

Department of Premier and Cabinet

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Robert Hogan
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Dear Mr Hogan

I write in response to your application made under the *Right to Information Act 2009* (the Act) to the Department of Premier and Cabinet (the Department) for information for the period from 1 January 2015 to 4 May 2022 inclusive:

- 1) *All briefs to senior officers (Executives) and the Premier/Ministers of the Departments of Premier and Cabinet in relation to the proposed move of the University of Tasmania into the Hobart CBD and/or redevelopment of the Sandy Bay campus;*
- 2) *All analysis undertaken by the Department of Premier and Cabinet in relation to the proposed move of the University of Tasmania into the Hobart CBD and/or redevelopment of the Sandy Bay campus; and*
- 3) *All records relating to the inclusion of the University of Tasmania in the Hobart City Deal.*

I am a delegated Right to Information Officer for the Department under section 24 of the Act.

As you are aware, I have part-transferred this request to the Department of State Growth and the Department of Education, and the delegated Right to Information Officers for the relevant Departments and Ministers will respond to you separately.

Thank you for agreeing to an extension of time for me to complete my determination.

Assessment summary

In relation to part 2 of your request, I advise that a search of the Department's records has shown that there is no information in the possession of the Department relevant to your request.

In response to parts 1 and 3 of your request for information, I have been provided with 34 documents that are within the scope of your request, which I have assessed in accordance with the Act.

Of these records, I have determined that:

- Five documents are released in part, with Cabinet information (section 26 of the Act), internal briefing of a Minister (section 27 of the Act), and/or information relating to the business affairs of public authority (section 38 of the Act) redacted;
- Five documents are publicly available so are not required to be provided;

- Three documents are exempt in full under section 26, and/or section 27 of the Act;
- Three documents are released in full; and
- 18 documents are copies of information originating from the Department of State Growth and are being determined by a delegated Right to Information Officer in the Department of State Growth as the relevant public authority.

In relation to the inclusion of the University of Tasmania in the Hobart City Deal, I note there is a summary of the University of Tasmania: Hobart Science and Technology Precinct project, including a Business Case Evaluation Summary, on the Infrastructure Australia priority list website at: <https://www.infrastructureaustralia.gov.au/map/university-tasmania-hobart-science-and-technology-precinct>

The attached schedule (Attachment I) contains my detailed assessment of each record, including the release status of each record, and details of any exemption categories I have applied. Where information is exempt from release, my reasons are set out below.

Documents for release are provided at Attachment A. Please note that the redactions that have been made to the information for release are marked in grey with the relevant section of the Act noted.

Statement of Reasons

Exemptions not subject to the public interest test

I have determined not to release all or parts of certain items, as detailed in the attached schedule, in accordance with section 26 of the Act.

Cabinet information (section 26)

Section 26 of the Act provides:

Information is exempt information if it is contained in –

- (a) the official record of a deliberation or decision of the Cabinet; or*
- (b) a record proposed by a Minister for the purpose of being submitted to the Cabinet for consideration; or*
- (c) a record that is a copy of, or a copy of part of, a record referred to in paragraph (a) or (b); or*
- (d) a record, the disclosure of which would involve the disclosure of a deliberation or decision of the Cabinet, other than a record by which a decision of the Cabinet was officially published.*

Section 26 does not include information solely because it was submitted to the Cabinet for consideration; or is proposed by a Minister to be submitted to the Cabinet for consideration, if the information was not brought into existence for submission to the Cabinet for consideration.

Parts of items 12 and 15 are exempted as they disclose a deliberation or decision of the Cabinet other than a record by which a decision of the Cabinet was officially published.

Internal briefing information of a Minister (section 27)

I have determined not to release all or parts of certain items, as detailed in the attached schedule, in accordance with section 27 of the Act.

Section 27 of the Act states:

Information is exempt information if it consists of –

(a) an opinion, advice or recommendation prepared by an officer of a public authority or a Minister; or

(b) a record of consultations or deliberations between officers of public authorities and Ministers –

in the course of, or for the purpose of, providing a Minister with a briefing in connection with the official business of a public authority, a Minister or the Government and in connection with the Minister's parliamentary duty.

Item 1 and items 7-8, and 11, 12 and 15 in the attached schedule are Minutes or Briefing Notes (briefs) prepared by the Department of Premier and Cabinet for the Minister for Local Government or the Premier, and I am satisfied that they are internal briefing information of a Minister within the meaning of section 27 and were brought into existence solely for submission to a Minister for the purposes of a briefing and in connection with the Minister's parliamentary duty.

Section 27(4) provides that exempt information does not include purely factual information unless its disclosure would reveal the nature or content of the opinion, advice, recommendation, consultation or deliberations of the briefing.

In *Re Waterford and the Treasurer of the Commonwealth of Australia (No 1)*¹ the Commonwealth Administrative Appeals Tribunal observed that the word 'purely' in this context has the sense of 'simply' or 'merely'. Therefore, the material must be factual in fairly unambiguous terms. To be excluded from exemption, the material must not be inextricably bound up with the decision-makers deliberative processes and must be capable of standing alone.

I have determined that all or parts of items 1, 7-8 and 11, 12 and 15 are exempt as those parts consist of opinion, advice or recommendation prepared by officers of the Department of Premier and Cabinet for the purpose of providing Ministers with a briefing in connection with the official business of the Department of Premier and Cabinet, a Minister or the Government. I am satisfied that any factual information that may be included in those parts of items 1, 7-8 and 11, 12 and 15 that I have exempted cannot be separated from the opinion, advice, or recommendation, and is inextricably linked with the opinion, advice or recommendation.

Where factual information can be separated from the opinion, advice, recommendation, consultation or deliberations, I have determined to release that information.

The exemptions applied under sections 26 and 27 of the Act are not subject to the public interest test.

Exemptions subject to public interest test

Information related to business affairs of public authority (section 38)

Section 38 of the Act provides, among other things that:

Information is exempt information (a) if it is – (ii) in the case of a public authority engaged in trade or commerce, information of a business, commercial or financial nature that would, if disclosed under this Act, be likely to expose the public authority to competitive disadvantage.

In relation to information contained in the Minutes and a Briefing Note to the Premier (items 9, 10A and 10B), I consulted with the University of Tasmania as the relevant Tasmanian public authority about information within the scope of the request, and considered the views expressed by that public authority. I have determined that documents 9, 10A and 10B contain information that has not been publicly

¹ [1984] AATA 518

released and is commercially sensitive. Further, documents 9 and 10A refer to a draft and incomplete business case which was subsequently updated by document 10B. The information contained in documents 9, 10A and 10B is of a business, commercial or financial nature that would, if disclosed under the Act, be likely to expose the public authority to competitive disadvantage. As previously mentioned, an Evaluation Summary of the final version of the Hobart Science and Technology Precinct Business Case is publicly available on the Infrastructure Australia website.

There is a high degree of community interest in the University of Tasmania's proposed move to the Hobart CBD and proposed redevelopment of the Sandy Bay campus as is evidenced by the Save UTAS Campus community group, media interest and public community forums held to discuss the issue. In making this decision, I have considered the matters relevant to assessment of the public interest provided under Schedule 1 of the Act. I have determined that the matter relevant to assessment of public interest that weighs positively in favour of release of the information, is the general public need for government information to be accessible (Schedule 1(1)(a)). On balance, I consider that disclosing this information would harm the business or financial interests of a public authority or any other person or organisation (Schedule 1(1)(s)), the information is wrong or inaccurate (Schedule 1(1)(u)) and that the information is information related to the business affairs of a person which, if released, would cause harm to the competitive position of that person (Schedule 1(1)(w)) and it is contrary to the public interest to release that information.

In relation to Table 3 (documents 17-34), the Department of State Growth has been identified as the relevant public authority. As previously mentioned, I transferred in part your request to other agencies including the Department of State Growth. As the Department of State Growth is the relevant public authority, one of its delegated Right to Information Officers will assess the records and provide their determination to you.

Please note that certain information released in response to Right to Information requests will be published online within 48 hours of being released to the applicant. Further information about this can be found at <https://www.dpac.tas.gov.au/rti>.

Review

If you are dissatisfied with my decision, you have the right to seek an internal review under Section 43 of the Act for information relating to the Department. You may wish to do this by writing to the Secretary, Department of Premier and Cabinet, at the address above within 20 working days of receipt of this letter.

Should you have any questions in relation to this matter, please do not hesitate to contact me by email at Bridget.Hutton@dpac.tas.gov.au or by telephone on 6232 7142.

Yours sincerely



Bridget Hutton
Delegated Right to Information Officer

25 August 2022