

## Freedom of Information Request Schedule – Submissions to the Belconnen Master Plan

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Ref No.	Number of Pages	Description	Date	Status	Reason for Exemption	Online release status
1.	222	Belconnen Master Plan Submissions (all submissions)	25/10/2013	Partial Release – Section 41 (Personal Privacy)	Some part of this document include the names and contact information of community members.	Partial

## Exempt documents

*Note* For the exemption of documents in the possession of the housing commissioner containing protected information within the meaning of the *Housing Assistance Act 2007*, pt 5, see that Act, s 29.

### 32 Exemptions do not limit each other

A provision of this part under which documents referred to in the provision are exempt documents—

- (a) shall not be construed as limited in its scope or operation in any way by any other provision of this part under which documents are exempt documents; and
- (b) shall not be construed as not applying to a particular document because another provision of this part of a kind mentioned in paragraph (a) also applies to that document.

### 34 Documents affecting relations with Commonwealth and States

- (1) Subject to subsection (2), a document is an exempt document if disclosure of the document under this Act—

- (a) would, or could reasonably be expected to, cause damage to relations between the Territory and the Commonwealth or the Territory and a State; or
  - (b) would divulge information or matter communicated in confidence by or on behalf of the Commonwealth, a State or an authority of the Commonwealth or of a State to the Territory, to a Territory authority or to a person receiving the communication on behalf of the Territory or of a Territory authority.
- (2) This section does not apply to a document in respect of matter in a document the disclosure of which under this Act would, on balance, be in the public interest.

### **35 Executive documents**

- (1) A document is an exempt document if it is—
- (a) a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or
  - (b) an official record of the Executive; or
  - (c) a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or
  - (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Executive, other than a document by which a decision of the Executive was officially published.

*Note* Access to the Cabinet notebook is excluded under s 11 (2).

- (2) This section does not apply to a document (a **relevant document**)—
- (a) that is referred to in subsection (1) (a); or
  - (b) that is referred to in subsection (1) (b) or (c) and is a copy of, or of part of, or contains an extract from, a document that is referred to in subsection (1) (a);
- to the extent that the relevant document contains purely factual material unless—
- (c) the disclosure under this Act of that document would involve the disclosure of any deliberation or decision of the Executive; and
  - (d) the fact of that deliberation or decision has not been officially published.
- (3) A reference in this section to the Executive includes a reference to a committee of the Executive.

## **36 Internal working documents**

- (1) Subject to this section, a document is an exempt document if its disclosure under this Act—
  - (a) would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and
  - (b) would be contrary to the public interest.
- (2) In the case of a document of the kind referred to in section 8 (1), the matter referred to in subsection (1) (a) of this section does not include matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).
- (3) This section does not apply to a document only because of purely factual material contained in the document.
- (4) This section does not apply to—
  - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters; or
  - (b) reports of a prescribed body or organisation established within an agency; or
  - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.
- (5) Where a decision is made under part 3 that an applicant is not entitled to access to a document because of this section, the notice under section 25 shall state the ground of public interest on which the decision is based.

## **37 Documents affecting enforcement of the law and protection of public safety**

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to—
  - (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance; or
  - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law; or
  - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to—

- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
  - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or could reasonably be expected to, prejudice the effectiveness of those methods or procedures; or
  - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (3) In subsections (1) and (2):

*law* means a law in force in Australia.

### **39 Documents affecting financial or property interests of the Territory**

- (1) Subject to subsection (2), a document is an exempt document if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Territory or of an agency.
- (2) This section does not apply to a document the disclosure of matter in which under this Act would, on balance, be in the public interest.

### **41 Documents affecting personal privacy**

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.
- (3) Where—
  - (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and
  - (b) it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;

the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.

## **42 Documents subject to legal professional privilege**

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document of the kind referred to in section 8 (1) is not an exempt document under subsection (1) of this section only because of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).

## **43 Documents relating to business affairs etc**

- (1) A document is an exempt document if its disclosure under this Act would disclose—
  - (a) trade secrets; or
  - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
  - (c) information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, being information—
    - (i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
    - (ii) the disclosure of which under this Act could reasonably be expected to prejudice the future supply of information to the Territory or an agency for the purpose of the administration of a law or the administration of matters administered by an agency.
- (2) Subsection (1) does not apply to a request by a person for access to a document—
  - (a) only because of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
  - (b) only because of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
  - (c) only because of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.

- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Territory, the Commonwealth, a State or by a local government authority.

**45 Documents containing material obtained in confidence**

- (1) A document is an exempt document if its disclosure under this Act would constitute a breach of confidence.
- (2) Subsection (1) does not apply to any document to the disclosure of which section 36 (1) (a) applies or would, but for section 36 (2), (3) or (4), apply, being a document prepared by—

- (a) a Minister; or
- (b) a member of the staff of a Minister or an officer of an agency in the course of his or her duties; or
- (c) a prescribed authority in the exercise of its functions;

for purposes relating to the affairs of an agency or the official affairs of a Minister unless the disclosure would constitute a breach of confidence owed to a person or body other than—

- (d) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
- (e) an agency or the Territory.

**46 Documents disclosure of which would be contempt of Legislative Assembly or a court**

A document is an exempt document if public disclosure of the document 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 a royal commission or by a tribunal or other person or body having power to take evidence on oath; or
- (c) infringe the privileges of the Legislative Assembly, of the Commonwealth Parliament, of the Parliament of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.