



FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: 24-011

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Not Applicable
4. Documents	Not Applicable
5. Additional information identified	Not Applicable
6. Fees	Not Applicable
7. Processing time (in working days)	28 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not applicable
10. Decision made by ACAT	Not applicable

11. Additional information identified by ACAT	Not applicable
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From: [TCCS_FreedomOfInformation](#)
To: [CMTEDD FOI](#)
Subject: RE: Freedom of Information Request - Stage 1 of the Light Rail Project
Date: Monday, 29 January 2024 3:17:00 PM

OFFICIAL

Hi Chris,

Thank you for providing us with a copy of this application. TCCS accepts full transfer.

Kind regards,

Sam

Samantha Irons | Assistant Director

Phone: 02 6207 9242 | Email: TCCS.FOI@act.gov.au

**Information Access | Procurement, Legal and Information Access | Transport Canberra and City Services
Directorate | ACT Government**

480 Northbourne Avenue, Dickson 2602 | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: CMTEDD FOI <CMTEDDFOI@act.gov.au>
Sent: Monday, January 29, 2024 11:54 AM
To: TCCS_FreedomOfInformation <TCCS.FOI@act.gov.au>
Cc: CMTEDD FOI <CMTEDDFOI@act.gov.au>
Subject: FW: Freedom of Information Request - Stage 1 of the Light Rail Project

OFFICIAL

Good morning Team,

We have received the request below and it looks like it would sit better with TCCS.

Can you please confirm if you would take full transfer of the request. Thank you.

Kind Regards,

Chris

Freedom of Information Coordinator | Information Access Team

Phone: 02 6207 7754 | Email: CMTEDDFOI@act.gov.au

**Corporate | Chief Minister, Treasury and Economic Development Directorate | ACT
Government**

Level 1, 220 London Circuit, Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | act.gov.au

From: [REDACTED]
Sent: Monday, January 29, 2024 8:14 AM
To: CMTEDD FOI <CMTEDDFOI@act.gov.au>
Subject: Re: Freedom of Information Request - Stage 1 of the Light Rail Project

You don't often get email from [REDACTED] [Learn why this is important](#)

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

I would like to make this an FOI request please
regards

On Wed, Jul 27, 2022 at 11:15 AM CMTEDD FOI <CMTEDDFOI@act.gov.au> wrote:

OFFICIAL

Good morning [REDACTED]

You have contacted the Freedom of Information (FOI) team and we can only search for information that is not in the public if we are processing an FOI application. Would you like us to begin a search for you? Searches are undertaken within statutory timeframes in line with the *Freedom of Information Act 2016*.

I can confirm that the document you asked for is not currently publicly available (i.e., it is not an open access document)

Katharine

Katharine Stuart (she/her) | Senior Director, Information Management

Phone: 02 6207 4497

From: [REDACTED]
Sent: Wednesday, 27 July 2022 11:00 AM
To: CMTEDD FOI <CMTEDDFOI@act.gov.au>
Subject: Re: Freedom of Information Request - Stage 1 of the Light Rail Project

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Katherine

Thank you for that information but do you know whether such a document exists?
regards

[REDACTED]

On Mon, Jul 18, 2022 at 9:45 AM CMTEDD FOI <CMTEDDFOI@act.gov.au> wrote:

OFFICIAL

Good morning [REDACTED]

I can confirm that there is no open access document for this information. Would you like to make this an FOI request?

Thanks

Katharine

Katharine Stuart (she/her) | Senior Director, Information Management

Phone: 02 6207 4497 | katharine.stuart@act.gov.au

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

Level 5, 220 London Circuit, Canberra City | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

[REDACTED]
Sent: Monday, 11 July 2022 11:34 AM

To: CMTEDD FOI <CMTEDDFOI@act.gov.au>

Subject: Freedom of Information Request - Stage 1 of the Light Rail Project

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The Treasurer
ACT Government

I wish to obtain a copy of a document that shows the operating loss (or profit) of stage 1 of the Light Rail Project (City to Gunghalin) for the financial year 2020 to 2021.

Does such a document exist?

If so is there open access to the document?

If there is no open access not to whom do I make a FOI request?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

Dear [REDACTED]

Freedom of Information Request - Reference 24-011

I refer to your application for access to government information held by Transport Canberra and City Services (TCCS) on 29 January 2024, by way of transfer from the Chief Minister, Treasury and Economic Development Directorate. It is my understanding that you are seeking access to the following government information under the *Freedom of Information Act 2016*:

I wish to obtain a copy of a document that shows the operating loss (or profit) of stage 1 of the Light Rail Project (City to Gungahlin) for the financial year 2020 to 2021.

Timeframes

A decision is due on your access application by 12 March 2024.

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the FOI Act.

Decision on access

In accordance with the FOI Act, a search of government information has been completed and relevant information has been identified as held by TCCS.

Upon considering the type of information contained in these records and applying the public interest test under section 17 of the FOI Act, I have decided to refuse access. Reasons for this decision are detailed further in the statement below.

Statement of Reasons

In reaching my access decision, I have taken the following into account:

- The FOI Act; and
- The *Human Rights Act 2016*.

In making my decision on disclosing government information, I must identify all relevant factors in schedule 2 of the FOI Act and determine, on balance, where the public interest lies. I have taken the following sections of schedule 2 into account:

Factors favouring disclosure in the public interest (Schedule 2, Section 2.1)

- Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.
- Section 2.1(a)(iii) - inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.

TCCS.FOI@act.gov.au | phone: (02) 620 72987 | www.act.gov.au

Factors favouring non-disclosure (Schedule 2, Section 2.2)

- Section 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person.
- Section 2.2(a)(xii) - prejudice an agency's ability to obtain confidential information.
- Section 2.2(a)(xiii) - prejudice the competitive commercial activities of an agency.

In making my decision, I have considered that financial expenditure or earnings contained in the requested profit and loss statements relating to Light Rail Stage 1 relate to third party finances and commercial in confidence information.

I have reviewed the factors favouring disclosure and find that disclosure may contribute to positive and informed debate and may further inform the public about relevant Government operations as Light Rail Stage 1 is a significant service provided by the ACT Government. However, the extent of this information contributing to debates or providing information on relevant government operations is minor, as the records contain third party financial information. Information relating to public expenditure for 2020-2021 is already available in the 2020-2021 ACT Budget Statements. In this instance, I have placed minor weight on factors 2.1(a)(ii) and 2.2(a)(iii).

In making my decision, I have also considered the manner in which TCCS is entitled to access the relevant information, specified under contract [920/80154106](#). This agreement defines the information as commercially sensitive and requires that it be handled as commercial in confidence.

The expectations for the non-disclosure of commercially sensitive information to third parties is explicitly stated within the agreement, and doing so would likely prejudice ongoing commercial activities of TCCS with the contracted party in the operation of this contract. Further, I consider that disclosure of the requested information is likely to prejudice the ability of our agency to obtain further commercially sensitive information, which is crucial to meeting obligations under the contract. In consideration of the likelihood of harm resulting from disclosure, I have placed significant weight on factors 2.2(a)(xii) and 2.2(a)(xi).

As the information solely relates to third party financial transactions, I have considered whether disclosure of the information is likely to prejudice their business affairs. The information within the records includes pricing, spending, income and other financial business information. I have considered that the information is commercially sensitive, and that the disclosure is likely to prejudice the business affairs of the third party as the detail and nature of the information is not merely historical. In consideration of the likelihood of harm resulting from disclosure, I have placed significant weight on factor 2.2(a)(xi).

In this instance, I have found that the disclosure of the information is, on balance, contrary to the public interest to disclose and refuse access.

Charges

No fee is applicable to this application.

Online publishing – disclosure log

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your access application and this notice of decision will be published on the disclosure log within 3 – 10 business days. Your personal information will be removed from these documents prior to publication.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82 on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA CITY ACT 2601
Telephone: (02) 6207 1740
www.acat.act.gov.au

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to tccs.foi@act.gov.au.

Yours sincerely



Lisa Johnson
Information Officer

8 March 2024