesday 19 October 2022 and Thursday 20 October 2022, there was further correspondence between ACT Government officials to develop and agree on wording for inclusion in the explanatory and supporting material for the Draft Territory Plan, including the Woden District Policy. The final version of the wording that was developed accorded with the proposed wording for the Draft Territory Plan.

Ministerial approval

- 3.23 On the morning of Thursday 20 October 2022, the Executive Branch Manager, Parliamentary and Governing Agreement (PaGa) Coordination, Planning and Urban Policy in EPSDD emailed a Senior Advisor in the office of the Minister for Planning and Land

Management seeking approval of the proposed wording. Two options were provided. The options were similar in wording to those sent on the morning of Monday 17 October 2022 by the Senior Director in the Sport and Recreation Branch of CMTEDD but tweaked to reflect subsequent feedback that there be flexibility to remove the requirement for the provision of an ice-skating rink. The preferred option's wording was:

Area "A" ... 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, but 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), 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 500m².
- 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).

3.24 The same justification for the preferred option that was made on the morning of Monday 17 October 2022 was provided, with additional argument as follows:

There is a risk the proposed changes will not be well received by some segments of the community who are 50m or competition swimmers 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 ...). The benefits would be that the lessee can consider redevelopment options that allow for a more modern and multi-use facility for the wider community, cheaper to heat and operate than a 50m pool, and could be combined with other commercial or community facilities or residential above the pool and ice rink (if it continues to be required at this site).

3.25 During this period officials in EPSDD continued to prepare the Draft Territory Plan and its supporting documentation, as well as Cabinet briefing documents. Before the Senior Advisor in the office of the Minister for Planning and Land Management had responded, the EPSDD Deputy Director-General urged caution about incorporating the proposed changes into the revised Territory Plan and supporting documentation:

I don't think changes should be made at this stage without direction from the Minister and noting that adequate supporting policy material is not present.

I understand this email is seeking direction from the Min office – so suggest nothing changes until directed.

- 3.26 In any event, the Senior Advisor responded late in the afternoon of Thursday 20 October and noted that:

I've discussed the below with [the Minister for Sport and Recreation's office] and we both agree that Option 2 is the way to go. Keeping the requirement for outdoor space will be very important (and hopefully help assure community concerns). Happy for these changes to made.

Final wording for the PSISC site

- 3.27 Late on Friday 21 October the Senior Director, Territory Plan, Planning and Urban Policy of EPSDD sent an email to the Senior Director in the Sport and Recreation Branch of CMTEDD and the Executive Branch Manager, PaGa Coordination, Planning and Urban Policy in EPSDD to advise that they had adjusted the wording of the Draft Territory Plan requirement to reflect subsequent CMTEDD feedback that 'adds the requirement for year round use and opening hours'. The final proposed wording was:

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

Area 'A' ... 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 500m²
- 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.

- 3.28 A review of the email correspondence relevant to changes to Territory Plan requirements for the PSISC in late October 2022 shows:

- the change in requirement from a 50-metre pool to a 25-metre pool at the PSISC site, along with the provision of additional aquatic facilities, was initially documented on 17 October 2022 in an email from a Senior Director in the Sport and Recreation Branch of CMTEDD;
- CMTEDD and EPSDD senior executive approval was sought and obtained for the changes prior to the inclusion in the Draft Territory Plan; and

- representatives of the offices of both the Minister for Sport and Recreation and Minister for Planning and Land Management also approved and endorsed the proposed changes.

Changes to the requirements for the PSISC site in the Draft Territory Plan

3.29 The Audit Office sought further information from current and former senior executives and staff from CED and CMTEDD to understand the context within which the changes to the PSISC site in the Draft Territory Plan were made. These current and former ACT Government employees were directly involved in, or copied into, the email correspondence outlined in Table 2-3.

3.30 Through these discussions, the Audit Office sought to understand:

- the origin of the wording changes for the requirements for the site in the Draft Territory Plan, including how the wording changes were developed, by whom and who directed the changes;
- if any other research had been undertaken by CED or CMTEDD to support the changes to the requirements in the Territory Plan for the PSISC site; and
- the consideration of community concerns on removing the requirements for the 50-metre pool at the site.

3.31 Through these discussions it was apparent that ACT Government officials:

- recognised there was a body of work underway in relation to the draft Ministerial Brief 'to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre'. This body of work recognised the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23), the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong and the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community. The Batemans Bay experience was identified as an example of this trend and the change in requirements for the PSISC site reflected this broader trend.



3.32 In late October 2022, just prior to the finalisation of the 2023 Draft Territory Plan for presentation to Cabinet, ACT Government officials recognised an opportunity to change the Territory Plan requirements for the Phillip pool site. The changed Territory Plan requirements for the site were first documented late on Monday 17 October 2022 in an email from a Senior Director in the Sport and Recreation Branch of CMTEDD. The preferred option involved the replacement of the 50-metre pool with an indoor 25-metre pool and additional aquatic facilities. The reduction in pool size was justified on the basis of providing

‘a better all round outcome in relation to the capital cost, ongoing financial viability and future maintenance/upgrade requirements’. The proposed wording for the changed Territory Plan requirements for the site were tweaked over the next few days, but remained substantially intact for inclusion in the Draft Territory Plan presented to Cabinet.



3.33 There was no rigorous or specific analysis of needs or options for the PSISC site or Phillip pool, as it was then or into the future, that identified the changed requirements as the best option for the site. It was apparent, however, that ACT Government officials:

- recognised there was a body of work underway in relation to the draft Ministerial Brief ‘to provide options and to seek direction about a five-year plan for Phillip Pool and Ice Skating Centre’. This body of work recognised the recent challenges associated with the operation of the site (including the closure of the pool in 2020-21, 2021-22 and 2022-23), the impact on the viability of the site from the proposed new ice sports facility in Tuggeranong and the desire of the former lessee to change the Territory Plan requirements to allow for redevelopment; and
- considered that there had been a trend in aquatic facilities around Australia moving away from 50-metre outdoor pools to 25-metre pools accompanied by a range of aquatic facilities, which sought to cater to a wider range of users in the community. The Batemans Bay experience was identified as an example of this trend and the change in requirements for the PSISC site reflected this broader trend.



Recommendation 1

Documentation of community needs and interests

The Chief Minister, Treasury and Economic Development Directorate should ensure that any advice in relation to future changes to Territory Plan requirements for sport and recreation amenities are supported by documented assessment that takes into account research and analysis of community needs and interests.

Cabinet approval to release Draft Territory Plan

3.34 On 25 October 2022, Cabinet agreed to release the Draft Territory Plan and associated documentation for community consultation from 1 November 2022 to 3 March 2023.

3.35 The Draft *Territory Plan, Part D7: Woden District Policy* provided to Cabinet included the following requirements for the PSISC site:

Area ‘A’ ... retains 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 toddler/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m²
- 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.

3.36 The submission to Cabinet included the following information in relation to the PSISC site:

CMTEDD (Sport and Recreation) has requested a proposed change (subject to community consultation) to the requirement to provide an ice-skating facility and 50m swimming pool at the Phillip Swimming and Ice Skating Centre in the Woden District Policy. Flexibility will be added so that an ice sports facility will not be required if another facility is provided in the ACT. If the pool site is redeveloped, a 25m, 8-lane indoor pool will be required, as well as a program pool and learn to swim/toddler pool.

3.37 The consultation process is discussed in Chapter 4.

4 Consultation on changes to Territory Plan requirements

- 4.1 This chapter discusses consultation processes for the changes to the Territory Plan requirements for the PSISC site. The chapter discusses how community feedback on the PSISC site, and the Phillip pool specifically, was considered during the development of the new 2023 Territory Plan.

Summary



Conclusions

Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. Changes to the requirements of the PSISC site were specifically identified and referenced in a number of documents released for community consultation.

Some comments were received explicitly in relation to the Phillip pool or the need for a pool in the context of the Woden District Strategy. A Listening Report (May 2023) that summarised feedback received during the consultation period and a Submission Report (July 2023) that summarised and analysed the community feedback on the Draft Territory Plan noted community concern with the potential loss of the Phillip pool.

In response to community concerns on the changed Territory Plan requirements for the site, a Consultation Report (September 2023) noted that ‘a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community’. A sport and recreation needs analysis was not undertaken as described. The assertion was incorrect and misrepresented the nature and extent of analysis that was used to support a change in the Territory Plan requirements for the PSISC.



Key findings

Consultation on the Draft Territory Plan

Paragraph

Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. The consultation process included a range of engagement activities over four phases. Consultation was guided by a Communications Plan, which identified the stakeholders that EPSDD would engage with on the Draft Territory Plan and district strategies, including: the Canberra community; community, business and interest groups; media outlets; and ACT Government directorates/agencies.

4.17

The Communications Plan developed for the release of the Draft Territory Plan and provided to Cabinet in October 2022 was comprehensive and identified: 4.18

- key stakeholders and their expected views;
- risks, sensitivities and mitigation strategies; and
- a detailed timeline of engagement activities before, during and after the consultation period to ensure that the community and stakeholder groups were well informed on how they could provide feedback.

On 1 November 2022 the ACT Government released the Draft Territory Plan and supporting materials for the purpose of community consultation. Consultation commenced on 1 November 2022 and concluded on 3 March 2023. Changes to the requirements of the PSISC site were specifically identified and referenced in a number of documents released for community consultation on the Draft Territory Plan including: 4.30

- *At a glance – Proposed New Territory Plan;*
- *Draft Proposed New Territory Plan – Supporting Report; and*
- *Part D7 Woden District Policy.*

Consideration of community feedback

During the four-month consultation process over 1900 individual comments were received with 393 written submissions received specifically in relation to the Draft Territory Plan. Seventy-nine of the written submissions referenced the Woden district (20 percent of written submissions). Fourteen of the submissions specifically commented on the Phillip pool: 4.43

- the majority of the submissions made minor references to the Phillip pool as part of broader comments on the Woden district. One of the submissions focused on the Phillip pool and summarised feedback from 127 responses to a survey;
- three expressed a preference to retain a 50-metre pool at the site with a further submission expressing concern that a 25-metre pool may not meet the demands of various swimming groups in the Woden area; and
- concerns or issues raised in the submissions generally focused on maintaining the pool in Phillip, ensuring it remained affordable and accessible and that urban densification in Woden may lead to the loss of the Phillip pool.

In addition, 1026 online comments were received as well as 175 online survey responses. Across both the online comments and online surveys, there were 13 submitted comments that either explicitly referenced the Phillip pool or expressed support for retaining the pool in their comments about the Woden District Strategy. The main issues identified in relation to the Phillip pool included: 4.44

- accessibility of alternate pools and lack of like for like replacement for the Phillip pool (five responses);
- a preference to retain a 50-metre pool instead of having a 25-metre pool (three responses);
- a lack of sporting or recreational facilities not aligned to community needs (three responses); and
- concerns that the developer who purchased the PSISC site would not maintain a publicly accessible facility (two responses).

Outcomes of the consultation process

The feedback received during the consultation process for the Draft Territory Plan was documented through several reports that were made publicly available. These included:

4.65

- a Listening Report (May 2023) that summarised all the feedback received during the Draft Territory Plan consultation period;
- a Submissions Report (July 2023) that summarised and analysed the community feedback on the Draft Territory Plan and made recommendations on how to respond;
- a Consultation Report (September 2023) that responded to feedback provided on the district policies and specifications, and other technical documents; and
- a Consultation Response Report (September 2023) that set out the ACT Government's response to all feedback received.

Both the Listening Report and the Submissions Report noted community concern with the potential loss of the Phillip pool. The Submissions Report noted a 'substantial volume of comments objected to the closure of the Phillip Swimming Pool' and recommended that 'future planning and investigations for the change areas will consider ... the need for commercial and community uses'.

4.66

In response to community concerns on the changed Territory Plan requirements for the site the Consultation Report noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'. The Consultation Response Report similarly noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'.

4.67

Both the Consultation Report and Consultation Response Report referred to a 'sport and recreational needs analysis' as having determined that a 25-metre pool and associated aquatic facilities would meet the needs of the Woden community. This was reiterated by the Minister for Planning in response to a Question on Notice lodged for the purpose of the Select Committee on Estimates 2024-2025.

4.81

A sport and recreation needs analysis was not undertaken as described. This became apparent following an FOI request in August 2024, and a subsequent decision by the ACT Ombudsman in October 2025 that it does not exist. The assertion that a 'sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community' was incorrect. It misrepresented the nature and extent of analysis that was used to support a change in the Territory Plan requirements for the PSISC site. 4.82

Review and approval of the Territory Plan

On 14 September 2023, the Standing Committee on Planning, Transport and City Services commenced an inquiry into the Territory Plan as per its statutory obligations. The inquiry provided further opportunity for individuals, community interest groups and business groups to provide comment and feedback on the Interim Territory Plan prior to the Final Territory Plan being approved. The submissions made to the inquiry and the hearings for the inquiry did not raise any concerns with the change in requirements for the Phillip pool in the Territory Plan. There were no findings or recommendations made in the Committee inquiry report in relation to the Phillip pool site requirements in the Territory Plan. 4.93

Consultation on the Draft Territory Plan

Legislative requirements for consultation, notification and publication of the Territory Plan

- 4.2 The ACT planning system was reformed by repealing and replacing the legal framework for the system of planning in the ACT - the *Planning and Development Act 2007*. The *Planning Bill 2022* (the Bill) was presented to the Legislative Assembly by the Minister for Planning and Land Management on 21 September 2022.
- 4.3 The Bill set out the process for making the Territory Plan under the new planning system. This included:
- the Territory Planning Authority's preparation of a Draft Territory Plan;
 - consultation on the Draft Territory Plan; and
 - ACT Government Executive and Legislative Assembly approval of a final Territory Plan.
- 4.4 The Bill was in effect during the key consultation period for the Draft Territory Plan. It outlined the requirements for consultation under Part 20.3 'Transitional – territory plan'. This section of the Bill was transitional to support the transition to the reformed planning system.

- 4.5 The Bill became the *Planning Act 2023* which passed in the Legislative Assembly on 6 June 2023. Part 20.3 of the Act expired on 27 September 2024 when the final Territory Plan was released.
- 4.6 The sections of the Bill that outline the requirements for consultation on the Territory Plan are shown in Appendix C.

Principles of good consultation

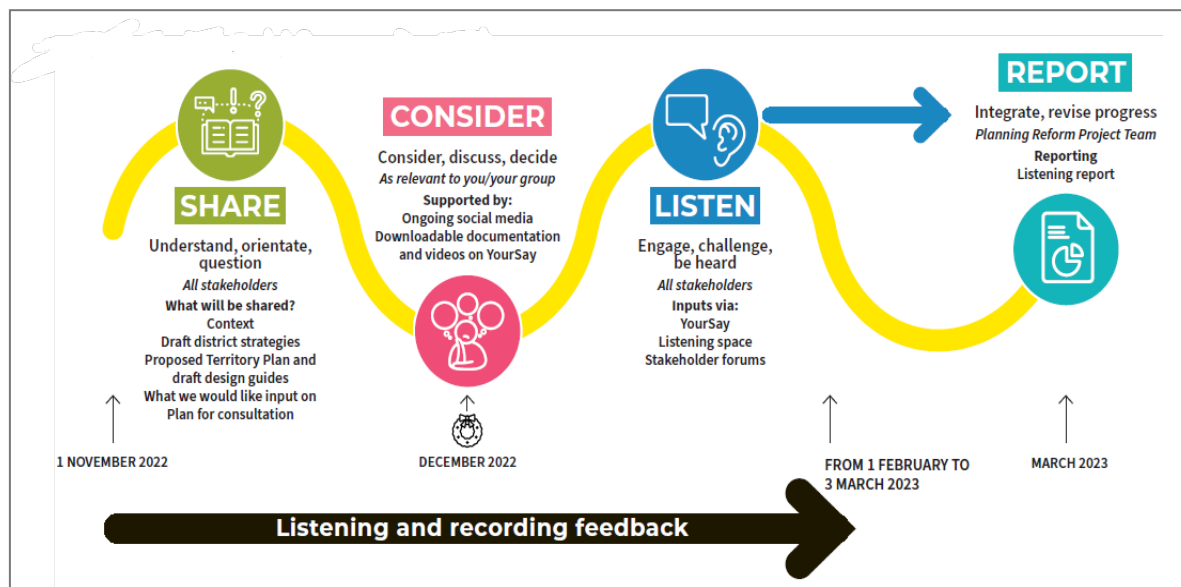
- 4.7 In addition to the specific requirements of the Bill outlined in Appendix C, the Bill (and subsequently the Act) identify *Principles of good consultation* (Part 2.2, Section 12). The Principles state:

In undertaking consultation under this Act, a person must consider that consultation should be accessible, balanced, inclusive, meaningful, resourced, respectful, timely, transparent and understandable.

- 4.8 The audit focused on changes to the Territory Plan associated with the PSISC site and how the community was notified of these changes. The audit did not consider broader community consultation processes for the Territory Plan against the *Principles of good consultation*.

Consultation on the Draft Territory Plan (November 2022 to March 2023)

- 4.9 Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. The consultation process included a range of engagement activities over four phases. Figure 4-1 shows the stages of the consultation period for the Draft Territory Plan.

Figure 4-1 Stages of the consultation period for the Draft Territory Plan

Source: ACT Government, *Explainer: Providing feedback on the new planning system*.

Development of a Communications Plan (October 2022)

- 4.10 A Communications Plan for the *ACT Planning System Review and Reform Project* was developed and provided to Cabinet in October 2022. The Communications Plan identified the stakeholders that EPSDD would engage with on the Draft Territory Plan and district strategies to do so, including: the Canberra community; community, business and interest groups; media outlets; and ACT Government directorates/agencies.
- 4.11 The Communications Plan focused on promoting education and awareness of the project and sought to provide:
- an overview of the *ACT Planning System Review and Reform Project* and how planning and the reforms would impact the community;
 - information on the significance of introducing district strategies into the new planning system; and
 - information on what the new planning system will mean for the community and how the public and stakeholders could provide their feedback.
- 4.12 The Communications Plan identified a range of risks and sensitivities and mitigation strategies, primarily around communicating objectives and keeping the stakeholders and community engaged during the consultation period.

4.13 The Communications Plan identified a timeline of communication and engagement activities comprising:

- **pre-engagement activities** including presentations and updates to community and stakeholder groups, publishing updates on the YourSay website and engaging with news media;
- **open engagement activities** including publishing documents on the YourSay website, briefings to stakeholders and news media, community and stakeholder workshops and events; and
- **post engagement activities** including internal debriefs, stakeholder presentations and communication and advertising.

4.14 The communication and engagement activities undertaken during the open engagement period, and the how those activities aligned with what was outlined in the Communications Plan, are discussed in paragraphs 4.28 to 4.29.

4.15 The Communications Plan developed for the release of the Draft Territory Plan and provided to Cabinet in October 2022 was comprehensive and identified:

- key stakeholders and their expected views;
- risks, sensitivities and mitigation strategies; and
- a detailed timeline of engagement activities before, during and after the consultation period to ensure that the community and stakeholder groups were well informed on how they could provide feedback.

4.16 The Communications Plan did not however identify as potential risks or sensitivities community concerns over changes to specific site requirements in the Draft Territory Plan, or community concerns that their feedback would not be used to inform the changes to the Territory Plan.



4.17 Consultation on the Draft Territory Plan was undertaken over a four-month period between 1 November 2022 and 3 March 2023. The consultation process included a range of engagement activities over four phases. Consultation was guided by a Communications Plan, which identified the stakeholders that EPSDD would engage with on the Draft Territory Plan and district strategies, including: the Canberra community; community, business and interest groups; media outlets; and ACT Government directorates/agencies.



4.18 The Communications Plan developed for the release of the Draft Territory Plan and provided to Cabinet in October 2022 was comprehensive and identified:

- key stakeholders and their expected views;
- risks, sensitivities and mitigation strategies; and

- a detailed timeline of engagement activities before, during and after the consultation period to ensure that the community and stakeholder groups were well informed on how they could provide feedback.

Communication of changes to the PSISC site

- 4.19 The agreed changes to the Territory Plan requirements for the PSISC (discussed in Chapter 3) were communicated to the ACT community through the release of the Draft Territory Plan.

Approval to release Draft Territory Plan for community consultation (October 2022)

- 4.20 On 25 October 2022 Cabinet agreed to release the Draft Territory Plan and supporting materials. In approving the release of the Draft Territory Plan for consultation Cabinet noted that EPSDD would prepare detailed explanatory material to support the statutory public consultation process, and the required consultation notice, in accordance with the *Planning Bill 2022*.

Notification of community consultation period (November 2022)

- 4.21 Following Cabinet's agreement to release the Draft Territory Plan and supporting materials for community consultation, EPSDD prepared a consultation notice and associated documentation in accordance with the requirements under the *Planning Bill 2022*. The primary purpose of the consultation notice was to invite the public to give written comments.
- 4.22 The consultation notice was posted on the YourSay ACT website.
- 4.23 Under section 53 of the *Planning Bill 2022*, there is a minimum 30 working day period for community consultation on the Draft Territory Plan. Consultation commenced on 1 November 2022 and concluded on 3 March 2023. The consultation period was in accordance with the requirements in the *Planning Bill 2022*.²

² Subsection 192(5) of the *Planning Bill 2022* states that 'a working day means a day that is not...a day in the period beginning on 20 December in a year and ending on 10 January the following year'. Notwithstanding this shutdown period, the legislative requirement for consultation was substantially exceeded.

Documents released for the community consultation period (November 2022)

4.24 On 1 November 2022 the ACT Government released the Draft Territory Plan and supporting materials for the purpose of community consultation. The package of documents released included:

- the Draft Territory Plan (prepared in accordance with section 605 of the *Planning Bill 2022*), including the following:
 - **Part A – Administration and governance** including maps, supporting documents and definitions;
 - **Part B – the Territory Plan** containing user guidance such as summary of the plan and how to use it;
 - **Part C – Planning principles and strategic links** on land use and development in the ACT;
 - **Part D – District policies** outlining desired policy outcomes for each of the nine districts (Belconnen, East Canberra, Gungahlin, Inner North and City, Inner South, Molonglo Valley, Tuggeranong, Weston Creek and Woden);
 - **Part E – Zone policies** outlining desired policy outcomes for each zone (such as urban, rural, and residential zones);
 - **Part F – Other policies** guiding the orderly development of land in the ACT such as on the subdivision of land, or the leasehold system; and
 - **Part G – Dictionary and annexes** containing key definitions and terms used in the Territory Plan.
- documents associated with the Territory Plan (subsection 49(2) of the *Planning Bill 2022* provides for Supporting Materials to be ‘called up’ under the Territory Plan) including:
 - **the Explanation of Intended Effects** for the ACT Urban Design Guide ACT Housing Design Guide that provides guidance to the community industry on purpose, intent, look and feel of the design guides; and
 - **Technical specifications** for each of the nine ACT districts.³
- a Supporting Report (required under section 59 of the *Planning Bill 2022* to accompany a draft new Territory Plan) that explains the Territory Plan review process and changes to the Territory Plan.
 - three factsheets were also included with the Supporting Report: *At a glance – Draft new Territory Plan*; *At a glance – Engagement Explainer*; and *How the Planning Bill 2022 shapes the proposed new Territory Plan*.

4.25 A number of documents in the package of documents that were released for community consultation specifically referenced the changes to the requirements for the PSISC site. Specific references to the PSISC site are shown in Table 4-1.

³ Technical specifications are typically numeric or quantifiable measures that cover technical planning matters, such as building height, setbacks, plot ratio, building separation, parking rates, and tree canopy cover rates.

Table 4-1 Specific references to PSISC site in documents released for community consultation on the Draft Territory Plan

Document	Reference to changes to the requirements for the PSISC site
<i>Supporting materials released for consultation</i>	
<i>At a glance – Proposed new Territory Plan</i>	Under the heading ‘What else is new?’, the document references the changes to the requirements for the Phillip Swimming and Ice-Skating Centre and provided a reference to the Supporting Report.
<i>Draft Proposed New Territory Plan – Supporting Report (November 2022)</i>	Under the section on ‘Additional changes to the Territory Plan’, the Supporting Report details the Phillip Swimming and Ice-Skating Centre including: ‘In recognition of changes to indoor swimming pool community preferences, the requirement for a 50m indoor pool to be provided if the site is redeveloped is proposed to be amended. The draft new Territory Plan instead proposes the requirement for 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 500m² • 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).’
<i>Woden specific documents released for consultation</i>	
<i>Part D7 Woden District Policy</i>	The policy states that the Phillip pool site: ‘retains 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) A 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m b) Warm water program pool – minimum dimensions of 20m x 10m c) A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m² d) A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities e) 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.’

Source: Draft Territory Plan (1 November 2022).

4.26 As noted in Table 4-1, changes to the requirements of the PSISC site were specifically identified and referenced in a number of documents released for community consultation on the Draft Territory Plan including:

- *At a glance – Proposed New Territory Plan;*
- *Draft Proposed New Territory Plan – Supporting Report; and*

- *Part D7 Woden District Policy.*

4.27 The information released for community consultation complied with Division 5.2.3 under the *Planning Bill 2022*. The changes to the PSISC site were referenced in three documents that were published on the YourSay ACT website at the commencement of the consultation period for the Draft Territory Plan.

Community and stakeholder engagement throughout the consultation period

4.28 During the consultation period, EPSDD hosted information sessions with stakeholders and the public to provide information on the Draft Territory Plan, draft district strategies and supporting material. The information sessions aligned with the activities identified during the open engagement period in the Communications Plan.

4.29 EPSDD representatives held information sharing sessions at Community Council meetings in November 2022. 'Pop up' information sessions were also held at locations throughout Canberra in February 2023. These included:

- two in Woden on 13 February 2023 at the Mawson Shops and on 14 February 2023 at the Curtin Shops;
- an online Question and Answer (Q&A) session held on 23 February 2023; and
- a two-day information session on 24-25 February 2023 for the public to meet ACT Government planners to discuss the draft district strategies and Draft Territory Plan.



4.30 On 1 November 2022 the ACT Government released the Draft Territory Plan and supporting materials for the purpose of community consultation. Consultation commenced on 1 November 2022 and concluded on 3 March 2023. Changes to the requirements of the PSISC site were specifically identified and referenced in a number of documents released for community consultation on the Draft Territory Plan including:

- *At a glance – Proposed New Territory Plan;*
- *Draft Proposed New Territory Plan – Supporting Report; and*
- *Part D7 Woden District Policy.*

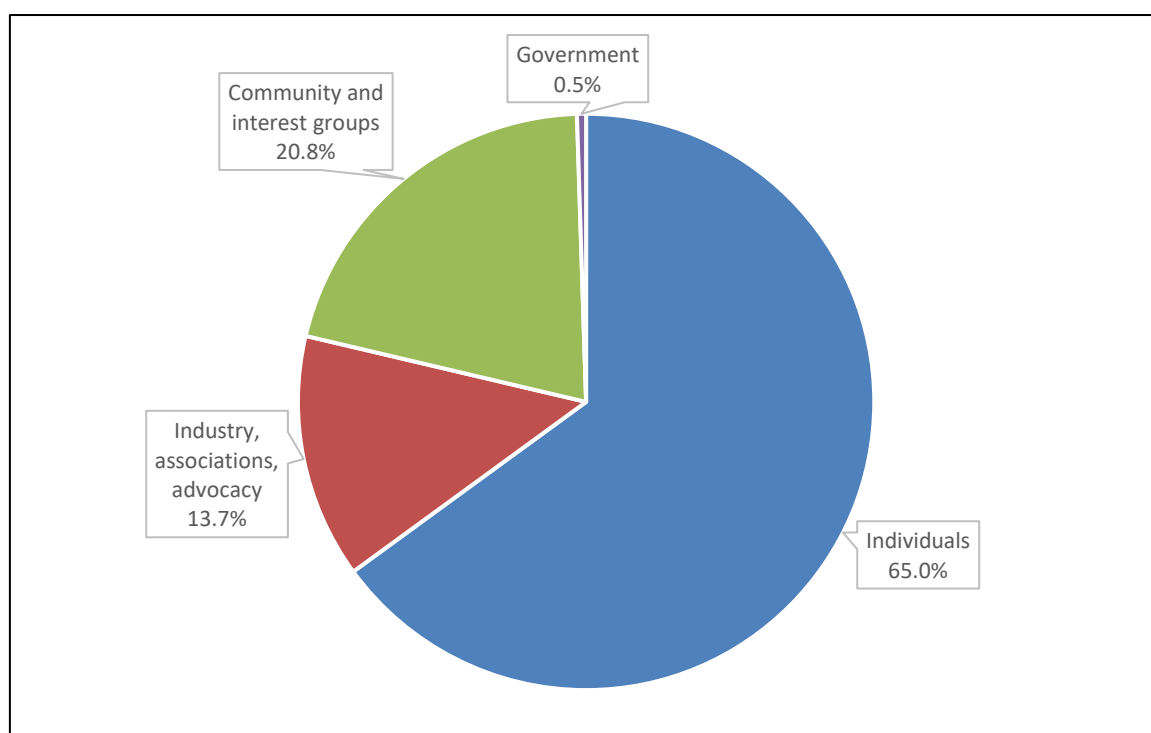
Consideration of community feedback

Feedback on the Draft Territory Plan

4.31 During the four-month consultation process over 1900 individual comments were received with 393 written submissions received specifically in relation to the Draft Territory Plan.⁴

4.32 A breakdown of the 393 submissions by stakeholder type is shown in Figure 4-2.

Figure 4-2 Breakdown of written submissions received specifically in relation to the Draft Territory Plan by stakeholder type

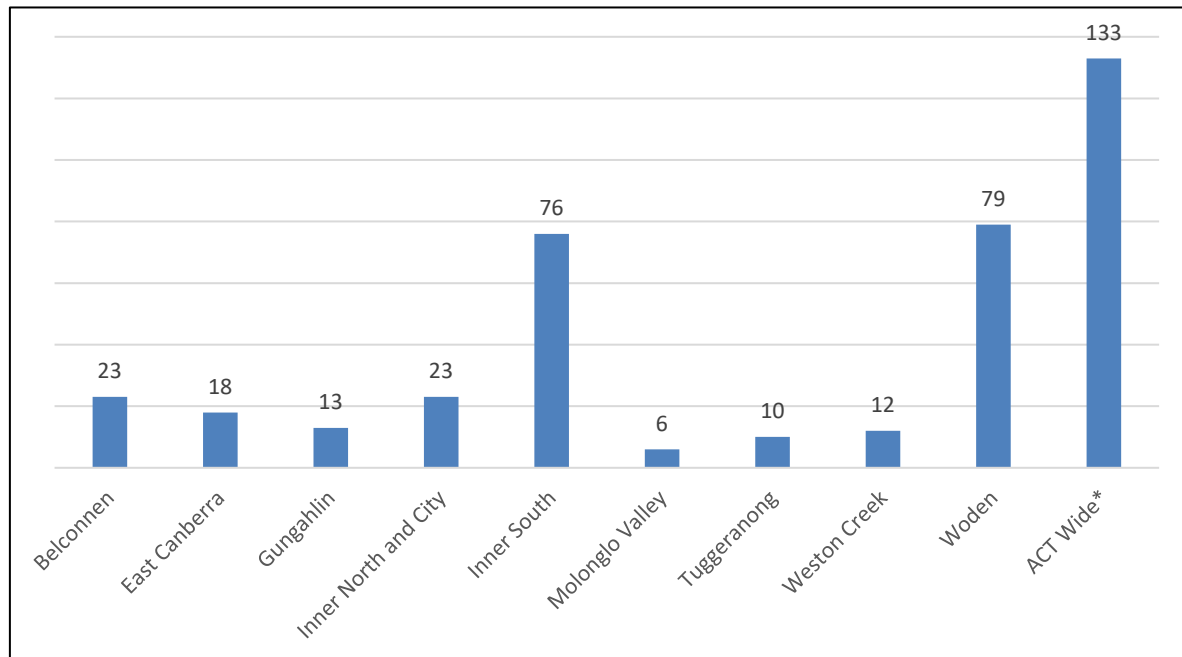


Source: Audit Office, based on Ethos Urban, *ACT Planning System Review and Reform Project: Submissions Report*, p. 14.

4.33 Figure 4-3 shows the number of submissions received by district.

⁴ While 400 written submissions were received, seven were duplicate.

Figure 4-3 Number of submissions received specifically in relation to the Draft Territory Plan by district



Note: ACT Wide includes those submissions that were cross district or for which the district was not specified.

Source: Audit Office, based on Ethos Urban, *ACT Planning System Review and Reform Project: Submissions Report*, p. 14.

4.34 As shown in Figure 4-3, 79 of the written submissions received specifically in relation to the Draft Territory Plan referenced the Woden district (20 percent of written submissions received).

4.35 In accordance with Division 5.23 of the *Planning Bill 2022*, almost all of the 393 submissions were published on the YourSay ACT website after the conclusion of the consultation period, except where the author requested their submission be kept confidential.

Feedback relevant to the PSISC site

4.36 Fourteen of the 79 written submissions received specifically in relation to the Draft Territory Plan that made comment on the Woden district specifically commented on the Phillip pool. These 14 submissions represented 3.5 per cent of the total community submissions on the Draft Territory Plan. The submissions were primarily from individuals, with one from a community group and two from business groups.

4.37 The references made in the 14 submissions varied. Some of the submissions made more substantial references to the Phillip pool and its future than others. The deidentified submissions, nature of the reference to the Phillip pool (e.g. minor or significant range of comments) and issues raised in relation to the Phillip pool are summarised in Appendix D.

4.38 Of the 14 written submissions that reference the Phillip pool:

- the majority of the submissions made only minor references to the Phillip pool as part of broader comments on the Woden district. One of the submissions focused on the Phillip pool and summarised feedback from 127 responses to a survey;
- three expressed a preference to retain a 50-metre pool at the site with a further submission expressing concern that a 25-metre pool may not meet the demands of various swimming groups in the Woden area; and
- concerns or issues raised in the submissions generally focused on maintaining the pool in Phillip, ensuring it remained affordable and accessible and that urban densification in Woden may lead to the loss of the Phillip pool.

Other community comments received on the Draft Territory Plan

4.39 In addition to providing formal submissions on the Draft Territory Plan, the public was invited to provide feedback on the Draft Territory Plan through the YourSay ACT website via a survey and online comments.

4.40 There were 1026 online comments received and 175 online survey responses.

4.41 Responses centred on the district strategies and/or were general in nature. As this was an online activity whereby submitters can remain anonymous, it was possible for the same individual to make multiple comments. Across both the online comments and online surveys, there were:

- 341 comments where submitters addressed the Woden District Strategy (33 percent of total online responses); and
- 13 submitted comments that either explicitly referenced the Phillip pool or expressed support for retaining the pool in their comments about the Woden District Strategy (one percent of total online responses).

4.42 The main issues identified in relation to the Phillip pool included:

- accessibility of alternate pools and lack of like for like replacement for the Phillip pool (five responses);
- a preference to retain a 50-metre pool instead of having a 25-metre pool (three responses);
- a lack of sporting or recreational facilities not aligned to community needs (three responses); and
- concerns that the developer who purchased the PSISC site would not maintain a publicly accessible facility (two responses).



4.43 During the four-month consultation process over 1900 individual comments were received with 393 written submissions received specifically in relation to the Draft Territory Plan. Seventy-nine of the written submissions referenced the Woden district (20 percent of written submissions). Fourteen of the submissions specifically commented on the Phillip pool:

- the majority of the submissions made minor references to the Phillip pool as part of broader comments on the Woden district. One of the submissions focused on the Phillip pool and summarised feedback from 127 responses to a survey;
- three expressed a preference to retain a 50-metre pool at the site with a further submission expressing concern that a 25-metre pool may not meet the demands of various swimming groups in the Woden area; and
- concerns or issues raised in the submissions generally focused on maintaining the pool in Phillip, ensuring it remained affordable and accessible and that urban densification in Woden may lead to the loss of the Phillip pool.



4.44 In addition, 1026 online comments were received as well as 175 online survey responses. Across both the online comments and online surveys, there were 13 submitted comments that either explicitly referenced the Phillip pool or expressed support for retaining the pool in their comments about the Woden District Strategy. The main issues identified in relation to the Phillip pool included:

- accessibility of alternate pools and lack of like for like replacement for the Phillip pool (five responses);
- a preference to retain a 50-metre pool instead of having a 25-metre pool (three responses);
- a lack of sporting or recreational facilities not aligned to community needs (three responses); and
- concerns that the developer who purchased the PSISC site would not maintain a publicly accessible facility (two responses).

Outcomes of the consultation process

4.45 After the community consultation period finished on 3 March 2023, the community submissions were reviewed by EPSDD in accordance with Division 5.2.4 and Part 20.3, section 606 of the *Planning Bill 2022*. Subsection 606(2) of the *Planning Bill 2022* states:

The Territory Planning Authority must give the Executive a written report (a **consultation report**) about the authority's consultation with the following:

- (i) the public;
- (ii) the national capital authority;

- (iii) the conservator of flora and fauna;
 - (iv) the environment protection authority;
 - (v) the heritage council;
 - (c) a copy of any written comments (including consultation comments) about the draft territory plan received from an entity mentioned in paragraph (b).
- (3) The consultation report must include the issues raised in any consultation comments about the draft territory plan.

4.46 The feedback received during the consultation process for the Draft Territory Plan was documented through several reports that were made publicly available. These included:

- a **Listening Report** released in May 2023 that summarised all feedback received during the Draft Territory Plan consultation period;
- a **Submissions Report** released in July 2023 that summarised and analysed the community feedback on the Draft Territory Plan and made recommendations on how to respond to the concerns and issues raised in the community submissions;
- a **Consultation Report** released on 11 September 2023 that responded to feedback provided on the district policies and specifications, and other technical documents;
 - this report included an Appendix 1 and Appendix 2, which included both the Mandatory Agency comments and public comments as required in Section 606 of the *Planning Bill 2022*; and
- a **Consultation Response Report** released 11 September 2023 that set out the ACT Government's response to all feedback received for the new planning system.

Listening Report (April 2023)

4.47 *The Planning System Review and Reform Project – Listening Report* (Listening Report) was publicly released in May 2023 through YourSay. It summarised the feedback that was received during the November 2022 to March 2023 consultation period.

4.48 The Listening Report analysed over 7,600 pieces of feedback including:

- 1,702 contributions from YourSay ACT including 393 written submissions, 178 survey responses and 1,112 quick comments;
- 36 'pop ups' held across Canberra with 1,132 attendees;
- 10 community workshops;
- seven community council meetings and forums;
- two listening spaces with 39 contributors at the Northside Listening Space and 70 contributors at the Southside Listening Space; and
- one online Questions and Answers session.

- 4.49 The Listening Report made one reference to the feedback received on the Phillip pool. Under feedback received on the Woden Valley District strategy, the Listening Report noted:

Concern at loss of community recreational facilities at Woden – no indoor sports centre and loss of Phillip pool with greenspaces.

Submissions Report (July 2023)

- 4.50 The *ACT Planning System Review and Reform Project Submissions Report* (Submissions Report) was released in July 2023. The purpose of the Submissions Report was to provide a summary of feedback, actions and recommendations responding to the public and stakeholder submissions which followed the community consultation on the Draft Territory Plan.

- 4.51 The Submissions Report analysed, summarised and reported on the feedback raised during the consultation period and provided recommendations on next steps in respect of over 1900 individual comment items received within the written submissions received during the consultation period.

- 4.52 In relation to the Phillip pool, the Submissions Report noted:

A substantial volume of comments objected to the closure of Phillip Swimming Pool and the lack of consideration for the replacement of this. Whilst most (8) of the comments related to its closure, plus 127 responses via a politician response, there was emphasis on the retention of a larger pool rather than a 25m one (3 comments).

- 4.53 Appendix 1 of the Submissions Report outlined the issues identified in the community submissions received during the consultation period. The issues raised in relation to the Phillip pool in the community submissions that were summarised in Appendix 1 of the Submissions Report align with those outlined in paragraph 4.38. Appendix 1 of the Submissions Report also included Ethos Urban's recommendations on how to respond to the concerns raised in the community submissions.

- 4.54 In response to the issues raised in relation to the Phillip pool in the community submissions, the report made the following recommendation:

The site is in the Woden North priority change area. Future planning and investigations for the change areas will consider all five drivers equally including the need for commercial and community uses. It is also noted that the Woden District Strategy includes a short-term initiative for a community facilities and recreation needs assessment to consider the needs of the existing and future population.

Territory Plan Consultation Report (September 2023)

- 4.55 The *Territory Plan Consultation Report* (2023) (Consultation Report) was prepared in accordance with section 606 of the *Planning Bill 2022* and included the matters raised in

written submissions related to the Draft Territory Plan. The Consultation Report was published online on 11 September 2023.

- 4.56 The purpose of the Consultation Report was to respond to ‘the matters raised relating to district policies and specifications, zone policies and specifications, definitions and specific proponent driven and government-initiated redevelopment or expansion projects’.
- 4.57 Table 4-2 shows the comments that were made in the community submissions in relation to the Phillip pool, and the ACT Government’s responses and recommended actions to those comments in the Consultation Report.

Table 4-2 *Territory Plan Consultation Report – references to the Phillip pool, responses and recommended actions*

Comment in relation to the Phillip pool	Response	Recommended action
Assessment outcomes Part 19 - the Phillip pool should be moved to Figure 9 along Athllon Drive considering the sale of the property and the current developer having no experience running a pool facility.	A condition of the lease for the Phillip pool site is that the swimming pool is available and operational for public use.	No change
Concerns about loss of 50m pool – replaced with 25m pool. There is a huge demand for a centrally located aquatic centre. Woden is a town centre proposed to be served by the extension of the tram and a new bus	A sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community.	No change

Source: Audit Office, based on Territory Plan Consultation Report.

- 4.58 A key feature of the Territory Plan Consultation Report was recognition of community concerns about the removal of the Territory Plan requirement for a 50-metre pool and its replacement with a 25-metre pool. In response to this was the assertion that:

A sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community.

Feedback from agencies on the Draft Territory Plan

- 4.59 Section 606 of the Bill requires that the Draft Territory Plan be provided to the Minister as well as the Consultation Report. In addition to feedback received through public consultation, the Consultation Report is also required to detail consultation with the following entities:

- the National Capital Authority;
- the Conservator of Flora and Fauna;
- the Environment Protection Authority; and

- the Heritage Council.

4.60 Section 606 of the *Planning Bill 2022* states that the consultation report must also be accompanied by any written comments from these entities. Appendix 1 of the *Territory Plan Consultation Report* included the mandatory agency comments received on the Draft Territory Plan and associated documents.

4.61 None of the agencies made any comments in relation to the Phillip pool, or on the changes to the requirements for the PSISC site in the Draft Territory Plan.

Consultation Response Report (September 2023)

4.62 The *ACT Planning System Consultation Response Report* (September 2023) (Consultation Response Report) was prepared to provide readers with an understanding of how the views and feedback received from stakeholders influenced the preparation of the final district strategies, the new Territory Plan, design guides and planning technical specifications. The report stated:

EPSDD has reviewed and considered thousands of comments and feedback items. All feedback was valued and considered by planners and architects when looking at potential changes or revisions to the documents.

The report provides an overview of the consultation process that has been undertaken to inform the community about the parts of the new planning system and the feedback received through that process.

This report sets out the Government's response to all feedback received as part of the consultation process. The report explains where feedback has directly led to a change in the documents and sets out the reasons for the change. Where feedback has been received that has not led to a change in one of the documents, an explanation is provided as to why the change was not made.

4.63 In relation to the Phillip pool, the Consultation Response Report noted that the public submissions raised:

Concerns about loss of 50m pool being replaced with 25m pool. Comment that there is a huge demand for a centrally located aquatic centre in Woden.

4.64 The Government response noted:

A sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community.



4.65 The feedback received during the consultation process for the Draft Territory Plan was documented through several reports that were made publicly available. These included:

- a Listening Report (May 2023) that summarised all the feedback received during the Draft Territory Plan consultation period;

- a Submissions Report (July 2023) that summarised and analysed the community feedback on the Draft Territory Plan and made recommendations on how to respond;
- a Consultation Report (September 2023) that responded to feedback provided on the district policies and specifications, and other technical documents; and
- a Consultation Response Report (September 2023) that set out the ACT Government's response to all feedback received.



4.66 Both the Listening Report and the Submissions Report noted community concern with the potential loss of the Phillip pool. The Submissions Report noted a 'substantial volume of comments objected to the closure of the Phillip Swimming Pool' and recommended that 'future planning and investigations for the change areas will consider ... the need for commercial and community uses'.



4.67 In response to community concerns on the changed Territory Plan requirements for the site the Consultation Report noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'. The Consultation Response Report similarly noted that 'a sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community'.

References to sport and recreational needs analysis (August 2025)

4.68 Both the Consultation Report and Consultation Response Report referred to a 'sport and recreational needs analysis' as having determined that a 25-metre pool and associated aquatic facilities would meet the needs of the Woden community.

Guidance on sport and recreational needs analysis

4.69 The Department of Sport and Recreation (Government of Western Australia) produced a *Needs Assessment Guide: Sport and Recreation Facilities* (March 2007, 2nd Edition) that defined needs assessments as follows:

A Needs Assessment is a comprehensive information gathering process to identify and analyse whether a new facility is required or whether the need can be satisfied in some other way. If it is determined that a new facility is required, the Needs Assessment will provide clear direction with regard to the most appropriate scope, scale, component parts and the timing of the proposed facility. Such a concept can then be tested in a feasibility study which is the second stage in the facility planning process.

A Needs Assessment study will essentially be undertaken to determine:

- The potential need for a project which has been proposed or is being discussed within the community.
- To assess the sport and recreation needs of a community within a particular area. The size of the area being studied may be a single suburb, a local authority or a region comprising several local authorities.

4.70 The guide further notes the importance of conducting needs assessments:

Too often the planning for a facility commences on a whim or at best a perception that a facility is required without any assessment of whether it is in fact needed by the community it is intended to serve. This often results in facilities that are inappropriate, are a financial burden or worse still, not required by the community. A Needs Assessment is therefore a vital first step in the facility planning process.

Select Committee on Estimates 2024-2025

4.71 For the purpose of the Select Committee on Estimates 2024-2025 a Question on Notice was lodged on 29 July 2024:

(1) Has the Phillip Pool allowed to be reduced from 50m to 25 under the new Woden district plan?

(2) If so, who made this recommendation and who approved it?

4.72 In response to the questions the Minister for Planning and Land Management responded:

(1) Yes

(2) A sport and recreational needs analysis has 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 uses and program delivery for the Woden community. It was approved to be included in the Woden District Policy when the interim Territory Plan took effect. The ACT Legislative Assembly approved the interim Territory Plan.

FOI request

First FOI request (May 2024)

4.73 On 20 May 2024, a Freedom of Information (FOI) request was sent to CMTEDD seeking:

The sports and recreation need 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.'

4.74 An Information Officer from CMTEDD provided a response to this FOI request on 19 June 2024 advising:

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.

Second FOI request (August 2024)

4.75 On 28 August 2024, a subsequent FOI request was sent to CMTEDD requesting:

All documentation (internal and external) including emails, on the **Sports and Needs Analysis** for Woden, which cited: *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.*

4.76 On 10 October 2024 CMTEDD identified eight documents within the scope of the application and granted full access to one document and partial access to seven documents. The documents are emails dated between 17 October and 24 October 2022 and refer to amendments to the Draft Territory Plan to change the PSISC requirements (discussed in Chapter 3).

ACT Ombudsman finding

4.77 On November 2024 the FOI applicant applied for a review of CMTEDD's decision by the ACT Ombudsman. On 24 October 2025 the ACT Ombudsman concluded its review, finding 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.

4.78 The ACT Ombudsman decision was to vary the respondent's (CMTEDD's) decision under paragraph 82(2)(b) of the *Freedom of Information Act 2016*⁵, noting that:

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.

Subsequent advice to Select Committee on Estimates 2025-2026

4.79 On 18 August 2025 the Chair of the Select Committee on Estimates 2025-2026 wrote to the Minister for Sport and Recreation and asked:

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?

⁵ Section 82(2)(b) of the *Freedom of Information Act 2016* relates to the application for Ombudsman review, and notes that the Ombudsman must confirm the decision, vary the decision or set aside the decision and make a substitute decision.

4.80 On 25 August 2025 the Minister for Sport and Recreation responded ‘No’ to the first question and ‘Yes’ to the second question.



4.81 Both the Consultation Report and Consultation Response Report referred to a ‘sport and recreational needs analysis’ as having determined that a 25-metre pool and associated aquatic facilities would meet the needs of the Woden community. This was reiterated by the Minister for Planning in response to a Question on Notice lodged for the purpose of the Select Committee on Estimates 2024-2025.



4.82 A sport and recreation needs analysis was not undertaken as described. This became apparent following an FOI request in August 2024, and a subsequent decision by the ACT Ombudsman in October 2025 that it does not exist. The assertion that a ‘sport and recreational needs analysis has determined that 25m pool and associated aquatic facilities would meet the requirements of the Woden community’ was incorrect. It misrepresented the nature and extent of analysis that was used to support a change in the Territory Plan requirements for the PSISC site.



Recommendation 2

Documentation of response to community feedback

The City and Environment Directorate should develop and implement procedural guidance to ensure that future public responses to community and stakeholder feedback obtained for planning and development purposes are supported by the nature and extent of analysis undertaken and accurately presented.

Review and approval of the Territory Plan

Interim Territory Plan (November 2023)

4.83 On 12 September 2023, the Minister for Planning and Land Management presented a further refined version of the Draft Territory Plan to the Legislative Assembly for approval as an Interim Territory Plan, as per section 609 of the *Planning Bill 2022*. The purpose of this was for the Legislative Assembly to decide if the Territory Plan would have interim effect, meaning that the Plan would be treated as in force and future development applications would need to comply with it.

4.84 Following approval by the Legislative Assembly on 25 October 2023, the Interim Territory Plan, and the new planning system, commenced on 27 November 2023. As indicated in Table 4-3, there were little changes to the wording between the Draft Territory Plan that was presented and then approved as the Interim Territory Plan in relation to the requirements for the PSISC site.

Table 4-3 Changes to the requirements for the PSISC site between the Draft and Interim Territory Plan – D7: Woden District Policy

Version of the Territory Plan 2023	Wording on requirements for PSISC site
Draft (released 1 November 2022)	Area 'A' on Figure 12 retains 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) A 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m b) Warm water program pool – minimum dimensions of 20m x 10m c) A toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m² d) A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities e) 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.
Interim (released 27 November 2023)	Area 'A' on Figure 14 provides all the following: a) an ice-skating rink suitable for national competitions, unless otherwise agreed by the ACT Government. b) 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 minimum: i) 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m ii) warm water program pool – minimum dimensions of 20m x 10m iii) w toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m² iv) a transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities v) associated amenities to support the operation of the pool facilities. c) The design and inclusions for the indoor pool must be approved by the ACT Government.

Source: Draft and interim Territory Plan 2023 – D7: Woden District Policy.

Inquiry into the Territory Plan (March 2024)

4.85 On 14 September 2023, the Standing Committee on Planning, Transport and City Services commenced an inquiry into the Territory Plan as per its statutory obligations, along with the Territory Plan's supporting documents including the design guides and planning technical specifications.

- 4.86 The inquiry provided further opportunity for individuals, community interest groups and business groups to provide comment and feedback on the Interim Territory Plan prior to the Final Territory Plan being approved.
- 4.87 The Minister for Planning and Land Management provided the Committee with copies of all submissions received by the Government as part of the public consultation process, together with a copy of the Territory Plan, the *Consultation Report* and the *Territory Plan Explanatory Report*.
- 4.88 There were 33 submissions made to the inquiry, including from individuals, community and business groups. None of the submissions made reference to the Phillip pool.
- 4.89 The Committee held public hearings on 6 and 7 December 2023 and heard from individuals, community and environmental organisations, housing industry groups, residential associations, and the Minister for Planning and Land Management. While these groups included those with interests in the Woden area the hearings for the inquiry did not raise any concerns with the change in requirements for the Phillip pool in the Territory Plan.
- 4.90 The final report, tabled on 19 March 2024, made 30 recommendations. There were no findings or recommendations made in relation to the Phillip pool requirements in the Territory Plan.

Final Territory Plan (September 2024)

- 4.91 The Final Territory Plan was presented to the Legislative Assembly for approval on 28 August 2024. In presenting the Final Territory Plan to the Legislative Assembly, the Minister for Planning and Land Management noted that:

An amended Territory Plan has been prepared in response to the Committee's report, as well as in response to internal and external feedback received. This plan includes clarification and editorial changes to make clearer the policy intent of provisions, address translational issues from previous versions and improve readability. The changes made are consistent with the overall policy intent of the Territory Plan and other associated documents.

- 4.92 The Final Territory Plan came into effect on 27 September 2024. The requirements for the PSISC site in the Final Territory Plan were the same as that in the Interim Territory Plan (outlined in Table 4-3):

Area 'A' ... provides all the following:

- a) An ice-skating rink suitable for national competitions, unless otherwise agreed by the ACT Government.
- b) 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 minimum:

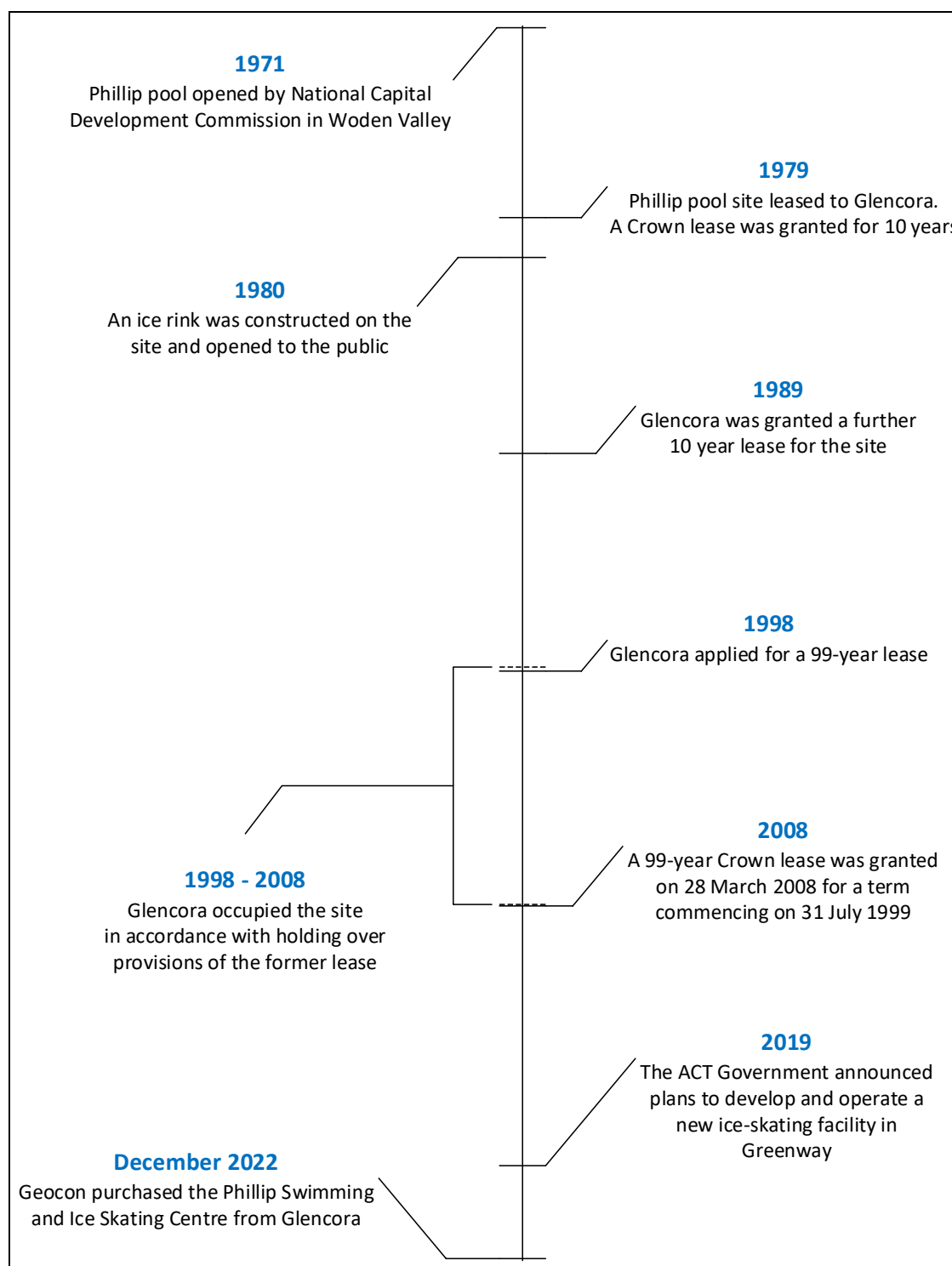
- i) 25m x 20m 8-lane swimming pool – water depth of 1.35m to 2.0m.
 - ii) Warm water program pool – minimum dimensions of 20m x 10m.
 - iii) Toddlers/leisure pool, learn to swim pool and/or water play splash pad – minimum size 500m²
 - iv) A transition from within the centre to the outdoors (including to external gardens, decks and outdoor eating areas to support indoor/outdoor activities.
 - v) Associated amenities to support the operation of the pool facilities.
- c) The design and inclusions for the indoor pool must be approved by the ACT Government.



4.93 On 14 September 2023, the Standing Committee on Planning, Transport and City Services commenced an inquiry into the Territory Plan as per its statutory obligations. The inquiry provided further opportunity for individuals, community interest groups and business groups to provide comment and feedback on the Interim Territory Plan prior to the Final Territory Plan being approved. The submissions made to the inquiry and the hearings for the inquiry did not raise any concerns with the change in requirements for the Phillip pool in the Territory Plan. There were no findings or recommendations made in the Committee inquiry report in relation to the Phillip pool site requirements in the Territory Plan.

Appendix A: Timeline of key events for the Phillip Swimming and Ice-Skating Centre

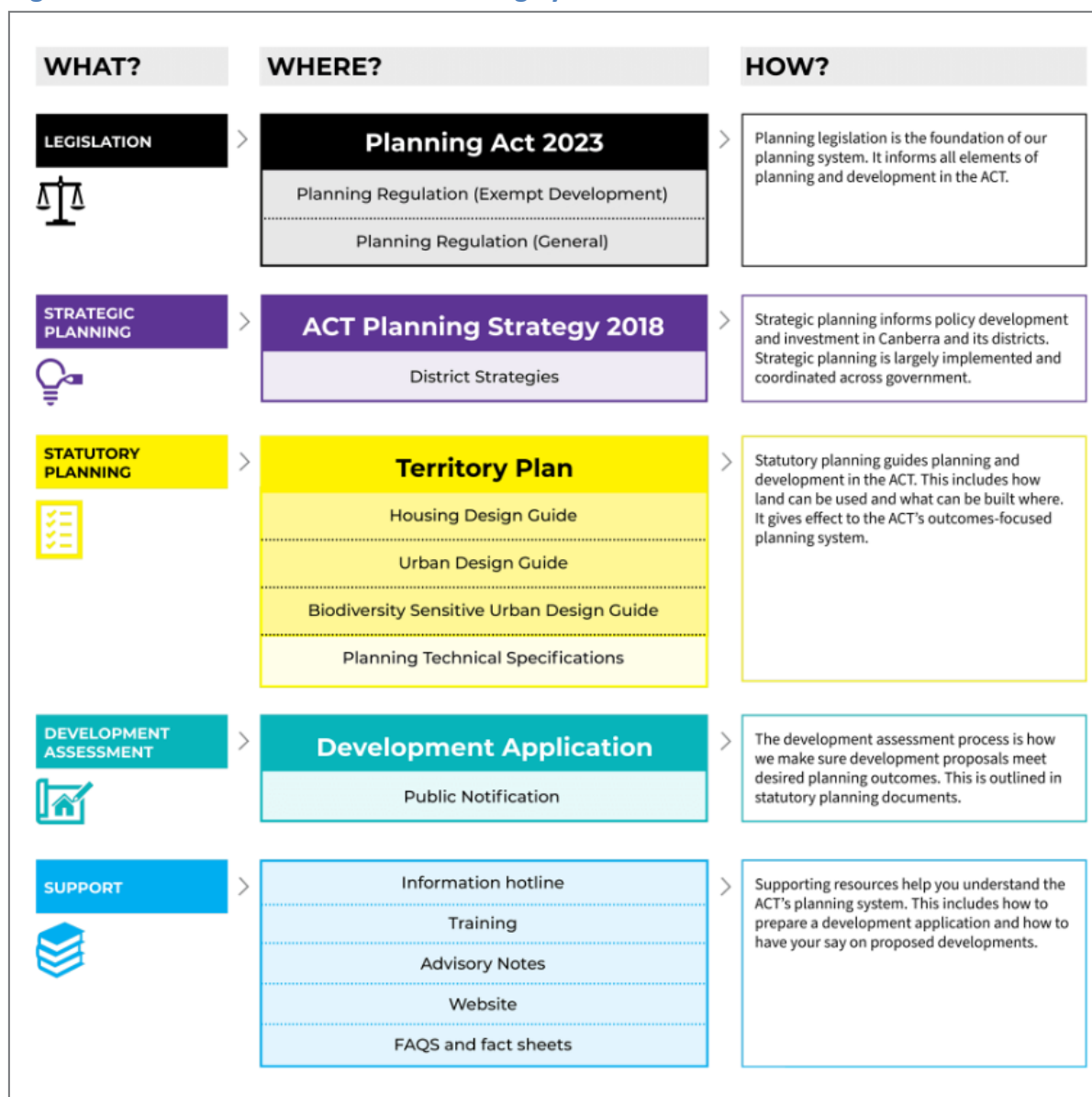
Figure A-1 Timelines of key events for the PSISC



Source: Audit Office based on ACT Government documentation and publicly available information.

Appendix B: Overview of the planning system

Figure B-1 Overview of the ACT Planning System



Source: 'About the Planning System' <<https://www.planning.act.gov.au/professionals/our-planning-system/about-the-planning-system>> [Accessed 5 March 2025].

Appendix C: Territory Plan consultation requirements

Table C-1 Relevant sections of the *Planning Bill 2022* outlining requirements for consultation, notification and publication of the Territory Plan

<i>Planning Bill 2022</i> sections	Overview of requirements for consultation, notification, and publication on the Territory Plan
Part 20.3, Section 605	The Territory Planning Authority must prepare a draft of the Territory Plan no later than 6 months after this section commences. Subsection 605(2) notes that certain divisions of Part 5.2 are required to be considered when preparing the Draft Territory Plan including: • Division 5.2.1 – Preliminary; • Division 5.2.3 – Consultation; and • Division 5.2.4 – Action after consultation.
Part 20.3, Section 606	The Territory Planning Authority must give the Draft Territory Plan to the Minister, together with the following documents: • the background papers relating to the Draft Territory Plan; • a written report (consultation report) about the Authority's consultation with the following: – the public; – the National Capital Authority; – the Conservator of Flora and Fauna; – the Environment Protection Authority; – the Heritage Council; • a copy of any written comments (including consultation comments) about the Draft Territory Plan received from an entity mentioned above; and • the consultation report must include the issues raised in any consultation comments about the Draft Territory Plan.
Part 20.3, Section 607	After the Minister receives the Draft Territory Plan, the Minister must: • make the Territory Plan a notifiable instrument; or • return it to the Territory Planning Authority for further consultation or any changes. Before taking the above actions, the Minister must consider the planning strategy, district strategies, background papers, consultation report and written comments. Once the Territory Plan is notified, the Territory Planning Authority must publish it on its website.
Part 20.3, Section 608	After the Minister makes the Territory Plan as a Notifiable Instrument, the Minister must give the plan to the relevant Assembly committee for inquiry. The relevant Assembly committee must: • decide whether to hold an inquiry, and give the Minister written notice of its decision within 7 days of receiving the Territory Plan; and

Planning Bill 2022 sections	Overview of requirements for consultation, notification, and publication on the Territory Plan
	• If the committee decides to hold an inquiry report the Minister on the Territory plan within 6 months of receiving it.
Part 20.3, Section 609	At the same time the Minister gives the Territory Plan to the relevant Assembly committee under section 608, the Minister may present the Draft Territory Plan, as notified under the Legislation Act, to the Legislative Assembly for approval as an Interim Territory Plan. The Legislative Assembly may, by resolution, approve the Draft Territory Plan as an Interim Territory Plan.
Part 20.3, Section 610	If the relevant Assembly committee reports to the Minister, the Minister: • must consider the report; and • may amend the Territory Plan in response to the report; and • may present the amended Territory Plan to the Legislative Assembly for approval as the Territory Plan, in place of the interim Territory Plan. Alternatively, the Minister may move a motion to confirm the Interim Territory Plan if the relevant Assembly committee • gives notice of its decision not to hold an inquiry; or • reports to the Minister and the Minister does not amend the Territory Plan; or • does not report on the Territory Plan within the 6-month period. The Legislative Assembly may, by resolution • approve the amended Territory Plan; or • confirm the Interim Territory Plan as the Final Territory Plan.
Part 20.3, Section 611	Consultation undertaken before the commencement of this section is taken to be consultation for part 20.3.
Part 20.3, Section 612	Part 20.3 expires under the day the Territory plan is confirmed under section 610.
Division 5.2.3 – Consultation	Division 5.2.3 outlines the consultation process for draft major plan amendments which under Part 20.3, Section 605 also applied in developing the new Territory Plan. The consultation requirements include that the Territory Planning Authority: • must consult with the National Capital Authority, the Conservator of Flora and Fauna, the Environment Protection Authority and the Heritage Council; • must publish a consultation notice on the Authority's website; • must invite the public to give written comments during the consultation period of 30 working days; • may extend the period of consultation; and • must publish written comments on the Authority's website.
Division 5.2.4 – Action after consultation	Division 5.2.4 outlines the activities after the consultation process for draft major plan amendments which under Part 20.3, Section 605 also applied in developing the new Territory Plan. After the consultation period ends, the Territory Planning Authority may:

Planning Bill 2022 sections	Overview of requirements for consultation, notification, and publication on the Territory Plan
	• revised or withdraw the draft amendment to the Territory Plan; and • in revising or withdrawing the draft amendment give consideration to written comments from any entity.

Source: Audit Office based on *Planning Bill 2022*.

Appendix D: Community submissions referencing the Phillip pool

Table D-1 Summary of 14 written community submissions received during the Territory Plan consultation process referencing the Phillip pool

Submission no.	Coverage of Phillip pool	Issues raised in relation to the Phillip pool
1	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Supports the development of Government owned aquatic facility in Woden town centre. Concerns that Stromlo pool will not be able to meet demand of a growing population in the Woden area.
2	Minor Submission comments generally on the Territory Plan, the community consultation process, affordability and environmental issues. The submission includes comments on the Woden district strategy including the Phillip pool.	Submission suggests that the planning requirements for the Phillip pool site should be strengthened to require the pool to be affordable and accessible.
3	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Concerns that urban densification in the Woden areas will lead to the loss of the Phillip pool.
4	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Concerns about the continued accessibility of the Phillip pool with the new planning rules.
5	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Concerns that the current developer has not had experience in running a site such as the Phillip pool.
6	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Concerns that proposed 25-metre pool will not meet the demand of various swimming groups in Woden area.
7	Significant Submission focuses on Phillip pool. Summarises feedback from 127 responses to a survey on the Phillip pool.	Preference to retain 50-metre pool over building a new 25-metre pool. Concerns with an ongoing accessibility of the site. Preference for additional aquatic facilities including toddler pool and hydrotherapy pool.

Submission no.	Coverage of Phillip pool	Issues raised in relation to the Phillip pool
		Concerns about clear communication on the future of the site.
8	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Preference to retain publicly accessible aquatic facilities in Woden.
9	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool	Preference to retain 50-metre swimming pool at Phillip, with concerns raised that the Stromlo pool will not be able to meet community demand.
10	Minor Submission comments generally on the Territory Plan, and the Woden district strategy including the Phillip pool.	Preference to retain 50-metre swimming pool at Phillip, with concerns raised that the 25-metre swimming pool will not be able to meet community demand.
11	Minor Submission comments on aspects of the Inner South district strategy, including references to the Phillip pool.	Submission notes the importance of maintaining community recreational and sporting facilities in the Woden and Inner South areas and references the recent closure of the Phillip pool.
12	Minor Submission comments on the Territory Plan generally and specific issues in the Woden area.	Concerns that there are insufficient aquatic facilities in the Woden area to meet demand with the current population.
13	Minor Submission comments on aspects of the Woden district strategy, including Phillip pool.	Concerns that high-rise developments to provide in Woden have resulted in loss of existing community outdoor facilities and threaten the continued operation the Phillip pool.
14	Minor Submission comments on the Territory Plan generally and specific issues in the Woden area.	Concerns that good access and parking is maintained for recreational facilities including the Phillip pool.

Source: Audit Office review of community submissions received on the Territory Plan.

Audit reports

Reports Published in 2025-26	
Report No. 06 - 2026	ACT Corrective Services rostering
Report No. 05 - 2026	Concession, rebate and social support schemes
Report No. 04 - 2026	Implementation of the Carers Recognition Act 2021
Report No. 03 - 2026	University of Canberra financial governance arrangements
Report No. 02 - 2026	Management of the Home Buyer Concession Scheme
Report No. 01 - 2026	Diversity, equity and inclusion in the ACT Public Service
Report No. 07 - 2025	2024-25 Financial Audit Program – Overall Results
Report No. 06 - 2025	Annual Report 2024-25
Report No. 05 - 2025	Specialist assessment services for dementia and cognitive decline
Reports Published in 2024-25	
Report No. 04 - 2025	Gaming machine licensee regulation
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Report No. 01 - 2025	Management of the Growing and Renewing Public Housing Program
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Report No. 13 - 2024	Invoicing and payments for Digital Health Record hosting services
Report No. 12 - 2024	2023-24 Financial Audits – Financial Results and Audit Findings
Report No. 11 - 2024	Governing boards of selected ACT Government entities
Report No. 10 - 2024	Safer Families Levy
Report No. 09 - 2024	2023-24 Financial Audits – Overview
Report No. 08 - 2024	Annual Report 2023-24
Report No. 07 - 2024	Reusable Facility Services Procurement
Report No. 06 - 2024	Business Transformation Program: ICT renewal activities

These and earlier reports can be obtained from the ACT Audit Office's website at <http://www.audit.act.gov.au>.

