



## INFORMATION UPDATE

### Court of Appeal Rules on Cabinet Exemption

---

Yesterday the Court of Appeal ruled on a number of paragraphs of the Cabinet documents exemption in section 28 of the *Freedom of Information Act 1982* (Vic) (“Act”). In particular, it considered whether a document need be prepared for the *sole* purpose of submission for consideration by Cabinet or briefing a Minister in relation to issues to be considered by Cabinet before the document is exempt.

The Court of Appeal has confirmed that each of the purposes referred to need not be the sole purpose for the preparation of the document before it is exempt. The purpose could be one of a number of purposes provided it was a *substantial purpose*. That could extend to the dominant purpose or one of a number of significantly contributing purposes.

The Court of Appeal also confirmed that in determining the purpose for the preparation of a document it was relevant to look at:

- ? the use made of the document;
- ? the events leading to the preparation of the document.

If you require any further information or assistance about how this update affects your agency, please do not hesitate to contact me.

A handwritten signature in black ink that reads 'Mick Batskos'.

**Dated: 14 February 2007**

**Mick Batskos**  
**Tel:** (03) 9601 4111  
**Fax:** (03) 9601 4101 or  
**Email:** [mick@foisolutions.com.au](mailto:mick@foisolutions.com.au)