

Request for Costing of Alternative Policy Proposal

Name of policy proposal:	Capital Metro - payment
Person requesting costing:	Jamie Driscoll – ACT Executive Chief of Staff – on behalf of the Chief Minister/Treasurer
Date of request:	22/06/2016
Summary of proposal:	<p>The exercise of the termination for convenience clause in the Capital Metro – stage 1 project.</p> <p>What is the amount payable to the consortium for the cancellation for convenience of the Capital Metro - Stage 1 project assuming the ACT Government exercised this on 11 November 2016.</p> <p>What are the estimated termination costs for other associated contracts let by the Capital Metro Agency – if the project was terminated.</p>
Issue the proposal will address:	Cost to consortium and other parties.

What are the key assumptions that have been made in the proposal?

Note: The costing will developed on the basis of information and assumptions provided in the costing request. The professional judgment of the Under Treasurer will determine whether these assumptions are adopted in the costing of the proposal.

Exercise of termination for convenience clause on 11 November 2016.

From: [Miners, Stephen](#)
To: [Hall, Damon](#); [Baker, Sue](#)
Cc: [Edghill, Duncan](#)
Subject: FW: Request for costing of alternative policy proposal [DLM=For-Official-Use-Only]
Date: Thursday, 23 June 2016 6:31:27 PM
Attachments: [Capital metro - payment.docx](#)

The formal request. Just checking how you are going with progress. We will need to have something for David and Emma to look at as early as possible tomorrow.

Thanks

Stephen

From: Driscoll, Jamie
Sent: Wednesday, 22 June 2016 4:51 PM
To: Miners, Stephen
Subject: Request for costing of alternative policy proposal

Dear Stephen (As acting Under Treasurer)

Please find attached a request on behalf of the Treasurer.

Regards
Jamie

Jamie Driscoll

ACT Executive Chief of Staff

Office of the Chief Minister

Australian Capital Territory Government



ACT Legislative Assembly - 196 London Circuit, Canberra ACT 2600

www.act.gov.au

From: [Loft, Maddison](#) on behalf of [Murray, PeterR](#)
To: [Nicol, David](#); [Miners, Stephen](#); [Edghill, Duncan](#); [Thomas, Emma](#)
Cc: [Hall, Damon](#); [Esau, Lloyd](#)
Subject: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]
Date: Friday, 24 June 2016 3:28:38 PM
Attachments: [Brief to Treasurer - Termination for convenience costing request.docx](#)

Dear all,

Please find the attached advice on the termination costs of the Capital Metro Project, as advised by EY.

Kind regards,

Peter Murray



ACT
Government

Chief Minister, Treasury and
Economic Development

To: Treasurer

Subject: Termination for convenience

Critical date and reason

1. **27 June 2016** – in advance of the Estimates Committee hearing for Capital Metro on the afternoon of Monday 27 June 2016.

Recommendations

2. That you note an estimate for a termination for convenience payment notified to Project Co in mid November 2016 would be in the order of \$220 million to \$280 million as set out in the costing template at Attachment A.
3. That you note the termination payment is contingent on a number of assumptions including the timing of any stop work and termination notices from the Territory to Project Co, the actual works undertaken to that point, prevailing market interest rates and long term CPI forecasts.
4. That you note the estimate excludes:
 - a. Costs related to the valuation undertaken by an Independent Expert appointed under the Project Agreement
 - b. Territory legal and financial advisory costs which could amount to \$2 million to \$3 million.
 - c. Offsetting budget impacts from avoided expenditures
 - d. Proceeds from the Commonwealth Government under the Asset Recycling Initiative.
5. That you note public announcement of an estimated termination payment would not be in to the advantage of the Territory in the event of termination as each of the individual elements of the payment calculation will be subject to testing and negotiation.

NOTED/PLEASE DISCUSS

Andrew Barr MLA / /

Supporting Reasoning

6. The policy costing has been sought in advance of the Estimates Committee hearing for Capital Metro on 27 June 2016.

Background

7. On 22 June 2016 the Under Treasurer received a *Request for Costing of Alternative Policy Proposal*. The proposal concerns the “exercise of the termination for convenience clause in the Capital Metro – stage 1 project.”
8. The request seeks costing of the:
 - a. Amount payable to the consortium for the cancellation for convenience of the Capital Metro - Stage 1 project assuming the ACT Government exercised this on 11 November 2016.
 - b. Estimated termination costs for other associated contracts let by the Capital Metro Agency – if the project was terminated.

Issues

9. We have sought advice from the commercial advisors for the Capital Metro project, EY, in order to cost the proposal.
10. The table below sets out the indicative order of magnitude for a termination for convenience payment.
11. The estimate is based on available information in the Project Agreement, Termination Schedule and base case financial model as at financial close.
12. As the financial model is based on monthly cash flows, the table below presents estimates as at the end of October and end of November.

Table 1: PSC Comparison (\$m)

Termination for Convenience (\$m)	End October 2016	End November 2016
Total compensation	223 to 241	258 to 276
Comprising:		
Project Debt	179	206
Fair Value Equity ¹	19 to 33	19 to 33
Financial Break Costs ¹	16 to -16	16 to -16
Redundancy Payments	1	1
Expenses incurred but not paid	27	27

¹ Range is estimated on the basis of a 1% move in base interest rates in the time since financial close (24 May 2016).

13. The estimates in the above table should be considered as an order of magnitude. They are drawn from the base case financial model which provides detailed analysis of the expected progression of the project, but may be subject to revision as the project progresses through until November 2016. The underlying assumptions may

not prevail at the point of termination and consequently the final result may materially differ from these estimates.

Consultation and Communication

14. We have consulted with the Capital Metro Agency in the preparation of this brief.

Financial

15. There are no financial impacts arising directly from this brief.

Under Treasurer Clearance:

Executive Clearance: Peter Murray, Executive Director, Infrastructure Finance and Advisory Division

Date: 24 June 2016

Action Officer: Damon Hall, Director, Infrastructure Policy and Analysis

Phone: 70058

Attachment A

Request for Costing of Alternative Policy Proposal

Name of policy proposal:	Capital Metro - payment
Person requesting costing:	Jamie Driscoll – ACT Executive Chief of Staff – on behalf of the Chief Minister/Treasurer
Date of request:	22/06/2016
Summary of proposal:	<p>The exercise of the termination for convenience clause in the Capital Metro – stage 1 project.</p> <p>What is the amount payable to the consortium for the cancellation for convenience of the Capital Metro - Stage 1 project assuming the ACT Government exercised this on 11 November 2016.</p> <p>What are the estimated termination costs for other associated contracts let by the Capital Metro Agency – if the project was terminated.</p>
Issue the proposal will address:	Cost to consortium and other parties.

What are the key assumptions that have been made in the proposal?

Note: The costing will developed on the basis of information and assumptions provided in the costing request. The professional judgment of the Under Treasurer will determine whether these assumptions are adopted in the costing of the proposal.

Exercise of termination for convenience clause on 11 November 2016.

Cost estimate

\$220 million to \$280 million.

From: [Miners, Stephen](#)
To: [Murray, PeterR](#); [Edghill, Duncan](#)
Cc: [Hall, Damon](#); [Esau, Lloyd](#)
Subject: RE: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]
Date: Friday, 24 June 2016 3:35:55 PM

Thanks Peter. Looking at this now.

From: Loft, Maddison **On Behalf Of** Murray, PeterR
Sent: Friday, 24 June 2016 3:29 PM
To: Nicol, David; Miners, Stephen; Edghill, Duncan; Thomas, Emma
Cc: Hall, Damon; Esau, Lloyd
Subject: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]

Dear all,

Please find the attached advice on the termination costs of the Capital Metro Project, as advised by EY.

Kind regards,

Peter Murray

From: [Nicol, David](#)
To: [Hall, Damon](#); [Miners, Stephen](#); [Thomas, Emma](#)
Cc: [Murray, PeterR](#); [Edghill, Duncan](#); [Esau, Lloyd](#)
Subject: RE: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]
Date: Friday, 24 June 2016 7:35:39 PM

Thanks Damon – I am comfortable with this.

David

From: Hall, Damon
Sent: Friday, 24 June 2016 6:18 PM
To: Nicol, David; Miners, Stephen; Thomas, Emma
Cc: Murray, PeterR; Edghill, Duncan; Esau, Lloyd
Subject: RE: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]

Hi All

Please find attached for your review and clearance an updated draft reflecting comments received this afternoon.

Regards
Damon

Damon Hall | Director
Phone: +61 2 6207 0058 | Mobile: 0419 439 865 | damon.hall@act.gov.au
Infrastructure Finance and Advisory Division | Chief Minister, Treasury and Economic
Development Directorate | ACT Government
Level 2 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

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Kind regards,

Peter Murray

From: [Miners, Stephen](#)
To: [Thomas, Emma](#)
Cc: [Nicol, David](#); [Edghill, Duncan](#); [Hall, Damon](#); [Murray, PeterR](#)
Subject: Re: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]
Date: Sunday, 26 June 2016 2:28:36 PM

Thanks Emma. Will also add that caveat in the brief.

Stephen

Sent from my iPhone

On 26 Jun 2016, at 2:13 PM, Thomas, Emma <Emma.Thomas@act.gov.au> wrote:

Hi Stephen

I am ok with the paper, however, note that the amount will also exclude any ACT government redundancy costs.

Thanks,
Emma

On 26 Jun 2016, at 10:30 AM, Miners, Stephen
<Stephen.Miners@act.gov.au> wrote:

Emma

Just checking how you are going with this. The office would like the costing today so they can be ready for estimates tomorrow

Thanks

Stephen

Sent from my iPhone

Begin forwarded message:

From: "Nicol, David" <David.Nicol@act.gov.au>
Date: 24 June 2016 at 7:35:38 PM AEST
To: "Hall, Damon" <Damon.Hall@act.gov.au>, "Miners, Stephen" <Stephen.Miners@act.gov.au>, "Thomas, Emma" <Emma.Thomas@act.gov.au>
Cc: "Murray, PeterR" <PeterR.Murray@act.gov.au>, "Edghill, Duncan" <Duncan.Edghill@act.gov.au>, "Esau, Lloyd" <Lloyd.Esau@act.gov.au>
Subject: RE: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]

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David

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To: Nicol, David; Miners, Stephen; Thomas, Emma
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Subject: RE: Capital Metro costing request brief.
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Regards
 Damon

Damon Hall | Director
 Phone: +61 2 6207 0058 | Mobile: 0419 439 865 |
damon.hall@act.gov.au
Infrastructure Finance and Advisory Division | Chief
 Minister, Treasury and Economic Development
 Directorate | ACT Government
 Level 2 Canberra Nara Centre | GPO Box 158 Canberra
 ACT 2601 | www.act.gov.au

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Kind regards,

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From: [Miners, Stephen](#)
To: [Nicol, David](#); [Thomas, Emma](#)
Cc: [Edghill, Duncan](#); [Hall, Damon](#); [Murray, PeterR](#)
Subject: FW: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]
Date: Sunday, 26 June 2016 2:52:05 PM
Attachments: [Brief to Treasurer - Termination for convenience costing request.docx](#)

Please note I have added a new para 14 to the brief. Will now send this to the CM's office.

Thanks

Stephen

From: Hall, Damon
Sent: Friday, 24 June 2016 6:18 PM
To: Nicol, David; Miners, Stephen; Thomas, Emma
Cc: Murray, PeterR; Edghill, Duncan; Esau, Lloyd
Subject: RE: Capital Metro costing request brief. [DLM=Sensitive: Cabinet]

Hi All

Please find attached for your review and clearance an updated draft reflecting comments received this afternoon.

Regards

Damon

Damon Hall | Director

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Infrastructure Finance and Advisory Division | Chief Minister, Treasury and Economic

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Dear all,

Please find the attached advice on the termination costs of the Capital Metro Project, as advised by EY.

Kind regards,

Peter Murray

To: A/Treasurer

Subject: Termination for convenience

Critical date and reason

1. **27 June 2016** – in advance of the Estimates Committee hearing for Capital Metro on the afternoon of Monday 27 June 2016.

Recommendations

2. That you note an estimate for a termination for convenience payment notified to Project Co in mid November 2016 would be in the order of \$220 million to \$280 million as set out in the costing template at Attachment A.
3. That you note the termination payment is contingent on a number of assumptions including the timing of any stop work and termination notices from the Territory to Project Co, the actual works undertaken to that point, prevailing market interest rates and long-term CPI forecasts.
4. That you note the estimate excludes:
 - a. Costs related to the valuation undertaken by an Independent Expert appointed under the Project Agreement.
 - b. Territory legal and financial advisory costs which could amount to \$2 million to \$3 million.
 - c. Budget impacts from avoided expenditures.
 - d. Proceeds from the Commonwealth Government under the Asset Recycling Initiative.
 - e. Service contracts outside Canberra Metro affected by the termination event, including the Independent Certifier contracted under the Project Agreement.
5. That you note public announcement of an estimated termination payment may disadvantage the Territory in negotiations in the event of a termination.

NOTED/PLEASE DISCUSS

Simon Corbell MLA / /

Supporting Reasoning

6. The policy costing has been sought in advance of the Estimates Committee hearing for Capital Metro on 27 June 2016.

Background

7. On 22 June 2016 the Under Treasurer received a *Request for Costing of Alternative Policy Proposal*. The proposal concerns the “exercise of the termination for convenience clause in the Capital Metro – stage 1 project.”
8. The request seeks costing of the:
 - a. Amount payable to the consortium for the cancellation for convenience of the Capital Metro - Stage 1 project assuming the ACT Government exercised this on 11 November 2016.
 - b. Estimated termination costs for other associated contracts let by the Capital Metro Agency – if the project was terminated.

Issues

9. We have sought advice from the commercial advisors for the Capital Metro project, EY, in order to cost the proposal.
10. The table below sets out the indicative order of magnitude for a termination for convenience payment.
11. The estimate is based on available information in the Project Agreement, Termination Schedule and base case financial model as at financial close.
12. As the financial model is based on monthly cash flows, the table below presents estimates as at the end of October and end of November.

Table 1: Estimated termination for convenience payment – timing comparison (\$m)

Termination for Convenience (\$m)	End October 2016	End November 2016
Total compensation	223 to 241	258 to 276
Comprising:		
Project Debt	179	206
Fair Value Equity ¹	19 to 33	19 to 33
Financial Break Costs ¹	16 to -16	16 to -16
Redundancy Payments	1	1
Expenses incurred but not paid	27	34

¹ Range is estimated on the basis of a 100b.p. (one percentage point) (+/-) movement in base interest rates in the time since financial close (24 May 2016).

13. The estimates in the above table should be considered as an order of magnitude. They are drawn from the base case financial model that provides detailed analysis of the expected progression of the project, but may be subject to revision as the project progresses through until November 2016. The underlying assumptions may

not prevail at the point of termination and consequently the final result may materially differ from these estimates.

14. The costing does not include any budget impacts including from avoided expenses following cancellation of the project, legal fees or ACT government redundancy costs.
15. Public announcement of an estimated termination payment may disadvantage the Territory in negotiations in the event of a termination.

Consultation and Communication

16. We have consulted with the Capital Metro Agency in the preparation of this brief.
17. The EY advice notes that their report should not be quoted, referred or shown to any other parties without prior written consent, unless so required by court or a regulatory authority.

Financial

18. There are no financial impacts arising directly from this brief.

A/Head of Service Clearance: David Nicol

Director General Capital Metro Agency Clearance: Emma Thomas

A/Under Treasurer Clearance: Stephen Miners

Executive Clearance: Peter Murray, Executive Director, Infrastructure Finance and Advisory Division

Date: 24 June 2016

Action Officer: Damon Hall, Director, Infrastructure Policy and Analysis

Phone: 70058

Attachment A

Request for Costing of Alternative Policy Proposal

Name of policy proposal:	Capital Metro – payment
Person requesting costing:	Jamie Driscoll – ACT Executive Chief of Staff – on behalf of the Chief Minister/Treasurer
Date of request:	22/06/2016
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Issue the proposal will address:	Cost to consortium and other parties.

What are the key assumptions that have been made in the proposal?

Note: The costing will developed on the basis of information and assumptions provided in the costing request. The professional judgment of the Under Treasurer will determine whether these assumptions are adopted in the costing of the proposal.

Exercise of termination for convenience clause on 11 November 2016.

Treasury cost estimate

An estimate for a termination for convenience payment notified to Project Co in mid November 2016 would be in the order of \$220 million to \$280 million. The table below sets out the individual elements comprising this estimate.

The estimate is based on available information in the Project Agreement, Termination Schedule and base case financial model as at financial close.

As the financial model is based on monthly cash flows, the table below presents estimates as at the end of October and end of November.

Table 1: Estimated termination for convenience payment – timing comparison (\$m)

Termination for Convenience (\$m)	End October 2016	End November 2016
Total compensation	223 to 241	258 to 276
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¹ Range is estimated on the basis of a 100 b.p. (one percentage point) (+/-)movement in base interest rates in the time since financial close (24 May 2016).

The estimate excludes:

- Costs related to the valuation undertaken by an Independent Expert appointed under the Project Agreement.
- Territory legal and financial advisory costs which could amount to \$2 million to \$3 million.
- Budget impacts from avoided expenditures.
- Proceeds from the Commonwealth Government under the Asset Recycling Initiative.
- Service contracts outside Canberra Metro affected by the termination event including the Independent Certifier contracted under the Project Agreement.