

RTI and Privacy Review
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Submission on review of Right to Information Act 2009 and Information Privacy Act 2009

The North Queensland Conservation Council (NQCC) welcomes the opportunity to make a submission on the review into the Right to Information Act 2009 and Information Privacy Act 2009.

NQCC is the regional conservation council for the area from Cardwell to Bowen, and from the Reef to the Northern Territory border. Established in 1974, it falls under the broad umbrella of the Queensland Conservation Council and focuses on education, advocacy and policy development.

This Bill is important to our organisation because we frequently undergo the RTI process in order to obtain documents relating to the protection of the environment. The NQCC has used RTI to uncover that the Queensland Treasury held grave doubts about Indian mining company Adani's capacity to see through its Carmichael coal mine project in central Queensland, even as former premier Campbell Newman was promising taxpayer funds to help establish the mine.¹ One of our member groups, Citizens Against Mining Ben Lomond, has also used the RTI process resulting in favourable environmental outcomes.

The RTI Act is essential to ensuring accountable, transparent governance.

¹ Lisa Cox, "[Adani's Carmichael Mine is unbankable says Queensland Treasury](#)", *Sydney Morning Herald*, 30 June 2015.

Without easy access to information behind government processes and decision making, there is an increased risk of corruption growing in governance, and loss of the benefit that open, accountable governance through encouraging an informed public can provide to assisting democracy and good decision-making. It is in the community's best interest to have access to information about how government decision makers made a decision that affected a matter of community interest, or to access data which demonstrates the impacts of a development on your health or the environment.

NQCC advocates for:

1. **The 'push model'**, favouring proactive disclosure of information, is not currently being adequately implemented – more action must be taken across government to proactively provide the public with information to avoid the need for RTI applications.

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'.

2. All **essential documents**, such as copies of environmental licences and monitoring data, **need to be made available to the public** by legislation on a public register to avoid need for RTI applications.

I'd like to expand upon this point, as it is the most relevant to the work that NQCC conducts. We believe 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 (as evidenced in our experience with partners Citizens Against Mining Ben Lomond later in this submission). Frequently there are gaps in registers where essential documents aren't

listed, such as monitoring data undertaken by a proponent in compliance with their environmental authority, however which was not required to be provided to the Department except if the Department requests it. All monitoring data generated by a proponent to determine whether they are complying with their relevant permits must be accessible by the public.

It is absolutely in the public interest to understand the impact proponents are having on the public's health and the environment.

This would be greatly assisted by a central website for which all permits and authorities 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.

3. **Too much weight is put in favour of non-disclosure**, more weight should be provided to the public interest of disclosing information, as committed to in the Preamble to the Act:
 - a. Improve the balance of weight given in favour of disclosure in the public interest, to ensure this is given sufficient weight in decision making
 - b. Narrow the number of considerations for when non-disclosure should be favoured
4. The ability to refuse documents due to potential implications to commercial interests and deliberative processes must be better defined and restrained to ensure they are not misapplied or abused, for example **confidence of commercial interests should be limited to 'trade secrets'**, particularly for major projects effecting the environment and community
5. Given the importance of access to information to ensuring open, accountable governance, free of corruption, **more consultation should be undertaken as part of this review**, including public hearings
6. To **decrease the processing time of applications**, a higher threshold should be applied to consultation with third parties and third parties should not have ability to pause the time for considering an application.

In preparing this document I consulted the Coordinator immediately preceding my employment and asked for experiential evidence of going through the RTI process. The main problems were identified as the cost, delays, and the use of commercial-in-confidence. 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.

I also consulted with the organiser of a group that NQCC supports and is affiliated with, the Citizens Against Mining Ben Lomond. In 2016, the group's coordinator initiated the process to request documents relating to the water testing results as specified within the leaseholder's Environment Authority. Some documents could be accessed using the Public Register, others (maps) were only available through the RTI process because of information containing "certain types of non-personal information devoid of sensitivity and confidentiality". Staff from the Department of Environment and Heritage Protection should be acknowledged and thanked for their cooperation and assistance to members of the Citizens Against Mining Ben Lomond group; they gave specific advice about which documents to request and how to go through the process in order for the group to obtain maximum results. I highly doubt that such a successful outcome would have been achieved without departmental assistance.

Main points of the feedback I would like to support coming from the Citizens Against Mining Ben Lomond are:

- the process is time consuming and difficult without expert help with what documents to look for

5

- documents that are publicly available on the public register should be freely available to access
- it is inconvenient to receive the documents only in hard-copy form via registered mail, digital copies should also be supplied.

Thank you for the opportunity to be involved in the consultation of the review into the Right to Information Act.

Yours sincerely,

A black rectangular box redacting the signature of Maree Dibella.

Maree Dibella
Coordinator