

Department of Premier and Cabinet

Executive Building 15 Murray Street HOBART TAS 7000 Australia
GPO Box 123 HOBART TAS 7001 Australia
Ph: 1300 135 513 Fax: (03) 6233 5685
Web: www.dpac.tas.gov.au



Foreign Arrangements Branch
Department of Foreign Affairs and Trade
Email: AFRA.Review@dfat.gov.au

Dear Members of the Branch

Thank you for the opportunity for the Tasmanian Government to provide feedback on the independent review of the Foreign Arrangements Scheme (the Scheme), and for granting an extension for states and territories to submit their responses.

This whole-of-government (WoG) submission has been prepared by the Department of Premier and Cabinet (DPAC), with contributions from Tasmanian agencies involved in, or potentially engaging in foreign arrangements. These agencies include the Department of State Growth, the Department for Education, Children and Young People, the Department of Natural Resources and Environment Tasmania, and the Department of Police, Fire and Emergency Management. The Tasmanian Museum & Art Gallery (TMAG), a core State entity funded and staffed by the Tasmanian Government, has also provided valuable input.

The Tasmanian Government operates a decentralised structure for the Scheme, where our government bodies are responsible for uploading their arrangements on the Scheme Online Portal and seeking advice from the Foreign Arrangements Branch (the Branch). Jurisdictions have different approaches, and there is a need for greater flexibility to accommodate these differences where possible, particularly for smaller jurisdictions with more constrained resources, like Tasmania.

As of 15 August 2024, there are 243 in-scope current Tasmanian State Government arrangements. A detailed summary table is included in Table 1.

Tasmania acknowledges the Australian Government's central role in managing foreign policy and recognises the importance of the Scheme in ensuring compliance with the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*. While we support the Scheme's objectives, administrative and legislative challenges interfere with the Act's effectiveness, particularly for entities with low-risk, high-frequency arrangements.

Agencies have expressed confusion and uncertainty about their responsibilities under the Scheme. The broad definition of 'foreign arrangement' and the expectations for reporting via the Scheme Online Portal contribute to this issue. Narrowing the scope to cover fewer, more specific activities would likely improve compliance. Additionally, the distinction between 'core' and 'non-core' entities and the responsibility of government bodies to assess new foreign partners based on online research is a subjective, time-consuming task that could be streamlined.

Table 1. Details on current in-scope Tasmanian State Government foreign arrangements as of 15 August 2024 (Source: Foreign Arrangements Branch, 2024)

State Government Entity	% in-scope arrangements	Topics	Countries
Department of Natural Resources and Environment Tasmania	40	<ul style="list-style-type: none"> Tasmanian Devil <ul style="list-style-type: none"> Nature Conservation and Management Ambassador Programs and Agreements Education/Research Nature Conservation and Management Fishing and Aquaculture 	Austria Belgium Canada China Croatia Czech Republic Finland France Germany Hungary Japan Netherlands New Zealand Poland Türkiye Singapore South Korea Sweden United Kingdom USA
Tasmanian Museum & Art Gallery (TMAG)	38	<ul style="list-style-type: none"> Loans: specimens, historical objects Material transfers 	
Department of State Growth	11	<ul style="list-style-type: none"> Specimen loans (related to TMAG) TasTAFE (Agriculture) Amity and friendship relationships Cooperation and development 	
Others	11	<ul style="list-style-type: none"> Collaboration in relation to Hydrogen Exchange of wildland fire management resources 	

Consultation has shown that internal issues, such as staff turnover and lack of proper training, have interrupted consistent engagement and led to varying levels of understanding and awareness of the risks involved in foreign engagement under the Scheme. The Tasmanian Government understands the importance of addressing these issues.

We value the ongoing support provided by the Branch, including in-person and virtual training, as well as the accessibility to educational material, such as fact sheets and information, through the Scheme's website. The ongoing outreach by the Foreign Arrangements Branch has been beneficial, providing stronger support to the Foreign Relations Act in favour of the national interest.

However, improvements to the Scheme Online Portal and the arrangement application process could enhance compliance with the Scheme. Suggestions include:

- Adding a note feature to existing arrangements for documenting recent activities, which would be preferable to creating entirely new arrangements.
- Streamlining the reporting process by prepopulating information from existing entities in the system.
- Providing clarification on cases where an arrangement is considered out-of-scope by the Branch for future reference.
- Creating user access for central or coordinating agencies across jurisdictions to maintain up-to-date information on WoG arrangements, which is particularly crucial for decentralised structures like Tasmania.

- Currently, due to confidentiality and security policies under the Foreign Relations Act, authorised agency staff within the Tasmanian Government can only view the arrangements made by their respective agencies.
- When oversight is required by the central agency, the absence of a clearly established process or protocol within the Branch makes it challenging for central or coordinating agencies to access relevant data, especially when multiple officers provide differing advice. It is recommended that a streamlined process be implemented, allowing central agencies to access this information directly through the Scheme Online Portal.
- Aligned with the above, central or coordinating agencies should be able to generate user-friendly reports that do not require assistance from Branch officers to analyse. This ensures consistent data capture between the Branch and the agency.

The current approach to implementing the Scheme is restrictive and, at times, counterproductive to Australia's and Tasmania's goals of building positive foreign relationships. TMAG, classified as a core State entity, notes that the Foreign Relations Act does not seem intended to cover not-for-profit research arrangements. For instance, in June 2021, two longstanding, low-risk biological loans between TMAG and Swedish and South Korean institutions were terminated by the Branch due to insufficient information, aligning with the Scheme's requirements but acting against the intent of building positive foreign relations.

TMAG also experiences record-keeping delays due to its classification, which subjects it to a 30-day waiting period for agreement determinations. Reclassifying TMAG as a non-core State entity would streamline operations and align it with other Australian institutions, without compromising the Scheme's objectives. Additionally, TMAG is concerned that no other herbaria in Australia interpret the Scheme as applicable to their operations. Legislative clarification on whether the Scheme is intended to cover routine, low-level scientific interactions, along with consistent application across Australia, is recommended.

Tasmanian public schools, also classified as core State entities, are restricted from engaging in non-profit international activities. Sister school agreements, which present minimal foreign policy risk, face significant administrative challenges due to registration requirements. This also conflicts with the National Teacher Workforce Action Plan's goal of reducing administrative burdens to attract and retain educators. We recommend exempting public schools from the need to register these agreements to resolve these conflicts.

These issues support the Tasmanian Government's recommendation to adopt a risk-based approach to obligations under the Scheme. Instead of determining obligations on whether entities are classified as core or non-core, we propose increased obligations for high-risk arrangements, reduced obligations for those aligned with Australia's national interests, and exemptions for low-risk activities. This approach would ensure government efforts are connected and aligned, without redundant processes.

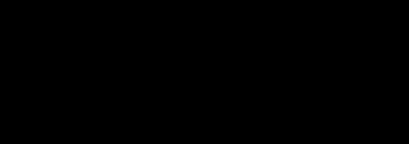
A risk-based approach could include criteria such as:

- Australia's bilateral relationship with the foreign parties involved;
- subject matter and legal status of the arrangement; and
- the duration of the arrangement (e.g. one-off activity or ongoing relationship).

The Tasmanian Government's principal concern remains the security component of the Scheme. Individual "one-off" or temporary activities with foreign entities that do not lead to commitments or ongoing engagement, but that are of a high-security risk, are in effect foreign arrangements but fall outside the scope of the Scheme. We seek greater involvement in security assessments and updates from the Australian Government to better understand the criteria and thresholds. Regular updates on security rankings could potentially support the risk-based approach we have proposed.

I trust this information will assist Ms Rosemary Huxtable AO PSM in preparing the review. I look forward to receiving a copy of the final document.

Kind regards



Kathrine Morgan-Wicks PSM
Secretary

9 September 2024