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Ms Julie Thompson
Committee Secretary – Estimates Committee B
Legislative Council
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Dear Ms Thompson

In response to the Chair's request of 23 September 2024 for further information resulting from the examination of the Estimates relating to the Attorney-General and Justice portfolio, I provide the following information.

Division 2 – Integrity Commission

Output Group 1.1 – Integrity Commission

- 1. Where is funding being provided from for the review of the Integrity Commission, commissioned by the Premier – Dept of Justice, DPAC, Integrity Commission? How much funding will be provided for the review? (MW)**

The Department of Justice understands the Department of Premier and Cabinet will be meeting the costs of the review. The cost of the review has yet to be determined.

Division 6 – Department of Justice

Overview

- 1. Please provide a copy of the Departments' policy or guidelines on the publishing of RTI disclosures on the Department website. (MW)**

The Department of Justice currently publishes information on its Disclosure Register in accordance with a whole of government policy. This follows a commitment made by the Tasmanian Government to disclose information released in response to requests for assessed disclosure made under the *Right to Information Act 2009*.

Information in response to an application for assessed disclosure is published within 48 hours of the information being provided to an applicant if it is assessed as being in the public interest. The Department does not publish personal information or information of a commercial or confidential nature.

The Department's currently published Right to Information Policy does not address the Disclosure Register. However, the Department has recently reviewed its Policy and a revised draft Policy, Administrative Procedures and Frequently Asked Questions are currently being consulted on internally. Both the draft Administrative Procedures and Frequently Asked Questions now refer to the Disclosure Register.

Copies of the current drafts are attached for the Committee's information, and it is anticipated that the revised documents will be finalised and published in the coming weeks.

Output Group 1.2 – Magisterial Court Services

1. **The Final Report of the Independent Review 'Reportable Deaths and Death Reporting Processes in Tasmanian Public Hospitals' highlighted deaths that were 'returned' by the Coroner's Office with advice they were not reportable, but due to lack of cooperation from the Coroner's Office the Review was unable to ascertain if this advice came from an appropriately qualified medical practitioner. Do you agree this is a significant outstanding question and what steps will government take to answer it? (CO)**

I understand that the Coroner's Officer advised the Review that it was inappropriate for the Coroners Court to become involved in the Review due to the requirements of independence.

Once a death is reported under the *Coroners Act 1994* (the Act), Coroners are obliged to independently exercise their investigative functions under the Act in respect of the death. This is the case regardless of whether there may have been previous communications in respect of the death with the Coroner's Office.

As a matter of practice, decisions by Coroners to accept a Medical Cause of Death Certificate are almost always made with medical advice, including independent advice from the forensic pathologists, and the coronial medical consultant. Additionally, Coroners receive police investigation and other factual information regarding the death to assist in the decision-making.

The deaths of 29 patients of the Launceston General Hospital, reported to the Coroner's Office following an independent review into *Reportable Deaths and Death Reporting Processes in Tasmanian Public Hospitals* (the Review) are being actively investigated by the Coroner. As these are currently active Coronial Investigations, and noting the independence of the Coroner's Court, it is not appropriate for me to comment further in relation to these specific cases. Any updates in relation to these matters will be published on the Coronial Division website at <https://www.magistratescourt.tas.gov.au/coronerscourt/news>.

Output Group 1.10 – Tasmanian Civil and Administrative Tribunal

1. Why was the Tasmanian Racing Appeals Board (TRAB) not brought under the jurisdiction of the expanded responsibilities of the Tasmanian Civil and Administration Tribunal (TASCAT) under the TASCAT (Additional Jurisdictions) Bill? (CO)

The Government has taken a staged approach to the Tasmanian Civil and Administrative Tribunal (TASCAT) reforms. This reflects the importance of ensuring that TASCAT has sufficient time to prepare for the commencement of new jurisdictions, which may involve recruiting and/or training members to hear new kinds of matters, making administrative arrangements, updating registry processes and developing information such as fact sheets and practice directions to inform the community and stakeholders about how the new jurisdiction will operate.

In September 2015 the Department of Justice publicly released a Discussion Paper entitled 'A Single Tribunal for Tasmania' (the Discussion Paper) which considered the scope, legislative framework, structure and leadership/governance arrangements of various individual tribunals, boards and other entities to inform decisions about their suitability for inclusion in a single civil and administrative tribunal for Tasmania.

The Discussion Paper considered the Tasmanian Racing Appeals Board (TRAB), which was established under the *Racing Regulation Act 2004*. That Act is currently administered by the Department of Natural Resources and Environment Tasmania, but in 2015 the responsible agency was the former Department of Primary Industries, Parks, Water and Environment.

The Discussion Paper suggested that the functions undertaken by the TRAB appeared amenable to inclusion within a civil and administrative tribunal model. It also noted that the comparable racing board/jurisdiction in New South Wales, Victoria and Western Australia had not been incorporated into those states' civil and administrative tribunals, although amalgamation had occurred in Queensland. The Discussion Paper recommended further consideration be given to including the TRAB during preparation of an Options Paper to further inform the single tribunal reforms.

The Options Paper that was produced in 2016 included further analysis in relation to four jurisdictions which sat outside of the Department of Justice, including the TRAB, and was informed by advice provided by relevant officers within those bodies.

The Options Paper noted that in any process of statutory reform where multiple Departments are involved, the level of consultation and complexity increases. Given that the majority of the jurisdictions which were identified as priorities for amalgamation fell within the ambit of the Department of Justice, the difficulties in attempting to incorporate jurisdictions that lay outside the Department, such as the TRAB, presented a risk of delay. The Options Paper also noted that the TRAB jurisdiction was a specialised body that was heavily reliant upon technology that was supported within its Launceston facilities, which further added to the logistical challenges and potential delays.

Accordingly, the TRAB was not included in the Stage 1 and 2 TASCAT reforms but was noted as a possible body for inclusion at a later stage.

Following the commencement of TASCAT's operations as a single tribunal in November 2021, delivering Stage 2 of the reforms, the Department of Justice undertook work to identify additional jurisdictions that could be conferred on TASCAT as part of Stage 3.

During 2023, the former Attorney-General identified the transfer of various administrative appeals from the Supreme Court and the Magistrates Court Administrative Appeals Division as a priority reform, together with the conferral of jurisdiction from the Property Agents Tribunal. These reforms were originally planned to be progressed in two Bills. The Tasmanian Civil and Administrative Tribunal (Miscellaneous Amendments) Bill 2023 was introduced into the House of Assembly on 1 November 2023 but lapsed with the calling of the 2024 Tasmanian state election. However, the legislative reforms within that Bill have now been incorporated in the Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Bill 2024, which was tabled on 19 September 2024 and is intended to deliver the Stage 3 TASCAT reforms in a single Bill.

As outlined earlier, it is important that the conferral of new jurisdictions on TASCAT is delivered progressively and in a structured way. It is noted that various new conferrals of jurisdiction to TASCAT remain open for consideration, and these will be prioritised by the Government based on advice from relevant agencies, the existing jurisdictional entities and key stakeholders, as well as relevant logistical, operational and practical considerations.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Guy Barnett', is written over the typed name and title.

Hon Guy Barnett MP
Attorney-General
Minister for Justice