

Hon Meg Webb MLC
Parliament House
HOBART TAS 7000

By email: Kurt.Joyce@parliament.tas.gov.au

Dear Ms Webb

REQUEST UNDER THE RIGHT TO INFORMATION ACT 2009

I am writing in relation to your letter dated 4 November 2022 requesting an internal review of your applications for assessed disclosure dated 28 July 2022.

I hold a delegation under section 24 of the *Right to Information Act 2009* (the Act) to undertake the review.

In your application, you requested

all documentation since January 2019 inclusive relating to the government's role as a Founding Partner of the Tasmanian Law Reform Institute including, but not limited to, the establishment of the recent review of the TLRI.

On 3 August 2022, the Department wrote to you pursuant to section 13(7) of the Act to ask you to refine your application. In response, by letter of 3 August 2022, you advised the information you were seeking

... is not 'relating to the Department of Justice and/or Attorney-General's involvement regarding the establishment of the Tasmanian Law Reform Institute', as the TLRI was established twenty years ago.

Nor do I solely seek any submission made by the Government to the recent review of the TLRI although I would expect that any submission made would fall under the request.

As per my request, I seek all documentation (for clarity, including but not limited to, correspondence, emails, notes, briefings, statements, etc.) from January 2019 onwards that relates to the State Government's role as a Founding Partner of the TLRI.

I have reason to believe documentation relating to the State Government's role as a Founding Partner of the TLRI is likely to exist because on page four of the final report on the review of the TLRI released in June, under the heading 1.2 Appointment of Review Panel and Terms of Reference it says (highlighting added):

1.2.1 This review of the TLRI was commissioned by the Vice-Chancellor, Professor Rufus Black, with the support of the other Founding Partners, namely the Tasmanian Government and the Law Society of Tasmania. The Review Panel consists of the Chair, Professor John Williams, Emeritus Professor Kate Warner and Associate Professor David Plater. Professor Williams is the Director of the South Australian Law Reform Institute (SALRI) and Dr Plater its Deputy Director. Both work at the University of Adelaide's Law School where SALRI is based. Professor Warner was the Director of the TLRI from 2001-2014. The members of the Review Panel have undertaken this Review on a voluntary basis.

1.2.2 A review of the Tasmania Law Reform Institute (TLRI) was first raised prior to the renewal of the 2019 Agreement in a letter from the Attorney-General to the then Dean of Law, Professor Tim McCormack, in November 2019 ...

(https://www.utas.edu.au/data/assets/pdf_file/0004/1606639/TLRI-Review-Final-Report.pdf)

Clearly, the correspondence referred to in para 1.2.2 of the review report would fall under the request I have made, as would any other correspondence relating to the 'support of the other Founding Partners' referred to in 1.2.1, and also any further and additional documentation from January 2019 to the present which relates to or is under the remit of the State Government's role as a Founding Partner of the TLRI.

In your letter of 4 November 2022, you reiterate the points raised in your letter of 3 August 2022 regarding the probable existence of material responsive to your application. In particular you state:

The [Department's] letter [of 2 November 2022] goes on to state that these documents include a number of briefing notes including, but not limited to, recommendations resulting from the review of the TLRI.

I note that in the Executive Summary of the Review of the Tasmania Law Reform Institute, published June 2022, it is stated that:

Working within the agreed Terms of Reference, and considering carefully the detailed and informative submissions, the Panel makes 20 recommendations to the Founding Partners

Given this, it is unclear to me how at the very least, the briefing notes relating to recommendations resulting from the review of the TLRI don't fall under the scope of my request. Beyond those briefing notes, I believe there would certainly be more documents that relate to the Government's ongoing role as a Founding Partner of the TLRI across the timeframe of my request.

I have reviewed the initial enquiries made by Departmental and Ministerial staff and I am satisfied that all reasonable attempts have been made to locate information responsive to your request.

Contrary to the original decision, I have decided that some of the information located is responsive to your application. In making that judgment, I have had the benefit of the additional submissions contained in your letter of 4 November 2022 which were not available to the original decision.

A list of the documents containing information relevant to your application is attached.

Apart from document 8 listed in the schedule, I have decided to disclose all documents to you in full. The only redactions made relate to information that is outside the scope of your request, much of it relating to current and former projects of the Tasmania Law Reform Institute.

In relation to document 8, I have decided to release this brief to you, other than some information I have decided to exempt under section 27 of the Act.

Section 27 of the Act 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.*
- 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.*

The vast majority of the brief can be classified as purely factual information. These passages are not exempt and have been disclosed.

However, small sections of the brief contain purely advice/opinion and I am satisfied that sections 27(2) and (3) of the Act do not apply. The information was created less than 10 years ago and has only been brought into existence for the purposes of briefing the Minister.

Section 27 of the Act is not subject to the public interest test in section 33 of the Act.

If you are dissatisfied with my decision, you may seek a review under section 44 of the Act within 20 working days after notice of this decision has been given. Applications should be addressed to

Mr Richard Connock
Ombudsman
GPO Box 960
HOBART TAS 7001

Email: rti@ombudsman.tas.gov.au

Please contact me if you have any questions in relation to this decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michelle Lowe', written in a cursive style.

Michelle Lowe
Director, Office of the Secretary
RTI Delegated Officer

21 December 2022

	Document	CM Reference	Decision
1	QTB - Review of the Tasmania Law Reform Institute (TLRI) - August 2022	DOC/22/43791	Release in full
2	Letter to the Attorney-General from Professor Michael Stuckey – Proposed Review of the TLRI – 24 November 2021	DOC/21/151319	Release in full
3	Briefing Note - TLRI and UTAS Faculty of Law – 23 December 2021	DOC/21/151313	Release in full (redactions due to out of scope information)
4	Letter to the Attorney-General from Chief Justice – 7 December 2021	DOC/21/151323	Release in full (redactions due to out of scope information)
5	Letter to the Attorney-General from President of the Law Society of Tasmania – 14 December 2021	DOC/21/151326	Release in full
6	Letter to Attorney-General from Craig Mackie – 16 December 2021	DOC/21/151329	Release in full
5	Minute - Proposed Review of the TLRI – 19 January 2022	DOC/22/7115	Release in full
6	Letter to Professor Michael Stuckey - Proposed Review of the TLRI – Prof Michael Stuckey - 3 February 2022	DOC/22/7116	Release in full
7	QTB - TLRI - November 2021	DOC/21/133043	Release in full
8	Briefing Note to the Attorney-General and Minister for Justice - Review of the TLRI Final Report – 1 August 2022	DOC/22/80488	Release in part (S27)
9	QTB - UTAS Law School Issues - July 2022	DOC/22/75536	Release in full (redactions due to out of scope information)
10	Response to Question without Notice – Meg Webb MLC - TLRI Review - 20 May 2022	DOC/22/49084	Release in full
11	Meeting Brief re Review of TLRI – April 2022	DOC/22/39535	Release in full
12	Budget Estimates Brief - TLRI Projects and Reports	DOC/22/40055	Release in full (redactions due to out of scope information)
13	Minute - Review of the TLRI – 29 March 2022	DOC/22/33684	Release in full
14	Letter to Dr David Plater - Review of the TLRI – 31 March 2022	DOC/22/33685	Release in full
15	Letter to Attorney-General from Dr David Plater - South Australian Law Reform Institute - Review of TLRI – 22 March 2022	DOC/22/33688	Release in full
16	QTB - TLRI Law Reform Reports - July 2022	DOC/22/12692	Release in full (redactions due to out of scope information)
17	Legislative Council Notice of Question – 25 November 2021	DOC/21/139584	Release in full
18	Meeting Brief – Regular TLRI Stakeholder Meeting - July 2021	DOC/21/79106	Release in full (redactions due to out of scope information)
19	Incoming Government Brief 2021 - TLRI Projects	DOC/21/41082	Release in full (redactions due to out of scope information)

20	Meeting Brief - Meeting with TLRI – October 2020	DOC/20/112746	Release in full (redactions due to out of scope information)
21	Budget Estimates Brief – TLRI Projects – May 2019	DOC/19/54853	Release in full (redactions due to out of scope information)
22	TLRI Briefing Note on Meeting between TLRI and Attorney-General - 20 June 2019	DOC/19/68886	Release in full (redactions due to out of scope information)