

## 2017 Consultation response on the Review of the *Right to Information Act 2009* and the *Information Privacy Act 2009*

- QIC Limited (**QIC**) and its subsidiaries are currently exempt from application of the *Right to Information Act 2009 (RTI Act)* by virtue of Schedule 2 of the Act, except in relation to community service obligations.
- QIC and its subsidiaries are currently exempt from application of the Information Privacy Principles defined in the *Information Privacy Act 2009 (IP Act)* by virtue of Schedule 2 of the IP Act.
- QIC submits that the current exemptions under both Acts remain appropriate and ought to be retained. This is on the basis that the rationale for the exemptions remains as applicable now as it did in 2009 when the relevant legislation was amended.
- Outside of these exemptions, QIC respects and supports the spirit of the Government’s ‘push-model’ of public information engagement and proactively makes information available in accordance with the ‘Government Owned Corporation (GOC) Release of Information Arrangements’.

Section	Question	QIC Response
RTI Act – GOCs	<p><u>Question 3.</u></p> <p><i>Should the way the RTI Act and Chapter 3 of the IP Act apply to GOCs, statutory bodies with commercial interests and similar entities be changed? If so, in what way? Is there justification for treating some GOCs differently to others?</i></p>	<p><b>QIC requests that the current exemptions for it and its subsidiaries from both the RTI Act and the IP Act be maintained.</b></p> <p>QIC supports the spirit of the RTI Act and is proactively engaged with the Release of Information Arrangements.</p> <p>However, QIC is a fully commercial GOC which provides investment and funds management services to not only State and Federal Government agencies but also to an increasing number of non-Government clients.</p> <p>In doing so, QIC operates within a highly competitive and heavily regulated environment where it must compete with a growing number of both domestic and international private-sector competitors. QIC’s competitors are not generally subject to equivalent disclosure frameworks. We submit that the current exemption should be maintained to continue a ‘level playing field’ for QIC in relation to our competitors.</p> <p>We also submit that the exemption should be maintained to protect highly sensitive commercial-in-confidence information. The disclosure of this information could impact our clients’ investment returns (including those of the State Government managed by QIC) and also on the ability and willingness of third parties to disclose commercially sensitive information, which could impact on our ability to operate as a commercial entity in the financial services sector generally.</p>

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		<p><b>Potential to extend the exemption to records generated by QIC but held by Government.</b></p> <p>QIC acknowledges and supports the pre-disclosure consultation process provided for in section 37 of the RTI Act. However, we submit that the current exemption could be enhanced by clarifying that it should continue to apply to documents after they leave QIC.</p> <p>The current exemption from the RTI Act for QIC and its subsidiaries is based on the content and nature of the information prepared or received by QIC as a commercial funds manager. Accordingly, we submit that the exemption should continue to apply to that information even when it has left QIC. Also, we submit that the extension of this exemption would not significantly alter the scope of documents to which the disclosure arrangements apply – i.e. the recognition of material as being commercial-in-confidence and the potential impact on third parties forms part of the existing assessment process to determine whether information should be provided in response to a disclosure request under the RTI Act. Extending the current exemption would:</p> <ol style="list-style-type: none"> <li>(1) provide greater clarity regarding the documents that should not be provided;</li> <li>(2) reduce the potential for commercial-in-confidence information to not be identified and be inadvertently disclosed; and</li> <li>(3) enhance the efficiency of the disclosure process as it would be more certain when a document should not be disclosed (and therefore fewer resources would need to be utilised to consider whether or not materials should be disclosed in response to a request under the RTI Act).</li> </ol> <p>Despite any extension of the current exemption from the RTI Act, QIC would continue to support the spirit of the Government’s ‘push-model’ of public information engagement and proactively make available information in accordance with the Release of Information Arrangements.</p>
Consulting with others about applications	<p><u>Question 9.</u></p> <p><i>Should the threshold for third party consultations be changed so that consultation is required where disclosure of documents would be ‘of substantial concern’ to a party?</i></p>	<p><b>QIC submits that the threshold for third party consultation should remain unchanged.</b></p> <p>QIC is mindful of the administrative resources required to conduct third party consultations. We also appreciate that an increase in the threshold at which consultation is undertaken from where information would ‘reasonably be expected to be of concern’ to ‘reasonably be expected to be of <u>substantial</u> concern’ would create efficiencies by potentially limiting the number of third party consultation processes.</p> <p>However, given the subjectivity inherent in such assessments, QIC has concerns that raising the threshold in the suggested fashion may have commercial impacts for its operations, should an assessment not appreciate</p>

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		<p>the magnitude of information considered for release and thereby a release of sensitive information is made.</p> <p><b>On this basis, and in the event an exemption isn't extended to all QIC records as requested above, QIC suggests that the public interest would not be advanced by any change in the threshold at which third party consultations are undertaken with respect to information held by Government regarding its affairs.</b></p>