

Department of Infrastructure, Energy and Resources
10 Murray Street
HOBART TAS 7000

**NOTICE OF DECISION UNDER SECTION 22
OF THE
RIGHT TO INFORMATION ACT (TASMANIA) 2009**

Applicant: Mr Mark Shelton MP

Authorised

Delegated Officer: Mrs Sonya de Lacey
Right to Information Officer
Department of Infrastructure, Energy and Resources

RTI Number: RTI #16/10

Date of decision: 23 December 2010

Decision:

A search of the Minister for Energy and Resources' files has identified a total of one hundred and forty-four (144) pages of information that are considered relevant to this request.

The information has been examined in line with the provisions established by the *Right to Information Act 2009* (RTI Act) and I have decided to:

- Release in full one hundred and six (106) pages of information;
- Exempt in full: twenty-eight (28) pages of information pursuant to section 26 (Cabinet information); and ten (10) pages of information pursuant to section 27 (Internal briefing information of a Minister) of the RTI Act.

Exemptions:

Below are the relevant sections of the RTI Act relied upon for exemption in this Notice of Decision and supporting arguments for why certain information is deemed exempt from disclosure.

Section 26 –Cabinet information

- (1) Information is exempt information if it is contained in –
- (a) the official record of a deliberation or decision of the Cabinet; or
 - (b) a record proposed by a Minister for the purpose of being submitted to the Cabinet for consideration; or
 - (c) a record that is a copy of, or a copy of part of, a record referred to in paragraph (a) or (b); or
 - (d) a record, the disclosure of which would involve the disclosure of a deliberation or decision of the Cabinet, other than a record by which a decision of the Cabinet was officially published.

- (2) Subsection (1) ceases to apply after the end of the period of 10 years commencing on the date on which the information referred to in that subsection was first considered by the Cabinet at a meeting of the Cabinet.
- (3) Subsection (1) does not include information solely because it -
 - (a) was submitted to the Cabinet for consideration;
 - (b) is proposed by a Minister to be submitted to the Cabinet for consideration – if the information was not brought into existence for submission to the Cabinet for consideration.
- (4) Subsection (1) does not include purely factual information unless its disclosure would disclose a deliberation or decision of the Cabinet which has not been officially published.
- (5) Nothing in this section prevents the Premier from voluntarily disclosing information that is otherwise exempt information.
- (6) In this section – “the Cabinet” includes a committee of the Cabinet.

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.

Having taken into account all relevant matters, I have decided to exempt in full twenty-eight (28) pages of information pursuant to section 26 (Cabinet information); and ten (10) pages of information pursuant to section 27 (Internal briefing information of a Minister).

The attached spreadsheet lists all relevant information and identifies the information that was exempt from disclosure.

Specific arguments for exempting the relevant information:

Section 26

Documents #37 and #38 are exempt by nature as they were both brought into existence for the sole purpose of being submitted to Cabinet for its consideration and deliberation.

No public interest test applies to this exemption.

Section 27

I have released the covering Minute in relation to two Notices of Motion located at Documents #14 and #29, however I have exempted in full the responses as they have not yet been debated in Parliament. The information is exempt by nature as it comprises opinion, advice and recommendation prepared by the agency for the purpose of providing the Minister with a briefing in connection with his parliamentary duty.

Document #30 is exempt in full as it comprises a draft Question Time brief, the final of which is released in full at Document #36. This QTB consists of opinion, advice and recommendation prepared by the agency for the purpose of providing the Minister with a briefing for direct use in connection with his parliamentary duty.

No public interest test that applies to this exemption.

Scope of the request:

In an RTI request dated 29 October 2010, which was received by the Department of Infrastructure, Energy and Resources (DIER) via email on 7 December 2010, the applicant, Mr Mark Shelton MP sought:

- (1) Copies of any advice provided to the Hon Bryan Green MP Minister for Resources including but not limited to, briefing notes, question time briefs and meeting briefs regarding the Tasmanian Forests Statement of Principles to Lead to an Agreement, and the Tasmanian Forests Statement of Principles to Lead to an Agreement – Final Negotiating Draft;**
- (2) Copies of any advice provided to the Hon Bryan Green MP Minister for Resources from Forestry Tasmania regarding the Tasmanian Forests Statement of Principles to Lead to an Agreement, and the Tasmanian Forests Statement of Principles to Lead to an Agreement – Final Negotiating Draft;**
- (3) Copies of any communications between the Hon Bryan Green MP, Minister for Resources and:-**
 - i) Timber Communities Australia Ltd**
 - ii) The Construction, Forestry, Mining and Energy Union**
 - iii) The National Association of Forest Industries**
 - iv) The Australian Forest Contractors Association**
 - v) The Tasmanian Forest Contractors Association**
 - vi) Environment Tasmania Inc**
 - vii) The Wilderness Society**
 - viii) Australian Conservation Foundation**
 - ix) Tasmanian Country Sawmillers Federation**
 - x) Gunns Ltd**
 - xi) The Australian Government Minister for Agriculture, Fisheries and Forestry**
 - xii) The Prime Minister**

Between 8th April 2010 and 31 October 2010.

- (4) Copies of any communications between the Hon Bryan Green MP, Minister for Resources and/or the Hon David Bartlett MP, Premier, and/or the Hon Nick McKim MP, Minister for Climate Change regarding the Tasmanian Forests Statement of Principles to Lead to an Agreement, and the Tasmanian Forests Statement of Principles to Lead to an Agreement – Final Negotiating Draft.**

Consultation:

Forestry Tasmania were consulted and agreed to the release of the briefing note (Document #26).

The Minister for Energy and Resources, Hon Bryan Green MP was consulted and agreed to the release of the Question Time Briefs (Documents #10 and #36).

Rights of Review:**Internal review by this Agency**

Pursuant to section 43 of the RTI Act you may apply for an internal review of this decision.

Application for a review of the decision must be made in writing within 20 working days of receipt of this letter. No particular form is required but it is desirable to set out in the application the grounds on which you consider that the decision should be reviewed.

Application for a review of the decision should be addressed to:

The Secretary
Department of Infrastructure Energy and Resources
GPO Box 936
HOBART TAS 7001