

OMBUDSMAN TASMANIA
DECISION



Right to Information Act Review

Case Reference: R2503-009

Names of Parties: Robert Hogan and University of Tasmania

Reasons for decision: s48(3)

Provisions considered: s35, s36, s37

Background

- 1 In 2019 the University of Tasmania (the University) announced a decision to relocate its longstanding campus at Sandy Bay to central Hobart. Although the original proposal has since been modified to include a new science, technology, engineering and mathematics (STEM) precinct at Sandy Bay, the University's relocation plans have sparked a high level of public interest and debate.
- 2 Mr Robert Hogan has a strong interest in the University and maintains a website and blog which are generally opposed to any move away from the Sandy Bay campus.
- 3 On 23 September 2024, Mr Hogan made an application to the University for assessed disclosure under s13 of the *Right to Information Act 2009* (the Act) seeking *...records relating to communications between members of UTAS staff and members of the ALP [Australian Labor Party] since 1 January 2024...*
- 4 In an attachment to his application, Mr Hogan set out the specific information he was seeking:

I request:

(1) Copies of all communications and related records since 1 January 2024 between members of the staff of the University of Tasmania and members of the Australian Labor Party (ALP), including Members of the Tasmanian State Parliament, Members of the Federal Parliament, their support/office staff, and the Hon. Michael Field AC and the Hon. Paul Lennon AO.

This request is intended to include, but is not limited to, copies of:

- a) Email correspondence between members of the staff of UTAS and members of the ALP;*

b) Notes/records for or of meetings between staff of UTAS and members of the ALP;

c) Copies of calendar/diary entries relating to meetings between staff of UTAS and members of the ALP;

d) Briefs provided by UTAS to ALP members; and

e) Questions asked by ALP members of UTAS staff members.

In particular I seek copies of all communications relating to: the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 2009; the University of Tasmania (Protection of Land) Bill 2024; UTAS' proposal for a new STEM building; redevelopment of the UTAS campus site above Churchill Avenue and the UTAS Sandy Bay campus site generally; and the Tasmanian Parliament Public Accounts Committee Inquiry into UTAS Financial Position.

(2) Copies of all internal UTAS communications, records of meetings and briefs pertaining to members of the ALP and request (1) since 1 January 2024.

Notes

I would clearly expect email correspondence to cover emails with a UTAS or parliamentary address, which should be easily searchable, but believe that emails between personal email addresses should not be exempt where they relate to the matters described in this request, as they may constitute formal dealings between UTAS and the ALP.

UTAS staff includes UTAS management staff, including the Vice Chancellor.

I recognise that third party consultation may be necessary in relation to some of the records covered by the request.

- 5 On 8 November 2024, Ms Victoria Geason, a delegate under the Act for the University, advised Mr Hogan that she had identified some information within the scope of his request which was provided to the University by a third party and disclosure of that information may be of substantial concern to that third party. In accordance with s37 of the Act, consultation with the third party was required.
- 6 On 6 December 2024, Ms Geason issued a decision. She identified 174 documents relevant to the application and applied ss35 (internal deliberative information), 36 (personal information), 37 (information

relating to business affairs of third party) and 38 (information relating to business affairs of public authority) to exempt some information.

- 7 On 7 January 2025, Mr Hogan sought internal review and, on 7 February 2025, Mr Simon Perraton, another delegate under the Act for the University, issued the internal review decision. Mr Perraton identified an additional nine documents relevant to the application, maintained reliance on ss 35, 36 and 37 to exempt some information but no longer relied upon the exemption in s38 of the Act.
- 8 On 5 March 2025, Mr Hogan applied for external review and the application was accepted under s44 of the Act. Mr Hogan also raised the question of whether the searches conducted by the University were sufficient to locate all information relevant to his application, which was also accepted for review under s45(1)(e) of the Act.

Issues for Determination

- 9 I must determine whether the information not released by the University is eligible for exemption under ss35, 36, 37 or any other relevant provision of the Act.
- 10 As these sections are contained within Division 2 of Part 3 of the Act, my assessment is made subject to the public interest test in s33. This means that, should I determine the information is prima facie exempt under those sections, I must then determine whether it is contrary to the public interest to disclose it. In making this assessment I must have regard to all relevant matters and at a minimum those contained in Schedule 1 of the Act.
- 11 I must also determine if the University has made a sufficient search for information relevant to Mr Hogan's application.

Relevant legislation

- 12 I attach copies of ss33, 35, 36, 37 and Schedule 1 to this decision at Attachment 1.

Submissions

Applicant

- 13 As part of his application for internal review, Mr Hogan made submissions regarding the exemptions applied by the University and perceived gaps in the information located. Relevant extracts of these submissions are set out below.
- 14 In relation to the University's application of s35, Mr Hogan submitted:

Document 76... "some questions and info" provided ... to Dean Winter and Sarah Lovell – This material has been entirely redacted under section 35 of the RTI Act. I query

how the material can be considered “internal deliberative” when it was provided to external parties, including the leader of the State Parliamentary Opposition. I also note that while there is no indication regarding the content of the redacted material, it must inevitably include factual information, redactions of which would be a contravention of the terms of section 35 of the RTI Act. As the redacted material relates to major dealings between UTAS and the State Opposition, which may or may not be appropriate, the public interest case for release of this material appears overwhelming.

Document 117 ... Campus overview provided ...to Paul Lennon – Significant amounts of material have been redacted under section 35 of the RTI Act. Again, I query how material can be considered “internal deliberative” when it is being provided to an external party, presumably for use in lobbying. I also note that some of the redacted material must be factual. As this document was provided to Paul Lennon, a power broker in the State ALP, the public interest case for release of the material appears overwhelming.

- 15 Mr Hogan repeated these points in his submissions of 8 October 2025 and requested the application of s35 be considered as part of the external review process.
- 16 Mr Hogan also challenged the application of s36 to a number of documents where he considered *...the identity of the individuals involved may be significant.*
- 17 In relation to the searching undertaken by the University, Mr Hogan submitted:

... I have arranged some of the documents chronologically and there appear to be some glaring gaps that have considerable public interest attached to them, and that would seem to warrant further searches...

- 18 After the University’s internal review located additional relevant information, Mr Hogan made additional submissions to my office on 8 October 2025. These included:

My request (1)(b) was for “Notes/records for or of meetings between staff of UTAS and any of the listed persons” – Few, if any, such notes/records have been provided in the released documents. The implication – that notes/records were not made – is implausible for a professional organisation of any size, let alone UTAS.

...

... Very few documents [relating to Request 2] have been provided and I particularly note the near total absence of records of this kind involving the Vice-Chancellor (VC), the UTAS Council and other senior members of UTAS staff...

...

Throughout the documents, I particularly note that Ms Huntington's correspondence with ALP members appears to frequently have had no beginning or end – there is no initiating email and no concluding email, even when Ms Huntington provided significant information or there were outstanding matters...

- 19 Mr Hogan then provided several specific examples in the University's decisions where he was of the belief that further information should exist yet had not been identified. I will not list these here but will consider the issue of the University's searching in my following analysis.

University

- 20 The University was not required to provide specific submissions for this external review, as it had provided reasoning in its decisions. Relevant extracts from the University's internal review decision are set out below.
- 21 In relation to the application of the public interest test, the University indicated (footnotes omitted):

i. The inherent reason for Parliament's inclusion of Section 35 of the RTI Act was to allow for thinking processes to be explored and options discussed and tested prior to settling on a final direction... There are therefore circumstances in which it is appropriate for the University not to disclose information which shows its internal 'thinking processes'...

ii... The University of Tasmania significantly impacts the state's economy, contributing approximately \$1.7 billion annually. Its collaboration with the government on research and infrastructure funding is crucial for driving innovation, economic growth, and addressing workforce needs. In balancing the public interest factors, I have considered whether restricting the University's ability to communicate with elected Members of Parliament and government officials and officers in relation to essential research and infrastructure funding for essential research and teaching facilities could result in missed opportunities for innovation and collaboration and therefore damage the University's ability to drive economic growth and academic and other employment in Tasmania.

iii. In relation to Section 36 of the RTI Act, the decisions of the Ombudsman ... relating to the public interest in the disclosure of the names of public officers and private individuals where selective circumstances mean the person may have reasonably expected to be on the public record and the public interest favours release.

iv. In relation to the information that is conditionally exempt under Section 37 of the RTI Act, I note that the University operates in a competitive global market of other Universities, consultancies and education providers. A university operates in a competitive environment by continuously enhancing its academic programs, research capabilities, and campus facilities to attract students and staff. It also engages in strategic partnerships and marketing efforts to maintain its reputation and financial stability. In order to ensure competitiveness it is sometimes necessary to maintain commercial confidence, and if the University is unable to rely on the conditional exemptions in the RTI Act that allow it to maintain commercial confidence there could be negative effects including preventing new opportunities, partnerships and delivery of outcomes for the public good.

Analysis

- 22 The University provided my office with a schedule of documents produced for the internal review. It also provided my office with a 492 page PDF document containing the unredacted information not released to Mr Hogan, along with a separate 28 page PDF document containing the unredacted *Additional Documents* located during the internal review process. For convenience and ease of reference, I will use the page numbers in these documents during my analysis and refer to them as the Initial Release and Additional Documents.

Preliminary issue

- 23 While the schedule of documents provided by the University identifies each document, it does not indicate the corresponding page number in the information. In addition, although the schedule of *Additional Documents* identifies the sections of the Act relied upon to exempt some information, there is no indication on the redactions themselves which exemption has been applied or if the information was considered by the University to be outside the scope of Mr Hogan's request. This approach not only makes the external review process cumbersome but also hinders an applicant's ability to make an informed decision on whether to seek review.

24 I urge the University to make greater efforts to ensure document schedules and explanations of redactions are clear and its decisions are readily comprehensible.

Section 35 – Internal deliberative information

25 For information to be exempt from disclosure under s35 of the Act, I must first be satisfied it consists of:

- an opinion, advice or recommendation prepared by an officer of a public authority (s35(1)(a)); or
- a record of consultations or deliberations between officers of public authorities (s35(1)(b)); or
- a record of consultations or deliberations between officers of public authorities and Ministers (s35(1)(c)).

26 Once the requirements of one of those subsections are met, I must then be satisfied the information was prepared or recorded in the course of, or for the purpose of, the deliberative processes related to the official business of the University.

27 Section 35(1) of the Act does not apply to the following:

- purely factual information (s35(2));
- a final decision, order or ruling given in the exercise of an adjudicative function, or a reason which explains such a decision, order or ruling (s35(3)); or
- information which is older than 10 years (s35(4)).

28 As to the meaning of 'purely factual information' in s35(2), I refer to *Re Waterford and Treasurer of the Commonwealth of Australia (No. 1)*¹, where the Commonwealth Administrative Appeals Tribunal (AAT) observed the word 'purely' in this context has the sense of 'simply' or 'merely' and that the material must be factual in quite unambiguous terms.

29 The phrase was considered again in *Re Secretary, Department of Prime Minister and Cabinet and Secretary, Department of Infrastructure and Regional Development and Sanderson*² where the AAT considered:

... the material must be "...wholly... [or] entirely..." comprised of factual material and cannot incorporate any material that is not factual material... It does not contain material that can be described as opinion, advice, recommendation or even conjecture.

¹ [1984] AATA 518 at [14]

² [2015] AATA 361 at [106]

- 30 The meaning of the phrase ‘in the course of, or for the purpose of, the deliberative processes’ has also been considered by the AAT. In *Re Waterford and Department of Treasury (No. 2)*³, it adopted the view that these are an agency’s thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.
- 31 The University has applied s35 to exempt all the information on pages 260, 261, 371 and 372 of the Initial Release, as well as pages 5-10 of the Additional Documents.
- 32 The information on pages 260 and 261 is contained in an attachment to an email sent by the University to two opposition members of the Parliament of Tasmania. It comprises a series of questions and answers regarding proposed legislation. While I accept the information was prepared by an officer of the University, there is no indication that it was prepared in the course of, or for the purpose of, the internal deliberative process related to the official business of the University. The information appears to be in the nature of a briefing to external parties and as such is not of an internal character. The information on these two pages is not exempt under s35 and is therefore to be released to Mr Hogan.
- 33 The information on pages 371 and 372 to which the University has applied s35 is contained in one of four attachments to an email headed *UTAS background docs* which was sent by the University to the former Premier of Tasmania, Mr Paul Lennon. The University released the covering email to Mr Hogan in full, along with three of the four attachments and applied s35 to exempt several paragraphs in the second attachment.
- 34 There is no indication whether the document containing the exempted information is complete, nor any indication of the date or author. However, it does contain a discussion of some issues facing the University as well as potential outcomes and does appear to have been created by a public officer in the course of the deliberative processes of the University. If the email attachment had been sent internally, I am satisfied that it would be prima facie exempt under s35(1)(a). However, it was sent to an external party, Mr Lennon, and I am not satisfied that it can now be classed as internal deliberative information. It is not exempt and should be released to Mr Hogan.
- 35 The University has also applied s35 to exempt some information contained in a six page email chain headed *FW: Draft letters for consideration ahead of tomorrow morning’s meeting* contained in pages 5-10 of the Additional Documents. The email chain is in two halves, one relating to consultation with government Ministers in June 2024 and the other relating to consultation with the opposition and cross-bench in July

³ [1984] AATA 67 at [58]

2024. As Mr Hogan has only sought information regarding discussions between the University and the Australian Labor Party, I agree that much of the information is out of scope of his request.

36 The University has not identified to which parts of the information it has applied s35 and considers in scope of Mr Hogan's request. However, it appears that the following information would be in that category:

- Page 5 – the redacted information in the first paragraph of Ms Alison Watkins' email sent at 5:00pm on 17 July 2024;
- Page 6 – the final substantive paragraph of Mr Nicholas Farrelly's email of 4:20pm on 17 July 2024; and
- Page 6 – the second paragraph of Ms Kate Huntington's email of 3:41 pm on 17 July 2024.

37 I am satisfied that the above listed information is prima facie exempt under s35(1)(b) as a record of consultations or deliberations between officers of a public authority in the course of a deliberative process.

38 There is also purely factual or non-deliberative information in email headers, footers, signature blocks, salutations, and introductory and concluding remarks (such as *very happy to answer any questions and discuss further* on page 6) in these documents. This information is not exempt under s35 and should be released to Mr Hogan when contained in emails which are otherwise in scope on pages 5 and 6.

Section 33 – Public interest test

39 I now turn to my assessment of whether it would be contrary to the public interest to release to Mr Hogan the information I have found to be prima facie exempt under s35. This requires the consideration of the factors in Schedule 1 and any other information relevant to my decision.

40 Schedule 1 matter (a) – *the general public need for government information to be accessible* – was not identified as relevant by the University, but as it is essentially a re-statement of the objects of the Act it will always be relevant and generally weighs in favour of disclosure.

41 Schedule 1 matter (b) – *whether the disclosure would contribute to or hinder debate on a matter of public interest* – was identified by the University as relevant and weighing against disclosure. I do not agree with this assessment. The future plans of the University have been a matter of extensive public debate, as well as an elector poll conducted by the City of Hobart. Release of further information setting out the University's assessment of issues will only assist in informing that debate.

42 As part of the public interest test I take into account the inherent reasons for Parliament's inclusion of s35 in the Act, which is to allow for early

deliberative processes to be exempt where appropriate, as opinions are assessed and options discussed.

- 43 While the information in question is part of an early stage thinking process, it is quite innocuous and it is not apparent why it would be contrary to the public interest for it to be released.
- 44 I therefore determine it is not exempt under s35 and should be released to Mr Hogan.

Section 36 – Personal information of person

- 45 For information to be exempt under s36 of the Act, I must be satisfied that its release would reveal the identity of a person other than the person seeking the information, or that the information would lead to that person's identity being reasonably ascertainable.

- 46 Section 5 of the Act defines personal information as:

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 who has not been dead for more than 25 years.*

- 47 The University has applied s36 to exempt information on pages 425, 430, 431, 442, 443, 445, 446, 449, 450, 459, 460, 465, 466, 469, 470, 471, 472, 474, 476, 477, 484, 485, 486, 487 and 489 of the Initial Release. The schedule of documents indicates s36 has also been applied on page 366, however there are no redactions apparent on the copy of that page which was supplied to my office.
- 48 The schedule of documents further indicates that University has also applied s36 to exempt information on pages 4, 5, 11, 13, 15 and 28 of the Additional Documents. The schedule also indicates a mobile telephone number has been removed pursuant to s36 in Document 7 of the Additional Documents, however this appears to be an error as this has occurred in Document 9 (which is listed as being released in full).
- 49 Section 36 has been applied to names and personal circumstances of external parties, along with personal information of University employees unrelated to their professional duties and some direct contact details. I am satisfied this information falls within the definition of personal information in s5 of the Act and the persons concerned have not been dead for more than 25 years. I consider the information is prima facie exempt under s36 of the Act.

Section 33 – Public interest test

- 50 That the information may be considered personal information and therefore prima facie exempt does not preclude it from being released if doing so would not be contrary to the public interest.

Officers and employees of public authorities

- 51 It has been the consistent position of my office that the personal information of officers and employees of public authorities which relates to the performance of their regular duties (such as their name, position information and work contact details) is not exempt from release unless there are specific and unusual circumstances which justify such an exemption. Whether an officer is a current or former employee is not relevant to the assessment under s36 of the Act.
- 52 One exception in this regard is the direct and mobile phone numbers and email addresses of public officers, which have been consistently found to be exempt under s36 where they are not routinely released to the public. It is valid for public authorities to limit the release of direct contact details of staff to ensure public enquiries are able to be directed through appropriate channels.
- 53 Accordingly, the direct phone numbers on pages 4, 11, 15 and 28 of the Additional Documents are exempt under s36 and not required to be released to Mr Hogan.
- 54 Other information concerning employees of the University is contained on page 5 of the Additional Documents and page 460 of the Initial Release. It would be contrary to the public interest to release this information, as it relates to private information of University staff unrelated to any official business. As such, the information is exempt and not required to be released to Mr Hogan.

External professionals

- 55 Some of the information identified as relevant to the application contains details, including names, positions and contact details, of professionals in the business, construction, finance and media fields.
- 56 While this does constitute personal information as defined in the Act, no reasons have been advanced by the University as to why it is necessary to exempt this information. These external parties were acting at all times in their professional capacities and there is no indication that the University has engaged with the public interest test when making its determination to exempt this particular information.
- 57 Accordingly, with minor exceptions, I determine that the University has not discharged the onus under s47(4) of the Act to show why disclosure of the details of these external professionals is contrary to the public interest. The personal information of external professionals on pages

425, 430, 431, 445, 446, 449, 450, 465, 466, 476 and 477 should be released to Mr Hogan. This is consistent with previous decisions of my office⁴.

- 58 An exception to this is in relation to direct contact details for these professionals if they are not routinely provided to the public. I am satisfied that this information would be exempt under s36 for the same reasons as for the direct contact details of employees of public authorities.
- 59 The other exception is for the names of employees of Salmon Tasmania on pages 469 and 470 of the Initial Release and Loose Goose Catering on pages 471 and 472. These people have not provided submissions or interacted with the University in any substantial manner. Their organisations' names have been released and there is no utility in also releasing their employees' names.
- 60 Consistent with this determination, the name of the employee on page 13 of the Additional Documents is exempt under s36 however the name of the construction company is not and should be released to Mr Hogan on the two occasions it occurs.

Community members

- 61 On pages 442, 443 and 459, the university has applied s36 to exempt some personal information in relation to preliminary introductions concerning potential future employment unconnected with the University.
- 62 The information consists of names as well as employment history and personal circumstances and clearly falls within the definition of personal information in s5 of the Act.
- 63 I note the information does not involve a formal recruitment process and there is no indication whether the information is in the public domain or even if some of the persons concerned are aware their names have been mentioned in this context. In these circumstances I consider the individuals are entitled to privacy, as their interests may be harmed if the information is released, and the relevant information is exempt under s36 of the Act.
- 64 On pages 474 and 489 of the Initial Release the University has redacted a single different email address on each page. Both domains appear to be of professional organisations. I am unsure whether s36 has been applied or if the addresses were considered outside the scope of Mr Hogan's request, as the University has provided no reason for the redactions. As such I determine the University has not discharged its onus under s47(4) of the Act to show why the information should not be disclosed and the addresses should be released to Mr Hogan.

⁴ For example, *Thomas Bade and Huon Valley Council* (December 2024) available at www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions

- 65 On pages 484 and 485 of the Initial Release, the University has exempted personal information in relation to a serious student welfare issue. This is unrelated to the focus of Mr Hogan's application. There is no utility in releasing this information as there is potential for harm to the student's interests if their information is released into the public domain. Accordingly, I am satisfied that the relevant information on these pages is exempt under s36 and is not required to be disclosed.
- 66 On pages 486 and 487 of the Initial Release, the University has applied s36 to exempt the name of a member of the community who has made representations to their Member of Parliament on a matter of concern to them. There is no indication that this person has any professional connection with the subject of Mr Hogan's request and the matter of concern in the representations has been released. I am satisfied that their name would not measurably add to the released information and there is the possibility of harm to their interests if their name is released. I also consider that routine release of names of community members would tend to reduce the likelihood of matters of concern being brought to the attention of elected members. The name is therefore exempt under s36.

Section 37 – Information relating to business affairs of third party

- 67 Section 37(1) provides for information to be exempt if it is related to the business affairs of a third party, when a public authority obtains that information from a person or organisation other than the person making the application for assessed disclosure, if either:

- (a) *the information relates to trade secrets; or*
- (b) *the disclosure of the information would be likely to expose the third party to competitive disadvantage.*

- 68 There is no suggestion that trade secrets are involved, so I will confine my analysis to the issue of competitive disadvantage.
- 69 In relation to likely competitive disadvantage, when considering the equivalent provision in the now repealed *Freedom of Information Act 1991*, the Supreme Court of Tasmania in *Forestry Tasmania v Ombudsman*⁵ held:

52. For information to be exempt, its disclosure needs to be likely to expose the undertaking or agency not to any disadvantage, but a disadvantage which relates to or is characterised by competition. The requirements in ss31 and 32 of the Act that the disadvantage relate to competition may have the preservation of the competitive process as a broad ultimate goal, but primarily the

⁵ [2010] TASSC 39

provisions are concerned with the potential impact on the undertaking or agency acting as a competitor in a market...

70 The Court further held:

55. ... in my view, what the provisions refer to as a competitive disadvantage is something which affects one entity to the extent that it may not be able to generate as high a level of profit relative to its competitive rivals as would be expected, if all else being equal, the particular entity did not face the reason or circumstance. A competitive disadvantage will not necessarily be something which, in strict terms, impacts on an actual ability to compete, and the level of competition...

71 At paragraph 59, Porter J added:

The application of the correct approach involves an assessment of the facts, and findings as to likely exposure to the relevant disadvantage.

72 At paragraph 41, the Court interpreted 'likely' to mean that there must be a real or not remote chance or possibility, rather than more probable than not.

73 The University applied s37 of the Act to exempt information on pages 1, 2 and 491. Pages 1 and 2 consist of a joint letter dated 14 August 2024 to the Commonwealth Minister for Education from the University and Charles Sturt University. Document 491 is part of a joint letter dated 4 April 2024 to the Commonwealth Minister for Home Affairs from:

- Charles Sturt University
- Central Queensland University
- James Cook University
- Murdoch University
- University of Southern Queensland
- University of Tasmania

74 The relevant information in both letters refers in general terms to the effect of proposed government policies on the signatory universities. Some specific information relating to different universities is also included.

75 The letters have been sent from a small cohort of institutions to specific members of the Australian government and there is no indication that non-signature universities are aware of the information or agree with the views expressed. I accept that if the information was publicly available it may cause a competitive disadvantage to the individually nominated

institutions. I am not convinced this is likely to be significant, but I accept it is a real possibility and not a remote chance. The low threshold for effect under s37(1)(b) of the Act means I am satisfied the information is prima facie exempt.

Section 33 - Public interest test

- 76 I now turn my attention to the mandatory public interest under s33 and to assessing whether the release of the information found to be prima facie exempt would be contrary to the public interest.
- 77 Schedule 1 matter (a) – *the general public need for government information to be accessible* – was not identified as relevant by the University. It is however essentially a re-statement of the objects of the Act and so will always be relevant and weigh in favour of disclosure.
- 78 Schedule 1 matter (b) – *whether the disclosure would contribute to or hinder debate on a matter of public interest* – was identified by the University as weighing against disclosure. I do not agree with this assessment in relation to s37 because the anticipated effect of Commonwealth policies on the higher education sector is undoubtedly a matter of public interest. The release of information into the public arena can only contribute to and inform any public debate. I acknowledge the relevant letters are unconnected with the University's proposed move and redevelopment and the subject was not specifically requested by Mr Hogan in his application. Nonetheless I consider this matter weighs in favour of disclosure.
- 79 Schedule 1 matter (n) – *whether the disclosure would prejudice the ability to obtain similar information in the future* – was identified by the University as weighing against disclosure. I do not agree with this assessment under s37 in relation to this information. The signature universities have no doubt included the relevant information to bolster their submissions to the Commonwealth Government regarding proposed policies. I am of the view that organisations will continue to provide their strongest arguments to governments. I also note that the letters and information in question are from 2024.
- 80 Schedule 1 matter (s) – *whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation* – was identified by the university as weighing against disclosure. I agree with this assessment although the small amount of information and its relatively low level of importance mean that this does not weigh strongly against disclosure.
- 81 I also note that the University seeks to exempt information on pages 1 and 2 relating to Charles Sturt University which is similar to information the University has released in the same letter in relation to itself. It is difficult to understand why it would be likely to disadvantage Charles

Sturt University when it would not cause concern to the University for the same type of information to be released.

- 82 In a similar manner, the information on page 491 has already been shared by the relevant university with five other signatory institutions which also operate in the same competitive marketplace and does not appear to be likely to cause any significant harm.
- 83 After considering all relevant factors, on balance I am not convinced the relevant information on pages 1, 2 and 491 is exempt under s37 due to its general nature, and it should therefore be released to Mr Hogan.
- 84 The exception to this is the following information, which consists of exact figures which may give competitive advantage and insight to competing metropolitan tertiary education institutions:
- on page 1, the percentage figure in the third substantive paragraph; and
 - on page 491, the numerical figure in the third paragraph under the heading *Reduced Revenue Stream Impacts*.
- 85 This information is exempt under s37 and is not required to be released to Mr Hogan.

Sufficiency of search

- 86 The University's original searching did not locate the additional information located by Mr Perraton during his internal review. In addition, Mr Hogan identified some information which he believed should exist yet had not been identified by the University. Given this, Mr Hogan held a legitimate concern as to whether the searches conducted were sufficient to locate all relevant information.
- 87 In response to enquiries from my office, Ms Karina Groenewoud, the University's Director, Governance and Compliance made submissions in response. Relevant extracts are set out below:

Because the listed persons [in the application] totalled over 100, it would have been unfeasible to search the entirety of the University's email and file share systems for mention of every ALP member of the Tasmanian and Australian Parliament of the time (>100 individuals). Instead, the RTI Officer initiated a targeted approach to searching by making inquiries to determine which University staff were most likely to have communicated/met with the listed persons with the understanding that they would also know which paid members of staff they had engaged with.

...

The RTI Officer issued a request to the searchers detailing the scope and asking them to search comprehensively, including for email correspondence, notes/records of meetings, diary entries, briefs and in general, questions asked by the listed persons as well as for internal communications, meetings and briefs about the communications with the listed persons. The RTI Officer reinforced that searchers were not at liberty to filter or withhold information that fell within the scope of the request.

...

... A member of the Vice-Chancellor's staff searched his email, his official office email, his internal office email, the relevant Vice-Chancellor's Teams folders for official letters and briefs, and the Vice-Chancellor's diary/calendar. Another staff member reviewed the calendar/diary entries for Ms Huntington and Mr Farrelly. The University Secretary searched all agenda items and minutes for the period as well as email communications with Council.

In terms of time spent, the Vice-Chancellor's staff member recorded that she spent 4 hours 35 minutes searching...

- 88 Ms Groenewoud then addressed Mr Hogan's concerns regarding apparent gaps in the information supplied to him:

... From my queries with relevant staff, I can advise... specifically:

University staff do not routinely take notes/records of every meeting. The Vice-Chancellor and Ms Huntington rarely take notes of the meetings with politicians. These are often relationship building meetings at which discussion is wide ranging.

It is not routine to provide written pre-meeting or post-meeting briefs for the Vice-Chancellor or other senior officers.

It was normal and acceptable for Ms Huntington to engage directly with members of Parliament and their advisors without the need to brief or seek approval from the Vice-Chancellor or the University Council. This is because Ms Huntington was accountable for engagement with such stakeholders in her senior executive role. She often did this by phone.

I am advised it is quite common to send information to a politician and for them not to reply.

...

Having gained an understanding of the process undertaken by each of the RTI Officers and talked to the searchers, I am satisfied that the searching undertaken was sufficient. I estimate I have spent over 25 hours gathering and reviewing information and responding to this request.

- 89 The University did not provide search records in a form similar to the template in my *Guideline in Relation to Searching and Locating Information*⁶, but, after considering the entirety of Ms Groenewoud's response, I am satisfied that an adequate search was ultimately conducted. The University has cooperated fully with this review and I do not consider that additional searching is required.

Preliminary Conclusion

- 90 In accordance with the reasons given above, I determine:
- exemptions claimed pursuant to s36 and 37 are varied;
 - exemptions claimed pursuant to s35 are not made out; and
 - a sufficient search for information was ultimately conducted.

Response to the Preliminary Conclusion

- 91 As the above preliminary conclusion was adverse to the University, it was made available to it on 10 April 2026 pursuant to s48(1)(a) of the Act to seek the University's input before finalisation.
- 92 On 30 April 2026, Ms Karina Groenewoud, Director of Governance and Compliance for the University, responded. Ms Groenewoud advised that *...the University does not wish to make any submissions in relation to the Ombudsman's revisions to the assessed disclosure of University of Tasmania information.* Ms Groenewoud did make submissions in relation to the small quantity of information I had originally determined not to be exempt under s37 of the Act and relevant extracts are set out below.
- 93 In relation to the assessment of Schedule 1 matter (s) as part of the public interest test, the University submitted:

University markets are varied and complex, and universities both collaborate and compete across many different contexts. There are some markets in which all universities compete, and there are many that they do not. Information is central to gaining market advantage in existing areas of competition, as well as informing decisions about whether to enter new markets.

⁶ Guideline 4/2010, available at www.ombudsman.tas.gov.au/right-to-information/rti-publications

...

The information in question may not be voluminous, but it provides valuable equity data and insights into market positioning and marketing strategy. It is also important to note that while the information is from 2024, it would be informing current funding negotiations between regional universities and the Australian Government; negotiations that are likely to have effects beyond the next annual funding round, including in the context of domestic and international student caps. Release of this information about regional universities at this time could advantage metropolitan universities in their negotiations.

- 94 In relation to the assessment of Schedule 1 matter (b), the University submitted:

The University agrees that, although the subject matter of these letters was not the specific focus of Mr Hogan's application, the anticipated effects of Commonwealth policies on the University and the higher education sector are matters of public interest.

However, the information disclosed does set out the substantive arguments advanced by the universities in question in relation to those policy impacts. The redacted information primarily provides illustrative examples in support of those arguments, rather than advancing new propositions or materially altering the substance of the case being made.

In those circumstances, release of the small amount of additional information would be unlikely to materially further the public's understanding of the policy debate beyond what is already apparent from the information released.

- 95 On 7 May 2026, the preliminary decision was also made available to Mr Hogan pursuant to s48(1)(b) of the Act to seek his input prior to finalisation.
- 96 On 10 May 2026, Mr Hogan responded with some comments relating to the University's record-keeping and the manner in which relevant information was presented, which I have noted. Mr Hogan also advised that he did *not seek any amendment to the Ombudsman's preliminary review decision.*

Further analysis

- 97 In relation to the application of s37, I acknowledge that all universities collaborate in certain areas but compete in other markets, such as attracting international students to their particular institutions. Regarding

the information in question, it is the case that some regional universities have collaborated in their submissions to the Commonwealth government in an attempt to influence policy which impacts the higher education sector. It is in this context that I assess the University's submissions.

- 98 In relation to Schedule 1 matter (b), I particularly note the University's submission that the redacted information provides illustrative examples in support of the arguments they have advanced. Contrary to the University's position, I consider the provision of real world examples in support of general propositions can significantly add to the public's understanding of issues and result in a more informed debate.
- 99 In relation to the weight I give to Schedule 1 matter (s), I have reconsidered my assessment in light of the University's submission. I am not persuaded that the majority of the information to which the University has applied s37 is exempt, as it consists of substantive arguments which the University accepts are not exempt, or brief and uncontroversial examples in support of those arguments.
- 100 I note the University's advice as a result of consultation it conducted pursuant to s37(2), Charles Sturt University considered release of the information would adversely impact it in the markets in which it competes, although no further detail was provided. While that university's view is not of itself determinative, I have considered it as part of my reassessment of the public interest test.
- 101 After careful consideration of the University's submission, I have amended my preliminary decision and determined two pieces of additional information are exempt under s37 as I consider they would be likely to expose other universities to competitive disadvantage. The information consists of exact numbers which may give competing metropolitan institutions an insight into the universities' operations, as opposed to general information regarding enrolments and a relevant geographical area, which has already been released. The exempt information is:
- on page 1, the percentage figure in the third substantive paragraph; and
 - on page 491, the numerical figure in the third paragraph under the heading *Reduced Revenue Stream Impacts*.
- 102 The remainder of the information is not exempt under s37 and should be released to Mr Hogan.

Conclusion

- 103 In accordance with the reasons given above, I determine:
- exemptions claimed pursuant to ss36 and 37 are varied;

- exemptions claimed pursuant to s35 are not made out; and
- a sufficient search for information was ultimately conducted.

104 I apologise to the parties for the delay in finalising this decision.

Dated: 28 May 2026

A handwritten signature in blue ink, consisting of a large loop at the top and a horizontal line extending to the right.

Dr Grant Davies
OMBUDSMAN

Attachment A – Relevant Legislation

Section 33 - Public interest test

(1) In this Division, information is exempt information if the principal officer of the public authority or Minister considers, after taking into account all relevant matters, that it is contrary to the public interest to disclose the information.

(2) The matters which must be considered in deciding if the disclosure of the information is contrary to the public interest are specified in Schedule 1 but are not limited to those matters.

(3) The matters specified in Schedule 2 are matters that are irrelevant in deciding if the disclosure of the information is contrary to the public interest.

Section 35 - Internal deliberative information

(1) Information is exempt information if it consists of –

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

(b) a record of consultations or deliberations between officers of public authorities; or

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

in the course of, or for the purpose of, the deliberative processes related to the official business of a public authority, of a Minister or of the Government.

(2) Subsection (1) does not include purely factual information.

(3) Subsection (1) does not include –

(a) a final decision, order or ruling given in the exercise of an adjudicative function; or

(b) a reason which explains such a decision, order or ruling.

(4) Subsection (1) ceases to apply after 10 years from the date of the creation of the information referred to in that subsection.

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.

(2) If –

(a) an application is made for information under this Act; and

(b) the information was provided to a public authority or Minister by a third party; and

(c) the principal officer or Minister decides that disclosure of the information concerned may be reasonably expected to be of concern to the third party –

the principal officer or Minister is to, if practicable and before deciding whether the disclosure of the information under this Act should occur, by notice in writing to the third party –

(d) notify that person that the public authority or Minister has received an application for the information; and

(e) state the nature of the information that has been applied for; and

(f) request that, within 15 working days from the date of the notice, the person provide his or her view as to whether the information should be provided.

(3) If a public authority or Minister, after receipt of a person's view referred to in subsection (2)(f), decides to provide the information, the public authority or Minister must, by notice in writing given to that person, notify that person of the decision.

(4) A notice under subsection (3) is to –

(a) state the nature of the information to be provided; and

(b) if the decision was made on behalf of a public authority or Minister, state the name and designation of the person who made the decision; and

(c) inform the person to whom the notice is addressed of –

(i) that person's right to apply for a review of the decision; and

(ii) the authority to which the application for review can be made; and

(iii) the time within which the application must be made.

(5) A public authority or Minister must not provide the information referred to in a notice given to a person under subsection (3) –

(a) until 10 working days have elapsed after the date of notification of that person; or

(b) if during those 10 working days the person applies under section 43 for a review of the decision, until that review determines that the information should be provided; or

(c) until 20 working days after notification of an adverse decision under section 43; or

(d) if during those 20 working days the person applies for a review of the decision under section 44, until that review determines that the information should be provided; or

(e) if the information is information to which a decision referred to in section 45(1A) relates –

(i) during 20 working days after the notification of the decision; or

(ii) where the person applies for a review of the decision under section 45(1A) – until that review determines the information should be provided.

Section 37 - Information relating to business affairs of third party

(1) Information is exempt information if its disclosure under this Act would disclose information related to business affairs acquired by a public authority or Minister from a person or organisation other than the person making an application under section 13 (the "third party") and –

(a) the information relates to trade secrets; or

(b) the disclosure of the information under this Act would be likely to expose the third party to competitive disadvantage.

(2) If –

(a) an application is made for information under this Act; and

(b) the information was provided to a public authority or Minister by a third party; and

(c) the principal officer or Minister decides that disclosure of the information concerned may be reasonably expected to be of substantial concern to the third party –

the principal officer or Minister must, before deciding whether the disclosure of the information under this Act would be likely to expose the third party that provided the information to substantial harm to the third party's competitive position, by notice in writing given to the third party –

(d) notify the third party that the public authority or Minister has received an application for the information; and

(e) state the nature of the information applied for; and

(f) request that, within 15 working days from the date of the notice, the third party provide the third party's view as to whether the information should be provided.

(3) If a public authority or Minister, after receipt of a third party's view referred to in subsection (2)(f), decides to disclose the information, the public authority or Minister must, by notice in writing given to the third party, notify the third party of the decision.

(4) A notice under subsection (3) is to –

(a) state the nature of the information to be provided; and

(b) if the decision was made on behalf of a public authority, state the name and designation of the person who made the decision; and

(c) inform the third party of –

(i) its right to apply for a review of the decision; and

(ii) the authority to which the application for review can be made; and

(iii) the time within which the application must be made.

(5) A public authority or Minister must not provide the information referred to in a notice given to a third party under subsection (3) –

(a) until 10 working days have elapsed after the date of notification of the third party; or

(b) if during those 10 working days the third party applies for a review of the decision under section 43, until that review determines that the information should be provided; or

(c) until 20 working days after notification of an adverse decision under section 43; or

(d) if during those 20 working days the person applies for a review of the decision under section 44, until that review determines that the information should be provided; or

(e) if the information is information to which a decision referred to in section 45(1A) relates –

(i) during 20 working days after the notification of the decision; or

(ii) where the third party applies for a review of the decision under section 45(1A) – until that review determines the information should be provided.

SCHEDULE 1 - Matters Relevant to Assessment of Public Interest

1. The following matters are the matters to be considered when assessing if disclosure of particular information would be contrary to the public interest:

(a) the general public need for government information to be accessible;

(b) whether the disclosure would contribute to or hinder debate on a matter of public interest;

(c) whether the disclosure would inform a person about the reasons for a decision;

(d) whether the disclosure would provide the contextual information to aid in the understanding of government decisions;

(e) whether the disclosure would inform the public about the rules and practices of government in dealing with the public;

(f) whether the disclosure would enhance scrutiny of government decision-making processes and thereby improve accountability and participation;

(g) whether the disclosure would enhance scrutiny of government administrative processes;

- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with government;
- (i) whether the disclosure would promote or harm public health or safety or both public health and safety;
- (j) whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law;
- (k) whether the disclosure would promote or harm the economic development of the State;
- (l) whether the disclosure would promote or harm the environment and or ecology of the State;
- (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;
- (o) whether the disclosure would prejudice the objects of, or effectiveness of a method or procedure of, tests, examinations, assessments or audits conducted by or for a public authority;
- (p) whether the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff;
- (q) whether the disclosure would have a substantial adverse effect on the industrial relations of a public authority;
- (r) whether the disclosure would be contrary to the security or good order of a prison or detention facility;
- (s) whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation;
- (t) whether the applicant is resident in Australia;
- (u) whether the information is wrong or inaccurate;
- (v) whether the information is extraneous or additional information provided by an external party that was not required to be provided;
- (w) whether 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;

(x) whether the information is information related to the business affairs of a person which is generally available to the competitors of that person;

(y) whether the information is information related to the business affairs of a person, other than a public authority, which if it were information of a public authority would be exempt information.