

Department of Treasury and Finance

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Doc reference 21/67441

Hon Meg Webb MLC
Independent Member for Nelson
Legislative Council

By email: meg.webb@parliament.tas.gov.au

Attention: Justin Meeker

Dear Ms Webb

Right to Information application - 2017 review of the Responsible Gambling Mandatory Code of Practice for Tasmania

I refer to your request dated 28 January 2021 under the *Right to Information Act 2009* (RTI Act) and subsequent revised scope of 22 February 2021 seeking the following information held by both the Department of Treasury and Finance (Treasury) and the Tasmanian Liquor and Gaming Commission (TLGC):

Regarding the 2017 review of the Responsible Gambling Mandatory Code of Practice for Tasmania, please provide all correspondence and records of meetings relating to the following:

- i. instructions on scope*
- ii. any content priorities, restrictions or limitations, and/or*
- iii. any other conduct and operational criteria*

Requests similar to your original request to Treasury were also received by the Department of Premier and Cabinet, the Department of Health, and the Department of Communities Tasmania. These requests were subsequently transferred to Treasury pursuant to section 14 of the RTI Act. No documents relevant to the RTI request were received from those departments.

RTI process undertaken

As a delegated RTI Officer for both Treasury and the TLGC, I have undertaken an extensive search of Treasury's records and have identified 22 records that contain information relevant to your request. These are listed in the enclosed schedule of records (Attachment A). The schedule contains my assessment of each record, including any relevant exemption categories, any public interest tests that I have applied, and the release status of each record. Attachment B contains the relevant sections of the RTI Act cited below for your reference.

I also held a number of discussions with relevant Treasury officers to gain an understanding of the 2017 Review of the Responsible Gambling Mandatory Code of Practice for Tasmania.

Reasons for Decision

Documents 1, 3, 7 and 11 contain information which consists of an opinion, advice or recommendation prepared by an officer of the Liquor and Gaming Branch (LAGB) for the purpose of the deliberative processes related to the official business of the public authority. These documents do not include a final decision in relation to an adjudicative function nor do they provide reasoning to the same, they are less than 10 years old, and do not include purely factual information. I have therefore determined that these documents are exempt in full under section 35(1) of the RTI Act.

Documents 2, 4, 12-16 and 19 are TLGC minutes from February 2016 until December 2017. They contain information that falls within the scope of your application, along with other information which was not in scope, accordingly I have extracted the relevant information pursuant to section 18(3) of the RTI Act and have determined to release the information to you as extracted.

Documents 6 and 8 are emails between the Chair of the TLGC and LAGB officers which I have determined be partially released to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Document 9 is a record of a meeting between an external consultant and the Liquor and Gaming Branch. It contains information that falls within the scope of your application, along with other information which was not in scope, accordingly I have extracted the relevant information pursuant to section 18(3) of the RTI Act. I have determined to partially release this extract to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Document 10 is an email chain between the external consultant and LAGB officers. It contains information that falls within the scope of your application, along with other information which was not in scope, accordingly I have extracted the relevant information pursuant to section 18(3) of the RTI Act. I have determined to partially release the extracts to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Document 17 is a template letter from the TLGC consulting stakeholders which I have determined to be partially released to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Document 18 is minutes from the TLGC meeting of 2 October 2017. It contains information that falls within the scope of your application, along with other information which was not in scope, accordingly I have extracted the relevant information pursuant to section 18(3) of the RTI Act. I have determined to partially release this extract to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Documents 20 and 21 are multiple duplicated letters to stakeholders. They contain information that falls within the scope of your application, along with other information which was not in scope, accordingly I have extracted the relevant information pursuant to section 18(3) of the RTI Act. I have determined to partially release these extracts to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Document 22 is a letter from the Chair of the TLGC to the Treasurer that I have determined be partially released to you with the names and contact details of LAGB officers redacted under section 36(1) of the RTI Act as being personal information of persons other than the person making an application under section 13 of the RTI Act.

Public Interest Test

Under the RTI Act, the public interest test must be applied to sections 33 through 42. After taking into account all matters, I have determined that while there is a general public need for government information to be accessible, the disclosure of the information exempted under sections 35(1) and 36(1) would be contrary to the public interest because in my view it would:

- not inform a person about the reasons for a decision (*Schedule 1(c)*);
- not provide any benefit to the public by way of contextual information (*Schedule 1(d)*);
- not inform the public about the rules and practices of government in dealing with the public (*Schedule 1(e)*);
- not enhance scrutiny of government decision-making processes and thereby improve accountability and participation (*Schedule 1(f)*);
- not enhance scrutiny of government administrative processes (*Schedule 1(g)*);
- hinder equity and fair treatment of persons or corporations in their dealings with government (*Schedule 1(h)*);
- harm the business or financial interests of another person or organisation (*Schedule 1(s)*); and
- provide information that is wrong or inaccurate (*Schedule 1(u)*).

Review

Should you wish to lodge an application for an internal review of my decision, you may do so under section 43 of the RTI Act. An application for review must be made in writing within 20 working days of receipt of this letter. You will be taken to have received this letter via email on the date of this letter.

Should you have any queries or require any further information regarding this matter, please contact me on (03) 6166 6411 or email rti@treasury.tas.gov.au.

Yours sincerely



Brad Menzie
Delegated RTI Officer

23 March 2021

Encl

Attachment A**Table I - Schedule of Records**

Doc No	Description	Release status	Relevant sections
1	Internal Memo	Exempt	s 35(1) Schedule 1(u)
2	Extract of TLGC Minutes	Release as extracted	s 18(3)
3	TLGC Paper	Exempt	s 35(1) Schedule 1(c), (u)
4	Extract of TLGC Minutes	Release as extracted	s 18(3)
5	Email (duplicated in document 6)	Not separately assessed	NA
6	Email	Partial release	s 36(1) Schedule 1(c), (d), (e), (g)
7	Internal Memo	Exempt	s 35(1) Schedule 1(d), (h), (s)
8	Email	Partial release	s 36(1) Schedule 1(c), (d), (e), (g)
9	Extract of meeting notes	Partial release as extracted	s 18(3) s 36(1) Schedule 1(c), (d), (e), (g)
10	Extract of Email	Partial release as extracted	s 18(3) s 36(1) Schedule 1(c), (d), (e), (g)
11	Email	Exempt	s 35(1) Schedule 1(c), (d), (f)
12	Extract of TLGC Minutes	Extracted	s 18(3)
13	Extract of TLGC Minutes	Release as extracted	s 18(3)
14	Extract of TLGC Minutes	Release as extracted	s 18(3)
15	Extract of TLGC Minutes	Release as extracted	s 18(3)
16	Extract of TLGC Minutes	Release as extracted	s 18(3)
17	Template letter	Partial release	s 36(1) Schedule 1(c), (d), (e), (g)
18	Extract of TLGC Minutes	Partial release as extracted	s 18(3) s 36(1) Schedule 1(c), (d), (e), (g)

19	Extract of TLGC Minutes	Release as extracted	s 18(3)
20	Extract of Template letter	Partial release as extracted	s 18(3) s 36(1) Schedule 1(c), (d), (e), (g)
21	Extract of Template letter	Partial release as extracted	s 18(3) s 36(1) Schedule 1(c), (d), (e), (g)
22	Letter	Partial release	s 36(1) Schedule 1(c), (d), (e), (g)

Attachment B

Relevant Sections of the RTI Act

18. Provision of information

- (3) If –
 - (a) information requested under this Act is included with other information; and
 - (b) the information requested can be extracted from that other information by the use of a computer or other equipment usually available to the public authority or Minister –
 the information is to be extracted accordingly.

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.

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.

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.

SCHEDULE I - Matters Relevant to Assessment of Public Interest

- I. 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.