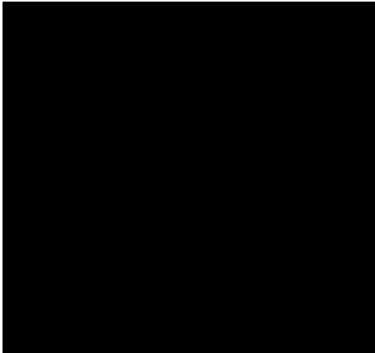




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 32/16-17



## **Decision on Freedom of Information Request – strategic advice to Transport Canberra by KPMG**

I am writing further to my letter of 21 February 2017 in relation to your access request submitted under section 14 of the ACT *Freedom of Information Act 1989*. Your request was received by Transport Canberra and City Services (TCCS) Directorate on 4 November 2016 and has now been fully transferred to the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

Your original request sought "... documents related to the provision of strategic advice to Transport Canberra by KPMG". CMTEDD understands that you subsequently clarified the scope of your request with TCCS to specifically seek:

- the final advice [on Transport Canberra] provided by KPMG to the ACT Government; and
- emails and correspondence in October 2015 around determining the Statement of Requirements for the procurement [of advice from KPMG].

I wish to apologise for the time it has taken to finalise your request.

### **Decision Maker**

I am authorised under section 22 of the Act to make decisions on access to documents and liability for charges.

### **Charges**

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

Chief Minister, Treasury and Economic Development

## Identification of Documents

I have interpreted the first part of your request, being for “the final advice provided by KPMG to the ACT Government” as comprising the seven deliverables provided by KPMG over the life of the contract.

The second part of your request concerns emails and correspondence in October 2015 around determining the Statement of Requirements for the procurement. I have interpreted this to include emails and draft documents created during the process of determining the parameters of the advice sought from KPMG.

## Decision on Access

As previously advised, I consulted with a third party, under section 27 of the Act, prior to making my decision on release of documents relevant to your request. The third party’s period for seeking a review of my release decision has expired and I am now able to release documents in accordance with my initial release decision.

I have decided to fully release 25 documents to you, partially exempt one document from release and fully exempt from release the remaining 13 documents.

## Exemptions claimed

### Section 35 – Executive documents

#### **Refers to folios: 27-38.**

Section 35 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.*

I have decided to exempt from release Cabinet submissions, decisions and briefs in respect of the confidential nature of the considerations of Cabinet. These documents were prepared for, submitted to and considered by Cabinet as described in section 35(1) of the Act. I have determined that release of any of these documents would involve the disclosure of the deliberations and decisions of the Executive.

## Section 43 – Documents relating to business affairs etc

### **Refers to folios: 2-3.**

Section 43 of the Act provides:

- (1) *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 paragraph (b) 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.*
    - (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.*

I have decided to exempt from release, under section 43(1)(c) of the Act, folio 2, being *Transport Canberra Governance Advice Paper*. The paper was provided to CMTEDD as an early draft for review. It contains incomplete analysis and partially formed views that may be misinterpreted as final advice. I consider that release of this document is likely to adversely affect KPMG's business affairs. The substance of this draft document is incorporated in other documents that have been released to you.

I have also decided to exempt, under section 43(1)(c) of the Act, components of folio 3, being the *Transport Canberra Phase 2 Deliverable Main Report*. The redacted pages of the report contain stakeholder analysis information that is likely to harm the business affairs of KPMG if released. It is reasonable to expect that release of the information in the redacted pages may impact on KPMG's current or prospective relationships with its clients.

### **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  
c/o Freedom of Information Co-ordinator  
Chief Minister, Treasury and Economic Development Directorate  
GPO Box 158  
CANBERRA ACT 2601

Via email: [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

#### 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 Freedom of Information 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**

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request and the information released will be published online. Personal information or business information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the Internet, is available online at:  
[http://www.cmd.act.gov.au/data/assets/pdf\\_file/0016/250333/FOI\\_Web\\_Release\\_Policy\\_-\\_Final.pdf](http://www.cmd.act.gov.au/data/assets/pdf_file/0016/250333/FOI_Web_Release_Policy_-_Final.pdf)

Should you have any queries regarding this matter, please contact me on (02) 6205 0468.

Yours sincerely



Brook Dixon  
Director  
Regulatory Reform

*21* March 2017