



Capital Metro

Our Ref: CMA-FOI:15-014



Dear [Redacted]

**Re: Freedom of Information request**

I write in regard to ongoing correspondence between your office and the Capital Metro Agency (CMA) in relation to a request for access to CMA documents under the *Freedom of Information Act 1989* (the Act).

The scope of the request was *'All documents and any information held by the Agency in relation to contamination within 1km of the proposed light rail line, and its associated depot, since 1 March 2015'*.

On 24 June 2015, I wrote to you advising that a decision on your request would be postponed to allow for third party consultation activities to be undertaken. Third party consultation has now been completed and a decision can now be made in response to your request.

**Decision maker**

I am authorised under section 22 of the Act and have been appointed to make a decision in relation to your request.

**Charges**

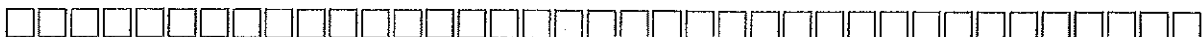
I have decided not to process any fees or charges in relation to this request.

**Decision on access**

I have decided to partially release, fully release, and fully exempt documents found relevant to your request. I refer you to the attached document schedule detailing the documents being released to you.

Please note that, due to the timeframe associated with the request, the scope captured documents relevant to the Capital Metro project's (the Project) procurement process, the release of which could unreasonably impact on the business affairs of both shortlisted respondents for the Project.

Should you wish to submit an additional freedom of information request in relation to contamination, I would recommend your office contact the CMA's Freedom of Information Coordinator to assist you with the scope of the request. You can contact the CMA's Freedom of Information Coordinator by emailing [CMAFOI@act.gov.au](mailto:CMAFOI@act.gov.au) or calling (02) 6207 5424.



### Exemptions claimed

Section 35 of the Act states that a document is an exempt document if it is -

- (a) a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or
- (b) an official record of the Executive; or
- (c) a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or
- (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Executive, other than a document by which a decision of the Executive was officially published.

Section 36 of the Act states that a document is an exempt document if its disclosure under the Act -

- (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and
- (b) would be contrary to the public interest.

Section 41(1) of the Act states that a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Section 42 of the Act states that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Section 43(1) of the Act states that a document is an exempt document if its disclosure under this Act would disclose -

- (a) trade secrets; or
- (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
- (c) information (other than trade secrets or information to which the above paragraph applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information -
  - (i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
  - (ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.

## **Right of review**

### Internal review

Under section 59(1) of the Act, you may request a review of my decision. You have 28 days after receiving notice of my decision to ask for a review, or a further period if permitted by the Director-General of the CMA.

Your request should be addressed to:

Director-General  
Capital Metro Agency  
GPO Box 158  
CANBERRA ACT 2601

### Complaints to the Ombudsman

Under section 54 of the Act, you may complain to the Ombudsman about administrative matters relating to the processing of your FOI request. There is no fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint.

You can contact the Ombudsman either by telephone on 1300 362 072 or in writing to:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

### **Online FOI policy**

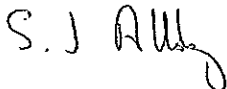
Please be aware that under the ACT Government's Online FOI Publication Policy, information released to you in response to your Freedom of Information request will be released online.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the CMA FOI Coordinator immediately on (02) 6207 5424.

A copy of the policy, with details about what information may be published online, is available on the Chief Minister, Treasury and Economic Development Directorate website ([www.cmd.act.gov.au](http://www.cmd.act.gov.au)) by searching 'Online FOI Publication'.

Should you have any queries regarding this matter, please contact the CMA FOI Coordinator on (02) 6207 5424.

Yours sincerely



Steve Allday  
Decision Maker  
Capital Metro Agency

21 July 2015