



Office of the Information Commissioner  
Queensland

Submission No. 025  
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Ms Erin Pasley  
Research Director  
Infrastructure, Planning and Natural Resources Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [ipnrc@parliament.qld.gov.au](mailto:ipnrc@parliament.qld.gov.au)

Dear Ms Pasley

**Planning and Development (Planning for Prosperity) Bill 2015**

I refer to the Infrastructure, Planning and Natural Resources Committee's inquiry into the Planning and Development (Planning for Prosperity) Bill 2015. The Office of the Information Commissioner's submission on the Bill is **enclosed**.

If the Committee requires further information, please do not hesitate to contact me.

Yours sincerely

J S Mead  
A/Privacy Commissioner

Encl OIC submission

## SUBMISSION TO THE INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

### PLANNING AND DEVELOPMENT (PLANNING FOR PROSPERITY) BILL 2015

The Information Commissioner's functions under the *Information Privacy Act 2009 (IP Act)* include commenting on any issues relating to the administration of privacy in the public sector environment.

Clause 221 of the Planning and Development (Planning for Prosperity) Bill 2015 states:

#### **221 Application of Information Privacy Act 2009**

- (1) The *Information Privacy Act 2009*, section 5 applies to this part.
- (2) However, when applying that section to this part, rights of access to personal information apply to corporations as well as individuals.

The Explanatory Notes for clause 221 state that the intent of the section is to clarify that the IP Act applies to part 3 of chapter 7 of the Bill. They go on to state that:

*The privacy principles under that Act do not affect the operation of the provisions of the Bill relating to information, including personal information, which is required or permitted under the access rules to be made publicly available.*

*Requirements or permission under the access rules to make personal information publicly available, apply to corporations as well as individuals. The access rules permit a person to keep and make available documents that contain private or personal information of corporations as well as individuals.*

In OIC's view, section 5 of the IP Act would apply to the Bill (should it be passed by Parliament) even if clause 221 were not included. Section 5 of the IP Act clarifies that the provisions of the IP Act do not affect the operation of other Acts or administrative schemes such as the access scheme provided for in chapter 7, part 3 of the Bill. The privacy principles also make clear that if disclosure of information is authorised or required under another law, the disclosure is permitted under the privacy principles. Accordingly, should the Bill be passed, any disclosure of personal information under this scheme, whether to individuals or to corporations, would be authorised by law and therefore permitted under the privacy principles.

Clause 221(2) provides that the right of access to personal information in chapter 7, part 3 of the Bill applies to corporations as well as individuals. The term 'personal information' is not defined in the Bill. The IP Act defines 'personal information' for the purposes of the IP Act as:

*Information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion.*

As this definition is limited to information or an opinion about *an individual*, it is not possible to have personal information for a corporation, for the purposes of the IP Act.<sup>1</sup>

It is not clear what the intent of clause 221 is. If it is simply to confirm that the IP Act does not preclude disclosure of information through the access scheme set out in chapter 7, part 3 of the Bill, we consider the provision is redundant and recommend that it be omitted from the Bill.

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<sup>1</sup> Schedule 1 of the *Acts Interpretation Act 1954* provides that 'individual' means a natural person.