



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD 67/15-16
2014/15098



Dear 

Freedom of Information Request – Capital Metro

I am writing in relation to your request for documents relating to the Capital Metro, made under the *ACT Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 23 June 2016.

I wish to apologise for the time it has taken to provide a response to your request and I appreciate your patience in this matter.

In your request you are seeking:

1. The analysis that demonstrates the land-value uplift and urban development potential of light rail, referred to by Capital Metro Minister Simon Corbell, in the Assembly on March 20 2014, as follows:

.... And we have very clear analysis that demonstrates the capacity of light rail to achieve a level of uplift and a level of urban development that goes far beyond that which has ever been achieved through bus rapid transit ..." (Legislative Assembly for the ACT: 2014 Week 2 Hansard (20 March) Page 644.)

2. A briefing document from the Under Treasurer to the Treasurer on 5 September 2014, referred to by the auditor-general in her recent light-rail audit.

As advised to you by letter dated 8 July 2016, Transport Canberra and City Services Directorate (formerly the Capital Metro Agency) accepted a partial transfer and will provide a separate decision in relation to the other documents referred to in this request.

Decision Maker

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

Chief Minister, Treasury and Economic Development

Charges

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

Identification of Documents

Officers of CMTEDD have searched electronic and paper records for documents that may relate to your request.

For point one of your request, the Directorate has identified 18 documents. For point two of your request, the Directorate has identified one document.

Decision on Access

I have decided to fully release 13 documents; fully exempt five documents; and partially exempt one document from release. The documents being exempted are: 10, 11, 12, 13, 14 and 19 on the attached schedule of documents. My reasons for not providing access to these documents are outlined below.

Exemptions claimed

Section 35 – Executive Documents

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.
- 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.

Decisions on exempted documents

Document 10: Capital Metro Agency, 2014, 'Value capture options and assessment'

I have decided to release part of this document. Parts of this document have been redacted. These redactions are being exempt under Section 35(1)(d) and the disclosure of these parts of the document would reveal deliberations of the Cabinet.

Document 11: Capital Metro Project Board meeting paper, 6 March 2014, 'Final Draft Rapid Business Case' for meeting No. 9 on 13 March 2014

This document is being exempt under Sections 35(1)(a) and 35(1)(c). Attachment A to this paper 'Final Draft Rapid Business Case' was considered by Cabinet and brought into existence for the purpose of submission to Cabinet and is therefore exempt under Section 35(1)(a). The Capital Metro Project Board meeting paper contains extracts from this attachment and this therefore exempt under Section 35(1)(c).

Document 12: Value Capture Options: Capital Metro Light Rail Project (working paper)

This document is being exempt under Section 35(1)(c). Document 12 is a copy of a paper which was later considered by the Cabinet, and was brought into existence for the purpose of being considered by the Cabinet.

Document 13: Brief to the Treasurer from K. Doran (Executive Director, Economic and Financial Group), 'Light Rail Value Capture Paper'

This document is being exempt under Section 35(1)(d). Document 13 is a brief to the Treasurer which discusses the contents of a document which was brought into existence for the purpose of being submitted to Cabinet and was submitted to Cabinet. Its release would involve the disclosure of a deliberation of the Cabinet.

Document 14: Cabinet Submission '2014-15 Budget – Capturing value from light rail'

This document is being exempt under Section 35(1)(a) as it was considered by Cabinet and brought into existence for the purpose of submission to Cabinet.

Document 19: Brief to the Treasurer from D. Nicol (ACT Under Treasurer) 'Capital Metro – Approval of Capital Metro Light Rail Project' of 5 September 2014

This document is being exempt under Section 35(1)(d) of the Act. This document refers to a Cabinet discussion and its release would reveal the deliberations of the Cabinet.

In making my decision to exempt documents using the Section 35 – Executive documents exemption, I have given consideration to whether the documents contain material that is purely factual, as required under Section 35(2). I do not consider that these documents contain purely factual material.

In relation to Document 6 'Capital Metro Funding and Finance: Principles, Framework and Model', this document was exempt in a previous Freedom of Information request in January 2015 under Sections 35 and 39 of the Act. Given developments since that time, these exemptions no longer apply. It is noted this document is an internal working document with early estimates of some information that has been subsequently updated.

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 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 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

Should you have any queries regarding this matter, please contact me on (02) 6205 0772.

Yours sincerely



Kathy Goth
Director
Economic and Financial Analysis
23 August 2016