

Department of Education

LEGAL SERVICES

GPO Box 169, HOBART TAS 7001 Australia

rti@education.tas.gov.au

Ph (03) 6165 6156



File no: FOL/22/3349

9 September 2022

Mr Robert Hogan

By email: harveyr35@aol.com

Dear Mr Hogan

**RIGHT TO INFORMATION ACT 2009 APPLICATION FOR ASSESSED DISCLOSURE RTI 191–2021/22
UTAS SANDY BAY CAMPUS RELOCATION
INTERNAL REVIEW DECISION**

I refer to your email dated 31 July 2022 in which you requested an internal review on the decision by Ms Ingrid Bown, Right to Information Delegate, of 5 July 2022 of your *Right to Information Act 2009* (the Act) Application for Assessed Disclosure.

I confirm that I hold a delegation from the Secretary of the Department to make decisions under section 43 of the Act. Further, I confirm that I had no part in Ms Bown's decision of 5 July 2022 and therefore my decision is a 'fresh decision' as required under the Act.

Information relevant to your request has been located and assessed in accordance with the Act. I have determined to release this information in part. My reasons for this decision are outlined in the attached Statement of Reasons.

If you would like to discuss this decision further please contact Mrs Roxana Jones, Right to Information Officer, Legal Services. Mrs Jones can be contacted by telephone on 61656156 or by email at rti@education.tas.gov.au.

You are entitled to an external review of this decision. Such a request is to be made to the Office of the Ombudsman within 20 working days upon receipt of this decision. The Office of the Ombudsman:

Phone: 1800 001 170

Email: RTI@ombudsman.tas.gov.au

Postal GPO Box 960 Hobart TAS 7001

Yours sincerely

A handwritten signature in blue ink, appearing to read "Yolanda Prenc".

Yolanda Prenc

RIGHT TO INFORMATION DELEGATE

RIGHT TO INFORMATION ACT 2009

STATEMENT OF REASONS FOR DECISION RTI 191–2021/22: HOGAN, ROBERT MR

1. Background

I refer to your email dated 31 July 2022 in which you requested an internal review on the decision by Ms Bown, Right to Information Delegate, of 5 July 2022 of your *Right to Information Act 2009* (the Act) Application for Assessed Disclosure.

Specifically, you noted that:

I am extremely surprised by the response to my RTI application.

As you know, the Minister for Education has administrative responsibility for the University of Tasmania Act 1992 (the [UTAS] Act) - section 28 refers.

Under section 8.(1)(d) of the [UTAS] Act, the Minister has responsibility for appointing two members of the University of Tasmania (UTAS) Council.

Under section 8.(5), the Minister must discharge several responsibilities before making an appointment to the UTAS Council, including consultation with the UTAS Council.

Under section 12, the Minister has responsibility for receiving and tabling the annual report of UTAS.

Given these responsibilities, I would expect the Department of Education to hold significant documentation in relation to UTAS.

I am left to make the following conclusions:

- The Department of Education has not provided briefing to senior officers or the Minister of Education in relation to the proposed move of UTAS to the CBD and/or redevelopment of the Sandy Bay campus;
- The Department of Education has undertaken no analysis of the proposed move of UTAS to the CBD and/or redevelopment of the Sandy Bay campus; and
- Contrary to the Act, the Minister for Education has not been involved in the appointment of UTAS Councillors since 2015.

2. Authority to make decision

I hold a delegation from the Secretary, Department of Education, granted under section 24 of the Act.

3. Basis for the decision

The information requested has been assessed in accordance with the *Right to Information Act 2009*. This decision is made pursuant to section 22 of the Act.

4. Material upon which findings are based

This decision is based on information held by the following Department business units:

- Ministerial and Executive Services;
- Office of the Deputy Secretary, Learning;
- Facility Services.

5. Decision and reasons

Following the initial response from the various sections of the Department, a further thorough search was conducted by the RTI Officer to ascertain if any information was overlooked. Some relevant information within the scope of your application has been located and collated. We apologise for this oversight. As you can imagine, the Department is a large department and when requesting information, we trust that a thorough search has been conducted by those officers. I have determined that the majority of the information will be released with some select sections such as the Council members' CVs exempt under section 36 of the Act relating to personal information.

Where information is partially exempt, I have noted on the Schedule of Documents, which section of the Act has been applied to exempt information from disclosure. Where information is exempt in full, no descriptive information has been provided as the information has been removed in full from this response.

I consider some of the information within your request exempt under the following section of the Act:

Section 36 – Personal information of person

- (1) Information is exempt information if its disclosure under this Act would involve the disclosure of the personal information of a person other than the person making an application under section 13.*

Personal information is defined under s5 of the Act as:

Personal information means any information or opinion in any recorded format about an individual –

- (a) whose identity is apparent or is reasonably ascertainable from the information or opinion; and*
- (b) who is alive, or has not been dead for more than 25 years.*

Very small sections of the information have been exempted under section 36 of the Act. These have been noted in the Schedule of Documents. To disclose personal information of individuals to promote the interests of some individuals would not outweigh the harm to a larger group of individuals. It is essential for the Department to be trusted to responsibly handle the personal information of individuals. For personal information of individuals to be disclosed would cause a loss of trust and potential harm to the individual.

Public Interest Test

Section 36 is subject to the public interest test. Schedule I of the Act lists the matters to be considered when assessing if disclosure of particular information would be contrary to the public interest

Section 36 – Personal Information of a person. The sections of schedule I I find relevant are:

- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with Government*
- (m) whether the disclosure would promote or harm the interests of an individual or group of individuals;*
- (n) whether the disclosure would prejudice the ability to obtain similar information in the future.*

I find that to release this information could harm individuals and could impact on the ability of the Department to obtain similar information in the future if there is a loss of trust in the Department to be responsible in handling personal information. I find it contrary to the public interest to release this information.

If you would like to discuss this application further please contact Mrs Roxana Jones, Right to Information Officer, Legal Services, Department of Education. Mrs Jones can be contacted by telephone 6165 6156 or by email at rti@education.tas.gov.au.

6. Review Right

You are entitled to an external review of this decision. Such a request is to be made to the Office of the Ombudsman within 20 working days upon receipt of this decision. The Office of the Ombudsman:

Phone: 1800 001 170

Email: RTI@ombudsman.tas.gov.au

Postal GPO Box 960 Hobart TAS 7001

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Yolanda Prenc', is written over a light blue circular stamp.

Yolanda Prenc

RIGHT TO INFORMATION DELEGATE