



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 21/14-15

Dear

Request for documents

I refer to your email 4 November 2014 addressed to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) in which you seek access to documents under the *Freedom of Information Act 1989* (the Act) concerning:

... the ACT Government commissioned value capture study on the Light Rail Project for Canberra document, including all documents relating to the study including, but not limited to, consideration of its recommendations, advice and suggestions.

Decision Maker

I am authorised under section 22 of the Act to make decisions on access to documents, and liability for charges, for the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

Charges

I have decided, under section 29, of the Act not to impose processing charges for this request.

Identification of Documents

Officers of CMTEDDD have conducted searches of paper and electronic files for documents that may relate to your request and email correspondence and two documents have been located in the Economic and Financial Group area of the directorate. The documents are classified Finance in Confidence and Cabinet in Confidence.

Decision on Access

I have reviewed the two documents and decided that both are exempt under Section 35 Executive documents and that 'Capital Metro funding and finance: principles framework and model' is also exempt under Section 39 Financial or property interests.

Exemptions Claimed

Documents Submitted to the Executive

Under section 35 of the Act, the release of 'Capital Metro funding and finance: principles framework and model' and 'Value Capture Options: Capital Metro Light Rail' would disclose unpublished deliberations and decisions of Cabinet.

The 'Value Capture Options: Capital Metro Light Rail Project' document will be used to identify mechanisms that the Government could take into consideration for raising revenue to fund the government portion on the project.

Section 35 of the Act provides:

- (1) *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.*

Note Access to the Cabinet notebook is excluded under s 11 (2).

- (2) *This section does not apply to a document (a **relevant document**)—*
- (a) *that is referred to in subsection (1) (a); or*
 - (b) *that is referred to in subsection (1) (b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in subsection (1) (a);*
to the extent that the relevant document contains purely factual material unless—
 - (c) *the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Executive; and*
 - (d) *the fact of that deliberation or decision has not been officially published.*
- (3) *A reference in this section to the Executive includes a reference to a committee of the Executive.*

Documents affecting financial or property interests of the Territory

Under section 39 of the Act, the release of 'Capital Metro funding and finance: principles framework and model' would disclose commercially sensitive information about the amount and type of development that may be required over the medium to longer term along the Northbourne corridor.

Section 39 of the Act provides:

- (1) *Subject to subsection (2), a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Territory or of an agency.*
- (2) *This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.*

Your 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 as allowed by the Director-General.

Your request should be addressed to:

Director-General
Chief Minister, Treasury, and Economic Development Directorate
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

Yours sincerely

Kathy Goth
Director
Economic and Financial Analysis
7 January 2015

