



**Gecko - Gold Coast and Hinterland Environment Council Assn Inc.**

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RTI and Privacy Review  
Department of Justice and Attorney-General  
GPO Box 149  
Brisbane Qld 4001  
Sent via email: [FeedbackRTIandprivacy@justice.qld.gov.au](mailto:FeedbackRTIandprivacy@justice.qld.gov.au)

Dear Department

**Submission to review of Right to Information Act 2009 and Information Privacy Act 2009**

Thank you for the opportunity to make comment on this review of the very important legislation regarding the Right to Information.

Gecko- Gold Coast and Hinterland Environment Council Assoc. Inc. is a not-for-profit environment association founded in 1989 and has been active for the past 27 years in protecting the environmental values and ecological sustainability of the Gold Coast, Queensland and when appropriate, nationally. Our mission is

*"To actively promote, conserve and restore the natural environment and improve the sustainability of the built environment of the Gold Coast region in partnership with our member groups and the wider community."*

Gecko considers the Right to Information by all citizens to be a keystone of democracy. Government and their bureaucracies are the servants of the people and as such must be accountable to the people in all their deliberations and decisions. While members of parliament can be called to account at elections or in Parliament, this is not true of bureaucrats, who often make important decisions on behalf of government, but are less likely to be called to account.

Gecko is actively involved in many issues relating to the protection of the natural environment, planning matters and matters relating to sustainability such as climate change policies, mining, and potential development of public open space. In many of these instances ready access to Government decisions and the reasons for them could be most useful in understanding the background of a decision and possible omission of consideration in reaching decisions.

Australia has a proud record of freedom of speech and of being able to safely challenge decisions of the government of the day. The Right to Information underpins this unassailable tenant of democracy and must therefore work in the best possible way to uphold democracy.

While Gecko has not used the legislation recently, largely because of the cost and ponderous processes involved, we still consider it essential that we have such legislation and that it works effectively, efficiently and with fairness. While this may be largely true of the legislation, though no legislation is perfect, the implementation of the legislation is far from perfect and needs changing.

There can be a perception amongst bureaucrats that it is better that full details of a decision regarding a matter of importance are not made available to the enquiring public. This would indicate a lack of confidence in the process and a perception that a bureaucrat has the right to judge who has access to information and who does not.

It is very important that citizens are permitted to have access to information regarding their matter of concern without having to go through the often tedious and expensive process as set out in the Right to Information. Too often bureaucrats are defensive about information and fear censure if it is released. This is not an appropriate response to requests for information that should be in the public realm.

The RTI Act replaced the Freedom of Information Act to get over these difficulties and recommended that *"information in the government's possession or under the government's control is a public resource."* It is important then to provide information on request without the tedious process of RTI except in very few situations. The community must have access to decisions and decision making processes and materials/ documents in situations where there is contested actions happening or proposed.

The situation regarding the ASF Consortium proposals for, firstly, Wavebreak Island development, on The Spit, and currently a Crown land parcel on The Spit is a case in point. It has been extremely difficult to get any useful information from the Department of State Development about the process being undertaken in assessing these proposals. It could not be 'commercial in confidence' since we are asking about government process not financial details of the proposal.

On another occasion a local group seeking information about a proposed quarry had to repeatedly resort to RTI applications to gain information about the proposal which should have been in the public domain. This is a proposal that will have major negative impacts on local residents, the natural environment and traffic congestion so it is only right that concerned residents should have access to information about this.

Much of the information sought by citizens relates to documents such as licences to undertake an action, permits, authorities and monitoring data should be routinely published on Departmental website registers so they are readily accessible. This is particularly important for people living outside of the metropolitan area who find it more difficult to access data or documents.

Such a system would not only facilitate transparency and accountability, but also save a great deal of public servants time and therefore taxpayer's money.

An example of this relates to the impact of contamination emanating from the Gold Coast airport. While the airport is under Federal licence, the impacts of the contamination have spread into Queensland and the public should have the right to access information about testing for this contamination on their property or in the public open space. Failure to provide this information easily raises fears that the situation may be worse than expected and leaves residents not knowing if there is cause for concern or what action they should take to protect their health.

Citizens should have access to documents that relates to:-

- changes regarding their own property
- environmental issues
- health risks
- transparency of public expenditure
- contentious or controversial matters of public concern.

Schedule 4 of the Act should be amended to encourage disclosure of information and set out with much more clarity the specific reasons for non-disclosure. The possibility of harm to some party if

material is disclosed should be clearly stated and not vaguely referred to as commercial in confidence or deliberative processes. The community should be party to the deliberative processes and if they were it would increase understanding of situations and hopefully lead to improved dialogue and resolution.

The government and its public servants must realise that they are there to represent the interests of the citizens of Australia first and foremost, and not those of self-interested parties.

The timing process for applications needs revision to prevent lengthy delays in resolving the requests, sometimes to the point that the information when received is no longer relevant as the matter has been decided. This is patently unfair. Similarly the third part consultation process could be tightened up so that applicants are not left waiting unreasonable lengths of time for a decision. Much stricter time frames should apply particular in regard to third party involvement.

The consultation process for this review of the RTI Act has been quite inadequate, having begun during the holiday period when many people are not thinking about making submissions to government. There has been minimal advertisement of the review and had it not been for the Environmental Defenders Office Gecko would not have known about it at all. The review itself has demonstrated the need for government to be more responsive to community needs.

Gecko has not used the RTI process much in the last few years because of all these problems. It is too time consuming, uncertain in outcome and expensive. Considering that RTI is supposed to be designed for public benefit it is evident that it is not working in for the public and an overhaul is needed forthwith.

Yours sincerely

Lois Levy

Gecko Advocate

Gecko Management Committee