

*Mudjimba Residents' Association,*  
*PO BOX 9411, Pacific Paradise QLD 4564*  
*0430148779,*  
[admin@mudjimbaresidentsassoc.org.au](mailto:admin@mudjimbaresidentsassoc.org.au)

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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**

Mudjimba Residents' Association Inc is an Incorporated Association originally formed in 1960 and has grown as the community has developed to foster the interests of Mudjimba residents on the Sunshine Coast QLD. We are a volunteer organization holding our Council and the State Government to account on important issues.

The preamble to the RTI Act specifically recognises that 'information in the government's possession or under the government's control is a public resource', the benefits to a free and democratic society of releasing information in ensuring accountable governance and better quality decision making, and the government's commitment to proactively releasing information unless there is a good reason not to. These principles are part of the '*push model*' suggested by the Solomon Report, a Report undertaken by an independent panel, chaired by Dr David Solomon AM to review the previous *Freedom of Information Act 1992* (Qld) which the RTI Act replaced in response to the Solomon Report.

*In our experience:*

The 'push model' should inherently mean documents relevant to the public interest should be provided proactively by the departments as part of their 'publication schemes'. However, this has not been adequately undertaken to date. Therefore, it is necessary to ensure that legislation requires that documents such as licences, permits, authorities and similar, and any monitoring data generated by proponents when undertaking their activities must be published by departments on their websites.

Many documents of this nature are required to be on registers and made available to the public, however these are not always in an easily accessible form and frequently the applicant is required to actively pursue a department to obtain the documents.

This would be greatly assisted by a central website for which all permits, authorities etc for each company/ project are listed to assist the public in understanding and assisting in a watchdog role in the compliance with relevant permits, authorities etc.

When considering on balance whether to disclose documents requested through a RTI application, too often exemptions such as the commercial considerations of third parties, or deliberations of government, are given more weight than the recognised public interest in disclosing documents, for example:

*In our experience, often decisions made under the RTI Act have not adequately identified, considered or weighted the factors favouring disclosure in the public interest. This is not assisted by the fact that there are far more 'factors favouring non-disclosure' required to be considered under the Act (see Schedule 4). The drafting of the Act must be amended to ensure that disclosure is favoured in the public interest, to support the principle of open access to information to support accountable, transparent governance. Also, exemptions and the factors favouring non-disclosure must be more clearly defined.*

Currently there is insufficient guidance provided as to when possible harm may be claimed to warrant favouring non-disclosure of documents.

*In our experience, many of the arguments raised by third parties, and put forward by agencies, regarding the detriment that might be suffered if information was released are speculative in nature and relate mainly to the private commercial interests of proponents or also broadly-considered 'deliberative processes'.*

To support the pro-disclosure bias intended to be promoted by the RTI Act, more detailed guidance must be provided to specify when possible harm favouring non-disclosure may be relied upon to justify non-disclosure, particularly in regard to commercial interests. We recommend that exemptions to disclosure relating to commercial interests should be limited to trade secrets as far as intellectual property rights or similar are applicable.

'Deliberative processes' must be better defined and narrowed in scope. This exemption is often relied on for the purpose of ensuring public servants are not hampered from being honest in the decision-making processes of governance. If the government encouraged a true culture of open, accountable, transparent governance in the public interest, honest internal debate would be recognised as a legitimate and healthy part of decision-making processes and should be celebrated, rather than feared at the risk of stepping out of whatever political opinion may be being dictated at the time.

Decision-makers must remember that the government is acting on behalf of the public, and in the interest of the public, with public tax money; any commercial activities and deliberations of the government are inherently in the public interest and should be open to the public. We commend the Government for undertaking this statutory review. It is unfortunate that it has been undertaken over a period including the festive season, when many people are on leave and unable to provide the review the attention it deserves. It is also unfortunate that there were not more proactive attempts to inform the public the review was being undertaken, including contacting all those who have previously made applications under the RTI and IP Acts.

We recommend that public hearings be undertaken as part of the review. Meaningful consultation requires diverse forums for the public to convey to the government their experience with the legislation under consideration, including opportunities for further discussion to support written submissions as this will garner far more insight to inform improvements to the Acts.

Currently under the RTI Act, third parties are consulted where any RTI application may 'reasonably to be expected to be of concern' to that party. This is a very low threshold that is frequently triggered, causing more delays to decision-making processes and an increased amount of challenges being brought by third parties to applications. Third party consultation

also currently causes a pause in the time for processing an application. The only choices an RTI applicant has is to withdraw its application, receive a 'deemed refusal' of its application or otherwise await for the department to complete consultation to re-start the processing clock.

*In our experience, third party consultation has caused lengthy and unnecessary delays without adequate explanation. Frequently a notification will be provided that the applicant must either allow an extension of time to consider an application (in some cases multiple extensions) or the application will be deemed refused; this is unfair and does not favour the public interest of disclosure. The threshold for consultation needs to be higher and strict time limits for consultation also need to apply.*

Yours sincerely

Adriana Adamska-Bland  
**SECRETARY | Mudjimba Residents Association**

Website | [www.mudjimbaresidentsassoc.org.au](http://www.mudjimbaresidentsassoc.org.au)

Facebook | [MudjimbaResidentsAssociation](#)

Post | PO BOX 9411 Pacific Paradise QLD 4564

Address | 41 Cottonwood Street, Mudjimba QLD 4564