

Notice under section 82 of the *Financial Management Act 2006 (WA)*

Parliamentary Questions Without Notice no. 1444

Pursuant to section 82(1)(a) of the *Financial Management Act 2006*, I give notice to both Houses that I have decided not to provide information to Parliament in response to the following questions without notice asked by the Hon Dr Stephen Thomas in the Legislative Council on 15 November 2023:

"(1) *What is the specific and detailed framework and the mechanics of the partnering arrangement between the SSO and Ashurst?*

...

(4) *Will the Attorney General define and detail the "issues relating to this matter" that the 18 Ashurst solicitors have "worked on" from the answer to my question on 9 November 2023?*

(5) *If no to (4), why not?"*

The detail of those questions and the answers provided is set out in the attached Schedule.

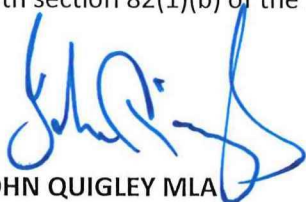
I declined to provide the information sought in question (1) on the basis that the terms and conditions of the Ashurst engagement are privileged and confidential, and it is reasonable and appropriate to not provide those terms and conditions for the following reasons:

- (a) it is not common legal practice to disclose the terms and conditions of a legal brief;
- (b) the terms and conditions of a legal brief are subject to legal professional privilege; and
- (c) the terms and conditions of the legal brief may disclose the ambit, scope, and content of advice sought and obtained by the Government, and prejudice the State's commercial position when negotiating with other parties involved in the Collie coal mines.

I declined to provide the information sought in questions (4) and (5) on the basis that the information is confidential and disclosure may prejudice the State's commercial position. Specifically:

- (a) this matter is still ongoing, including as to the Government's intentions for the Collie coal mines and the transition to renewable energy sources and the role that Government might assume in relation to those matters; and
- (b) the information could provide a tactical advantage to parties involved in the Collie coal mines and could allow those parties to gain insight into the State's consideration of legal issues relating to this matter and into the State's consideration of options that may, or may not, be implemented.

The reasons set out above are provided in accordance with my obligations section 82(2) of the *Financial Management Act 2006*. Notice is also being provided to the Auditor General in accordance with section 82(1)(b) of the *Financial Management Act 2006*.



**JOHN QUIGLEY MLA
ATTORNEY GENERAL**

SCHEDULE

Question Without Notice No. 1444 asked in the Legislative Council on 15 November 2023 by Hon Dr Steve Thomas

GRIFFIN COAL — CONSULTANTS

1444. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Attorney General:

I refer to my questions without notice 1273, 1301 and 1391 of 18 and 19 October and 9 November 2023 on the partnering arrangement between the State Solicitor's Office and Ashurst for the provision of legal advice relating to the foreign-owned and insolvent Griffin Coal

- (1) What is the specific and detailed framework and the mechanics of the partnering arrangement between the SSO and Ashurst?
- (2) What reporting mechanisms are embedded in the partnering arrangement between the SSO and Ashurst, and how, to whom and with what frequency are reports or recommendations delivered?
- (3) Does the SSO report directly or indirectly to the Attorney General and/or his ministerial staff on legal advice provided by Ashurst relating to Griffin Coal?
- (4) Will the Attorney General define and detail the "issues relating to this matter" that the 18 Ashurst solicitors have "worked on" from the answer to my question on 9 November 2023?
- (5) If no to (4), why not?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. The following answer has been provided to me by the Attorney General.

- (1) As previously advised, the terms and conditions of the arrangement with Ashurst are subject to legal professional privilege and are confidential.
- (2) Ashurst undertakes legal services as and when requested by the State Solicitor's Office
- (3) The State Solicitor's Office provides advice, which may include or incorporate advice by Ashurst, to relevant agencies, departments and ministers as required and appropriate, as part of the government's response to Griffin Coal's insolvency.
- (4)–(5) The issues relating to this matter that have been the subject of legal advice are subject to legal professional privilege and are confidential