



2 May 2025

Professor Tim McCormack
Associate Professor Rick Snell
Independent Reviewers

By email: tasrti.review@gmail.com

Dear Professor McCormack and Associate Professor Snell

Review of Tasmania's Right to Information Framework | Consultation Response

Thank you for your letter of 3 March 2025 inviting TasPorts to provide its perspective on Right to Information (RTI) processes and challenges as part of your review of Tasmania's RTI Framework.

Introduction to TasPorts RTI processes

TasPorts' Chief Executive Officer is the principal officer for the purposes of the *Right to Information Act 2009* (the Act) and has appointed TasPorts' General Counsel as the delegated officer, to undertake all their functions under the Act.

As a public authority, TasPorts has robust governance arrangements in place to manage RTI matters. The delegation from CEO to General Counsel ensures TasPorts manages its RTI process through a legal and governance lens which safeguards compliance with its obligations under the Act. The centralised approach has also brought consistency and governance rigour to the to the management of requests for assessed disclosure.

TasPorts reports the number of formal applications for assessed disclosure in its Annual Report. The number of assessed disclosure requests is consistently low noting in FY2024 it was notably higher (reflecting the quantity of high-interest public issues being managed at the time).

- Eight in FY2024
- One in FY2023
- One in FY 2022
- None in FY2021

TasPorts is not required to publish RTI responses but if a matter is sufficiently in the interest of the public it will do so (such was the case with the Non-Standard Vessel Assessment conducted for the transit of the *Nuyina* under the Tasman Bridge: [RSV Nuyina Statement](#)).

Given that TasPorts has only processed 10 formal applications for assessed disclosure over the last four years (none of which have escalated to review through the Office of Ombudsman) the State-owned Company is limited in the value it can add to these Terms of Reference. Notwithstanding, it offers the following for your information.

Head Office
90-110 Willis Street,
Launceston
PO Box 1060
Launceston
Tasmania 7250
reception@tasports.com.au

Port of Devonport
48 Formby Road,
Devonport
PO Box 478
Devonport
Tasmania 7310

Port of Bell Bay
Mobil Road,
Bell Bay
Locked Bag 4
George Town
Tasmania 7253

Port of Burnie
Port Road,
Burnie
PO Box 216
Burnie
Tasmania 7320

Port of Hobart
Level 6,
Marine Board Building
1 Franklin Wharf, Hobart
GPO Box 202 Hobart
Tasmania 7001

Terms of Reference

An independent review of the Tasmania's RTI framework will examine and report on the adequacy, effectiveness and implementation of the Right to Information Act 2009, including but not limited to the following.

Any findings and recommendations arising from previous reports and review processes.

TasPorts acknowledges the Ombudsman's recent investigation into the handling of personal information when responding to requests for information under the *Right to Information Act 2009* by Tasmanian public authorities.

We noted that while TasPorts was not the specific focus of this investigation, we nonetheless provided information on the policies and quality assurance procedures in place to ensure that original decisions, internal review decisions, and external review decisions under the Act are implemented correctly, so that information identified as exempt from disclosure is not inadvertently released.

TasPorts' *Right to Information Policy* is attached along with a *Right to Information Summary*. Both documents are available in TasPorts policy and procedures library DocUControl. A copy of TasPorts' *Right to Information Act Application for Assessed Disclosure Form* is also attached.

Further, TasPorts publishes RTI information on its external website here [Governance](#) with the information also attached to this correspondence: *TasPorts RTI Website Information*.

Any administrative and/or cultural challenges experienced in meeting the objects of the Act.

TasPorts has not experienced any such challenges in meeting the objects of the Act.

The intersection with any other relevant legislative frameworks (including, but not limited to, the Public Interest Disclosures Act 2002, and the Personal Information Protection Act 2004).

TasPorts has not had need to test the intersection of the Act with any other relevant legislative frameworks and in instances where other legislative instruments may intersect, the application of these other instruments has not negatively impacted the discharge of TasPorts obligations under the Act.

It is noteworthy that TasPorts conducts governance and human resource staff roadshows across each of its major port locations every two years. The purpose of the activity is to provide an important overview of good governance practices, which support a healthy, transparent and accountable culture. The forums provide for direct engagement with our people on the practical implications of the policy and procedures within TasPorts' governance framework. This includes the role of legislation such as the *Right to Information Act 2009*, the *Public Interest Disclosures Act 2002* and the *Personal Information Protection Act 2004*. Attendance at these sessions is mandatory enduring TasPorts' people mandatory training to ensure understanding of and compliance with the Act and other relevant legislation.

The performance, resourcing and efficacy of the Office of Ombudsman in undertaking its functions and duties under the Right to Information Act 2009.

We note from the Ombudsman Tasmania's Annual Report 2023-24 that it has successfully recruited new positions including Manager Official Visitors and Director, Office of the Tasmanian Preventative Mechanism, and work underway to appoint a new Principal Officer – Health Complaints. In spite of this, delays and backlogs remain a significant issue in the right to information scheme and in external review requests and enquiries to the office.

Further, the Annual Report states:

- “Right to Information (RTI) and skills gaps (often due to lack of access to training) in delegates working at public authorities are having a major negative impact on the RTI scheme.”

TasPorts notes that to ensure uniform compliance with the legislation, RTI is administered as a legal and governance function by the General Counsel as the delegated officer, with the following objectives:

- Adopt procedures which ensure a consistent approach throughout TasPorts to all issues involving RTI.
- Achieve efficient handling of and responses to RTI applications by centralisation.
- All applications to be recorded for reporting purposes.
- Provide corporate consultation, guidance and direction regarding rights and obligations under the Act.

Any other identified barriers to, or constraints on, the effective capacity of the RTI framework in Tasmania.

TasPorts is confident it has robust governance arrangements in place to manage RTI matters, and has not identified any barriers to, or constraints on, the effective capacity of the RTI framework in Tasmania within which it operates.

In closing, thank you for the opportunity to engage with you on this important matter. We are happy to elaborate further if required by [REDACTED]

Sincerely



Angie Somann-Crawford
General Counsel and Company Secretary
Delegated Officer pursuant to the Right to Information Act

Attachments:

1. *TasPorts Right to Information Policy*
2. *TasPorts Right to Information Summary*
3. *TasPorts Right to Information Act Application for Assessed Disclosure Form*
4. *TasPorts Right to Information website summary*

RIGHT TO INFORMATION ACT 2009 (TAS) APPLICATION FOR ASSESSED DISCLOSURE

Full Name:				Title:	
Postal Address:					
Daytime contact information (telephone):	Business:	Home:	Mobile:		
Email:					
Public Authority or Minister applied to:					
General subject matter of information applied for (one sentence summary of information requested):					
Description of efforts made prior to this application (if any) to obtain from publicly available sources the information sought:					
Application fee included (please tick):					<input type="checkbox"/>
OR, application for waiver:					
Member of Parliament:	<input type="checkbox"/>	Impecunious applicant:	<input type="checkbox"/>	General public interest of benefit:	<input type="checkbox"/>
Journalist:	<input type="checkbox"/>				
If applying for waiver, please provide any information to support the request for a fee waiver:					
If application for Applicant's personal information, proof of identify provided (please tick):					<input type="checkbox"/>
Details of the information sought (including all relevant dates and time periods that may relate to the information being sought (if known):					
(If there is insufficient room in this space please attach further details.)					
Applicants Signature:				Date:	

INFORMATION ABOUT ASSESSED DISCLOSURE UNDER THE RIGHT TO INFORMATION ACT 2009 (TAS)

The Right to Information Act 2009 (Tasmania) (“**the Act**”) provides a right for the public to obtain information in the possession of the government and public authorities. TasPorts is a public authority under the Act.

OBJECT OF THE ACT

Section 3 of the Act includes this statement of the objects of the Act:

- (1) The object of this Act is to improve democratic government in Tasmania –
 - (a) by increasing the accountability of the executive to the people of Tasmania; and
 - (b) by increasing the ability of the people of Tasmania to participate in their governance; and
 - (c) by acknowledging that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.
- (2) This object is to be pursued by giving members of the public the right to obtain information held by public authorities and Ministers.
- (3) This object is also to be pursued by giving members of the public the right to obtain information about the operations of Government.
- (4) It is the intention of Parliament –
 - (a) that this Act be interpreted so as to further the object set out in subsection (1); and
 - (b) that discretions conferred by this Act be exercised so as to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information.

APPLICATIONS FOR ASSESSED DISCLOSURE

Applications are to be addressed to:

Right to Information Officer
Tasmanian Ports Corporation Pty. Ltd
90 Willis Street
Launceston, Tasmania 7250

Or email: rti@tasports.com.au

- Applications are to be made in writing and include the information required by Regulation 5 of the *Right to Information Regulations 2021*.
- If the application includes a request for personal information of the applicant, proof of identity of the applicant is required. Proof of identity means:
 - (a) a certified copy, or an extract, of a birth certificate for the applicant that shows the name of the applicant; or
 - (b) a certified copy of a certificate, declaration, notice or other instrument in respect of the applicant's status as an Australian citizen or British subject, or otherwise in respect of the applicant's nationality, issued under –
 - (i) the *Australian Citizenship Act 2007* (Cth); or
 - (ii) the *Australian Citizenship Act 1948* (Cth); or
 - (c) a passport, issued to the applicant in any country or territory, that shows the name of the applicant; or
 - (d) a drivers licence, issued to the applicant in Australia, that shows the name of the applicant.

APPLICATION FEE

Applications are to be accompanied by the application fee. This fee is 25 fee units, which is \$46.75 as at 1 July 2024 and is indexed annually.

The fee can be paid by bank cheque or personal cheque made payable to “Tasmanian Ports Corporation”, or by electronic funds transfer using the following details:

Account name:	Tasmanian Ports Corporation
BSB:	067-000
Account number:	0000 0360
Reference:	RTI [<i>your surname</i>]

REQUEST FOR WAIVER OF APPLICATION FEE

An applicant can apply for the application fee to be waived where:

- the applicant is a Member of Parliament in the pursuit of their official duty;
- the applicant is impecunious;
- the applicant is a journalist acting in connection with their professional duties; and
- the information sought is intended to be used for a purpose that is of general public interest or benefit.

Applicants are encouraged to specify in their application whether they are seeking a waiver of the fee, and the basis upon which that request is made. Any decision on whether to waive the fee is at the discretion of TasPorts. An application for assessed disclosure cannot be accepted unless the application fee has been paid, or waived.

RESPONSIBILITIES OF THE PUBLIC AUTHORITY

- Applicants are to be notified of the decision relating to an application for assessed disclosure within 20 working days of the application being accepted by the public authority.
- Before the application is accepted, the public authority has a maximum of 10 working days to negotiate with the applicant to further define the application.
- If a need to consult with a third party arises, a further 20 working days will be allowed in addition to the original 20 days.
- If these time limits are not conformed with, the application will be deemed to be refused and the applicant may apply to the Ombudsman for a review of that decision. Information on how to apply for a review by the Ombudsman can be found on the Ombudsman Website.

FURTHER INFORMATION

Further information relating to the RTI process and how TasPorts may assist can be found on under the Governance section on our website: <https://www.tasports.com.au/corporate>

Other general information on the Act can be found through the following links:

- [Right to Information Act](#)
- [Right to Information Act 2009 Manual and Guidelines](#)
- [Ombudsman Tasmania](#)

Right to Information Policy

1. PURPOSE

The purpose of this document is to outline the effect of the *Right to Information Act 2009* (the Act) on TasPorts and to formulate policy to be applied in administering the requirements of the Act.

2. SCOPE

This policy applies to all Information (as defined below) held by TasPorts, and all TasPorts employees.

3. DEFINITIONS

TasPorts: Tasmanian Ports Corporation Pty Ltd

Information: Defined under the Act as meaning:

- a) anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording or photograph; and
- b) anything in which information is embodied so as to be capable of being reproduced.

4. POLICY DETAIL

The Act commenced on 1 July 2010 and provides for greater access to information held by government bodies by:

- Authorising and encouraging greater routine disclosure of information held by public authorities without the need for requests or applications;
- Authorising and encouraging greater active disclosure of information held by public authorities in response to informal requests without the need for applications;
- Giving members of the public an enforceable right to information held by public authorities; and
- Providing that access to information held by government bodies is restricted in only limited circumstances which are defined in the Act.

The provisions of the Act have wide implications for TasPorts in the way it conducts its business and manages its Information.

As a "public authority" within the meaning of the Act TasPorts has an obligation to provide to members of the public information contained in TasPorts' records, apart from "exempt information" (see Part 3 of the Act).

To ensure uniform compliance with the legislation, Right to Information (RTI) is to be administered as a Legal & Governance function with the following objectives:

- Adopt procedures which ensure a consistent approach throughout TasPorts to all issues involving RTI.
- Achieve efficient handling of and responses to RTI applications by centralisation.
- All applications to be recorded for reporting purposes.
- Provide corporate consultation, guidance and direction regarding rights and obligations under the Act.

The Chief Executive Officer is the principal officer for the purposes of the Act. Section 21 of the Act provides for the appointment of delegated officers as decision makers for the purpose of releasing or refusing information, or undertaking reviews of decisions. Such appointments are to be made by a formal instrument. Delegations will be reviewed as required by the Act and otherwise as the need arises.

Where a decision is made not to release certain information the applicant may request the principal officer of the public authority to review the decision. Applicants also have a right to seek a review by the Ombudsman.

Major aspects of the Act:

- The Act's objective is to give the public access to public authority records, with public authorities being encouraged to make information routinely available, and for applications for information being intended to be used as a "last resort".
- There are four different kinds of disclosure referred to in the Act:
 - Required disclosure – where disclosure is required by law or under an agreement;
 - Routine disclosure – where the public authority decides information may be of interest to the public, but which does not fall into one of the other categories of disclosure;
 - Active disclosure – where information is disclosed in response to a request from a person made otherwise than as an assessed disclosure; and
 - Assessed disclosure – where a person seeks information under section 13 of the Act. This is meant to be the "last resort" – i.e. if a public authority could provide the information without a formal application, it should.
- Public authorities must provide information unless it is exempt.
- The Act requires applicants to be specific in their requests but at the same time obliges public authorities to assist in this exercise.
- Time limits apply for dealing with applications – 20 working days for assessed disclosures, except in specified circumstances.
- Applicants must pay an application fee for assessed disclosures, except in specified circumstances.
- Requests for assessed disclosure must be in writing and contain certain details as prescribed by regulation but may also be made using a standardised request form.
- Public authorities may give a general refusal where there would be a substantial and unreasonable disruption to normal work, or where an application is a repeat of another application or vexatious.
- There are various categories of "exempt information", many with an overriding additional provision that refusal to disclose must also be in the "public interest" or that the "public interest" factor may override other factors. It is in this area the major areas of dispute are likely to arise.
- Where disclosure would affect personal information or other third party interests notice provisions apply for interested parties to be notified prior to any disclosures.
- Procedures are prescribed for dealing with applications for the notification of decisions and for appeals from those decisions.

Key information, together with a copy of the application form, is published on TasPorts' external website, as required by the Act.

5. SPECIFIC TYPES OF DISCLOSURE

5.1. Required Disclosure

Examples of required disclosure would include Annual Reports and Financial Statements. Required disclosures may be made through a number of different means including the external website or through other documentation that may be accessible to the public.

5.2. Routine Disclosures

Examples of routine disclosure can be found on TasPorts' external website, including towage rates and conditions, Domain Slip rates etc. Information published on the website must be approved by the Head of Corporate Affairs.

Generally routine disclosure involves the disclosure of information which may be of general public interest or benefit and which is not regarded as contentious, commercially sensitive or confidential. Care should be taken to ensure that information which is made available as a routine disclosure is accurate and up to date.

5.3. Active Disclosures

In general terms, an active disclosure may be made where the information sought is not of general public benefit or interest, but is also not contentious, inaccurate, commercially sensitive or confidential (including any information which is or may contain personal information). The information may already be in the public domain.

Examples of where an active disclosure may be made include responses to requests for information from the media where public statements have already been agreed within TasPorts.

If the information sought is or might reasonably be regarded as contentious, inaccurate, commercially sensitive or confidential, the request should be referred to either the General Counsel or a member of the Legal team.

5.4. Assessed Disclosures

Assessed disclosure involves a formal request for information under section 13 of the Act. This may or may not be in the form which Tasports makes available on its external website. Assessed disclosures must normally be accompanied by payment of a fee (some exceptions apply).

Assessed disclosures must be dealt with in accordance with the Act, a flowchart of the process is set out at Annexure A.

6. KEY STAKEHOLDER RESPONSIBILITIES

The Chief Executive Officer is the principal officer for the purposes of the Act, but may appoint delegated officers to undertake any or all of their functions under the Act.

TasPorts' General Counsel have been appointed as a delegated officer in accordance with the Act.

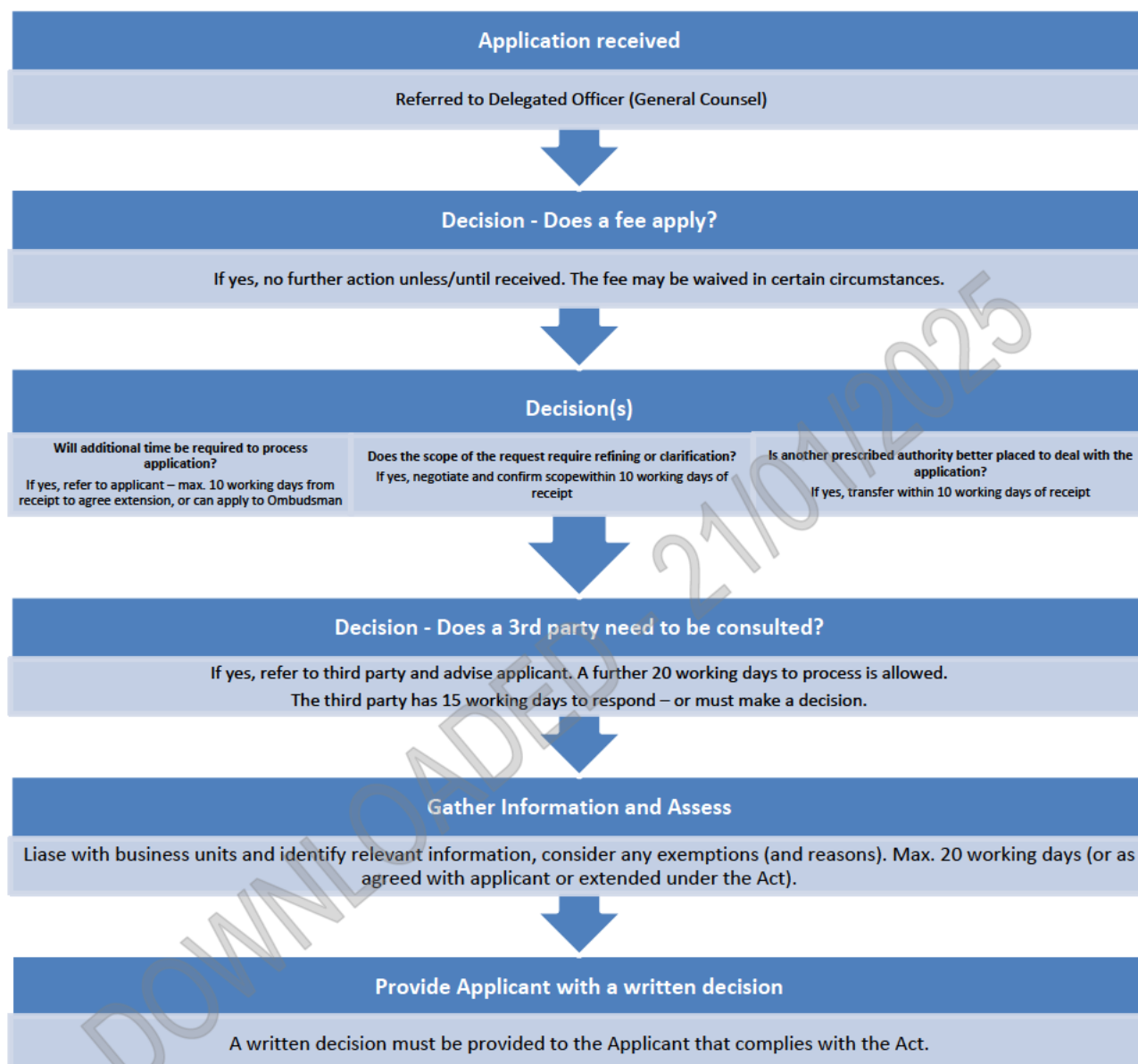
7. FORMS

Application Form is available on Tasports' external website. This form is not compulsory, but is encouraged. A flowchart showing the process for assessed disclosures is at Annexure A..

8. RELATED DOCUMENTS

- *Right to Information Act 2009* (Tas);
- *Right to Information Regulations 2021* (Tas);
- TasPorts Media Policy.

FLOWCHART FOR ASSESSED DISCLOSURE



This document is designed to give you a basic understanding of the *Right to Information Act 2009* (Tas) and TasPorts' obligations under that Act.

It is not intended to replace TasPorts' Right to Information Policy - you should refer to that document if you have further questions.

What is Right to Information about?

The Act seeks to increase the transparency and public accountability of relevant Tasmanian authorities through the disclosure of information held by those authorities.

What is "information"?

Information is not limited to documents – it may include recordings, maps, graphs, paintings, photographs etc.

Does it apply to TasPorts?

Yes, it applies to **public authorities** which include:

- Government departments;
- Councils;
- Statutory authorities;
- Government - owned and council - owned businesses.

What does TasPorts have to do?

The Act strongly encourages TasPorts to:

- comply with its obligations to disclose information under any law or other requirement; and
- make information available "routinely" (e.g. where there is general public interest) and "actively" (i.e. in response to a query or request, but where a formal request is not warranted) –

The Act also requires TasPorts to disclose information held by it that is not regarded as "exempt" whenever formally requested in accordance with the Act. These are called **assessed disclosures**.

Assessed disclosure is meant to be the 'method of last resort'.

How is an application for assessed disclosure made?

An application must be made in accordance with section 13 of the Act:

- in writing;
- identifying the applicant and providing address and contact details;
- identifying (even in only general terms) the information sought; and
- stating what has already been done to try and obtain the information.

In addition, unless specific circumstances apply, the applicant must pay a fee.

How does TasPorts deal with application for assessed disclosure?

Applications must be dealt with by an authorised person - in the first instance, this is General Counsel – not more than 20 working days after receipt, unless an extension of time is agreed or granted.

In processing the application, various decisions must be made:

- Does TasPorts hold information relevant to the application? If not, should the application be transferred to another authority?
- What information does TasPorts hold that is relevant?
- Is any of this information **exempt** under the Act?

Exempt information is not required to be disclosed, although an authority may elect to do so.

The Act sets out a number of grounds on which information may be exempt. Some grounds are subject to a **public interest test**. If disclosure of the information is in the public interest (after considering a range of matters specified under the Act), it is not exempt.

The applicant must be notified of the decision and provided with any information that is required to be disclosed under the Act. This can be done through the provision of copies of the information, or by allowing the applicant to view or otherwise access the information.

What then?

An applicant may seek a review of the decision either by TasPorts or the Ombudsman, as set out in the Act. The original decision may be upheld or overturned.

TasPorts must provide annual statistical information to the Ombudsman and include this information in its Annual Report.

What do I need to do?

- Think about how you create, maintain and manage information in the course of your role;
- Follow TasPorts information management processes;
- Assist the General Counsel in identifying any relevant information; and
- If someone asks you for information about TasPorts' business, and that information may be sensitive or you are not sure you should give it to them, ask your manager or General Counsel.

If you have any further questions about TasPorts' policy or Right to Information generally, please contact Angie Somann-Crawford, General Counsel & Company Secretary on 6222 6022