

CHAMBERS OF THE SENIOR JUDGE ADMINISTRATOR

COPY

25 May 2015

Ms Anne Edwards
Director
Right to Information and Privacy Unit
Department of Justice and Attorney-General
State Law Building
50 Ann Street
BRISBANE QLD 4000

Queen Elizabeth II Courts of Law
415 George Street
Brisbane QLD 4000
PO Box 15167
City East QLD 4002
PH 61 7 3247 4282
FX 61 7 3224 4217
justice.byrne@courts.qld.gov.au

Dear Ms Edwards

Consultation Process - *Right to Information Act 2009*

Thank you for your letter of 22 May.

I have no objection to the release of the documents referred to in your letter.

I enclose a signed "Response to Third Party Consultation Process" confirming that.

Yours sincerely

Justice John H Byrne AO RFD
Senior Judge Administrator

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341, 151345

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: 26 May 2015
From: Justice Peter Applegard (Name)
Spruce Court of Qld (Business name, if applicable)
415 George St (Address)

The Department of Justice and Attorney-General (the Department) has received applications for access to documents under the *Right to Information Act 2009*. The applicants seek access to certain documents held in the possession of the department.

On 25/5/15 (date), pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 25 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

I wish my letter of 25 March 2015 to be released in an unredacted form.

Signature: P. Applegard Print name: PETER APPLEGARD

Please see my attached letter dated 26 May 2015 in this regard. P. Applegard
26.5.15



**SUPREME COURT OF
QUEENSLAND**

CHAMBERS OF JUSTICE JEAN DALTON

COPY

3 June 2015

Ms Anne Edwards
Director
Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

415 George Street
Brisbane QLD 4000

PO Box 15167
City East QLD 4002
PH 61 7 32474383
FX 61 7 3229 4364
www.courts.qld.gov.au

Dear Ms Edwards

I refer to your letter of 25 May 2015 together with enclosures.

You enquire whether I wish to object to the release of any of the information you propose to disclose. I do object to your disclosing the Memo from the Chief Justice to me (13 February 2015) unless you also disclose my handwritten notes of the meeting with him to which that memo responds. It is misleading not to do so, it gives no context to his thanking me. Other than this I do not have any objections to you disclosing documents.

I have concerns that there are inconsistencies between the disclosure you propose to make in response to different requests:

- The minutes of meeting 10 February 2015 9.00 am are redacted differently in the bundle you label RTI 151326 to the version given in response to other requests.
- The minutes of meeting 10 March 2015 9.00 am are redacted differently when included in RTI 151326 and RTI 151327.
- The enclosure to the memo Chief Justice to Dalton J 13 February 2015 is included in your bundle RTI 151327 but not in your bundle RTI 151341.

I have a further concern that documents I gave you, which I thought plainly responsive to requests, are not being disclosed. Please confirm to me in writing that the person who has received the requests is the Department of Justice and Attorney-General and not me personally. For clarity, if it were me personally, I would look to making my own compliance with the requests because I cannot see that the compliance you propose to make is proper.

Yours faithfully

The Honourable Justice J H Dalton

Applicant	Request
Alex McKean RTI 151341	Subject matter of the documents the applicant is seeking: 1. The Court of Disputed Returns ('the Court') 2. The constitution of the Court 3. The roster for selecting the Justice who would sit as the Court 4. Any change, or proposal to change, the roster, or the roster system 5. Any proposal that the Chief Justice sit at the Court himself, or select who would sit as the Court 6. Any communication, or attempted communication, with any Justice on the roster about their role, or anticipated role, sitting as the Court 7. The position of the Senior Judge Administrator 8. Any proposal to remove, or attempt to remove, the Senior Judge Administrator 9. Any action taken to remove, or attempt to remove the Senior Judge Administrator.
Courier-Mail RTI 151345	I am seeking any correspondence and/or documents shared between judicial officers on the topic of the Court of Disputed Returns and sitting following the election in 2015. Specifically I would seek any documents and/or correspondence between 1 January 2015 and 30 March 2015. I am very interested in any correspondence from 13 February 2015. Please include reports, statistics and audits (if appropriate). Please exclude duplicates, media clippings and any information that has already been made publicly available.

Request for Information

The RTI Act gives the community a right of access to information held by the Queensland Government, subject only to limited exceptions. Where an application is received for documents which, if released, could reasonably be expected to be of concern to another person, the department is required under section 37 of the RTI Act to take such steps as are reasonably practicable to obtain the views of the person concerned as to whether or not the matter in the documents contain any exempt information or contrary to public interest information.

I have formed the opinion that you may be concerned by the release of the appended documents.

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

- **If you have no objections to the release of the consulted documents please complete the attached form and return to me;** or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or
- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **29 May 2015**.

If a response is not received by **29 May 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

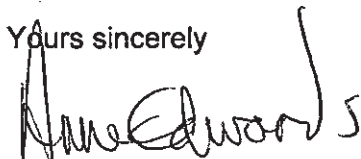
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

Review Rights

If it is decided to release the documents against your wishes, you will be advised of the decision and you will have 20 business days after the date on the decision letter to request a review of the decision. The documents in question will not be disclosed to the applicant until the period of 20 business days has passed, or the avenues of review have been exhausted. I will enclose further details of your rights to review if I make such a decision.

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151295**.

Yours sincerely



Anne Edwards
Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 —*Right to Information Act 2009* Note these pages are to be printed from the current legislation
- Consultation documents

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341, 151345

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: _____

From: _____ (Name)

_____ (Business name, if applicable)

_____ (Address)

The Department of Justice and Attorney-General (the Department) has received applications for access to documents under the *Right to Information Act 2009*. The applicants seek access to certain documents held in the possession of the department.

On _____ (date), pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 25 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: _____ Print name: _____

Applicant	Request
Alex McKean RTI 151341	Subject matter of the documents the applicant is seeking: 1. The Court of Disputed Returns ('the Court') 2. The constitution of the Court 3. The roster for selecting the Justice who would sit as the Court 4. Any change, or proposal to change, the roster, or the roster system 5. Any proposal that the Chief Justice sit at the Court himself, or select who would sit as the Court 6. Any communication, or attempted communication, with any Justice on the roster about their role, or anticipated role, sitting as the Court 7. The position of the Senior Judge Administrator 8. Any proposal to remove, or attempt to remove, the Senior Judge Administrator 9. Any action taken to remove, or attempt to remove the Senior Judge Administrator.
Courier-Mail RTI 151345	I am seeking any correspondence and/or documents shared between judicial officers on the topic of the Court of Disputed Returns and sitting following the election in 2015. Specifically I would seek any documents and/or correspondence between 1 January 2015 and 30 March 2015. I am very interested in any correspondence from 13 February 2015. Please include reports, statistics and audits (if appropriate). Please exclude duplicates, media clippings and any information that has already been made publicly available.

Request for Information

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I have formed the opinion that you may be concerned by the release of the appended documents.

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

- **If you have no objections to the release of the consulted documents please complete the attached form and return to me;** or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or

- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **29 May 2015**.

If a response is not received by **29 May 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

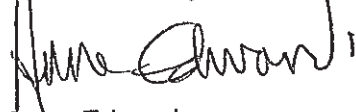
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

Review Rights

If it is decided to release the documents against your wishes, you will be advised of the decision and you will have 20 business days after the date on the decision letter to request a review of the decision. The documents in question will not be disclosed to the applicant until the period of 20 business days has passed, or the avenues of review have been exhausted. I will enclose further details of your rights to review if I make such a decision.

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151295**.

Yours sincerely



Anne Edwards

Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 — *Right to Information Act 2009* Note these pages are to be printed from the current legislation
- Consultation documents

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341, 151345

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: _____

From: _____ (Name)

_____ (Business name, if applicable)

_____ (Address)

The Department of Justice and Attorney-General (the Department) has received applications for access to documents under the *Right to Information Act 2009*. The applicants seek access to certain documents held in the possession of the department.

On _____ (date), pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 25 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: _____ Print name: _____

Rachel Monaghan

From: Anne Edwards
Sent: Thursday, 7 May 2015 4:17 PM
To: Rachel Monaghan
Subject: RTI 151363 - Documents marked for release
Attachments: 151363 File01.pdf

Categories: Red Category

Hi Rachel,

I have marked up the documents the way I intend to release them to the applicant. Essentially, I have redacted any detail that I have considered is personal information.

Could you let me know if they Chief Justice has any objection to the release of the documents as marked?

Many thanks, A.

Anne Edwards
Director
RTI & Privacy Unit
Department of Justice and Attorney-General anne.edwards@justice.qld.gov.au
Phone: 3239 0323
Mobile: 0459 836 074

Our reference: 151295, 151297, 151326, 151327, 151328, 151329, 151341, 151345
 Your reference: 219515



Queensland
Government

20 May 2015

The Hon Tim Carmody CJ
 Delivered by hand

Department of
 Justice and Attorney-General

Dear Chief Justice

Consultation process – Right to Information Act 2009

As you would be aware, the Department of Justice and Attorney-General has received a number of applications for access to documents from the Supreme and District Court and from your office. These applications are detailed in the table below.

Applicant	Request
Courier-Mail RTI 151295	Correspondence between Chief Justice Tim Carmody and judges relating to the Chief Justice's court sitting arrangements.
Courier-Mail 151297	Correspondence between Chief Justice Tim Carmody and judges relating to the Court of Disputed Returns and the electorate of Ferny Grove.
The Australian RTI 151326	Minutes of all meetings of Supreme Court judges, with or without their District Court colleagues, excluding any case-related information, for the period 31 January to 27 March 2015.
ABC RTI 151327	Emails and/or correspondence and/or documents regarding discussions between the Chief Justice Tim Carmody and John Byrne and/or other judges regarding: 1. The appointment process for the Court of Disputed Returns 2. The workload of the Chief Justice and his appearance on the Supreme Court trial division calendar.
Guardian Australia RTI 151328	All communications between judicial officers relating to the process of appointment of a judge to the court of disputed returns.
Seven Network RTI 151329	Any documents, including briefing notes and correspondence involving Chief Justice Tim Carmody, such as emails, since 31 January 2015, relating to: 1. The seat of Ferny Grove 2. The possibility of a challenge in the seat of Ferny Grove. Please exclude duplicates, documents that have already been publicly released, media reports/articles/releases and correspondence with media.
Alex McKean RTI 151341	Subject matter of the documents the applicant is seeking: 1. The Court of Disputed Returns ('the Court') 2. The constitution of the Court 3. The roster for selecting the Justice who would sit as the Court 4. Any change, or proposal to change, the roster, or the roster system 5. Any proposal that the Chief Justice sit at the Court himself, or select who would sit as the Court 6. Any communication, or attempted communication, with any Justice on the roster about their role, or anticipated role, sitting as the Court 7. The position of the Senior Judge Administrator 8. Any proposal to remove, or attempt to remove, the Senior Judge Administrator 9. Any action taken to remove, or attempt to remove the Senior Judge Administrator.
Courier-Mail RTI 151345	I am seeking any correspondence and/or documents shared between judicial officers on the topic of the Court of Disputed Returns and sitting following the election in 2015. Specifically I would seek any documents and/or correspondence between 1 January 2015 and 30 March 2015. I am very interested in any correspondence from 13 February 2015. Please include reports, statistics and audits (if appropriate). Please exclude duplicates, media clippings and any information that has already been made publicly available.

State Law Building
 50 Ann Street Brisbane 4000
 GPO Box 149 Brisbane
 Queensland 4001 Australia
 Telephone 07 3239 3439
 Facsimile (07) 3006 5929
 Website www.justice.qld.gov.au
 ABN 13 846 673 994

Request for Information

The RTI Act gives the community a right of access to information held by the Queensland Government, subject only to limited exceptions. Where an application is received for documents which, if released, could reasonably be expected to be of concern to another person, the department is required under section 37 of the RTI Act to take such steps as are reasonably practicable to obtain the views of the person concerned as to whether or not the matter in the documents contain any exempt information or contrary to public interest information.

I have formed the opinion that you may be concerned by the release of documents which I have detailed in the attached schedule, and which I have included for your consideration.

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

- **If you have no objections to the release of the consulted documents please complete the attached form and return to me;** or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or
- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **27 May 2015**.

If a response is not received by **27 May 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

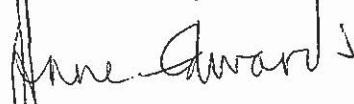
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

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For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151327**.

Yours sincerely



Anne Edwards

Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 —*Right to Information Act 2009* Note these pages are to be printed from the *current legislation*
- Consultation documents

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151295, 151297, 151326, 151327, 151328, 151329, 151341, 151345

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: _____

From: _____ (Name)

_____ (Business name, if applicable)

_____ (Address)

The Department of Justice and Attorney-General (the Department) has received several applications for access to documents under the *Right to Information Act 2009*. The applicants seek access to certain documents held in the possession of the department.

On _____ (date) pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 19 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: _____ Print name: _____

**Schedule 2 Entities to which this Act does
not apply**

section 17

**Part 1 Entities to which this Act does
not apply**

- 1 the Governor
- 2 the Assembly, a member of the Assembly, a committee of the Assembly, a member of a committee of the Assembly, a parliamentary commission of inquiry or a member of a parliamentary commission of inquiry
- 3 the Parliamentary Judges Commission of Inquiry appointed under the expired *Parliamentary (Judges) Commission of Inquiry Act 1988*
- 4 a commission of inquiry issued by the Governor in Council, whether before or after the commencement of this schedule
- 5 the parliamentary service established by the *Parliamentary Service Act 1988*
- 6 a quality assurance committee established under the *Hospital and Health Boards Act 2011*, section 82
- 7 a parents and citizens association under the *Education (General Provisions) Act 2006*
- 8 a grammar school to which the *Grammar Schools Act 1975* applies

Part 2 **Entities to which this Act does not apply in relation to a particular function**

- 1 a court, or the holder of a judicial office or other office connected with a court, in relation to the court's judicial functions
- 2 a registry or other office of a court, or the staff of a registry or other office of a court in their official capacity, so far as its or their functions relate to the court's judicial functions
- 3 a tribunal in relation to the tribunal's judicial or quasi-judicial functions
- 4 a tribunal member or the holder of an office connected with a tribunal, in relation to the tribunal's judicial or quasi-judicial functions
- 5 a registry of a tribunal, or the staff of a registry of a tribunal in their official capacity, so far as its or their functions relate to the tribunal's judicial or quasi-judicial functions
- 6 a quasi-judicial entity in relation to its quasi-judicial functions
- 7 a member of, or the holder of an office connected with, a quasi-judicial entity, in relation to the entity's quasi-judicial functions
- 8 the staff of a quasi-judicial entity in their official capacity, so far as their functions relate to the entity's quasi-judicial functions
- 9 Queensland Treasury Corporation in relation to its borrowing, liability and asset management related functions
- 10 the public guardian under the *Public Guardian Act 2014* in relation to an investigation or audit under that Act
- 11 the Health Rights Commissioner in relation to the conciliation of health service complaints under the repealed *Health Rights Commission Act 1991*, part 6
- 12 the Health Quality and Complaints Commission in relation to the conciliation of health service complaints under—

-
- (a) the repealed *Health Rights Commission Act 1991*, part 6; or
 - (b) the *Health Quality and Complaints Commission Act 2006*, chapter 6
- 12A the health ombudsman in relation to the conciliation of a health service complaint under the *Health Ombudsman Act 2013* or the repealed *Health Quality and Complaints Commission Act 2006*
- 13 CS Energy Limited ACN 078 848 745, or a subsidiary of CS Energy Limited, in relation to its functions, except so far as they relate to community service obligations
- 14 Ergon Energy Queensland Pty Ltd ACN 121 177 802 in relation to its functions, except so far as they relate to community service obligations
- 15 QIC Limited ACN 130 539 123, or a subsidiary of QIC Limited, in relation to its functions, except so far as they relate to community service obligations
- 16 a rail government entity under the *Transport Infrastructure Act 1994* in relation to freight or insurance operations, except so far as they relate to community service obligations
- 19 Stanwell Corporation Limited ACN 078 848 674, or a subsidiary of Stanwell Corporation Limited, in relation to its functions, except so far as they relate to community service obligations
- 21 a declared entity under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, all or part of whose businesses, assets and liabilities are being disposed of in a declared project under that Act, in relation to the following functions—
- (a) if all of the entity's businesses, assets and liabilities are being disposed of—all of the entity's functions;
 - (b) otherwise—the functions that relate to the businesses, assets and liabilities being disposed of

Schedule 3 Exempt information

section 48

Note—

Access to a document may be refused to the extent the document comprises exempt information—see section 47(3)(a).

1 Cabinet matter brought into existence before commencement

Matter is exempt information if the matter is—

- (a) brought into existence before the commencement of this section; and
- (b) mentioned in section 36(1) of the repealed *Freedom of Information Act 1992*; and
- (c) not officially published by decision of Cabinet.

2 Cabinet information brought into existence on or after commencement

- (1) Information is exempt information for 10 years after its relevant date if—
 - (a) it has been brought into existence for the consideration of Cabinet; or
 - (b) its disclosure would reveal any consideration of Cabinet or would otherwise prejudice the confidentiality of Cabinet considerations or operations; or
 - (c) it has been brought into existence in the course of the State's budgetary processes.
- (2) Subsection (1) does not apply to—
 - (a) information brought into existence before the commencement of this section; or
 - (b) information officially published by decision of Cabinet.

- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) Cabinet submissions;
 - (b) Cabinet briefing notes;
 - (c) Cabinet agendas;
 - (d) notes of discussions in Cabinet;
 - (e) Cabinet minutes;
 - (f) Cabinet decisions;
 - (g) a draft of a document mentioned in any of paragraphs (a) to (f).
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or
 - (b) it was brought into existence for the consideration of Cabinet or for the State's budgetary processes.
- (5) In this section—
- Cabinet** includes a Cabinet committee or subcommittee.
- consideration** includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and
 - (b) consideration for any purpose, including, for example, for information or to make a decision.
- draft** includes a preliminary or working draft.
- relevant date**, for information, means—
- (a) for information considered by Cabinet—the date the information was most recently considered by Cabinet; or
 - (b) for other information—the date the information was brought into existence.

3 Executive Council information

- (1) Information is exempt information if—
- (a) it has been submitted to Executive Council; or
 - (b) it was brought into existence for submission to Executive Council and is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or
 - (c) it was brought into existence for briefing, or the use of, the Governor, a Minister or a chief executive in relation to information—
 - (i) submitted to Executive Council; or
 - (ii) that is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or
 - (d) it is, or forms part of, an official record of Executive Council; or
 - (e) its disclosure would involve the disclosure of any consideration of Executive Council or could otherwise prejudice the confidentiality of Executive Council considerations or operations; or
 - (f) it is a draft of matter mentioned in any of paragraphs (a) to (e); or
 - (g) it is a copy of or extract from, or part of a copy of or extract from, information mentioned in any of paragraphs (a) to (f).
- (2) Subsection (1) does not apply to information officially published by decision of the Governor in Council.
- (3) In this section—
- chief executive* means a chief executive of a unit of the public sector.
- consideration* includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and

- (b) consideration for any purpose, including, for example, for information or to make a decision.

draft includes a preliminary or working draft.

official record, of Executive Council, includes an official record of information submitted to Executive Council.

submit information to Executive Council includes bring the information to Executive Council, irrespective of the purpose of submitting the information to Executive Council, the nature of the information or the way in which Executive Council deals with the information.

4 Information briefing incoming Minister

Information is exempt information for 10 years after the appointment of a Minister for a department if the information is brought into existence by the department to brief an incoming Minister about the department.

4A BCC Establishment and Coordination Committee information

- (1) Information is exempt information for 10 years after its relevant date if—
- (a) it has been brought into existence for the consideration of the committee; or
 - (b) its disclosure would reveal any consideration of the committee or would otherwise prejudice the confidentiality of committee considerations or operations.
- (2) Subsection (1) does not apply to—
- (a) information officially published by decision of the council; or
 - (b) if the council delegates a power to the committee under the *City of Brisbane Act 2010*, section 238—information relating to the delegation or the power to be exercised under the delegation.

Schedule 3

- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) committee submissions;
 - (b) committee briefing notes;
 - (c) committee agendas;
 - (d) notes of discussions in committee;
 - (e) committee minutes;
 - (f) committee decisions;
 - (g) a draft of a document mentioned in any of paragraphs (a) to (f).
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or
 - (b) it was brought into existence for the consideration of the committee.
- (5) In this section—

committee means the Establishment and Coordination Committee under the *City of Brisbane Act 2010* and includes the Establishment and Coordination Committee, as constituted from time to time before the commencement of this section, under a local law of the council.

consideration includes—

- (a) discussion, deliberation, noting (with or without discussion) or decision; and
- (b) consideration for any purpose, including, for example, for information or to make a decision.

council means the Brisbane City Council.

draft includes a preliminary or working draft.

relevant date, for information, means—

- (a) for information considered by the committee—the date the information was most recently considered by the committee; or
- (b) for other information—the date the information was brought into existence.

4B Budgetary information for local governments

- (1) Information brought into existence in the course of a local government's budgetary processes is exempt information for 10 years after the date it was brought into existence.
- (2) Subsection (1) does not apply to information officially published by decision of the local government.

5 Information revealing particular Sovereign communications

Information is exempt information if its disclosure would reveal—

- (a) any communications between the Sovereign and the Sovereign's representative; or
- (b) any communications between the Sovereign, or the Sovereign's representative, and the Premier.

6 Information disclosure of which would be contempt of court or Parliament

Information is exempt information if its public disclosure would, apart from this Act and any immunity of the Crown—

- (a) be in contempt of court; or
- (b) be contrary to an order made or direction given by—
 - (i) a royal commission or commission of inquiry; or
 - (ii) a person or body having power to take evidence on oath; or
- (c) infringe the privileges of—
 - (i) Parliament; or

- (ii) the Parliament of the Commonwealth or a State, or a House of such a Parliament; or
- (iii) the Legislative Assembly of Norfolk Island.

7 Information subject to legal professional privilege

Information is exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.

8 Information disclosure of which would found action for breach of confidence

- (1) Information is exempt information if its disclosure would found an action for breach of confidence.
- (2) However, deliberative process information is not exempt information under subsection (1) unless it consists of information communicated by an entity other than—
 - (a) a person in the capacity of—
 - (i) a Minister; or
 - (ii) a member of the staff of, or a consultant to, a Minister; or
 - (iii) an officer of an agency; or
 - (b) the State or an agency.
- (3) In this section—

deliberative process information means information disclosing—

 - (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (b) a consultation or deliberation that has taken place; in the course of, or for the purposes of, the deliberative processes involved in the functions of government.

9 National or State security information

- (1) Information is exempt information if its disclosure could reasonably be expected to damage the security of the Commonwealth or a State.
- (2) For subsection (1), the security of the Commonwealth includes—
 - (a) matters relating to detecting, preventing or suppressing activities, whether within or outside Australia, that are subversive of, or hostile to, the interests of the Commonwealth or a country allied or associated with the Commonwealth; and
 - (b) the security of a communications system or cryptographic system of the Commonwealth or another country used for—
 - (i) the defence of the Commonwealth or a country allied or associated with the Commonwealth; or
 - (ii) the conduct of the international relations of the Commonwealth.
- (3) For subsection (1), the security of a State includes matters relating to detecting, preventing or suppressing activities, whether within or outside the State, that are subversive of, or hostile to, the interests of the State.

10 Law enforcement or public safety information

- (1) Information is exempt information if its disclosure could reasonably be expected to—
 - (a) prejudice the investigation of a contravention or possible contravention of the law (including revenue law) in a particular case; or
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (c) endanger a person's life or physical safety; or
 - (d) result in a person being subjected to a serious act of harassment or intimidation; or

Schedule 3

- (e) prejudice a person's fair trial or the impartial adjudication of a case; or
 - (f) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law (including revenue law); or
 - (g) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
 - (h) endanger the security of a building, structure or vehicle; or
 - (i) prejudice a system or procedure for the protection of persons, property or the environment; or
 - (j) facilitate a person's escape from lawful custody; or
 - (k) prejudice the wellbeing of a cultural or natural resource or the habitat of animals or plants.
- (2) However, information is not exempt information under subsection (1) if it consists of—
- (a) matter revealing that the scope of a law enforcement investigation has exceeded the limits imposed by law; or
 - (b) matter containing a general outline of the structure of a program adopted by an agency for dealing with a contravention or possible contravention of the law; or
 - (c) a report on the degree of success achieved in a program adopted by an agency for dealing with a contravention or possible contravention of the law; or
 - (d) a report prepared in the course of a routine law enforcement inspection or investigation by an agency whose functions include that of enforcing the law (other than the criminal law or the law relating to corruption under the *Crime and Corruption Act 2001*); or
 - (e) a report on a law enforcement investigation that has already been disclosed to the entity the subject of the investigation.
- (3) Also, information is exempt information if—

-
- (a) it consists of information given in the course of an investigation of a contravention or possible contravention of the law (including revenue law); and
- (b) the information was given under compulsion under an Act that abrogated the privilege against self-incrimination.
- (4) Also, information is exempt information if it consists of information obtained, used or prepared for an investigation by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body.
- (5) Also, information is exempt information if it consists of information obtained, used or prepared—
- (a) for an investigation by a part of the Queensland Police Service known as the State Intelligence Group; or
- (b) for an investigation by a part of the Queensland Police Service known as the State Security Operations Group; or
- (c) by Crime Stoppers Queensland Limited ACN 010 995 650.
- (6) However, information is not exempt information under subsection (4) or (5) in relation to a particular applicant if—
- (a) it consists of information about the applicant; and
- (b) the investigation has been finalised.
- (7) A reference in this section to a repealed Act includes a reference to the repealed Act as originally enacted and as in force from time to time.
- (8) A reference in this section to a contravention or possible contravention of the law includes a reference to corruption or possible corruption under the *Crime and Corruption Act 2001*.
- (9) In this section—
corruption function see the *Crime and Corruption Act 2001*, section 33.

crime function see the *Crime and Corruption Act 2001*, section 25.

intelligence functions mean the functions mentioned in the *Crime and Corruption Act 2001*, section 53.

law includes law of the Commonwealth, a State or a foreign country.

prescribed crime body means—

- (a) the Crime and Corruption Commission; or
- (b) the former Criminal Justice Commission; or
- (c) the former Queensland Crime Commission.

prescribed functions means—

- (a) in relation to the Crime and Corruption Commission—the crime function, the intelligence functions and the corruption function; and
- (b) in relation to the former Criminal Justice Commission—the functions of the former Criminal Justice Commission under the repealed *Criminal Justice Act 1989* in relation to organised or major crime, or in relation to misconduct or official misconduct, within the meaning of that Act; and
- (c) in relation to the former Queensland Crime Commission—the functions of the former Queensland Crime Commission under the repealed *Crime Commission Act 1997* in relation to relevant criminal activity or major crime within the meaning of that Act.

11 Investment incentive scheme information

- (1) Information is exempt information for the relevant period if its disclosure could reasonably be expected to disclose information about—
 - (a) a particular incentive given to, or arranged for, a relevant person under a contract in relation to an investment incentive scheme; or

- (b) an incentive sought by, or proposed for, a relevant person whether or not an incentive was, in fact, given to, or arranged for, the relevant person under an investment incentive scheme.

(2) In this section—

department means the department administered by the Minister having responsibility for business, industry development, and investment opportunities and attraction, as identified in the Administrative Arrangements and within which that responsibility is administered.

incentive includes any of the following—

- (a) an amount that is a refund of all or part of an amount paid as a tax, fee or charge;
- (b) another amount, whether as a lump sum or by instalments;
- (c) a benefit that is not an amount mentioned in paragraph (a) or (b).

investment incentive scheme means a written scheme that—

- (a) promotes projects by giving incentives; and
- (b) includes processes for assessing an application under the scheme; and
- (c) is administered by the department.

project means a project or proposed project that involves investing or spending money, or the continued investing or spending of money, and is intended to create job opportunities or to continue existing jobs.

relevant period—

- (a) for an incentive given or arranged under a contract, means the period ending at the earlier of—
 - (i) 1 year after the contract ends; or
 - (ii) 8 years after the contract begins; or
- (b) for an incentive that was sought or proposed but that was not given or arranged, means the period ending 8 years

after the last written communication between the department and the relevant person in relation to the incentive.

relevant person means a person to the extent the person is or was any 1 or more of the following—

- (a) a person who inquires of, or enters into discussions with, the department or a public service employee about an incentive for a project, whether or not the person makes an application under an investment incentive scheme for an incentive;
- (b) a person who makes an application under an investment incentive scheme, whether or not the person is given an incentive;
- (c) a person who is given an incentive for a project, whether or not the person continues to be subject to a provision of an agreement about the incentive that allows the department to monitor the person or project.

12 Information disclosure of which prohibited by Act

- (1) Information is exempt information if its disclosure is prohibited by 1 of the following provisions—
 - *Aboriginal Cultural Heritage Act 2003*, section 29(2)
 - *Adoption Act 2009*, section 314
 - *Auditor-General Act 2009*, section 53
 - *Australian Crime Commission (Queensland) Act 2003*, sections 19 and 20, to the extent they apply to a summons or notice that includes a notation under section 21 of that Act
 - *Child Protection Act 1999*, sections 186 to 188
 - *Child Protection (Offender Prohibition Order) Act 2008*, section 41
 - *Child Protection (Offender Reporting) Act 2004*, section 70
 - *Financial Intermediaries Act 1996*, section 239

- *G20 (Safety and Security) Act 2013*, section 85
 - *Juvenile Justice Act 1992*, section 288
- Editor's note—*
- Juvenile Justice Act 1992—see the Youth Justice Act 1992, section 344.*
- *Maintenance Act 1965*, section 129
 - *Public Interest Disclosure Act 2010*, section 65(1)
 - *Taxation Administration Act 2001*, part 8, so far as it applies to personal confidential information under that Act
 - *Torres Strait Islander Cultural Heritage Act 2003*, section 29(2)
 - *Transport (Rail Safety) Act 2010*, part 9, division 2
 - *Witness Protection Act 2000*, sections 36 and 38.
- (2) Information is not exempt information under subsection (1) in relation to an access application if it is personal information for the applicant.
- (3) Subject to subsection (2), information is exempt information if it is contained in a document mentioned in section 112(1) of the repealed *Freedom of Information Act 1992*.

Schedule 4 Factors for deciding the public interest

section 49

Note—

Access to a document may be refused to the extent the document comprises information the disclosure of which would, on balance, be contrary to the public interest under section 49—see section 47(3)(b).

Part 1 Factors irrelevant to deciding the public interest

1. Disclosure of the information could reasonably be expected to cause embarrassment to the Government or to cause a loss of confidence in the Government.
2. Disclosure of the information could reasonably be expected to result in the applicant misinterpreting or misunderstanding the document.
3. Disclosure of the information could reasonably be expected to result in mischievous conduct by the applicant.
4. The person who created the document containing the information was or is of high seniority within the agency.

Part 2 Factors favouring disclosure in the public interest

1. Disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability.

- 2 Disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.
- 3 Disclosure of the information could reasonably be expected to inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community.
- 4 Disclosure of the information could reasonably be expected to ensure effective oversight of expenditure of public funds.
- 5 Disclosure of the information could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.
- 6 Disclosure of the information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.
- 7 The information is the applicant's personal information.
- 8 The information is the personal information of a child within the meaning of section 25, the agent acting for the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered to be in the child's best interests.
- 9 The information is the personal information of an individual who is deceased (the *deceased person*) and the applicant is an eligible family member of the deceased person.
- 10 Disclosure of the information could reasonably be expected to advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies.
- 11 Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.
- 12 Disclosure of the information could reasonably be expected to reveal that the information was—
 - (a) incorrect; or

Schedule 4

- (b) out of date; or
 - (c) misleading; or
 - (d) gratuitous; or
 - (e) unfairly subjective; or
 - (f) irrelevant.
- 13 Disclosure of the information could reasonably be expected to contribute to the protection of the environment.
 - 14 Disclosure of the information could reasonably be expected to reveal environmental or health risks or measures relating to public health and safety.
 - 15 Disclosure of the information could reasonably be expected to contribute to the maintenance of peace and order.
 - 16 Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.
 - 17 Disclosure of the information could reasonably be expected to contribute to the administration of justice for a person.
 - 18 Disclosure of the information could reasonably be expected to contribute to the enforcement of the criminal law.
 - 19 Disclosure of the information could reasonably be expected to contribute to innovation and the facilitation of research.

Part 3 **Factors favouring
nondisclosure in the public
interest**

- 1 Disclosure of the information could reasonably be expected to prejudice the collective responsibility of Cabinet or the individual responsibility of members to Parliament.

- 2 Disclosure of the information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities.
- 3 Disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.
- 4 The information is the personal information of a child within the meaning of section 25, the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered not to be in the child's best interests.
- 5 The information is the personal information of an individual who is deceased (the *deceased person*), the applicant is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive.
- 6 Disclosure of the information could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.
- 7 Disclosure of the information could reasonably be expected to prejudice security, law enforcement or public safety.
- 8 Disclosure of the information could reasonably be expected to impede the administration of justice generally, including procedural fairness.
- 9 Disclosure of the information could reasonably be expected to impede the administration of justice for a person.
- 10 Disclosure of the information could reasonably be expected to prejudice the security or good order of a corrective services facility.
- 11 Disclosure of the information could reasonably be expected to impede the protection of the environment.
- 12 Disclosure of the information could reasonably be expected to prejudice the economy of the State.

Schedule 4

- 13 Disclosure of the information could reasonably be expected to prejudice the flow of information to the police or another law enforcement or regulatory agency.
- 14 Disclosure of the information could reasonably be expected to prejudice intergovernmental relations.
- 15 Disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
- 16 Disclosure of the information could reasonably be expected to prejudice an agency's ability to obtain confidential information.
- 17 Disclosure of the information could reasonably be expected to prejudice the competitive commercial activities of an agency.
- 18 Disclosure of the information could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the ombudsman or auditor-general.
- 19 Disclosure of the information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.
- 20 Disclosure of the information could reasonably be expected to prejudice a deliberative process of government.
- 21 Disclosure of the information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.
- 22 Disclosure of the information is prohibited by an Act.

Part 4 **Factors favouring
nondisclosure in the public
interest because of public
interest harm in disclosure**

1 **Affecting relations with other governments**

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—
- (a) cause damage to relations between the State and another government; or
 - (b) divulge information of a confidential nature that was communicated in confidence by or for another government.
- (2) Subsection (1) applies only for 10 years after the information was brought into existence.
- (3) The information commissioner may, on application by a prescribed entity, extend the 10 year period if the commissioner considers the extension in the public interest.
- (4) An application for an extension may be made before or after the end of the 10 year period.
- (5) In this section—
- prescribed entity* means—
- (a) an agency or Minister; or
 - (b) an entity that would be a relevant third party under section 37 in relation to the document containing the information in relation to which the extension is sought.

2 **Affecting investigations by ombudsman or audits by
auditor-general**

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could prejudice the conduct of—

- (a) an investigation by the ombudsman; or
- (b) an audit by the auditor-general.

3 Affecting particular operations of agencies

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—

- (a) prejudice the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency; or
- (b) prejudice achieving the objects of a test, examination or audit conducted by an agency; or
- (c) have a substantial adverse effect on the management or assessment by an agency of the agency's staff; or
- (d) have a substantial adverse effect on the conduct of industrial relations by an agency.

4 Disclosing deliberative processes

(1) Disclosure of the information could reasonably be expected to cause a public interest harm through disclosure of—

- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (b) a consultation or deliberation that has taken place;

in the course of, or for, the deliberative processes involved in the functions of government.

Examples of information of the type mentioned in subsection (1)—

- a document prepared by an agency about projections of future revenue for the State
- a document prepared to inform a decision by an agency about potential road routes, where disclosure of all potential routes, including those that are subsequently rejected, could have a negative impact on property values or cause community concern

(2) If the deliberative processes mentioned in subsection (1) include public consultation, subsection (1) applies only until the public consultation starts.

-
- (3) However, subsection (1) does not apply for information to the extent it consists of—
- (a) information that appears in an agency's policy document; or
 - (b) factual or statistical information; or
 - (c) expert opinion or analysis (other than expert opinion or analysis commissioned in the course of, or for, the deliberative processes mentioned in subsection (1)) by a person recognised as an expert in the field of knowledge to which the opinion or analysis relates.
- (4) Also, subsection (1) does not apply for information if it consists of—
- (a) a report of a body or organisation—
 - (i) established within an agency; and
 - (ii) prescribed under a regulation; or
 - (b) the record of, as a formal statement of the reasons for, a final decision, order or ruling given in the exercise of—
 - (i) a power; or
 - (ii) an adjudicative function; or
 - (iii) a statutory function; or
 - (iv) the administration of a publicly funded scheme.

5 Disclosing information brought into existence for ensuring security or good order of corrective services facility

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose information that—
- (a) is in the possession of, or brought into existence by, the department in which the *Corrective Services Act 2006* is administered; and
 - (b) is—

- (i) a recording of a telephone call made by an offender from a corrective services facility; or
- (ii) an audio recording made in a corrective services facility for the security or good order of the facility; or
- (iii) a visual recording of a corrective services facility or a part of a corrective services facility; or
- (iv) a document to the extent that it refers to or contains any part of a recording mentioned in subparagraph (i), (ii) or (iii).

(2) In this section—

offender means an offender as defined under the *Corrective Services Act 2006*.

6 Disclosing personal information

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.
- (2) However, subsection (1) does not apply if what would be disclosed is only personal information of the person by whom, or on whose behalf, an application for access to a document containing the information is being made.

7 Disclosing trade secrets, business affairs or research

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because—
 - (a) disclosure of the information would disclose trade secrets of an agency or another person; or
 - (b) disclosure of the information—
 - (i) would disclose information (other than trade secrets) that has a commercial value to an agency or another person; and

-
- (ii) could reasonably be expected to destroy or diminish the commercial value of the information; or
 - (c) disclosure of the information—
 - (i) would disclose information (other than trade secrets or information mentioned in paragraph (b)) concerning the business, professional, commercial or financial affairs of an agency or another person; and
 - (ii) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of this type to government.
 - (2) However, subsection (1) does not apply if what would be disclosed concerns only the business, professional, commercial or financial affairs of the person by, or on whose behalf, an application for access to the document containing the information is being made.
 - (3) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure—
 - (a) would disclose the purpose or results of research, whether the research is yet to be started, has started but is unfinished, or is finished; and
 - (b) could reasonably be expected to have an adverse effect on the agency or other person by, or on whose behalf, the research is intended to be, is being, or was, carried out.
 - (4) However, subsection (3) does not apply if what would be disclosed concerns only research that is intended to be, is being, or was, carried out by the agency or other person by, or on whose behalf, an application for access to the document containing the information is being made.

8 Affecting confidential communications

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if—

- (a) the information consists of information of a confidential nature that was communicated in confidence; and
 - (b) disclosure of the information could reasonably be expected to prejudice the future supply of information of this type.
- (2) However, subsection (1) does not apply in relation to deliberative process information unless it consists of information communicated by an entity other than—
- (a) a person in the capacity of—
 - (i) a Minister; or
 - (ii) a member of the staff of, or a consultant to, a Minister; or
 - (iii) an officer of an agency; or
 - (b) the State or an agency.
- (3) In this section—
- deliberative process information* means information disclosing—
- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (b) a consultation or deliberation that has taken place;
- in the course of, or for the purposes of, the deliberative processes involved in the functions of government.

9 Affecting State economy

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could—
- (a) have a substantial adverse effect on the ability of government to manage the economy of the State; or
 - (b) expose any person or class of persons to an unfair advantage or disadvantage because of the premature disclosure of information concerning proposed action or inaction of the Assembly or government in the course of, or for, managing the economy of the State.

- (2) Without limiting subsection (1)(a), that paragraph applies to information the disclosure of which would reveal—
 - (a) the consideration of a contemplated movement in government taxes, fees or charges; or
 - (b) the imposition of credit controls.

10 Affecting financial or property interests of State or agency

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could have a substantial adverse effect on the financial or property interests of the State or an agency.
- (2) Subsection (1) applies only for 8 years after the information was brought into existence.

Our reference: 151330
Your reference: 219548



22 May 2015

Department of
Justice and Attorney-General

The Hon Tim Carmody CJ
Delivered by hand

Dear Chief Justice

Consultation process – *Right to Information Act 2009*

The Department of Justice and Attorney-General has received an application for access to documents from Mr David Murray on behalf of The Courier Mail under the *Right to Information Act 2009* (the RTI Act) seeking access to:

All documents relating to Chief Justice Tim Carmody dismissing Justice John Byrne from the role of senior judge administrator, and Justice Byrne's reinstatement.

Request for Information

The RTI Act gives the community a right of access to information held by the Queensland Government, subject only to limited exceptions. Where an application is received for documents which, if released, could reasonably be expected to be of concern to another person, the department is required under section 37 of the RTI Act to take such steps as are reasonably practicable to obtain the views of the person concerned as to whether or not the matter in the documents contain any exempt information or contrary to public interest information.

I have formed the opinion that you may be concerned by the release of the following documents:

- File 01 (page numbers 11, 13-15, 19020, 29, 36-37).
- File 02 (page numbers 1, 9-12, 17-18).
- File 03 (page numbers 6-15).
- File 04 (page numbers 8-25).

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

State Law Building
50 Ann Street Brisbane 4000
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone 07 3239 3439
Facsimile (07) 3006 5929
Website www.justice.qld.gov.au
ABN 13 846 673 994

- If you have no objections to the release of the consulted documents please complete the attached form and return to me; or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or
- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **29 March 2015**.

If a response is not received by **29 March 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

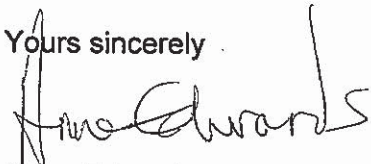
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

Review Rights

If it is decided to release the documents against your wishes, you will be advised of the decision and you will have 20 business days after the date on the decision letter to request a review of the decision. The documents in question will not be disclosed to the applicant until the period of 20 business days has passed, or the avenues of review have been exhausted. I will enclose further details of your rights to review if I make such a decision.

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151330**.

Yours sincerely



Anne Edwards
Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 —*Right to Information Act 2009* Note these pages are to be printed from the current legislation
- Consultation documents (44 pages)

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151330

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: _____

From: _____ (Name)

_____ (Business name, if applicable)

_____ (Address)

The Department of Justice and Attorney-General (the Department) has received an application for access to documents from, on behalf of The Courier Mail, made under the *Right to Information Act 2009*. The applicant seeks access to certain documents held in the possession of the department.

On _____ (date), pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 22 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: _____ Print name: _____

**Schedule 2 Entities to which this Act does
not apply**

section 17

**Part 1 Entities to which this Act does
not apply**

- 1 the Governor
- 2 the Assembly, a member of the Assembly, a committee of the Assembly, a member of a committee of the Assembly, a parliamentary commission of inquiry or a member of a parliamentary commission of inquiry
- 3 the Parliamentary Judges Commission of Inquiry appointed under the expired *Parliamentary (Judges) Commission of Inquiry Act 1988*
- 4 a commission of inquiry issued by the Governor in Council, whether before or after the commencement of this schedule
- 5 the parliamentary service established by the *Parliamentary Service Act 1988*
- 6 a quality assurance committee established under the *Hospital and Health Boards Act 2011*, section 82
- 7 a parents and citizens association under the *Education (General Provisions) Act 2006*
- 8 a grammar school to which the *Grammar Schools Act 1975* applies

Part 2 **Entities to which this Act does not apply in relation to a particular function**

- 1 a court, or the holder of a judicial office or other office connected with a court, in relation to the court's judicial functions
- 2 a registry or other office of a court, or the staff of a registry or other office of a court in their official capacity, so far as its or their functions relate to the court's judicial functions
- 3 a tribunal in relation to the tribunal's judicial or quasi-judicial functions
- 4 a tribunal member or the holder of an office connected with a tribunal, in relation to the tribunal's judicial or quasi-judicial functions
- 5 a registry of a tribunal, or the staff of a registry of a tribunal in their official capacity, so far as its or their functions relate to the tribunal's judicial or quasi-judicial functions
- 6 a quasi-judicial entity in relation to its quasi-judicial functions
- 7 a member of, or the holder of an office connected with, a quasi-judicial entity, in relation to the entity's quasi-judicial functions
- 8 the staff of a quasi-judicial entity in their official capacity, so far as their functions relate to the entity's quasi-judicial functions
- 9 Queensland Treasury Corporation in relation to its borrowing, liability and asset management related functions
- 10 the public guardian under the *Public Guardian Act 2014* in relation to an investigation or audit under that Act
- 11 the Health Rights Commissioner in relation to the conciliation of health service complaints under the repealed *Health Rights Commission Act 1991*, part 6
- 12 the Health Quality and Complaints Commission in relation to the conciliation of health service complaints under—

-
- (a) the repealed *Health Rights Commission Act 1991*, part 6; or
 - (b) the *Health Quality and Complaints Commission Act 2006*, chapter 6
- 12A the health ombudsman in relation to the conciliation of a health service complaint under the *Health Ombudsman Act 2013* or the repealed *Health Quality and Complaints Commission Act 2006*
- 13 CS Energy Limited ACN 078 848 745, or a subsidiary of CS Energy Limited, in relation to its functions, except so far as they relate to community service obligations
- 14 Ergon Energy Queensland Pty Ltd ACN 121 177 802 in relation to its functions, except so far as they relate to community service obligations
- 15 QIC Limited ACN 130 539 123, or a subsidiary of QIC Limited, in relation to its functions, except so far as they relate to community service obligations
- 16 a rail government entity under the *Transport Infrastructure Act 1994* in relation to freight or insurance operations, except so far as they relate to community service obligations
- 19 Stanwell Corporation Limited ACN 078 848 674, or a subsidiary of Stanwell Corporation Limited, in relation to its functions, except so far as they relate to community service obligations
- 21 a declared entity under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, all or part of whose businesses, assets and liabilities are being disposed of in a declared project under that Act, in relation to the following functions—
- (a) if all of the entity's businesses, assets and liabilities are being disposed of—all of the entity's functions;
 - (b) otherwise—the functions that relate to the businesses, assets and liabilities being disposed of

Schedule 3 Exempt information

section 48

Note—

Access to a document may be refused to the extent the document comprises exempt information—see section 47(3)(a).

1 Cabinet matter brought into existence before commencement

Matter is exempt information if the matter is—

- (a) brought into existence before the commencement of this section; and
- (b) mentioned in section 36(1) of the repealed *Freedom of Information Act 1992*; and
- (c) not officially published by decision of Cabinet.

2 Cabinet information brought into existence on or after commencement

- (1) Information is exempt information for 10 years after its relevant date if—
 - (a) it has been brought into existence for the consideration of Cabinet; or
 - (b) its disclosure would reveal any consideration of Cabinet or would otherwise prejudice the confidentiality of Cabinet considerations or operations; or
 - (c) it has been brought into existence in the course of the State's budgetary processes.
- (2) Subsection (1) does not apply to—
 - (a) information brought into existence before the commencement of this section; or
 - (b) information officially published by decision of Cabinet.

- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) Cabinet submissions;
 - (b) Cabinet briefing notes;
 - (c) Cabinet agendas;
 - (d) notes of discussions in Cabinet;
 - (e) Cabinet minutes;
 - (f) Cabinet decisions;
 - (g) a draft of a document mentioned in any of paragraphs (a) to (f).
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or
 - (b) it was brought into existence for the consideration of Cabinet or for the State's budgetary processes.
- (5) In this section—
- Cabinet** includes a Cabinet committee or subcommittee.
- consideration** includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and
 - (b) consideration for any purpose, including, for example, for information or to make a decision.
- draft** includes a preliminary or working draft.
- relevant date**, for information, means—
- (a) for information considered by Cabinet—the date the information was most recently considered by Cabinet; or
 - (b) for other information—the date the information was brought into existence.

3 Executive Council information

- (1) Information is exempt information if—
- (a) it has been submitted to Executive Council; or
 - (b) it was brought into existence for submission to Executive Council and is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or
 - (c) it was brought into existence for briefing, or the use of, the Governor, a Minister or a chief executive in relation to information—
 - (i) submitted to Executive Council; or
 - (ii) that is proposed, or has at any time been proposed, to be submitted to Executive Council by a Minister; or
 - (d) it is, or forms part of, an official record of Executive Council; or
 - (e) its disclosure would involve the disclosure of any consideration of Executive Council or could otherwise prejudice the confidentiality of Executive Council considerations or operations; or
 - (f) it is a draft of matter mentioned in any of paragraphs (a) to (e); or
 - (g) it is a copy of or extract from, or part of a copy of or extract from, information mentioned in any of paragraphs (a) to (f).
- (2) Subsection (1) does not apply to information officially published by decision of the Governor in Council.
- (3) In this section—
- chief executive* means a chief executive of a unit of the public sector.
- consideration* includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and

- (b) consideration for any purpose, including, for example, for information or to make a decision.

draft includes a preliminary or working draft.

official record, of Executive Council, includes an official record of information submitted to Executive Council.

submit information to Executive Council includes bring the information to Executive Council, irrespective of the purpose of submitting the information to Executive Council, the nature of the information or the way in which Executive Council deals with the information.

4 Information briefing incoming Minister

Information is exempt information for 10 years after the appointment of a Minister for a department if the information is brought into existence by the department to brief an incoming Minister about the department.

4A BCC Establishment and Coordination Committee information

- (1) Information is exempt information for 10 years after its relevant date if—
- (a) it has been brought into existence for the consideration of the committee; or
 - (b) its disclosure would reveal any consideration of the committee or would otherwise prejudice the confidentiality of committee considerations or operations.
- (2) Subsection (1) does not apply to—
- (a) information officially published by decision of the council; or
 - (b) if the council delegates a power to the committee under the *City of Brisbane Act 2010*, section 238—information relating to the delegation or the power to be exercised under the delegation.

Schedule 3

- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) committee submissions;
 - (b) committee briefing notes;
 - (c) committee agendas;
 - (d) notes of discussions in committee;
 - (e) committee minutes;
 - (f) committee decisions;
 - (g) a draft of a document mentioned in any of paragraphs (a) to (f).
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or
 - (b) it was brought into existence for the consideration of the committee.
- (5) In this section—
- committee* means the Establishment and Coordination Committee under the *City of Brisbane Act 2010* and includes the Establishment and Coordination Committee, as constituted from time to time before the commencement of this section, under a local law of the council.
- consideration* includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and
 - (b) consideration for any purpose, including, for example, for information or to make a decision.
- council* means the Brisbane City Council.
- draft* includes a preliminary or working draft.
- relevant date*, for information, means—

- (a) for information considered by the committee—the date the information was most recently considered by the committee; or
- (b) for other information—the date the information was brought into existence.

4B Budgetary information for local governments

- (1) Information brought into existence in the course of a local government's budgetary processes is exempt information for 10 years after the date it was brought into existence.
- (2) Subsection (1) does not apply to information officially published by decision of the local government.

5 Information revealing particular Sovereign communications

Information is exempt information if its disclosure would reveal—

- (a) any communications between the Sovereign and the Sovereign's representative; or
- (b) any communications between the Sovereign, or the Sovereign's representative, and the Premier.

6 Information disclosure of which would be contempt of court or Parliament

Information is exempt information if its public disclosure would, apart from this Act and any immunity of the Crown—

- (a) be in contempt of court; or
- (b) be contrary to an order made or direction given by—
 - (i) a royal commission or commission of inquiry; or
 - (ii) a person or body having power to take evidence on oath; or
- (c) infringe the privileges of—
 - (i) Parliament; or

- (ii) the Parliament of the Commonwealth or a State, or a House of such a Parliament; or
- (iii) the Legislative Assembly of Norfolk Island.

7 Information subject to legal professional privilege

Information is exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.

8 Information disclosure of which would found action for breach of confidence

- (1) Information is exempt information if its disclosure would found an action for breach of confidence.
- (2) However, deliberative process information is not exempt information under subsection (1) unless it consists of information communicated by an entity other than—
 - (a) a person in the capacity of—
 - (i) a Minister; or
 - (ii) a member of the staff of, or a consultant to, a Minister; or
 - (iii) an officer of an agency; or
 - (b) the State or an agency.
- (3) In this section—

deliberative process information means information disclosing—

 - (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (b) a consultation or deliberation that has taken place; in the course of, or for the purposes of, the deliberative processes involved in the functions of government.

9 National or State security information

- (1) Information is exempt information if its disclosure could reasonably be expected to damage the security of the Commonwealth or a State.
- (2) For subsection (1), the security of the Commonwealth includes—
 - (a) matters relating to detecting, preventing or suppressing activities, whether within or outside Australia, that are subversive of, or hostile to, the interests of the Commonwealth or a country allied or associated with the Commonwealth; and
 - (b) the security of a communications system or cryptographic system of the Commonwealth or another country used for—
 - (i) the defence of the Commonwealth or a country allied or associated with the Commonwealth; or
 - (ii) the conduct of the international relations of the Commonwealth.
- (3) For subsection (1), the security of a State includes matters relating to detecting, preventing or suppressing activities, whether within or outside the State, that are subversive of, or hostile to, the interests of the State.

10 Law enforcement or public safety information

- (1) Information is exempt information if its disclosure could reasonably be expected to—
 - (a) prejudice the investigation of a contravention or possible contravention of the law (including revenue law) in a particular case; or
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (c) endanger a person's life or physical safety; or
 - (d) result in a person being subjected to a serious act of harassment or intimidation; or

- (e) prejudice a person's fair trial or the impartial adjudication of a case; or
 - (f) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law (including revenue law); or
 - (g) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
 - (h) endanger the security of a building, structure or vehicle; or
 - (i) prejudice a system or procedure for the protection of persons, property or the environment; or
 - (j) facilitate a person's escape from lawful custody; or
 - (k) prejudice the wellbeing of a cultural or natural resource or the habitat of animals or plants.
- (2) However, information is not exempt information under subsection (1) if it consists of—
- (a) matter revealing that the scope of a law enforcement investigation has exceeded the limits imposed by law; or
 - (b) matter containing a general outline of the structure of a program adopted by an agency for dealing with a contravention or possible contravention of the law; or
 - (c) a report on the degree of success achieved in a program adopted by an agency for dealing with a contravention or possible contravention of the law; or
 - (d) a report prepared in the course of a routine law enforcement inspection or investigation by an agency whose functions include that of enforcing the law (other than the criminal law or the law relating to corruption under the *Crime and Corruption Act 2001*); or
 - (e) a report on a law enforcement investigation that has already been disclosed to the entity the subject of the investigation.
- (3) Also, information is exempt information if—

-
- (a) it consists of information given in the course of an investigation of a contravention or possible contravention of the law (including revenue law); and
- (b) the information was given under compulsion under an Act that abrogated the privilege against self-incrimination.
- (4) Also, information is exempt information if it consists of information obtained, used or prepared for an investigation by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body.
- (5) Also, information is exempt information if it consists of information obtained, used or prepared—
- (a) for an investigation by a part of the Queensland Police Service known as the State Intelligence Group; or
- (b) for an investigation by a part of the Queensland Police Service known as the State Security Operations Group; or
- (c) by Crime Stoppers Queensland Limited ACN 010 995 650.
- (6) However, information is not exempt information under subsection (4) or (5) in relation to a particular applicant if—
- (a) it consists of information about the applicant; and
- (b) the investigation has been finalised.
- (7) A reference in this section to a repealed Act includes a reference to the repealed Act as originally enacted and as in force from time to time.
- (8) A reference in this section to a contravention or possible contravention of the law includes a reference to corruption or possible corruption under the *Crime and Corruption Act 2001*.
- (9) In this section—
corruption function see the *Crime and Corruption Act 2001*, section 33.

crime function see the *Crime and Corruption Act 2001*, section 25.

intelligence functions mean the functions mentioned in the *Crime and Corruption Act 2001*, section 53.

law includes law of the Commonwealth, a State or a foreign country.

prescribed crime body means—

- (a) the Crime and Corruption Commission; or
- (b) the former Criminal Justice Commission; or
- (c) the former Queensland Crime Commission.

prescribed functions means—

- (a) in relation to the Crime and Corruption Commission—the crime function, the intelligence functions and the corruption function; and
- (b) in relation to the former Criminal Justice Commission—the functions of the former Criminal Justice Commission under the repealed *Criminal Justice Act 1989* in relation to organised or major crime, or in relation to misconduct or official misconduct, within the meaning of that Act; and
- (c) in relation to the former Queensland Crime Commission—the functions of the former Queensland Crime Commission under the repealed *Crime Commission Act 1997* in relation to relevant criminal activity or major crime within the meaning of that Act.

11 Investment incentive scheme information

- (1) Information is exempt information for the relevant period if its disclosure could reasonably be expected to disclose information about—
 - (a) a particular incentive given to, or arranged for, a relevant person under a contract in relation to an investment incentive scheme; or

- (b) an incentive sought by, or proposed for, a relevant person whether or not an incentive was, in fact, given to, or arranged for, the relevant person under an investment incentive scheme.

(2) In this section—

department means the department administered by the Minister having responsibility for business, industry development, and investment opportunities and attraction, as identified in the Administrative Arrangements and within which that responsibility is administered.

incentive includes any of the following—

- (a) an amount that is a refund of all or part of an amount paid as a tax, fee or charge;
- (b) another amount, whether as a lump sum or by instalments;
- (c) a benefit that is not an amount mentioned in paragraph (a) or (b).

investment incentive scheme means a written scheme that—

- (a) promotes projects by giving incentives; and
- (b) includes processes for assessing an application under the scheme; and
- (c) is administered by the department.

project means a project or proposed project that involves investing or spending money, or the continued investing or spending of money, and is intended to create job opportunities or to continue existing jobs.

relevant period—

- (a) for an incentive given or arranged under a contract, means the period ending at the earlier of—
- (i) 1 year after the contract ends; or
- (ii) 8 years after the contract begins; or
- (b) for an incentive that was sought or proposed but that was not given or arranged, means the period ending 8 years

after the last written communication between the department and the relevant person in relation to the incentive.

relevant person means a person to the extent the person is or was any 1 or more of the following—

- (a) a person who inquires of, or enters into discussions with, the department or a public service employee about an incentive for a project, whether or not the person makes an application under an investment incentive scheme for an incentive;
- (b) a person who makes an application under an investment incentive scheme, whether or not the person is given an incentive;
- (c) a person who is given an incentive for a project, whether or not the person continues to be subject to a provision of an agreement about the incentive that allows the department to monitor the person or project.

12 Information disclosure of which prohibited by Act

- (1) Information is exempt information if its disclosure is prohibited by 1 of the following provisions—
 - *Aboriginal Cultural Heritage Act 2003*, section 29(2)
 - *Adoption Act 2009*, section 314
 - *Auditor-General Act 2009*, section 53
 - *Australian Crime Commission (Queensland) Act 2003*, sections 19 and 20, to the extent they apply to a summons or notice that includes a notation under section 21 of that Act
 - *Child Protection Act 1999*, sections 186 to 188
 - *Child Protection (Offender Prohibition Order) Act 2008*, section 41
 - *Child Protection (Offender Reporting) Act 2004*, section 70
 - *Financial Intermediaries Act 1996*, section 239

- *G20 (Safety and Security) Act 2013*, section 85
- *Juvenile Justice Act 1992*, section 288

Editor's note—

Juvenile Justice Act 1992—see the Youth Justice Act 1992, section 344.

- *Maintenance Act 1965*, section 129
 - *Public Interest Disclosure Act 2010*, section 65(1)
 - *Taxation Administration Act 2001*, part 8, so far as it applies to personal confidential information under that Act
 - *Torres Strait Islander Cultural Heritage Act 2003*, section 29(2)
 - *Transport (Rail Safety) Act 2010*, part 9, division 2
 - *Witness Protection Act 2000*, sections 36 and 38.
- (2) Information is not exempt information under subsection (1) in relation to an access application if it is personal information for the applicant.
- (3) Subject to subsection (2), information is exempt information if it is contained in a document mentioned in section 112(1) of the repealed *Freedom of Information Act 1992*.

Schedule 4 Factors for deciding the public interest

section 49

Note—

Access to a document may be refused to the extent the document comprises information the disclosure of which would, on balance, be contrary to the public interest under section 49—see section 47(3)(b).

Part 1 Factors irrelevant to deciding the public interest

- 1 Disclosure of the information could reasonably be expected to cause embarrassment to the Government or to cause a loss of confidence in the Government.
- 2 Disclosure of the information could reasonably be expected to result in the applicant misinterpreting or misunderstanding the document.
- 3 Disclosure of the information could reasonably be expected to result in mischievous conduct by the applicant.
- 4 The person who created the document containing the information was or is of high seniority within the agency.

Part 2 Factors favouring disclosure in the public interest

- 1 Disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance the Government's accountability.

-
- 2 Disclosure of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.
 - 3 Disclosure of the information could reasonably be expected to inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community.
 - 4 Disclosure of the information could reasonably be expected to ensure effective oversight of expenditure of public funds.
 - 5 Disclosure of the information could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.
 - 6 Disclosure of the information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.
 - 7 The information is the applicant's personal information.
 - 8 The information is the personal information of a child within the meaning of section 25, the agent acting for the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered to be in the child's best interests.
 - 9 The information is the personal information of an individual who is deceased (the *deceased person*) and the applicant is an eligible family member of the deceased person.
 - 10 Disclosure of the information could reasonably be expected to advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies.
 - 11 Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.
 - 12 Disclosure of the information could reasonably be expected to reveal that the information was—
 - (a) incorrect; or

- (b) out of date; or
 - (c) misleading; or
 - (d) gratuitous; or
 - (e) unfairly subjective; or
 - (f) irrelevant.
- 13 Disclosure of the information could reasonably be expected to contribute to the protection of the environment.
 - 14 Disclosure of the information could reasonably be expected to reveal environmental or health risks or measures relating to public health and safety.
 - 15 Disclosure of the information could reasonably be expected to contribute to the maintenance of peace and order.
 - 16 Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.
 - 17 Disclosure of the information could reasonably be expected to contribute to the administration of justice for a person.
 - 18 Disclosure of the information could reasonably be expected to contribute to the enforcement of the criminal law.
 - 19 Disclosure of the information could reasonably be expected to contribute to innovation and the facilitation of research.

Part 3

Factors favouring nondisclosure in the public interest

- 1 Disclosure of the information could reasonably be expected to prejudice the collective responsibility of Cabinet or the individual responsibility of members to Parliament.

- 2 Disclosure of the information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities.
- 3 Disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.
- 4 The information is the personal information of a child within the meaning of section 25, the applicant is the child's parent within the meaning of section 25 and disclosure of the information is reasonably considered not to be in the child's best interests.
- 5 The information is the personal information of an individual who is deceased (the *deceased person*), the applicant is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive.
- 6 Disclosure of the information could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.
- 7 Disclosure of the information could reasonably be expected to prejudice security, law enforcement or public safety.
- 8 Disclosure of the information could reasonably be expected to impede the administration of justice generally, including procedural fairness.
- 9 Disclosure of the information could reasonably be expected to impede the administration of justice for a person.
- 10 Disclosure of the information could reasonably be expected to prejudice the security or good order of a corrective services facility.
- 11 Disclosure of the information could reasonably be expected to impede the protection of the environment.
- 12 Disclosure of the information could reasonably be expected to prejudice the economy of the State.

Schedule 4

- 13 Disclosure of the information could reasonably be expected to prejudice the flow of information to the police or another law enforcement or regulatory agency.
- 14 Disclosure of the information could reasonably be expected to prejudice intergovernmental relations.
- 15 Disclosure of the information could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person.
- 16 Disclosure of the information could reasonably be expected to prejudice an agency's ability to obtain confidential information.
- 17 Disclosure of the information could reasonably be expected to prejudice the competitive commercial activities of an agency.
- 18 Disclosure of the information could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the ombudsman or auditor-general.
- 19 Disclosure of the information could reasonably be expected to prejudice the management function of an agency or the conduct of industrial relations by an agency.
- 20 Disclosure of the information could reasonably be expected to prejudice a deliberative process of government.
- 21 Disclosure of the information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.
- 22 Disclosure of the information is prohibited by an Act.

Part 4 **Factors favouring
nondisclosure in the public
interest because of public
interest harm in disclosure**

1 **Affecting relations with other governments**

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—
 - (a) cause damage to relations between the State and another government; or
 - (b) divulge information of a confidential nature that was communicated in confidence by or for another government.
- (2) Subsection (1) applies only for 10 years after the information was brought into existence.
- (3) The information commissioner may, on application by a prescribed entity, extend the 10 year period if the commissioner considers the extension in the public interest.
- (4) An application for an extension may be made before or after the end of the 10 year period.
- (5) In this section—

prescribed entity means—

 - (a) an agency or Minister; or
 - (b) an entity that would be a relevant third party under section 37 in relation to the document containing the information in relation to which the extension is sought.

2 **Affecting investigations by ombudsman or audits by
auditor-general**

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could prejudice the conduct of—

- (a) an investigation by the ombudsman; or
- (b) an audit by the auditor-general.

3 Affecting particular operations of agencies

Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure could—

- (a) prejudice the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency; or
- (b) prejudice achieving the objects of a test, examination or audit conducted by an agency; or
- (c) have a substantial adverse effect on the management or assessment by an agency of the agency's staff; or
- (d) have a substantial adverse effect on the conduct of industrial relations by an agency.

4 Disclosing deliberative processes

(1) Disclosure of the information could reasonably be expected to cause a public interest harm through disclosure of—

- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (b) a consultation or deliberation that has taken place;

in the course of, or for, the deliberative processes involved in the functions of government.

Examples of information of the type mentioned in subsection (1)—

- a document prepared by an agency about projections of future revenue for the State
- a document prepared to inform a decision by an agency about potential road routes, where disclosure of all potential routes, including those that are subsequently rejected, could have a negative impact on property values or cause community concern

(2) If the deliberative processes mentioned in subsection (1) include public consultation, subsection (1) applies only until the public consultation starts.

-
- (3) However, subsection (1) does not apply for information to the extent it consists of—
- (a) information that appears in an agency's policy document; or
 - (b) factual or statistical information; or
 - (c) expert opinion or analysis (other than expert opinion or analysis commissioned in the course of, or for, the deliberative processes mentioned in subsection (1)) by a person recognised as an expert in the field of knowledge to which the opinion or analysis relates.
- (4) Also, subsection (1) does not apply for information if it consists of—
- (a) a report of a body or organisation—
 - (i) established within an agency; and
 - (ii) prescribed under a regulation; or
 - (b) the record of, as a formal statement of the reasons for, a final decision, order or ruling given in the exercise of—
 - (i) a power; or
 - (ii) an adjudicative function; or
 - (iii) a statutory function; or
 - (iv) the administration of a publicly funded scheme.

5 Disclosing information brought into existence for ensuring security or good order of corrective services facility

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose information that—
- (a) is in the possession of, or brought into existence by, the department in which the *Corrective Services Act 2006* is administered; and
 - (b) is—

- (i) a recording of a telephone call made by an offender from a corrective services facility; or
 - (ii) an audio recording made in a corrective services facility for the security or good order of the facility; or
 - (iii) a visual recording of a corrective services facility or a part of a corrective services facility; or
 - (iv) a document to the extent that it refers to or contains any part of a recording mentioned in subparagraph (i), (ii) or (iii).
- (2) In this section—

offender means an offender as defined under the *Corrective Services Act 2006*.

6 Disclosing personal information

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.
- (2) However, subsection (1) does not apply if what would be disclosed is only personal information of the person by whom, or on whose behalf, an application for access to a document containing the information is being made.

7 Disclosing trade secrets, business affairs or research

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because—
 - (a) disclosure of the information would disclose trade secrets of an agency or another person; or
 - (b) disclosure of the information—
 - (i) would disclose information (other than trade secrets) that has a commercial value to an agency or another person; and

-
- (ii) could reasonably be expected to destroy or diminish the commercial value of the information; or
 - (c) disclosure of the information—
 - (i) would disclose information (other than trade secrets or information mentioned in paragraph (b)) concerning the business, professional, commercial or financial affairs of an agency or another person; and
 - (ii) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of this type to government.
 - (2) However, subsection (1) does not apply if what would be disclosed concerns only the business, professional, commercial or financial affairs of the person by, or on whose behalf, an application for access to the document containing the information is being made.
 - (3) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure—
 - (a) would disclose the purpose or results of research, whether the research is yet to be started, has started but is unfinished, or is finished; and
 - (b) could reasonably be expected to have an adverse effect on the agency or other person by, or on whose behalf, the research is intended to be, is being, or was, carried out.
 - (4) However, subsection (3) does not apply if what would be disclosed concerns only research that is intended to be, is being, or was, carried out by the agency or other person by, or on whose behalf, an application for access to the document containing the information is being made.

8 Affecting confidential communications

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm if—

- (a) the information consists of information of a confidential nature that was communicated in confidence; and
 - (b) disclosure of the information could reasonably be expected to prejudice the future supply of information of this type.
- (2) However, subsection (1) does not apply in relation to deliberative process information unless it consists of information communicated by an entity other than—
- (a) a person in the capacity of—
 - (i) a Minister; or
 - (ii) a member of the staff of, or a consultant to, a Minister; or
 - (iii) an officer of an agency; or
 - (b) the State or an agency.
- (3) In this section—
- deliberative process information* means information disclosing—
- (a) an opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (b) a consultation or deliberation that has taken place;
- in the course of, or for the purposes of, the deliberative processes involved in the functions of government.

9 Affecting State economy

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could—
- (a) have a substantial adverse effect on the ability of government to manage the economy of the State; or
 - (b) expose any person or class of persons to an unfair advantage or disadvantage because of the premature disclosure of information concerning proposed action or inaction of the Assembly or government in the course of, or for, managing the economy of the State.

- (2) Without limiting subsection (1)(a), that paragraph applies to information the disclosure of which would reveal—
 - (a) the consideration of a contemplated movement in government taxes, fees or charges; or
 - (b) the imposition of credit controls.

10 Affecting financial or property interests of State or agency

- (1) Disclosure of the information could reasonably be expected to cause a public interest harm because disclosure could have a substantial adverse effect on the financial or property interests of the State or an agency.
- (2) Subsection (1) applies only for 8 years after the information was brought into existence.

Our reference: 151331
Your reference: 219570

151331



25 May 2015

Department of
Justice and Attorney-General

The Hon Tim Carmody CJ
Supreme Court of Queensland
Delivered by hand

Dear Chief Justice

Consultation process – *Right to Information Act 2009*

The Department of Justice and Attorney-General has received an application for access to documents from The Courier Mail under the *Right to Information Act 2009* (the RTI Act) seeking access to: *Correspondence between judges, and correspondence between judges and the attorney-general, relating to restoring the title of Queen's Counsel (QC) in Queensland.*

Request for Information

The RTI Act gives the community a right of access to information held by the Queensland Government, subject only to limited exceptions. Where an application is received for documents which, if released, could reasonably be expected to be of concern to another person, the department is required under section 37 of the RTI Act to take such steps as are reasonably practicable to obtain the views of the person concerned as to whether or not the matter in the documents contain any exempt information or contrary to public interest information.

I have formed the opinion that you may be concerned by the release of a letter you wrote to the former Attorney-General in November 2014 (page number 19).

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

- If you have no objections to the release of the consulted documents please complete the attached form and return to me; or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or

State Law Building
50 Ann Street Brisbane 4000
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone 07 3239 3439
Facsimile (07) 3006 5929
Website www.justice.qld.gov.au
ABN 13 846 673 994

- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **2 June 2015**.

If a response is not received by **2 June 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

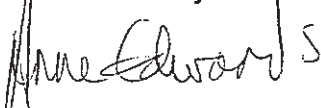
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

Review Rights

If it is decided to release the documents against your wishes, you will be advised of the decision and you will have 20 business days after the date on the decision letter to request a review of the decision. The documents in question will not be disclosed to the applicant until the period of 20 business days has passed, or the avenues of review have been exhausted. I will enclose further details of your rights to review if I make such a decision.

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151331**.

Yours sincerely



Anne Edwards
Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 —*Right to Information Act 2009* Note these pages are to be printed from the current legislation
- Consultation documents (1 page)

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151331

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: _____

From: _____ (Name)

_____ (Business name, if applicable)

_____ (Address)

The Department of Justice and Attorney-General (the Department) has received an application for access to documents from The Courier Mail, made under the *Right to Information Act 2009*. The applicant seeks access to certain documents held in the possession of the department.

On _____ (date) pursuant to section 37 of the RTI Act I received a Third Party Consultation letter of 25 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: _____ Print name: _____

Rachel Monaghan

From: Anne Edwards
Sent: Wednesday, 20 May 2015 12:04 PM
To: Rachel Monaghan
Subject: RE: PHONE CALL: Rachel from the Chief Justices Office 3247 4279 please call after 1pm

We can always deliver first thing tomorrow if that suits better?

Anne Edwards
Director
RTI & Privacy Unit
Department of Justice and Attorney-General anne.edwards@justice.qld.gov.au
Phone: 3239 0323
Mobile: 0459 836 074

From: Rachel Monaghan
Sent: Wednesday, 20 May 2015 12:03 PM
To: Anne Edwards
Subject: RE: PHONE CALL: Rachel from the Chief Justices Office 3247 4279 please call after 1pm

Dear Anne,

Thank you for your email. Do you know what time that might be Anne? I may not be here after 3pm.

Thanks Anne.

Kind regards,

Rachel Monaghan
A/Executive Assistant to the
Honourable T F Carmody Chief Justice
Supreme Court of Queensland
Level 16, Queen Elizabeth II Courts of Law
415 George Street, Brisbane, QLD, 4000
(PO Box 15167, City East, QLD, 4002)
Telephone: +61 7 3247 4279 | Facsimile: +61 7 3247 4206
Email: Rachel.Monaghan@justice.qld.gov.au

From: Anne Edwards
Sent: Wednesday, 20 May 2015 12:00 PM
To: Rachel Monaghan
Subject: FW: PHONE CALL: Rachel from the Chief Justices Office 3247 4279 please call after 1pm

Hi Rachel,

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Thanks, A.

Anne Edwards
Director
RTI & Privacy Unit
Department of Justice and Attorney-General anne.edwards@justice.qld.gov.au
Phone: 3239 0323
Mobile: 0459 836 074

From: Lisa Lyttle
Sent: Wednesday, 20 May 2015 11:48 AM
To: Anne Edwards
Subject: PHONE CALL: Rachel from the Chief Justices Office 3247 4279 please call after 1pm

Lisa Lyttle
A/Decision Maker
Right to Information & Privacy Unit
Department of Justice & Attorney-General
Phone: (07) 3006 5906
Fax: (07) 3006 5929

Unless explicitly attributed, the opinions expressed do not necessarily represent the official position of the Queensland Department of Justice and Attorney-General.

Rachel Monaghan

From: Rachel Monaghan
Sent: Wednesday, 20 May 2015 12:05 PM
To: Anne Edwards
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From: Anne Edwards
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I'll talk to you this arvo... Cheers, A.

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Department of Justice and Attorney-General anne.edwards@justice.qld.gov.au
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