

## **Section 82 Notice – Financial Management Act 2006**

### **Legislative Council Question on Notice 1013**

Pursuant to section 82 of the *Financial Management Act 2006*, I give notice to both houses that I am unable to provide an answer to Parts (a) and (b) of Legislative Council Question on Notice 1013. Notice is also being provided to the Auditor General, as required under section 82 of the *Financial Management Act 2006*. Please see attached Question on Notice 1013 for a description of the information requested.

With respect to the request on 2 November 2022 to table Premier Coal's most recent Triennial Report (Report), I sought advice from the Department of Jobs, Tourism Science and Innovation (JTSI) who assessed the request and provided the following advice.

- The Report has been provided by Premier Coal to JTSI as per Clause 11(2) of the *Collie Coal (Western Collieries) Agreement Act 1979* (State Agreement).
- All State Agreements are publicly available from the Western Australian Legislation website.
- Information contained in the Report is considered private and confidential information of Premier Coal Limited, imparted in confidence to JTSI under the State Agreement. But for the State Agreement, the public would not have access to the information contained within the Report.
- Accordingly, the Report provides revealing information of a confidential nature obtained in confidence which could reasonably be expected to prejudice the future supply of information of that kind to the Government or to any agency.
- The Report is provided as private and confidential documents to the State in line with Premier Coal's obligations under the State Agreement. Premier Coal currently provides full and frank information to JTSI in complying with these obligations. Any disclosure of the confidential information in the Report may prejudice the candour and openness with which Premier Coal currently supplies information to JTSI.
- Further, the Report contains information, the disclosure of which, would reveal information (other than trade secrets) that has a commercial value to Premier Coal and could reasonably be expected to destroy or diminish that commercial value.
- JTSI accepts that Premier Coal's information is commercially sensitive and that this information should not be ascertainable to its competitors. It should be stated that JTSI is also dealing with many companies that have State Agreements with some that are classed as Premier Coal's competitors. JTSI also understands that disclosure of Premier Coal's commercially sensitive information would cause unreasonable detriment to the company.
- The Report contains valuable commercial information about Premier Coal's intended development plans. Clearly, providing a third party with Premier Coal's future business plans would diminish the commercial value of those plans.
- The Report contains information about the business, professional, commercial, intellectual property and financial affairs of the Company and disclosure could:
  - (a) reasonably be expected to adversely affect those affairs; or
  - (b) prejudice the future supply of information to JTSI.
- Disclosure of the information contained within the Report from Premier Coal could devalue that information, and a third party could potentially decontextualize and misconstrue the information in an attempt to harm or diminish Premier Coal's reputation and the value of its business and goodwill.
- Premier Coal has never consented to public disclosure of the Report.

Consideration of a partial release of information was considered. The Report is provided with the expectation of confidentiality. JTSI consulted with Premier Coal and it had indicated that it would object to the release of the Report either in whole or in part.

In reaching this decision please be aware of the process undertaken by JTSI.

- JTSI is currently developing a new Release of Information Policy. Assessment has been completed using the principles in Tourism Western Australia's internal policy and guidelines for the release of commercial information.
- JTSI has assessed the request against reasonable criteria for determining commercial sensitivity and possible detriment to the State.
- JTSI has sought the views of the Company.

In summary, information in the Report is likely to be commercially sensitive, would reveal commercial affairs of the company and could adversely affect those affairs if tabled. For instance, the Report includes information regarding current and future production, customers and their product supply preferences. Disclosure of this information would prejudice the future supply of information to the JTSI by the Company. Accordingly it is not appropriate to table the Report.

This Government takes its responsibility to grow and diversify the economy very seriously. As such, it safeguards information that may jeopardise the State's reputation and business relationship with investors and developments if made public. The release of this information would significantly compromise the State's ability to negotiate favourable State Agreements.



**HON ROGER COOK MLA**  
DEPUTY PREMIER  
MINISTER FOR STATE DEVELOPMENT, JOBS & TRADE

~ 1 DEC 2022 ~

Attached

**LEGISLATIVE COUNCIL**  
**Question on Notice**

**Wednesday, 12 October 2022**

**1013. Hon Dr Brad Pettit to the Minister representing the Minister for State Development, Jobs & Trade; Tourism; Commerce; Science**

I refer to the annual and triennial reports required to be produced by Premier Coal under Clause 11(2) of the *Collie Coal (Western Collieries) Agreement Act 1979*, and, I ask:

- (a) will the Minister please table the most recent triennial report;
- (b) if no to (a), why not;
- (c) could the Minister please advise which section of the Department reviews these reports and the environmental and mining rehabilitation expertise present in the section; and
- (d) could the Minister please advise any dates on which further information has been requested from the company as provided for in Clause 11(3)?

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**Answer:**

The Department of Jobs, Tourism, Science and Innovation advises:

- (a) No
- (b) The Triennial Report is submitted by Premier Coal to the Minister to satisfy Premier Coal's obligations under Clause 11(2) of the *Collie Coal (Western Collieries) Agreement Act 1979*. It is submitted with an expectation that the information will be treated as commercially sensitive by the State, as it contains valuable commercial information. Disclosure of this would reveal information about the commercial affairs of the company and could adversely affect those affairs and prejudice the future supply of information to the Department of Jobs, Tourism, Science and Innovation (JTSI) by Premier Coal. Accordingly it is not appropriate to table the report. I will notify the Auditor General's office and both houses of Parliament that this part of the question will not be answered as per Section 82 of the *Financial Management Act 2006*.
- (c) JTSI is responsible for the administration of State Agreements. JTSI refers these reports to the Collie Coal Mines and Environment Committee which includes subject matter experts from the Department of Water and Environmental Regulation, the Department of Biodiversity, Conservation and Attractions and the Department of Mines, Industry Regulation and Safety to review and provide feedback to JTSI. The consolidated feedback is provided to Premier Coal for consideration and incorporation into its next report.
- (d) No further requests for information has been requested by the Minister in accordance with Clause 11(3)

