Professor Rufus Black
Vice-Chancellor
University of Tasmania
By email: Vice.Chancellor@utas.edu.au

Dear Professor Black

Request for Internal Review of Decision relating to a Right to Information Application – UTAS Council minutes

I am writing to you in your capacity as Principal Officer of the University of Tasmania (UTAS), under the *Right to Information Act 2009* (the Act), to seek an internal review of the decision made regarding a Right to Information (RTI) application that I lodged on 24 March 2022. My application requested "copies of the minutes of all meetings of the UTAS Council conducted between 1 January 2015 and 24 March 2022." A copy of my application is at Attachment A.

Following lodgment of my application, I had some discussion, through email, with Mr Simon Perraton regarding amendment to the scope of my request (email thread at Attachment B). Following provision of some information by Mr Perraton, on 28 April I reaffirmed the scope of my original request, for reasons I set out more fully below. On 29 April, I was advised by Mr Perraton that he had "accepted this application for assessed disclosure of information". This led me to believe that the original scope of my application had been accepted. However, in a letter dated 16 May (Attachment C), Mr Perraton advised me that UTAS had accepted "the following [UTAS] amended scope:

> *'Copies of the minutes of all meetings of the UTAS Council conducted between 1 January 2015 and 24 March 2022 that relate to University decision making on the move to a city centric campus.'"*

While, from UTAS' perspective, the wording was poor (ambiguous at best), the intent was clear: to provide me only with that part of the UTAS Council minutes that Mr Perraton deemed relevant to the University's decision to move to the CBD. This UTAS wording was again used in Mr Perraton's decision letter of 27 May (Attachment D).

Mr Perraton's decision letter, and the extract from the UTAS Council minutes (with redactions) that he provided with his letter, raise a number of issues.

First, in his list of material that he took into account in his decision, Mr Perraton does not refer to the decision of 24 February 2022 by the Tasmanian Ombudsman in the case of Alexandra Humphries and University of Tasmania at:
https://www.ombudsman.tas.gov.au/__data/assets/pdf_file/0006/651894/R2202-032-Humphries-and-UTAS-Final-Decision.pdf
Given its recency and relevancy, I would have expected Mr Perraton, and UTAS generally, to draw significant guidance from this decision. I will refer several times to the decision below (abbreviated as O).

Second, the Act makes no provision for a decision maker to unilaterally vary the scope of an application and I consider it entirely inappropriate, if not beyond power, for Mr Perraton to have done so.

I conducted discussion on the scope of my request with Mr Perraton in good faith. I sought details of the number of UTAS Council meetings and the average length (page numbers) of the minutes of Council meetings and was provided with estimates by Mr Perraton (see Attachment B). On the basis of the figures provided, I considered maintenance of the scope of my original request entirely reasonable. My arguments for this are set out in some detail in my email to Mr Perraton of 28 April (Attachment B). My main argument was that judgement of what was relevant to the UTAS Council's decision to move would "involve too high a degree of subjectivity to be acceptable, as your interpretation of [factors that relate to the move] would, no doubt, be different to mine. I believe, for example, that many factors - such as the financial situation of the University; maintenance issues; analysis and projections of student enrolments by region, state and country; community, staff and student attitudes; consultants' reports; and the filling of council vacancies etc - will all have combined to have direct impact on the decision making process." I also indicated that the effort involved in considering release of the Council minutes would be outweighed by the significant public interest around UTAS' proposed move. This interest is clearly increasing by the day. (see also O para 1)

Receipt of the extract from the UTAS Council minutes has only confirmed my view and I would make the following additional points:

- UTAS Council minutes are of a kind that record decisions only rather than also summarising discussion; and
- Having carefully reviewed the extract from minutes, I believe that most of the material contained could **not** be considered Exempt Information on any grounds under the Act.

Taken together, these points indicate that it should have been a relatively straightforward task to consider the full UTAS Council minutes, as I requested, for release.

I also note that Mr Perraton has indeed narrowed the scope of what he has considered relevant to the minimum. In particular I note that there is no indication that the Council ever considered the issue of accessibility, which is one of the main pillars of UTAS' argument for the CBD move. Nor is there any meaningful reference to consultation undertaken with staff and students in 2018-19, which - based on a number of comments by participants - was hostile to the move.

Third, there is no indication that Mr Perraton undertook the redactions in the extract from the minutes in a considered way; rather he has simply referred to Sections 37 and 38 of the Act in a broad-brush manner. This is at odds with the position of the Ombudsman that the onus is on UTAS to show that information is exempt and to consider public interest factors in some depth and in a balanced way. (eg, O paras 44 and 52-53)

The redactions in the extract from the minutes appear to have been made in accordance with certain blanket principles, without consideration of the issues. Two that are clearly observable are the redaction of any dollar ($) amounts and the names of any third parties, particularly consultants, even where this cannot possibly have any warrant and/or the information is already in the public domain. (see also O, paras 15-16, 81, 82 and 87).

Fourth, there was a significant lapse of time from the date of lodgment of my application to provision of Mr Perraton's decision, with the process taking 43 working days, well outside legislative requirements. Very little of this can be attributed to me, as I responded to all communication as quickly as possible. I acknowledge that, as Mr Perraton explained, COVID and leave arrangements around Easter may have had a role to play in this. However, this is not the responsibility of the applicant and I suggest that applicants be advised where timelines cannot be met or delays are inevitable.

In sum, I believe that Mr Perraton has erred in his decision making and request that the full UTAS Council minutes for the period 1 January 2015 to 24 March 2022 be provided to me with redactions only where exemptions apply and public interest factors have been considered in a balanced way.

Yours sincerely

Robert Hogan
27 June 2022
Email: harveyr35@aol.com