

Ms Jenny Gale  
Secretary, Department of Premier and Cabinet  
Head of the State Service  
By email: [secretary@dpac.tas.gov.au](mailto:secretary@dpac.tas.gov.au)

Dear Ms Gale

### **Right to Information – University of Tasmania**

I am writing to you both in your capacity as Secretary of the Department of Premier and Cabinet (DPAC) and as Head of the State Service.

Specifically, I am writing to you as Secretary of DPAC, as you are the Principal for the agency under the *Right to Information Act 2009*, and I wish to seek an internal review of a decision made regarding a Right to Information (RTI) application that I lodged with DPAC on 4 May 2022. In short, my application sought records relating to various matters pertaining to the University of Tasmania (UTAS). Further details of my application are provided below.

I am writing to you as Head of the State Service, as my RTI application was also forwarded to the Department of Education (DE) and the Department of State Growth (DSG). The response of these agencies, taken together with that of DPAC, have raised a number of issues, which I will outline below. I also wish to raise issues regarding UTAS' lack of accountability and transparency, including in particular, its lack of responsiveness to RTI applications. This reflects poorly on UTAS as a Tasmanian public authority, which should be modelling best practice behaviour, and therefore the Tasmanian Government, which has legislative responsibility for UTAS.

### Background

On 4 May 2022, I submitted my RTI application, with fee paid, to DPAC, requesting:

“the following records in relation to the period 1 January 2015 to 4 May 2022:

- [1] All briefs provided to senior officers (Executives) and the Premier/Ministers of the Departments of Premier and Cabinet, Education and Infrastructure (or such names as these Departments were known in the relevant period) in relation to the proposed move of UTAS into the Hobart CBD and/or redevelopment of the Sandy Bay campus;
- [2] All analysis undertaken by the Departments of Premier and Cabinet, Education and Infrastructure in relation to the proposed move of UTAS into the Hobart CBD and/or redevelopment of the Sandy Bay campus;
- [3] All records relating to the inclusion of UTAS in the Hobart City Deal; and
- [4] All briefs and correspondence relating to the appointment of UTAS Councilors by the Minister for Education under ss 8.(1)(d) and 8.(5) of the *University of Tasmania Act 1992*.”

On 27-31 May, after some time spent debating the level of public interest in UTAS' proposed relocation to the Hobart CBD, Bridget Hutton (DPAC) accepted the scope of my RTI application and also forwarded my RTI application to DE and DSG, for their consideration.

On 5 July, I was emailed a decision letter from DE (the letter was dated 4 July), advising that no information within the scope of my request could be found.

On 29 July, I received a decision letter from DSG, attaching 95 pages of documents.

On 31 July, I sought internal review of DE's decision.

On 29 August, I was emailed a decision letter from Ms Hutton (the letter was dated 25 August). Although DPAC had earlier advised me that, **"A preliminary search of DPAC records has identified potentially hundreds of pages of information which may be relevant to your request"** [my bolding], I was provided with only 20 pages of documents.

On 13 September, I was emailed an internal review decision letter from DE (the letter was dated 9 September), attaching 39 pages of documents. I will be seeking an external review of this decision.

### General Issues

I acknowledge that staff processing my RTI application have had to deal with Covid and other issues, and that on a number of occasions my agreement was sought for extensions of legislated deadlines, to which I always agreed. Overall, however, I find it disappointing that I have had to wait three to four months from the lodgment of my application to receive a total of only 154 pages of documents (with significant redactions made and a number of documents totally exempted), given the high level of public interest in the proposed relocation of UTAS to the Hobart CBD, and the urgency surrounding this matter.

While I did not seek an internal review of DSG's decision on my RTI application, looking at the response of DSG, DPAC and DE taken together, a number of general issues have become clear:

- There are gaps in the documentation provided, both within and between agencies.
- There are variations in the types of documentation provided, for example in relation to the provision of: briefs to senior officers and Ministers; and emails, which are captured by the wording of dot point 3 of my request and the reference to "correspondence" in dot point 4.
- Factual content appears to have been redacted in a number of documents, whereas I believe Ms Hutton was correct in the approach she stated that she had adopted in her letter of 29 August:

"Where factual information can be separated from the [sic] opinion, advice, recommendation, consultation or deliberations, I have determined to release that information."
- There is little or no documentation in relation to a number of Ministerial appointments to the UTAS Council (this includes your own appointment to the UTAS Council, while Secretary of DPAC, in 2018 and the subsequent appointment of Ms Jennifer Burgess from DE).
- The status of UTAS' Hobart STEM precinct proposal, is left unclear between November 2021 and May 2022, suggesting no briefs on the matter were prepared in that period.

- Few documents originating from UTAS have been provided to me, or have even been identified as exempt in the schedules of documents considered by DPAC, DSG and DE. I believed (and continue to believe) it likely that the agencies would hold a number of relevant documents from UTAS, and I had attributed part of the delay in responding to my RTI application to the need for consultation with UTAS (and necessary redactions being made after consultation).
- There are inconsistencies in the naming of officers from other agencies, including Commonwealth agencies.
- There are variations in practice between agencies with regard to disclosure logs.
- There are variations in practice with regard to notification of review procedures.

While I may be able to identify more specific gaps in documentation within and between agencies, this would only be partial, and moreover it is not my role as an RTI applicant. I suggest that DPAC, DSG and DE work together to consider inconsistencies in practice and, more importantly, to identify the gaps in the documentation provided to me.

#### Issues specific to DPAC

Some of the issues above have relevance to internal review of DPAC's decision on my RTI application, but there are also a number of other matters specific to DPAC that I wish to raise (item numbers refer to the schedule of documents in Attachment 1 to Ms Hutton's decision letter):

- Even allowing for issues identified above, it is not clear how potentially hundreds of pages of documents have been reduced down to 19.
- The link at Item 4 is not working and it is not, anyway, clear why this document is not on DPAC's website.
- As Item 7 was prepared as a Question Time Brief, presumably with talking points for public use, and factual content, it is not clear why this is exempted as an internal briefing document. I contrast the treatment of this document with that at Item 1.
- Ms Hutton has identified Items 9 (in part), 10A and 10B, relating to UTAS' Hobart STEM precinct proposal, as likely to expose UTAS to competitive disadvantage if disclosed and therefore exempt; instead she has referred me to a project evaluation on Infrastructure Australia's website, of which I am well aware. I make a number of comments on this:
  - The STEM Business Case (Item 10B) is a critical document in considering UTAS' case for a CBD move;
  - I have reason to believe that its assumptions about increased student numbers are highly questionable;
  - I also have reason to believe that its benefit (and perhaps cost) calculations are highly questionable;
  - I have recently sought a copy of the STEM Business Case through an RTI application to UTAS. UTAS has also referred me to Infrastructure Australia's website, and exempted the STEM Business Case, but for an entirely different reason to that cited by Ms Hutton.

- The argument that the STEM Business Case cannot be provided, as it would be likely to expose UTAS to competitive disadvantage, is unsound. At the very most, the STEM Business Case would have some sensitive information that might require redaction. A broad-brush approach to this document is not appropriate and is contrary to the approach Ms Hutton has adopted elsewhere.

#### Conclusions based on documents received

Based on the documents I have so far received, I draw the following conclusions:

- Neither DPAC nor DSG nor DE have provided briefing to senior officers or Ministers in relation to the proposed move of UTAS into the Hobart CBD and redevelopment of the Sandy Bay campus. **If correct, this represents an abrogation of responsibility by the State Government and its agencies, and a gross failure of administration.**
  - UTAS' proposed move to the Hobart CBD, and redevelopment of the Sandy Bay campus, is a major issue for UTAS, Hobart and Tasmania.
  - The proposition - that a decision of this magnitude, whereby UTAS' southern campus is relocated to the city and the Sandy Bay campus is effectively turned into a new suburb, should be left to UTAS - is absurd.
- Neither DPAC nor DSG nor DE have undertaken analysis of the proposed move of UTAS into the Hobart CBD and redevelopment of the Sandy Bay campus (indeed DPAC explicitly states that it has not undertaken such analysis). Again this represents a serious abrogation of responsibility by the State Government and its agencies. At a minimum it would seem reasonable that agencies should have undertaken a critical assessment of the various dimensions of the proposed relocation.
- More specifically, neither DPAC nor DSG nor DE have provided briefing to senior officers or Ministers in relation to UTAS' Hobart STEM precinct proposal; nor have those agencies undertaken any analysis of that proposal. The STEM proposal is a central component in UTAS' plan to relocate to the Hobart CBD.
- Neither you nor Ms Burgess received any agency briefing in relation to UTAS' proposed relocation or the City Deal, including UTAS' Hobart STEM precinct proposal, notwithstanding your membership of the UTAS Council. I also note that you were a member of the Hobart City Deal – Senior Officials Group.
- In summation, the overall approach of departmental officers and Ministers to UTAS' proposed relocation to the Hobart CBD has been one of totally unquestioning acceptance of every claim UTAS has made, including UTAS' assertions regarding student accessibility, financial viability, traffic and parking impacts, the state of buildings at Sandy Bay and consultation, with – as far as I have noticed in the 154 pages provided - one minor exception:
  - On 26 October 2018, a senior DE official queried “whether UTAs hasn't underplayed the implications for Hobart's transport and other infrastructure if it were to relocate from Sandy Bay entirely.”
  - It is not clear from the documentation provided whether this issue was ever followed up.

## The Issue of Accountability

As you are aware, with the passage of the *University of Tasmania Act 1992*, the constraint on UTAS from being able to sell or lease the Sandy Bay Campus was removed. However, there is no evidence to suggest that the Parliament contemplated sale or leasing of the whole Sandy Bay site at that time. Further, mechanisms were explicitly put in place to ensure UTAS' "basic accountability to the Government and the people of Tasmania," including a mechanism for appointment of UTAS Council members by the Minister for Education, with representation by senior officials on the Council clearly in mind. Over time, these accountability mechanisms have been eroded and appointment of senior officials to the UTAS Council has become sporadic. The UTAS Council has now unilaterally decided to relocate, with apparently – at best – little government engagement.

- For a fuller analysis of the processes involved, see my submission (145) to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 2009 (LegCo Inquiry) at <https://www.parliament.tas.gov.au/ctee/council/LC%20Select%20-%20University%20of%20Tasmania.html>. The quote is from the Minister for Education, John Beswick, and is reproduced in full on page 4 of my submission.

Against this background, I would appreciate it if you could inform me whether you and Ms Burgess were appointed to the UTAS Council to provide an avenue for closer governmental engagement with the Council and/or to increase the accountability of UTAS to the Government. If so, I would also be interested in why Ms Burgess was not replaced by a senior official at the end of her appointment.

## UTAS

As noted in my submission to the LegCo inquiry, UTAS now has little or no accountability other than to itself. This contention is supported by the documents I have so far received from DPAC, DSG and DE. To this I would add that UTAS lacks a meaningful commitment to transparency. While I have found agency responses to my RTI application disappointing, they compare more than favourably to UTAS.

I have submitted seven RTI applications to UTAS. I have sought external review by the Ombudsman in relation to five of these; I will shortly seek internal review by UTAS in relation to one; and one is still being processed by UTAS. I have been frustrated by the delays, obstruction and obfuscation I have experienced with all seven of my RTI applications to UTAS. I understand this experience has been shared by other RTI applicants to UTAS. As the Secretary of DPAC and the Head of the State Service, I suggest you conduct a review of UTAS' responses to all the RTI applications it has received in the last three years.

As a matter of courtesy, I advise you that I will shortly launch a website devoted to documenting UTAS' proposed relocation. This website will feature all documents relating to my various RTI applications and other relevant documents.

I look forward to your response.

Yours sincerely



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