

19 March 2021

Clive Stott
9 Alpine Crescent
Grindlewald TAS 7277

Dear Mr Stott,

Right to Information Request 2 November 2016

I refer to your original request pursuant to the *Right to Information Act 2009* ("RTI Act") received by Hydro Tasmania on 2 November 2016 and the final decision on external review made by the Ombudsman on 18 February 2021 ("Decision").

I am authorised to make decisions on behalf of Hydro Tasmania in respect of applications for information under the RTI Act.

1. Your Request

The part of your request relevant to this letter was for copies from Hydro Tasmania's databases, emails, diary entries, reports, notes, photography, pertaining to the fault.

(Collectively "the Request").

2. External Review Decision

- 2.1. At paragraph 46 of the Decision, the Ombudsman returned the Request to Hydro Tasmania to reconsider in accordance with the requirements of Section 19 of the RTI Act.
- 2.2. At paragraph 144 of the Decision, the Ombudsman accepted that the volume of information and time required to assess the information responsive to your Request under the RTI Act would require an unreasonable diversion of Hydro Tasmania's resources if the request was not refined.

3. Determination and Reasons for Determination of Request

- 3.1. To date, Hydro Tasmania has identified approximately 10,300 documents and photos as potentially relevant to your Request.
- 3.2. Section 19(1) of the RTI Act allows a request for information to be refused if a public authority is satisfied that the work involved in providing the information requested would substantially and unreasonably divert the resources of the public authority from its other work. As detailed above, at paragraph 144 of the Decision the Ombudsman accepted that the volume of information and time required to assess the information responsive to your Request under the RTI Act would require an unreasonable diversion of Hydro Tasmania's resources if the request was not refined.
- 3.3. In accordance with Section 19(1)(c) of the RTI Act, Hydro Tasmania has had regard to the matters specified in Schedule 3. A comprehensive response to these matters was provided to you by email on 5 March 2021.
- 3.4. Section 19(2) of the RTI Act requires that a public authority may not refuse to provide information under Section 19(1) without first giving an applicant a reasonable opportunity to consult the public authority with a view to the applicant being helped to make an application in a form that would remove the ground for refusal. Hydro Tasmania has given you reasonable opportunity to consult, namely:
 - Phone calls on 3 and 9 March
 - Emails on 24 February and 3, 5, 9, and 16 March
- 3.5. I note that unsuccessful phone calls were followed up with requests for you to advise a time convenient to you for a return call. You did not do so and on 12 March indicated you wished to correspond by email only. Email correspondence between us has not resulted in any indication of your willingness to meaningfully engage with Hydro Tasmania to narrow the scope of your Request.
- 3.6. Hydro Tasmania considers that the Ombudsman's suggestions for what a section 19(2) consultation process could include (mentioned at paragraphs 44 and 146) have been provided to you. You have been provided with comprehensive information about the original grounds for refusal to assist you in understanding, per paragraph 44, the 'potentially substantial and unreasonable nature' of your Request. You have been provided with a high level breakdown of the sources of information, namely that they include:
 - Approximately 1,000 photographs taken on the repair vessel or as part of the fault investigations;
 - Approximately 500 reports and file notes related to the repair process or fault investigations;
 - The remaining balance predominantly emails between more than 20 Hydro Tasmania employees and former employees as well as seeking external advice.

Hydro Tasmania disagrees with your opinion that this is not a high level breakdown of the documents.

3.7. I reiterate in brief points previously made to you via email that Hydro Tasmania no longer has access to the database that was collated for the purposes of the arbitration process related to the fault. A significant fee in the order of \$7000 is required in order to reactivate it, and due to the sensitivities surrounding disputes about the cause of the fault all documents will have to be assessed for potential privilege and confidentiality constraints. I note that both of these considerations also apply to the production of a 'high level categorised index', as any printout of the database will need to be assessed for privilege and confidentiality constraints just as the full documents would be. Without any additional guidance from you, it has not been possible to assess what can be usefully provided to you.

3.8. Hydro Tasmania considers it has given you a reasonable opportunity for consultation, which has not resulted in any narrowing of your Request.

3.9. I therefore refuse your Request under Section 19(1) of the RTI Act.

4. Review of Rights

You are entitled under Section 43 of the RTI Act to apply for a review of the decision made under Part 3 of the determination.

Any request for such a review should be made in writing within twenty (20) working days of receiving this letter and addressed to:

Mr E Albertini
Chief Executive Officer
Hydro Tasmania
4 Elizabeth Street
HOBART TAS 7000

Alternatively, if you are able to identify an area of interest that narrows the scope of your Request I encourage you to submit a new Right to Information request to Hydro Tasmania.

This request is now considered closed.

Yours sincerely,



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