

20 April 2012

Mr. Kim Booth MP
Level I, Henty House
Civic Square
Launceston Tasmania 7250

Dear Mr Booth

Right to Information Application 23 February 2012

I am writing with respect to your above request for information under the Right to Information Act 2009 ("the Act").

Our e-mail to you dated 20 March 2012 advised of the requirement under section 37 of the Act to forward information relative to your request to the relevant third-party and request their permission to release the information. We have now received the reply and we can now confirm that they have objected to the release of the information. The external party Sarawak Energy Berhad (SEB) has however stated that it has no objection to publicly acknowledging that Entura has provided consulting services in relation to the following dam projects since 2010, specifically – Metjawa, Pelagus, Belaga, Murum and Bakun. The provision of these consulting services are in accordance with the highest standards of sustainability and entirely consistent with the values of Hydro Tasmania.

Hydro Tasmania has determined that the information sought by you is exempt information under section 38 (a) (ii) of the Act; where the information is of a commercial and financial nature and would if disclosed under the Act be likely to expose Hydro Tasmania to a competitive disadvantage. In applying the Public Interest test under section 33 of the Act to Hydro Tasmania's decision, the matters specific in Schedule 1 of the Act have been considered and it has been determined that items (n) and (s) apply and therefore it is exempt information.

SEB has asked us to advise you that in relation to its program of hydropower development should you have any specific questions concerning the development of dams in Sarawak then you may contact SEB direct. The contact details are:

Address - level 9, Menara SEB, The Isthmus, 93050 Kuching, Sarawak

Telephone - +60 82 388389

Facsimile - +60 82 344433

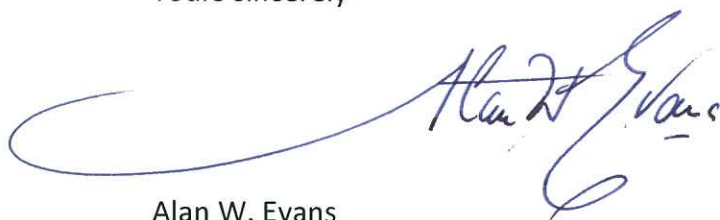
The Group Chief Executive Officer is Mr Torstein Dale Sjøtveit.

We also provide the following links to previously published public information related to your request which is included in Hydro Tasmania's last two annual reports tabled in Parliament - www.hydro.com.au - and Entura's website information on its projects – <http://www.entura.com.au/our-credentials/our-projects>

Hydro Tasmania is unable to assist you further with your request on this occasion. The matter is now considered closed.

Please contact the undersigned if you wish to appeal the decision. Attached you will find a copy of the relevant sections of the Act referred to in this advice in the listing of your rights of appeal under the Act.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Alan W. Evans", with a long, sweeping underline that extends to the left.

Alan W. Evans
Right to Information Officer and Corporation Secretary
Hydro Tasmania
alan.evans@hydro.com.au
Ph: (03) 6230.5300

Your Review Rights under the *Right to Information Act 1993* (the Act)

Internal Review (Section 43, 45 & 46)

If you are unhappy about decisions that are made by Hydro Tasmania, or Hydro Tasmania did not process your application within the time limits, you may within 20 working days after notice of the decision is given to you, apply to Hydro Tasmania for a review of that decision by Hydro Tasmania's Internal Review Officer.

External Review (Section 44)

If you are still unhappy with Hydro Tasmania's internal review decision, or Hydro Tasmania did not finish the internal review within 15 working days, you can apply to the Ombudsman for an external review of the decision.

You must apply for a review by the Ombudsman within 20 working days of the date of the decision or breach of the time limit.

Direct Reviews by the Ombudsman

If you would prefer to go directly to the Ombudsman, you do not have to wait for Hydro Tasmania to carry out an internal review if:

- because of the type of decision made, you are not allowed to apply for an internal review, or
- Hydro Tasmania said the information does not exist, is not in Hydro Tasmania's possession, or you believe Hydro Tasmania did not search properly for all information requested, or
- Hydro Tasmania has decided to give you access other than in the form requested, except where to do so would breach copyright, or
- Hydro Tasmania did not answer your application within time limits;

you must still apply for a review within 20 working days of the day on which you received notice of the decision.

Time within which Applications are to be Decided (Section 15)

Negotiations to refine the request may take up to 10 working days after the receipt of the application.

Then,

- a decision on your application will be made within a further 20 working days unless agreed otherwise with you;
- if Hydro Tasmania needs to consult with a third party about the release of information, a further 20 working days is allowed;
- Hydro Tasmania can apply to the Ombudsman for an extension of time if your application is complex or voluminous.



tasmanian legislation

TASMANIA'S CONSOLIDATED LEGISLATION ONLINE

[VIEW SUMMARY](#)

The legislation that is being viewed is valid for 20 Apr 2012.

Right to Information Act 2009 (No. 70 of 2009)

Requested:20 Apr 2012

Consolidated:20 Apr 2012

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.



tasmanian legislation

TASMANIA'S CONSOLIDATED LEGISLATION ONLINE

[VIEW SUMMARY](#)

The legislation that is being viewed is valid for 20 Apr 2012.

Right to Information Act 2009 (No. 70 of 2009)

Requested: 20 Apr 2012

Consolidated: 20 Apr 2012

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.



tasmanian legislation

TASMANIA'S CONSOLIDATED LEGISLATION ONLINE

VIEW SUMMARY

The legislation that is being viewed is valid for 20 Apr 2012.

Right to Information Act 2009 (No. 70 of 2009)

Requested:20 Apr 2012

Consolidated:20 Apr 2012

38. Information relating to business affairs of public authority

Information is exempt information –

(a) if it is –

(i) a trade secret of a public authority; or

(ii) in the case of a public authority engaged in trade or commerce, information of a business, commercial or financial nature that would, if disclosed under this Act, be likely to expose the public authority to competitive disadvantage; or

(b) if it consists of the result of scientific or technical research undertaken by or on behalf of a public authority, and –

(i) the research could lead to a patentable invention; or

(ii) the disclosure of the results in an incomplete state would be likely to expose a business, commercial or financial undertaking unreasonably to disadvantage; or

(iii) the disclosure of the results before the completion of the research would be likely to expose the public authority or the person carrying out the research unreasonably to disadvantage; or

(c) if it is contained in –

(i) an examination, a submission by a student in respect of an examination, an examiner's report or any such similar record; and

(ii) the use for which the record was prepared has not been completed.



tasmanian legislation

TASMANIA'S CONSOLIDATED LEGISLATION ONLINE

[VIEW SUMMARY](#)

The legislation that is being viewed is valid for 20 Apr 2012.

Right to Information Act 2009 (No. 70 of 2009)

Requested:20 Apr 2012

Consolidated:20 Apr 2012

SCHEDULE 1 - Matters Relevant to Assessment of Public Interest

Sections 30(3) and 33(2)

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.