



ACT
Government

Transport Canberra and
City Services

FREEDOM OF INFORMATION COVERSHEET

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

FOI reference: TCCSFOI 2019-033

| Information to be published | Status |
|---|-----------|
| 1. Access application | Published |
| 2. Decision notice and schedule | Published |
| 3. Documents | Published |
| 4. Additional information identified | No |
| 5. Fees | n/a |
| 6. Processing time (in working days) | 27 days |
| 7. Decision made by Ombudsman | n/a |
| 8. Additional information identified by Ombudsman | n/a |
| 9. Decision made by ACAT | n/a |
| 10. Additional information identified by ACAT | n/a |



Ref: 19-033



Freedom of Information – Access Application Form

PRIVACY NOTICE

The personal information you supply on this form will only be used for the purpose of processing your request. Your application must include an email or postal address to which the respondent can send notices under the Act. If all or some of this information is not collected, [AGENCY] may not be able to communicate with you, inhibiting their obligations under the Act. This could mean the request cannot be dealt with. Your personal information will not be disclosed to a third party without your consent unless statutory obligations require otherwise.

The [AGENCY] Privacy Policy contains information on how you can access or seek to correct any of your personal information that is held by the [AGENCY], as well as the process for lodging a complaint about an alleged breach of the *Information Privacy Act 2014*. The Privacy Policy can be found on the [AGENCY] website at [WEBSITE].

Applicant details

I wish to make an access application to Transport Canberra and City Services under the *Freedom of Information Act 2016*.

Name

Address

(where notices relating to this request can be sent – either postal or electronic)

Telephone Contact Residential

Telephone Contact Mobile

Email Contact

What documents are you requesting under the Act?

- I write to request under the Freedom of Information Act 2016 any photographic or video footage taken which displays or captures Canberra Metro Light Rail Vehicles passing through amber and red lights at intersections, and any near misses and collisions with vehicles, pedestrians or cyclists
- I also write to request internal documents regarding these incidents of this nature

I would like

a copy of these documents sent to the above address.



Fee Waiver

If you wish to apply for a fee waiver, the Act sets out a number of provisions to do so:

- The information being requested was previously publicly available but no longer is.
- The information being requested is of special benefit to the public (Ombudsman guidelines see Section 66).
- The applicant is a concession card holder and demonstrates a material connection with the information requested (concession cards include a current health care or pensioner card issued under the Social Security Act 1991; a current pensioner concession card issued in relation to a pension under the Veterans' Entitlements Act 1986 or the Military Rehabilitation and Compensation Act 2004; a current gold card; or a card prescribed by regulation).
- The applicant is a not-for-profit organisation and the application relates to the activities or purposes of the organisation.
- The applicant is a member of the Legislative Assembly.

[AGENCY] must waive any fees for providing information if the information was not publicly available and the agency makes the information publicly available before or within 3 working days after giving it to the applicant.

Fee waiver application (fill in if applicable, otherwise leave blank)

I would like to apply for a fee waiver because the applicant is [REDACTED]


| APPLICANT'S SIGNATURE | DATE OF REQUEST |
|-----------------------|----------------------------|
| [REDACTED] | 8 th April 2019 |



ACT
Government

Transport Canberra and
City Services



By email: 

Dear 

Freedom of information request: Reference – 19-033

I refer to your application made under the *Freedom of Information Act 2016* (the FOI Act), received by Transport Canberra and City Services Directorate (TCCS) on 8 April 2019, in which you sought access to:

- Obtaining photographic or video footage taken which displays or captures Canberra Metro Light Rail Vehicles passing through amber and red lights at intersections, and any near misses and collisions with vehicles, pedestrians or cyclists
- Any internal documents regarding these incidents of this nature.

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

Decision on access

I have identified two documents which fall within the scope of your request. The attached schedule of documents at **Attachment A** provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

Under section 35(1)(a) of the FOI Act, I have decided to grant full access to document 1.

Document 2, identified as relevant to your request, contains information that I consider to be, on balance, contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to copies of documents **Attachment B** with deletions applied to information that I consider would be contrary to the public interest to disclose.

Statement of Reasons

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

- the FOI Act in particular Schedule 2; and
- the content of the documents that fall within the scope your request.

Factors favouring disclosure (Schedule 2)

- 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; and
- Section 2.1 (a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring non-disclosure (Schedule 2)

- Section 2.2 (a)(ii) – prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*.

As an Information Officer, I am required to decide where, on balance, public interest lies.

As part of this process I must consider factors favouring disclosure and non-disclosure. I consider that it is in the public interest to release most of the information identified as falling within the scope of your request.

Document 2 contains personal information of members of the public. This information also includes medical information and work related details. It is not in the public interest to disclose information that could prejudice a person’s right to privacy and in this case, I have decided to redact such information relying on section 2.2(a)(ii).

An important factor in reaching my conclusion is that I do not know of any reason why the information would be of benefit to the applicant, and I consider that the individual whose sensitive information is disclosed in the document may have an expectation that their privacy would be respected and that information would not be disclosed.

Under section 45 of the FOI Act, the other information you have requested is already available to you within the public domain.

Please see the following links to publicly available video footage:

<https://vimeo.com/329708887/53f59e1132>

Facebook Account -

<https://www.facebook.com/shanerattenburymia/videos/349549965664568/>

Online publishing – disclosure log

Under section 28 of the FOI Act, TCCS maintains an online record of access applications called a FOI disclosure log. Your original access application, my decision and documents released will be published in the TCCS disclosure log from 3 days after the date of this decision. Please note that your personal details will not be published. You may view TCCS’ disclosure log at at www.tccs.act.gov.au/about-us/freedom_of_information.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the FOI 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: ombudsman@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

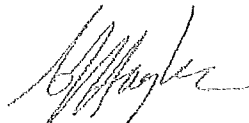
Under section 84 of the FOI Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
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 directorate's FOI Coordinator on 6205 5408 or email tccs.foi@act.gov.au.

Yours sincerely



Cherie Hughes
Information Officer

20 May 2019

FREEDOM OF INFORMATION REQUEST SCHEDULE

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

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 contact officer immediately.

Information about what is published on open access is available online at: <https://www.iccs.act.gov.au/about-us/freedom-of-information/disclosure-log>

| NAME | WHAT ARE THE PARAMETERS OF THE REQUEST |
|--------------|---|
| FOI – 19-033 | <p>Obtaining photographic or video footage taken which displays or captures Canberra Metro Light Rail Vehicles passing through amber and red lights at intersections, and any near misses and collisions with vehicles, pedestrians or cyclists</p> <p>Any internal documents regarding these incidents of this nature.</p> |

| Ref No | No of Folios | Description | Date | Status | Reason for non-release or deferral | Open Access release status |
|---|--------------|-------------|---------------|------------------------|--|----------------------------|
| 1 | 1 | Photograph | Undated | Release in full | N/A | Published |
| 2 | 2-5 | Briefing | 18 March 2019 | Release with deletions | Information Privacy Act 2014 Schedule 2, Section 2.2 (a)(ii) Prejudice the protection of an individual's right to privacy | Published |
| Total No of Docs: 2 Documents (5 pages) | | | | | | |

Photograph of taxi crossing tracks – Northbourne Ave





ACT
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Transport Canberra and
City Services

DATE
18/3/19 to BS

Critical Date:

Critical Reason:

**TRANSPORT CANBERRA AND CITY SERVICES
CLEARANCE SHEET**

| | |
|-------------------------------|---------|
| SUBJECT: Light Rail Incidents | |
| | |
| | |
| TRIM FILE NUMBER | B19/062 |

| | |
|---|-------------------------------------|
| ACTION REQUIRED <input checked="" type="checkbox"/> | <input type="checkbox"/> AGREE/SIGN |
| | <input type="checkbox"/> REVIEW |
| | <input type="checkbox"/> ENDORSE |

| APPROVAL PROCESS | INITIALS | DATE |
|--|----------|----------|
| Director General: Emma Thomas | | 18/03/19 |
| Deputy Director-General: Duncan Edghill | Noted | 15.03.19 |
| Director Governance and Ministerial Services | Noted | 15.03.19 |
| Executive Branch Manager: Meghan Oldfield | MO | 15.03.19 |
| Action Officer/Originator: Tom Percival | TP | 15.03.19 |

MINISTER COMMENTS:

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MINISTERIAL BRIEF

Transport Canberra and City Services

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| | | |
|-------------------------|--|-----------------------|
| To: | Minister for Transport | Tracking No.: B19/062 |
| From: | Director-General, Transport Canberra and City Services | |
| Subject: | Light Rail Incidents | |
| Critical Date: | 18 March 2019 | |
| Critical Reason: | The next sitting day for the Legislative Assembly is 19 March 2019 | |

Recommendations

That you note the information contained in this brief.

Noted / Please Discuss

Meegan Fitzharris MLA

19/3/19

Minister's Office Feedback

Background

1. A Light Rail Vehicle collided with a Member of the Public (MOP) at approximately 7:47am on Saturday 9 March 2019.
 - a. The incident occurred at the intersection of Northbourne Avenue and Barry Drive/Cooyong Street while the system was undertaking planned Priority Call testing activities. LRV001 was travelling northbound having departed the Alinga Street stop at 7:46am.
 - b. Canberra Metro investigations refer to CCTV footage that shows the pedestrian had crossed the light rail tracks against a red signal and was observed to be wearing headphones and a sweater with a hood.
 - c. On-board data shows the LRV driver applied the warning bell and then the emergency brake. After the collision, the driver immediately contacted the Operational Control Centre (OCC) and reported the incident and exited the LRV to provide assistance to the injured person.
 - d. Emergency services and Canberra Metro Operations attended the scene to respond to the incident. The injured member of the public was transported by ambulance to The Canberra Hospital in a stable condition. Ambulance staff reported [REDACTED]
 - e. The LRV driver was accompanied to the Mitchell Depot for post incident Drug & Alcohol testing (negative result returned) and Employee Assistance Program (EAP) counseling was arranged.
2. At about 8:31am on 9 March 2019, an LRV proceeded northbound through the intersection at Flemington Road and Randwick Road, contrary to the traffic signals showing a red T-signal.
 - a. Canberra Metro investigation of the incident identifies that it is the result of LRV driver error. A green left-turn signal (for road traffic) was mistaken by the driver for a white T-signal, and the LRV driver had proceeded into the intersection. The driver reported that he was distracted by the evolving events that morning.
 - b. A car, driven by a Member of the Public, approaching the intersection on Randwick Road with right of way, stopped before entering the intersection to avoid a collision with LRV011. The car driver posted video footage posted to Facebook on 10 March 2019 of the incident.
 - c. There is no evidence that a malfunction in the signalling system occurred. An on-board alarm system that would normally alert to this type of incident was not operational at the time due to a system upgrade.
 - d. The driver has been suspended from driving for counselling, re-training and reassessment.
 - e. The LRV was proceeding to the depot, as all LRVs had been recalled to the depot following the earlier incident involving a collision with a pedestrian at Barry Drive
 - f. Any incidents that occur, including near-misses, are required to be recorded by Canberra Metro, investigated and reviewed internally by Canberra Metro

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and the outcomes formally reported to the Territory and ONRSR.

Issues

3. Different LRVs (LRV001 and LRV011) and drivers were involved in both these incidents.
4. Canberra Metro have formal procedures in place to respond to incidents as they occur and when they are reported by the public. Both of the incidents have been investigated by Canberra Metro and reported to Australian Transport Safety Bureau (ATSB), Office of National Rail Safety Regulator (ONRSR) and WorkSafe ACT.
5. Various details of the incidents have been speculated within the community. TCCS and Canberra Metro are focused on reporting only confirmed factual information.

Financial Implications

6. There are no financial implications arising from this brief.

Consultation

7. No consultation has been undertaken in the preparation of this brief.

Work Health and Safety

8. There are no Work Health and Safety implications arising from this brief.

Benefits/Sensitivities

9. There are processes in place to investigate and appropriately action any incidents.

Communications, media and engagement implications

10. There has been considerable local media interest in these incidents and light rail safety since 9 March 2019. Key media reports are:
 - a. 'Man hit by Canberra tram while walking through intersection', *The Canberra Times*, 9 March 2019
 - b. 'Light rail is not yet operational, but a pedestrian has been struck in central Canberra', *ABC News (online)*, 9 March 2019
 - c. 'Pedestrian safety around light rail a balance: transport experts', *The Canberra Times*, 12 March 2019
 - d. 'First light rail accident shows the need for pedestrian barriers', *The Canberra Times*, 12 March 2019
 - e. 'Light rail near-miss under investigation', *The Canberra Times*, 13 March 2019
 - f. 'Uber driver tells of near miss with Canberra light rail vehicle that ran red light', *ABC News (online)*, 14 March 2019
11. TCCS have received media enquiries from The Canberra Times and ABC to confirm several aspects in these reports.

Signatory Name: Emma Thomas

Action Officer: Meghan Oldfield

Phone: 62078658

Phone: 62075716

18/03/19

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