

OMBUDSMAN TASMANIA
DECISION



Right to Information Act Review

Case Reference: R2505-020

Names of Parties: Robert Hogan and Minister for Innovation, Science and the Digital Economy

Reasons for decision: s48(3)

Provisions considered: s27, s31, s39

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 sparked a high level of public interest and debate.
- 2 The University of Tasmania (Protection of Land) Bill 2024 was subsequently introduced to the Parliament of Tasmania. The Fact Sheet¹ associated with this Bill began:

This University of Tasmania (Protection of Land) Bill 2024 (the Bill) gives effect to the Government's commitment to introduce legislation to amend the University of Tasmania Act 1992 to require that the land at Sandy Bay currently held by the University of Tasmania, and gifted to the University in 1951 for education, cannot be disposed of except with the explicit support of both Houses, preventing UTAS from unilaterally disposing it.
- 3 Mr Robert Hogan (the Applicant) has a strong interest in the University and maintains a website and blog which are generally opposed to any move by the University away from the campus at Sandy Bay. He also holds concerns regarding the University's governance, transparency, accountability and financial health.
- 4 On 4 December 2024, Mr Hogan made an application for assessed disclosure under s13 of the *Right to Information Act 2009* (Tas) (the Act)

¹ *Fact Sheet* University of Tasmania (Protection of Land) Bill 2024 available at https://www.parliament.tas.gov.au/data/assets/pdf_file/0021/83046/31_of_2024-Fact-Sheet.pdf accessed on 20 April 2026.

to *The Hon Madeleine Ogilvie MP* (the Minister), in regard to her various ministerial responsibilities. Mr Hogan applied through the then Department of State Growth (the Department) and sought records regarding the *University of Tasmania (Protection of Land) Bill 2024*. This was one of a number of similar applications Mr Hogan made to other public authorities and Ministers.

5 Specifically, Mr Hogan's application sought:

I request copies of all records, from 1 January 2024 to 4 December 2024, regarding the University of Tasmania (Protection of Land) Bill 2024 (31 of 2024) [the Bill] and related matters, including, but not limited to:

- *All records pertaining to the future of STEM.*
- *All analyses of future STEM options undertaken by Ministers, Ministers' offices or government agencies, or any individuals or bodies acting on their behalf.*
- *All analyses of funding options for STEM, including options for federal funding and potential funding by UTAS and the Tasmanian Government, undertaken by Ministers, Ministers' offices or government agencies, or any individuals or bodies acting on their behalf.*
- *All analyses of UTAS' financial viability and plans, including relocation options (for its southern campus) by Ministers, Ministers' offices or government agencies, or any individuals or bodies acting on their behalf.*
- *All records relating to the formulation of the amendment to the Bill (that is, 7. Rezoning of certain land and related provisions).*
- *All records regarding the appropriateness of rezoning land currently vested in UTAS and avoiding normal regulatory processes associated with rezoning.*
- *All records relating to the Leader of the Opposition's repeated urgings that houses be built on the Sandy Bay campus, and potential government responses.*
- *All records of communication with the Leader of the Opposition or other members of the Tasmanian Parliament regarding the rezoning of UTAS' Sandy Bay campus land.*

- *All records of communication with UTAS Council members or UTAS staff regarding the future of STEM, the future of UTAS generally, and rezoning of UTAS campus land.*
- *All relevant legal advice.*
- *Relevant business cases or analyses provided by UTAS.*

I appreciate that some of these records involve third parties and may require consultation.

I note that I have also made application to other Government Ministers and agencies, so that co-ordination may be desirable to minimise duplication or risk some material falling between gaps.

I expect legal advice, along with Cabinet records, to be identified in the response to this application even where that advice is exempted.

- 6 On 21 March 2025, Mr Hogan received a decision on his application from the Department, which released 31 pages of information in whole or in part and applied s35 of the Act (internal deliberative information) to exempt some information.
- 7 On 17 May 2025, Mr Hogan applied for external review and submitted that his application was made to the Minister but the decision he received was made by a delegate under the Act for the Department and not by a delegate of the Minister.
- 8 The application was accepted under s45(1)(f) of the Act on the basis that the period of time for the Minister to issue a decision on Mr Hogan's application had elapsed and he had not received a decision.
- 9 After my office twice directed the Minister to provide Mr Hogan with a decision, on 29 January 2026 Mr Craig Limkin, Secretary of the Department and delegate of the Minister, issued the decision.
- 10 Mr Limkin identified 103 documents containing 292 pages of information and applied ss27 (internal briefing information of a Minister), 31 (legal professional privilege) and 39 (information obtained in confidence) to exempt some information.
- 11 Mr Hogan subsequently elected to continue with the external review process. He further raised concerns regarding the adequacy of searching undertaken by the Minister

Issues for Determination

- 12 I must determine whether the information not released is eligible for exemption under ss27, 31, 39 or any other relevant section of the Act.

As s39 is contained in Division 2 of Part 3 of the Act, my assessment of this exemption is subject to the public interest test in s33.

- 13 This means that, should I determine the requested information is prima facie exempt from disclosure under s39, I must then determine whether it would be contrary to the public interest to release it. In making this determination, I must have regard to all relevant matters including those contained in Schedule 1 of the Act.
- 14 I must also determine whether the searches carried out by the Minister were sufficient to identify all information relevant to Mr Hogan's application.

Relevant legislation

- 15 I include copies of ss27, 31, 33, 39 and Schedule 1 of the Act at Attachment 1.

Submissions

Applicant

- 16 Mr Hogan made a number of submissions when he elected to continue with his external review after receiving Mr Limkin's decision. These mostly related to what he considered to be an insufficient search for relevant information by the Minister. For example, on 24 February 2026, Mr Hogan submitted:

...

Contrary to [the Department's] earlier claims suggesting that there was nothing left to find, 290 pages of documents were provided...

Even so, when taken together with documents provided by other State Government agencies and UTAS, and documents I have obtained privately, there are still major gaps in the documents provided by [the Department], strongly indicating an insufficiency of searching.

There are also a number of redactions (exemptions) that lack warrant, and in one instance the text provided cannot be illegible [sic].

Minister's delegate

- 17 The Minister's delegate was invited to provide submissions to this external review but elected not to do so, relying on the reasoning in his decision.
- 18 In relation to the application of s27, Mr Limkin relevantly set out:

...

The relevant information consists of draft media lines prepared by officers of a public authority and a Question Time Brief. The information includes advice and recommendations, as well as a record of consultations and deliberations between officers or a public authority and the Minister.

I am satisfied that the information was brought into existence for the purpose of submission to the Minister for a briefing, and that the briefing was in connection with the official business of the Minister. I am also satisfied that the information is not more than 10 years old.

I have reviewed the information to identify whether it contains purely factual information... I have identified information of this kind within some of the documents and have disclosed it in the information released to you pursuant to section 27(4) of the Act.

- 19 In relation to the application of s31, the Mr Limkin noted:

...

The relevant information consists of draft legislation prepared by the Office of Parliamentary Counsel, staff of which are specialist lawyers. I am satisfied that it is exempt under section 31 of the Act.

- 20 In relation to the application of s39, Mr Limkin relevantly set out (footnote omitted):

...

This first requirement is to find that the information was communicated in confidence. The relevant information here appears in correspondence from a member of the public to the Minister, which is explicitly stated to be communicated in confidence. This clearly gives the information the necessary confidential character required by the exemption.

The second requirement is to find that disclosure of this information would impair the ability of a public authority of [sic] Minister to obtain similar information in the future. This does not require me to be satisfied that this particular individual would be deterred from providing this same information again, or even from providing similar information on the same topic. It requires me to be satisfied that release would negatively impact a public authority's or Minister's ability to obtain views from 'persons in general'.

I am of the view that failure to respect a person's explicit instruction that they intended their communication to be treated confidentially would have a real possibility of deterring others from choosing to provide their views on matters of public discussion.

- 21 Mr Limkin then considered the application of the public interest test to the information he had identified as prima facie exempt under s39:

I acknowledge there is a general need for government information to be accessible. However, in this instance the information was not prepared by the public authority or government, but are the privately held views of an individual who has sought to provide them to the Minister confidentially in order to make a contribution to the Minister's thinking on the issue. If the individual concerned wished for their views to be public, they would be able to do this unilaterally and contribute to debate on the matter that way.

Furthermore, as discussed above, the issue is not whether disclosure would deter this specific individual from providing their views on this or any other topic in the future. The issue is whether any other person may be deterred from doing so. In my view, the failure to respect a clearly expressed request for confidentiality in circumstances where there is no obvious need for transparency and accountability in respect of that information would tend to promote reluctance to engage in providing open and robust views on matters of public concern. The release of their confidential communication to the Minister would harm their interest and be likely to dissuade others from writing candidly to members of the government in future.

Analysis

- 22 The Minister's delegate provided my office with a PDF document containing an unredacted version of the 292 pages of information of information identified as relevant to Mr Hogan's application. A schedule of documents was also created as part of Mr Limkin's decision. For ease of reference, I will use the page numbering in the PDF document in conjunction with the document numbers from the schedule to refer to the relevant information.

Preliminary issue 1 – personal information

- 23 In the decision letter issued to Mr Hogan on 29 January 2026, Mr Limkin advised:

Please note, in accordance with the department's policy, all third-party personal information discovered in the search has been treated as out-of-scope, unless it relates to Tasmanian Government statutory officers, decision-makers, Senior Executive Service officers, or senior Ministerial staff.

- 24 I caution against this approach, as there is no provision in the Act for a public authority or Minister to unilaterally restrict the applicant's right to information due to a policy position. It is permissible for personal information to be treated as out of scope with the agreement of the applicant and a public authority or Minister is welcome to ask an applicant if this information is sought. It may be removed from the assessment if it is not. If an applicant seeks this information, however, it must be assessed and can only be withheld if it is exempt under s36.
- 25 I encourage all public authorities to reflect on this matter and give the explicit intention of Parliament regarding accountability and information its proper weight. Policies or assumptions must not be used to impose limits on the permitted scope of requests which contradict the right to information in the Act. Scope changes should be agreed to by the applicant or, at a minimum, applicants should be advised that relevant information will only be assessed if they confirm that it is sought.

Preliminary issue 2 - delay

- 26 As noted, Mr Hogan submitted his application for assessed disclosure to the Minister on 4 December 2024 and did not receive a decision from the Minister's delegate until 29 January 2026, a period well in excess of the 20 working days provided for in s15(1) of the Act. A significant contributory reason for this delay was that the decision Mr Hogan received on 21 March 2025 was not made by a delegate of the Minister.
- 27 I encourage all public authorities and Ministers to make every effort to comply with the legislated timeframes and also to ensure that decisions are only made by those with the delegated authority to do so.

Section 27 – Internal briefing information of a Minister

- 28 Section 27 of the Act relevantly provides:

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

(a) an opinion, advice or a 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.

...

(3) Subsection (1) does not include information solely because it –

(a) was submitted to a Minister for the purposes of a briefing; or

(b) is proposed to be submitted to a Minister for the purposes of a briefing –

if the information was not brought into existence for submission to a Minister for the purposes of a briefing

(4) Subsection (1) 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.

29 As to the meaning of 'purely factual information', I refer to *Re Waterford and the Treasurer of the Commonwealth of Australia (No 1)*² 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.

30 The phrase was considered again in *Re Secretary, Department of Prime Minister and Cabinet and Secretary, Department of Infrastructure and Regional Development and Sanderson*³ 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.

31 The word 'opinion' is not defined in the Act, so I turn to the ordinary meaning of the word. The Macquarie Dictionary⁴ relevantly defines 'opinion' as:

1. *judgement or belief resting on grounds insufficient to produce certainty.*
2. *a personal view, attitude, or estimation...*
3. *the expression of a personal view, estimation, or judgement...*

² [1984] AATA 518 at [14]

³ [2015] AATA 361 at [106]

⁴ Macquarie Dictionary online, available at www.macquariedictionary.com.au and accessed on 28 April 2026

- 32 The Minister's delegate applied s27 to exempt information on pages 13, 28, 29, 34, 158, 171, 180 and 181.
- 33 Document 5 on page 13 is an email to the Minister from her Chief of Staff on Monday, 4 November 2024. It appears to contain a number of 'talking points' to be provided to government media officers by the following Wednesday. It is unclear if the talking points were brought into existence to be submitted to the Minister as a briefing or merely for her approval before release. The latter appears likely and the content is very similar to other public statements made by the Minister and Tasmanian government. I therefore determine the Minister has not discharged their onus under s47(4) of the Act to show that this information would be exempt under s27. She has not sought to claim any other exemption, such as s35 (internal deliberative information). Accordingly, Document 5 is not exempt and should be released to Mr Hogan.
- 34 Document 15A on pages 28 and 29 appears to be the attachment to the email labelled 'Document 1' [sic] on pages 26 and 27 sent between two public officers, the substantive contents of which were released to Mr Hogan. The document itself is described in the email as a draft media release to which the Minister has made minor edits.
- 35 I accept that the information contains an opinion or recommendation. It does not appear, however, that the document was brought into existence for submission to a Minister for the purposes of a briefing. The email suggests the Minister had some input into the contents of a draft media release, which was then transmitted between two public officers.
- 36 I therefore determine that the Minister has not discharged their onus under s47(4) of the Act to show that the information should not be disclosed and has not sought to claim any other exemption. Accordingly, the document is not exempt and should be released to Mr Hogan.
- 37 Document 19A, beginning on page 34, is headed *Question Time Brief, Minister for Education* and Mr Limkin applied s27 to exempt a small amount of information on this page. The relevant information is clearly the author's opinion and the document itself has been prepared for the purpose of providing the Minister with a briefing in connection with her parliamentary duty. It is therefore exempt under s27 of the Act. Exemptions under s27 of the Act are not subject to the public interest test.
- 38 Document 51 on page 158 is an email from the Tasmanian Government Communications Office to an officer of the Department of Premier and Cabinet and is described as a media release for approval. It is not apparent that this information was produced for the purpose of providing a Minister with a briefing and is therefore not eligible for exemption under s27 of the Act. It should be released to Mr Hogan.

- 39 Document 56 on page 171 is described as a 'release' and contained in an email from the Tasmanian Government Communications Office to Minister Ogilvie seeking the Minister's approval. There is nothing to indicate that the information was brought into existence for any reason other than to gain Ministerial approval for a media release, rather than for any briefing. The Minister has therefore not discharged their onus under s47(4) to show why the information should not be disclosed and it should therefore be released to Mr Hogan.
- 40 Document 58 on pages 180 and 181 is described as 'draft release' and has the words 'Tasmanian Government Media Release' as part of the Minister's letterhead at the top of the document and the information contains quotes from the Minister. It is clear that this information was not brought into existence for submission to the Minister for the purposes of a briefing. It is not exempt under s27 and should be released to Mr Hogan.

Section 31 – Legal professional privilege

- 41 For information to be exempt under s31, I must be satisfied that it is of such a nature that the information would be privileged from production in legal proceedings on the ground of legal professional privilege.
- 42 I am not required under the Act to consider the public interest test in relation to communications that are exempt by reason of legal professional privilege. As the courts have noted, legal professional privilege exists to serve the public interest in the administration of justice by promoting free disclosure between clients and their lawyers to enable lawyers to give proper legal advice.⁵ It is a common law principle which protects the confidentiality of communications made between lawyer and client if they were made for the dominant purpose of giving or obtaining legal advice, providing legal services, or for use in connection with existing or anticipated litigation.⁶ This privilege also applies to advice provided by in-house lawyers.⁷
- 43 Mr Limkin applied s31 to exempt information on pages 6-11, 16-21, 173-179 and 233, all of which relates to draft legislation produced by the Office of Parliamentary Counsel.
- 44 Drafting instructions to Parliamentary Counsel and the draft bills provided in response can be subject to legal professional privilege. In *New South Wales v Belfair Pty Ltd (ACN 110 084 985) and Others*,⁸ the Full Court of the Federal Court of Australia determined:

⁵ *Grant v Downs* (1976) 135 CLR 674 per Stephen, Mason and Murphy JJ

⁶ *Daniels Corporation International Pty Ltd v ACCC* 213 CLR 543 per Gleeson CJ, Gaudron, Gummow and Hayne JJ, where the High Court re-affirmed the 'dominant purpose test' as established in *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49

⁷ *AWB Ltd v Cole (No 5)* (2006) 155 FCR 30

⁸ (2009) 261 ALR 311 at [21] – [24]

[22] ...Parliamentary Counsel, in drafting the legislation and presenting the draft to the government agency, is in effect advising that the draft legislation is in accordance with the instructions given and gives legal effect to those instructions. The draft itself is not the legal advice, but the communication in providing the draft legislation contains implicitly the advice of Parliamentary Counsel endorsing the draft legislation as being effective and valid.

- 45 Document 3A on pages 6-11 and Document 57A on pages 173-179 consist of draft amendments to the relevant Bill sent from the Chief Parliamentary Counsel, and between the Minister's Chief of Staff and a Deputy Secretary at the Department of Premier and Cabinet, essentially re-stating the privileged information. I am satisfied the relevant information is exempt under s31 of the Act.
- 46 Document 7A on pages 16-21 is of a slightly different character in that, while it consists of draft amendments to a Bill, the information has been shared by the Minister's Chief of Staff to the University, which is outside the Tasmanian State Service which is the client in relation to any privileged communication. This raises a question of whether such an action has effectively waived any legal privilege which could have originally attached to the information.
- 47 It is ultimately unnecessary for me to determine this question. The proposed amendments set out in this document were fully incorporated in the 'Reprint of Bill' published on the website of the Parliament of Tasmania.⁹ The two very minor differences in wording are not materially different to the published version.
- 48 As the final document is now in the public domain, there is no utility in also releasing this version and so it is not required to be provided to Mr Hogan.
- 49 The remaining document to which the Department has applied s31 is Document 79A on page 233. It is an attachment to an email dated 26 November 2025 sent by an advisor to Ms Kristie Johnston MP to a number of Members of Parliament and other individuals who are likely to be staffers. The covering email was released to Mr Hogan and it describes the attachment as containing amendments proposed by Ms Johnston to the University of Tasmania (Protection of Land) Bill 2025 (58 of 2025) and the effective outcome if those amendments were to be adopted.
- 50 These two documents appear to be outside the scope of the original application, however, as they have apparently been released in part to Mr Hogan I will include them in my assessment.

⁹ Available at www.parliament.tas.gov.au/bills/bills2024/university-of-tasmania-protection-of-land-bill-2024-31-of-2024 and accessed on 15 July 2026.

- 51 I have examined the attachment and while it does present a proposed amendment, it also sets out Ms Johnston's political position on other matters involving the same Bill. Given the document includes non-legal matters, I am not satisfied it is a draft prepared by the Office of Parliamentary Counsel. It is therefore not eligible for exemption under s31 of the Act and should be released to Mr Hogan.
- 52 I also note the first reading of the Bill in the Parliament of Tasmania occurred 25 September 2025,¹⁰ two months before the email was sent.

Section 39 – Information obtained in confidence

- 53 Section 39 of the Act provides –

(1) Information is exempt information if its disclosure under this Act would divulge information communicated in confidence by or on behalf of a person or government to a public authority or Minister, and –

(a) the information would be exempt information if it were generated by a public authority or Minister; or

(b) the disclosure of the information would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future.

- 54 Mr Limkin relies on s39(1)(b) and has applied this section to exempt information in Document 53 on pages 161-165. The relevant information is contained in two emails sent to Minister Ogilvie by a member of the community whose name was assessed by Mr Limkin as outside the scope of Mr Hogan's application. Both emails discuss the University and the proposed legislation.
- 55 For the information to be prima facie exempt under this section, I must first be satisfied it was communicated to the Minister in confidence. I note the first email, sent on 21 March 2024, begins with a statement that it is confidential, although the author does not object to the Minister sharing it within her political party. The second email, sent on 11 June 2024, is not similarly marked, however given that the author, recipient, subject matter and type of information are the same, I accept that the second email is part of the same series of communications and the author had a similar desire for confidentiality. Given the clear request in the first email, I am satisfied it was communicated to the Minister in confidence.

¹⁰ See <https://www.parliament.tas.gov.au/bills/bills2025/university-of-tasmania-protection-of-land-bill-2025-58-of-2025> accessed on 16 July 2026

- 56 However, for the document to be prima facie exempt, I must also be satisfied that disclosure would be reasonably likely to impair the ability of the Minister to obtain similar information in future.
- 57 The information sent to the Minister consists of opinions regarding current events, along with speculation regarding future events and suggestions on how government should proceed. It was provided in confidence and I am satisfied that it being released may be likely to impair the ability of ministers to obtain open and frank communications from members of the public. As such I consider it is prima facie exempt under s39(1)(b) of the Act.

Section 33 – Public interest test

- 58 As mentioned, exemptions under s39 are subject to the public interest test set out in s33 of the Act. It is therefore now necessary to assess whether, after taking into account all relevant matters, it would be contrary to the public interest to disclose the information I have found to be prima facie exempt. In making this assessment I must consider the matters in Schedule 1 of the Act and any other relevant factor.
- 59 Schedule 1 matter (a) – *the general public need for government information to be accessible* – was identified as relevant by Mr Limkin. I agree, as this matter is essentially a restatement of the objects of the Act.
- 60 Schedule 1 matter (b) – *whether the disclosure would contribute to or hinder debate on a matter of public interest* – was identified as relevant and again I agree. The future of the University has been the subject of significant community, media and political debate within Tasmania. The thoughts expressed in the email would no doubt contribute to this debate and I consider this matter weighs in favour of disclosure.
- 61 Schedule 1 matter (d) – *whether the disclosure would provide the contextual information to aid in the understanding of government decisions* – was identified by Mr Limkin as relevant, although without any further reasoning as to why it was so. It is unclear whether the information contributed to any government decision-making and so I consider this matter to be neutral.
- 62 Schedule 1 matter (m) – *whether the disclosure would promote or harm the interests of an individual or group of individuals* – was identified as relevant although again with no further reasoning provided. Given the nature of the information, along with strong community views on possible future directions for the University, I consider there is some potential for harm to the author's interests if the information is released and so this matter weighs against disclosure.
- 63 Schedule 1 matter (n) – *whether the disclosure would prejudice the ability to obtain similar information in the future* – was identified by Mr

Limkin as relevant and weighing against disclosure. I agree with this assessment. If community members believed their views on contentious matters, provided to Members of Parliament with an explicit statement of confidentiality, would be routinely released under the right to information process I consider this would significantly reduce the number of community members willing to engage with government. This has a significant potential to reduce the diversity of views available to parliamentarians resulting eventually in poorer decisions. I consider this matter weighs strongly against disclosure.

- 64 Having carefully considered all relevant matters, I give the greatest weight to the request for confidentiality and the likelihood that such representations from members of the public would be subject to a chilling effect by release. I determine that the relevant information is exempt under s39(1)(b) of the Act and is not required to be released to Mr Hogan.

Sufficiency of search

- 65 Mr Hogan identified what he considered to be gaps in the information he had been provided. I also note that the decision Mr Hogan received from the Minister's delegate identified significantly more information than had been identified in the original decision received from a delegate of the Department. Given these factors, I consider Mr Hogan had a legitimate concern as to whether the totality of searching had been sufficient to identify all relevant information.
- 66 In response to enquiries from my office, the Department (which conducted searches on behalf of the Minister) identified that a document management system, email accounts, hard drives, physical material and text messages were searched. The Department also set out the search terms which were used in electronic searches. I am satisfied that this search was compliant with the guidance regarding appropriate searching set out in my *Guideline in relation to Searching and Locating Information*.¹¹
- 67 I note that in his decision letter, Mr Limkin advised Mr Hogan:

A number of the documents located are correspondence between yourself and the Minister. Some correspondence is correspondence that you have been copied to. It is open to me to refuse to provide this information to you pursuant to section 12(3)(c)(i) as it is already in your possession, so is "otherwise available to you", however as you have expressed concerns relating to the thoroughness of the search conducted this information has been located and provided to you.

¹¹ Guideline 4/2010, available at www.ombudsman.tas.gov.au/right-to-information/rti-publications.

Further, as a result of your concerns in relation to the completeness of searched undertaken, this RTI has now located all information relating to the University between 1 January 2024 to 4 December 2024 without any consideration as to whether it is specifically within the scope of the points you have requested in your request. This has resulted in a number of documents being provided to you which, in my view, are outside the parameters of your request.

- 68 The Minister's office did not provide search records in a form similar to the template in my *Guideline in Relation to Searching and Locating Information*,¹² but after considering the totality of the searching and noting Mr Limkin's comments I am satisfied that adequate searches were eventually conducted and do not consider additional searching to be necessary.

Preliminary Conclusion

- 69 In accordance with the reasons given above, I determine:

- exemptions claimed pursuant to ss27 and 31 are varied;
- exemptions claimed pursuant to s39 are affirmed: and
- a sufficient search for information was ultimately conducted.

Response to the Preliminary Conclusion

- 70 As the above preliminary conclusion was adverse to the former Minister, on 11 August 2026 it was made available to the Minister's delegate pursuant to s48(1)(a) of the Act to seek input prior to finalisation.
- 71 On 2 September 2026, the Minister's delegate advised it would not make any submissions and the information identified as not exempt had been released to Mr Hogan.
- 72 Regardless of the release of information, the review had not yet been finalised and on 3 September 2026 it was made available to Mr Hogan pursuant to s48(1)(b) of the Act to seek his input prior to finalisation.
- 73 On 14 September 2026, Mr Hogan made a number of comments and submissions. In relation to Document 7A, Mr Hogan submitted:

Paragraphs 46-48 – These paragraphs appear to miss the central point of my application, which concerns how, why and when the amendments to the Bill came about. Even if the differences between the draft and final amendments were regarded as limited, the reasoning in these paragraphs supports disclosure of the document because it

¹² Guideline 4/2010, available at www.ombudsman.tas.gov.au/right-to-information/rti-publications

bears directly on that point. I also note that the changes, limited though they may have been, occurred after Cabinet approval of the amendments on 18 November 2024.

- 74 Mr Hogan made some further comments regarding preliminary matters he felt should have been included in my conclusion, however these were matters the Act does not empower me to determine. Other comments related to peripheral matters and did not dispute the substance of my decision. I have carefully considered and noted those comments.

Further analysis

- 75 I have considered Mr Hogan's submission and reassessed Document 7A. There is no difference in substance between it and the version published by the Parliament of Tasmania, the wording and content are the same. There are minor differences in formatting and reference numbers/letters. Accordingly, I maintain my view that as the final document is now in the public domain, there is no utility in also releasing this version and so it is not required to be provided to Mr Hogan.

Conclusion

- 76 In accordance with the reasons given above, I determine:
- exemptions claimed pursuant to ss27 and 31 are varied;
 - exemptions claimed pursuant to s39 are affirmed; and
 - a sufficient search for information was ultimately conducted.

Dated: 22 September 2026



Natasha Freeman
ACTING OMBUDSMAN

Attachment 1 – Relevant Legislation

Section 27 – Internal briefing information of a Minister

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

- (a) an opinion, advice or a 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.

(2) Subsection (1) ceases to apply after the end of the period of 10 years commencing on the date of the creation of the information referred to in that subsection.

(3) Subsection (1) does not include information solely because it –

- (a) was submitted to a Minister for the purposes of a briefing; or
- (b) is proposed to be submitted to a Minister for the purposes of a briefing –

if the information was not brought into existence for submission to a Minister for the purposes of a briefing.

(4) Subsection (1) 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.

(5) Nothing in this section prevents a Minister from voluntarily disclosing information that is otherwise exempt information.

Section 31 – Legal professional privilege

Information is exempt information if it is of such a nature that the information would be privileged from production in legal proceedings on the ground of legal professional privilege.

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.

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.