

Information Disclosure Policy and Procedures

Right to Information Act 2009



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Overview

Sustainable Timber Tasmania is a Government Business Enterprise and therefore operates commercially for and in the public interest.

Sustainable Timber Tasmania operates in a highly competitive commercial environment. However, in line with the Tasmanian Government's principles of transparency and accountability throughout government, we willingly provide access to information wherever it is in the public interest to do so.

At times, the public interest is best served by maintaining confidentiality on information that has high commercial value. However, all Sustainable Timber Tasmania information, including confidential information, is subject to audit and Government scrutiny.

Sustainable Timber Tasmania is a Public Authority as defined under the *Right to Information Act 2009* (the Act). Section 23 of the Act requires Principal Officers of public authorities to prepare and promulgate policies and procedures for the release of information under the Act. This policy and procedure is publicly available on the Sustainable Timber Tasmania's website.

This Information Disclosure Policy is issued in compliance with the Act and explains the disclosure policy and processes in Sustainable Timber Tasmania for the four types of information disclosure specified in the Act.

Scope

This document meets the requirements for policies and procedures specified in section 23 of the Act. It has been developed to:

- a) be used within Sustainable Timber Tasmania; and
- b) enable relevant details of the Act to be published and made available to the public.

Section 7 of the Act gives a person a legally enforceable right to be provided with official information in the possession of Sustainable Timber Tasmania, unless the information is Exempt Information, as defined in section 3 in the Act.

This policy and these procedures apply to all Sustainable Timber Tasmania staff, and where applicable, any contractors and consultants.

This policy and procedures document covers the four types of information disclosure which may be required as identified in section 12 (2) of the Act:

- Required Disclosure;
- Routine Disclosure;
- Active Disclosure; and
- Assessed Disclosure.

Policy

Information management is the responsibility of all staff and it is also critical to enable disclosure of information in accordance with the Act. All staff are responsible and accountable for:

- keeping records of all official information produced, received or acquired;
- making records to support what they do; and



- registering documents in Sustainable Timber Tasmania's records management system (TRIM).

Sustainable Timber Tasmania staff who are involved in the release of information to the public will make decisions which are consistent with the objects and provisions of the Act and with any Manual and Guidelines issued by the Ombudsman (refer www.ombudsman.tas.gov.au).

Object of the Right to Information Act 2009

The object 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;
 - 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.

Section 3 of the Act sets out the objective of the legislation.

In practice, the Act is about delivering an open, proactive and accountable public sector, focused on improving government service provision.

Procedures

Required Disclosure

The Act defines Required Disclosure as the disclosure of information by a Public Authority where the information is required to be published by legislation, or where disclosure is otherwise required by law or enforceable under an agreement.

For example, information such as our financial statements and other reports which Sustainable Timber Tasmania must make available under law.

Who will decide what information should be released as a Required Disclosure?

Sustainable Timber Tasmania senior managers are delegated responsibility for compliance with the administration of specific Acts by the Chief Executive Officer. These senior managers are responsible for the release of information under those Acts.

Process for the Required Disclosure of information:



Senior managers will disclose the required information in accordance with legislative requirements and in a manner approved by the Chief Executive Officer and Board of Directors.

Routine Disclosure

The Act defines Routine Disclosure as the disclosure of information by a Public Authority which it decides may be of interest to the public, but where the disclosure is not one of the other three types of disclosure (required, active or assessed).

Information that is being released by way of Routine Disclosure will generally be available online (through Sustainable Timber Tasmania's website) and at no cost. Where people cannot access the information online, Sustainable Timber Tasmania will provide an alternative and reasonable means of access. If a person requires a method of accessing the information that incurs cost, they may be required to pay for accessing the information by that method.

Routinely disclosed information is available at www.sttas.com.au

Who will decide what types of information can be routinely disclosed?

The Principal Officer must approve types of information under each class as suitable and appropriate for Routine Disclosure prior to the information being published.

The Information Custodian must determine what type of information can be routinely disclosed within each class and then seek approval from the Principal Officer.

Once approved, the Information Custodian is responsible for the preparation and publication of the items of routine information in the first instance, and for maintaining the currency of the information, where applicable.

Process for the Routine Disclosure of information

Identification of potential information types for Routine Disclosure

Each business unit of Sustainable Timber Tasmania is to regularly review information it possesses and identify what information may be routinely disclosed and how and when it should be disclosed.

The Ombudsman Guideline 3/2010 - *Guideline in relation to process of disclosing information under each type of information disclosure* - sets out matters to take into account when deciding what information could be routinely disclosed. Officers should take account of the objects of the Act and consider:

- What information may be material to the community – i.e. what is significant, relevant and meaningful?
- What information key stakeholders and the community might reasonably expect to be able to access?
- The extent of public or other demand for the information.
- How useful the information would be to the public in dealing with Sustainable Timber Tasmania?
- Whether publication would provide increased transparency about the operations of Sustainable Timber Tasmania.
- Whether publication would promote greater accountability by Sustainable Timber Tasmania, for example by showing the basis of its decisions.
- Whether the information promotes community wellbeing.

Other questions relevant to a decision to routinely disclose are:



- Does Sustainable Timber Tasmania possess the information?
- Does the information relate to the official business of Sustainable Timber Tasmania?
- Has the information been archived or is it out of date or otherwise inaccessible?
- Is it impracticable or resource intensive to prepare the material for routine release?
- Is the information significant – is it about important aspects of Sustainable Timber Tasmania such as major projects or key initiatives?
- Is the information preliminary or deliberative or does it represent the final and approved position/decision?
- Does the information tell the public what we do or how we do it?
- Is the release of the information lawful - having regard to the Act, other legislation and any other legal obligation such as an agreement or copyright?
- Is the release appropriate - having regard to issues such as privacy principles, defamation, third party and commercial issues?
- Is the information accurate? All efforts should be made to ensure that information is up-to-date and accurate.
- What is the cost and time involved in producing the information? The release of information should be at the lowest reasonable cost.
- Is the information otherwise exempt - having regard to Part 3 of the Act?
- Is it in the public interest to release – having regard to Schedules 2 and 3 of the Act?

Approval of a decision to routinely disclose information

Information Custodians must seek approval from the Principal Officer prior to publishing new types of routine information within the classes identified above.

Publication of new items of routine information

Once an information type is approved by the Principal Officer, the publishing and subsequent updating of the information item is the responsibility of the Information Custodian.

Within each business unit, the normal processes and procedures for the publishing/uploading of information on the Sustainable Timber Tasmania internet website apply.

Publication should be in a format that is accessible.

Who ensures that published information is kept up to date?

It is the responsibility of the Information Custodian to routinely publish and maintain the accuracy of the information in accordance with the approved frequency and method.

Active Disclosure

The Act defines Active Disclosure as the disclosure of information by a Public Authority or a Minister in response to a request from a person made outside the provisions of the Act and not an Assessed Disclosure i.e. the voluntary release of information on receipt of a request.

Who will decide what information can be actively released?

General inquiries will be dealt with through normal channels; for example telephone inquiries may be appropriate for simple requests but more complex requests for information may need to be dealt with in writing with senior management clearance.

Other applicable processes include:

1. Ministerial correspondence

Ministerial correspondence will be forwarded through the Engagement and Land Management Manager.



2. Requests received from the media

Generally where the information is being sought by the media, the request should be directed to the Engagement and Land Management Manager.

3. Requests received from Members of Parliament

Where the information is being sought by Members of Parliament, the request should be forwarded to the Engagement and Land Management Manager.

4. The information is potentially contentious or sensitive

Where the information being sought is potentially contentious or sensitive, the request should be forwarded to the Engagement and Land Management Manager.

5. The information may include Exempt Information or information protected from release

Where the information being sought may include exempt information, the request should be forwarded to the Engagement and Land Management Manager.

Process for the Active Disclosure of information

Information that is publicly available can be provided orally or in writing through correspondence or email or by providing the information requested in a hard copy or electronic form.

Information will continue to be released according to normal agency practices. The Engagement Team will manage all incoming and outgoing ministerial correspondence.

For all requests not covered by the sections above, officers will:

- direct the person to the information if it is already publicly available;
- consider asking for a request in writing to provide greater clarity around the information being sought, and to whom the information is to be provided;
- decide whether the information can be released to the person in full or in part, taking into consideration factors such as:
 - third parties – who may have provided commercial in confidence information or information provided strictly in confidence
 - personal privacy – decisions must be consistent with the Personal Information Privacy Principles as set out in the *Personal Information Protection Act 2004*
 - confidentiality – information provided in confidence (commercial or otherwise)
 - copyright or ownership of the material
 - the exemptions outlined in the Act
 - contractual obligations that may relate to the information
 - defamation
 - if the information is part of an ongoing investigation or legal action;
- contact the Engagement Team if advice is required in relation to handling a request where the above considerations may apply; and
- release any of the information that can be disclosed and where applicable inform the person of any relevant information that cannot be disclosed in this way and provide the person with advice on their rights to apply for an Assessed Disclosure to obtain access to any information which cannot be actively disclosed.



Provision of identity

Requests for Active Disclosure must provide the identity of the person or entity on whose behalf the request is made. This assists Sustainable Timber Tasmania to make an informed decision regarding:

- whether the information requested is the personal information of the requestor; and
- the level of assistance the requestor may require to find, interpret or understand the information provided; and
- the provision of the information requested.

Sustainable Timber Tasmania will refuse an Application for Assessed Disclosure if the identity of the person or entity on whose behalf the request is made cannot be established.

Making information available via Active Disclosure

All decisions should be made taking into account the need for a timely response and the objective of the Act to favour Active Disclosure of information wherever possible.

Is there a charge for information which is actively disclosed?

There will be no charge for examining any published information contained on Sustainable Timber Tasmania's website. However, a fee may be charged for the provision of the information if –

- the information is to be used for financial gain; or
- if a large volume of printed material is required.

A nominated charge will be payable for some information produced by Sustainable Timber Tasmania. Charges will be kept under review and there is no intention to charge for material that has previously been available for free.

Assessed Disclosure

Assessed Disclosure is the form of disclosure of last resort. It should only be used in circumstances where the information being sought includes exempt information.

A person making a request for Assessed Disclosure must make the application in writing. Sustainable Timber Tasmania's Application for Assessed Disclosure form and information about making an application is available on Sustainable Timber Tasmania's website.

Where should applications for Assessed Disclosure be sent?

Applications for Assessed Disclosure for Sustainable Timber Tasmania are to be addressed to:

Right to Information Officer
Sustainable Timber Tasmania
GPO Box 207
Hobart Tas 7001

email: rti@sttas.com.au

Applications are to be accompanied by the application fee. This fee is 25 fee units, which is **\$39.50** as at 1 July **2018** and is indexed periodically.

You may apply to have the fee waived if:



- You are in financial hardship – we take that to mean that you are on income support payments (we would usually ask to see evidence that you are in receipt of Centrelink or veterans affairs payments);
- Where you are a member of parliament and the application is in connection with your official duty; or
- That you are able to give us information which shows that the information sought is intended to be used for a purpose that is of general public interest or benefit.

Who can make a decision on an application for Assessed Disclosure?

The Principal Officer has delegated his decision making power for Assessed Disclosure to the General Manager, Land Management (Delegated Officer).

The Act requires that Delegated Officers have the knowledge and skills to undertake the task of Assessed Disclosure. These officers should also have an appropriate level of security clearance, access to the relevant records and a sound knowledge of Sustainable Timber Tasmania.

Processing an application for Assessed Disclosure

The process for assessing an application for Assessed Disclosure is outlined in the Act and in the Manual and Guidelines published by the Ombudsman. The Manual and Guidelines are available at <http://www.ombudsman.tas.gov.au>.

Delegated Officers are responsible for Assessed Disclosure decisions.

All requests for information will be addressed in a timely manner, taking into account the time required to assess the application and the need to consult third parties including redefining or redirecting the application upon negotiation with the applicant. Timeframes for processing applications and negotiations are set out in the Act.

An application for Assessed Disclosure may be transferred in full or part to another Public Authority or Minister where the subject matter of the application is more closely connected with the functions of another Public Authority or Minister.

Searching and locating information

Upon receipt of a request for Assessed Disclosure the Delegated Officer will liaise with Information Custodians and the branches responsible for the management of the information. The responsibility for searching and producing the information to be assessed is the responsibility of the Information Custodian or Delegated Officer.

A diligent and structured approach to searching for information is required. All information whether potentially exempt or not must be disclosed to the Delegated Officer. The Ombudsman's Guideline in respect to search and location of information is relevant.

Officers should note that an applicant may seek a review of a decision on the basis that the search for information has been insufficient. In this case the Ombudsman may request a report on how the search for the information requested was conducted. Therefore the Delegated Officer may be requested to provide a report of the search undertaken to locate the information requested.

Section 50 (2) of the Act provides that it is an offence to deliberately fail to disclose information which is the subject of an application for Assessed Disclosure of information, in the circumstances where the information is known to the person to exist, other than where non-disclosure is permitted in accordance with the Act or another Act.



Providing a written decision

The Delegated Officer responding to an application for Assessed Disclosure must provide the applicant with a written decision that explains:

- the official information in Sustainable Timber Tasmania's possession;
- whether or not the information is released;
- the reasons for any exemptions; and
- the applicant's rights to seek a review of an Assessed Disclosure decision.

Internal Review

A decision made by a Public Authority on an application for Assessed Disclosure may be referred for an internal review.

An internal review involves reconsideration by Sustainable Timber Tasmania of the initial decision.

Application for an internal review can be made by:

- the initial applicant – within 20 days of the initial decision;
- a third party seeking a review relating to their personal affairs – within 10 days of the original decision; or
- a third party seeking a review on the basis that the original decision is likely to expose them to competitive disadvantage - within 10 days of the original decision.

All requests for internal review are to be sent to the Principal Officer.

The Principal Officer must as soon as practicable, or within 20 working days, review the decision and make a fresh decision.

External Review

An applicant for Assessed Disclosure, or an affected third party, may seek an external review by the Ombudsman.

This may occur where any of:

- The original decision was made by the Principal Officer, so that an internal review is not practicable; or
- The timeframe for the original decision has lapsed; or
- A decision on an internal review has not been made within 15 working days; or
- A range of other reasons listed under Section 45(1) of the Act.

The Act confers a range of powers to the Ombudsman to conduct an external review including, giving directions, conciliation, and reporting a matter to the Parliament.

All matters relating to external reviews should be referred to the Principal Officer.

In conducting an external review, the Act imposes an onus of persuasion on Sustainable Timber Tasmania that the information should not be disclosed.

Where an exemption relates to an external party, the onus of persuasion is on the external party.

Related Documents and Policies

Right to Information Act 2009



Right to Information Regulations 2010

Personal Information Protection Act 2004

Archives Act 1983

'Manual and Guidelines' issued by the Ombudsman

Sustainable Timber Tasmania Records Management and Information Security policies and guidelines

Contact Details

Right to Information Officer
Sustainable Timber Tasmania
GPO Box 207
Hobart Tas 7001

Email: rti@stttas.com.au

Telephone: (03) 6169 2812

Glossary

Active Disclosure - A disclosure of information by a Public Authority or a Minister in response to a request from a person made otherwise than under Division 2 of Part 2 of the Act.

Assessed Disclosure - A disclosure of information by a Public Authority or a Minister in response to an application in accordance with section 13 of the Act.

Delegated Officer - Under section 24 of the Act, the Principal Officer can formally delegated his/her functions. These Delegated Officers are authorised to make a decision on an application for Assessed Disclosure.

Exempt Information - As defined in Part 3 of the Act.

Information Means:

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

Information Custodian - The manager of the business unit within Sustainable Timber Tasmania responsible for the initial collation and publishing of the information, and for ensuring the information is updated and accurate.

Officer - Within the meaning of the Act, includes a Sustainable Timber Tasmania member of staff or any person employed by or for Sustainable Timber Tasmania.

Principal Officer - Within the meaning of the Act, the Head of Agency (Chief Executive Officer, in the case of Sustainable Timber Tasmania).

Public Authority - Means:

- a) an Agency, within the meaning of the State Service Act 2000; or
- b) the Police Service; or
- c) a council; or



- d) a statutory authority; or
- e) a body, whether corporate or unincorporate, that is established by or under an Act for a public purpose; or
- f) a body whose members, or a majority of whose members, are appointed by the Governor or a Minister of the Crown; or
- g) a Government Business Enterprise within the meaning of the Government Business Enterprises Act 1995; or
- h) a council-owned company; or
- i) State-owned company.

Required Disclosure - A disclosure of information by a Public Authority where the information is required to be published by the Act or any other Act, or where disclosure is otherwise required by law or enforceable under an agreement.

Routine Disclosure - A disclosure of information by a Public Authority which the Public Authority decides may be of interest to the public, but which is not a Required Disclosure, an Assessed Disclosure or an Active Disclosure.





Level 1, 99 Bathurst Street
Hobart TAS 7000

GPO Box 207
Hobart TAS 7001

+61 (0)3 6169 2800

sttas.com.au