



Our Ref: CMA-FOI:15-007



CANBERRA ACT 2601

Dear 

Re: Freedom of Information request

I write in regard to your letter of 9 January 2015 requesting access to Capital Metro Agency (CMA) documents under the *Freedom of Information Act 1989* (the Act). In your letter you sought access to:

“any information held by the Agency, in relation to the Annual Service Payment as identified on page 132 of the Capital Metro Full Business Case”.

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

Although the volume of documents is considerable (10,675 pages), a majority of these documents are exempt from release under the Act. Therefore I have decided, under section 29 of the Act, not to impose processing charges for this request.

Decision on access

The scope of your request was identified to be relevant to the Annual Service Payment, in the context of the PPP Proxy Model, as identified on page 132 of the Capital Metro Full Business Case.

As you are aware, third party consultation was undertaken, under section 27 of the Act, in February 2015. The Capital Metro Agency has received and assessed submissions from the third party and is in a position to make a decision on your request.

The attached document schedule details the various documents identified and assessed as a result of your request. I have decided to partially release seven documents, fully release three documents, and exempt the remaining documents, noting roughly 23 of the exempt documents were either already publicly available, or found to be outside of the scope of your request.



The scope of your request captured a considerable amount of email correspondence containing draft material relevant to the Capital Metro Full Business Case which was released in October 2014.

In addition, the scope captured a significant amount of:

- Cabinet-in-Confidence material which has been, or will be, considered by Cabinet;
- commercially sensitive information belonging to a third party;
- names and personal identifiers (such as emails and contact details) of third party individuals; and
- draft material that was prepared as part of the overall decision making process, including the preparation of Cabinet material.

Exemptions claimed

Section 35(1) 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 above; 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(1) of the Act states that, subject to this section, a document is an exempt document if its disclosure under this 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 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 Capital Metro Agency 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 (www.cmttd.act.gov.au) by searching 'Online FOI Publication'.

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

Yours sincerely



Anita Hargreaves
Decision Maker
Capital Metro Agency

10 March 2015