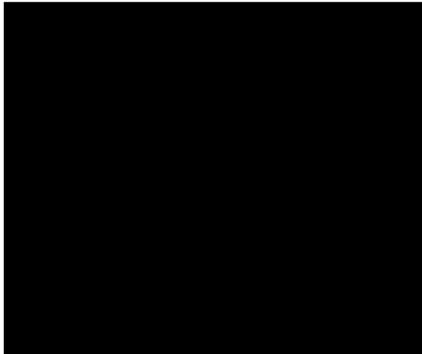




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD 71/15-16



### **Freedom of Information Request – Capital Metro Contract**

I am writing in relation to your request for documents relating to the Capital Metro contract, made under the ACT *Freedom of Information Act 1989* (the Act) and received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 June 2016.

In your request you are seeking:

*“... all documents and any information held by the Directorate in relation to any termination fee payable upon the cancellation of Capital Metro contract (Contract Number: CLR-Stage 1).”*

#### **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.

#### **Identification of Documents**

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

#### **Decision on Access**

I have decided to fully release the majority of documents to you and fully exempt the release of one document.

Chief Minister, Treasury and Economic Development

GPO Box 158 Canberra ACT 2601 | phone: 132281 | [www.act.gov.au](http://www.act.gov.au)

My reasons for not providing access to this document are outlined in the following statement of exemptions and in the attached schedule of documents.

## **Exemptions claimed**

### Section 36 - Internal Working Documents

Section 36 of the Act provides:

- (1) *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.*
- (2) *In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).*
- (3) *This section does not apply to a document only because of purely factual material contained in the document.*
- (4) *This section does not apply to—*
  - a. *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or*
  - b. *reports of a prescribed body or organisation established within an agency; or*
  - c. *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*
- (5) *Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.*

I have decided to exempt from release Folio 11 on the basis that it is a working document, used to prepare advice in relation to an estimation of any termination payment arising from termination of the contract for convenience. Release of this document is not in the public interest, as it may reduce the ability of the Government to negotiate the best possible outcome for the Territory, in the event of cancellation of the Capital Metro contract.

## **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](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) 6207 5650.

Yours sincerely

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director  
Infrastructure Finance and Advisory Division

25 July 2016