

SUBMISSION 00117 CONSEQUENCE OF OPTION 4

The view of the Crown Solicitor is that the Crown would be entitled to claim possession of the documents gathered by Mr. Heiner in the course of his Inquiry as Mr Heiner has delivered up the documents to the Crown. The documents are therefore "public records" within the meaning of Section 5 (2) of the Libraries and Archives Act 1988.

The documents however could not be fairly described as "Cabinet documents" unless they were created for the purpose of submission to Cabinet. This appears not to be the case. Any claim by the Crown for 'Crown Privilege' would, therefore, have little chance of success.

As "public records" the documents may be disposed of:

- (i) by depositing them with the Queensland State Archives;
- (ii) by obtaining the consent of the State Archivist to dispose of them;
- (iii) if, after advising the State Archivist of the Crown's intention to dispose of the documents, the state Archivist has not exercised his power to take possession of them within 2 months.

RECOMMENDATION: THAT THE RECOMMENDATION BE DEFERRED TO ALLOW THE SECRETARY OF CABINET TO LIAISE WITH THE STATE ARCHIVIST.

QCPCI 3 E

Date: 29.1.2013

Exhibit number: MFI 7

QCPCI 3 E

Date: 11.2.2013

Exhibit number: 168 A