

ResDev
Residents-for-Responsible-Development
PO Box 9411, Pacific Paradise
Queensland, 4564

3 February 2017

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

Dear Sirs,

Submission review: Right to Information Act 2009 and Information Privacy Act 2009

Resdev is a sub group of Mudjimba Residents Association Inc. and was formed to oppose developments consider irresponsible and outside of the town plans. Being a not for profit organization it is challenging and costly finding out information from our local council, Sunshine Coast Council. Resources, people, knowhow and money are very limited however we do play an important part in our democratic society.

The current system is complex and difficult particularly for small resident associations who have limited resources and carry the responsibility of assisting residents who have issues with council.

One of our members, who is a pensioner, made an application to Sunshine Coast Council on the 8 February 2016 and finally received the information on 16 May 2016. He was questioned as to why he wanted the information and was he being legitimate, the concern being that he applied to have the fees waived. The level of cooperation through out the process was limited and objectionable. The applicant has made many applications federally and found the Queensland experience extremely poor.

It is our view that the challenge that the government has with respect to local government is that if the 'culture within' the council is open and transparent the limitations of the current system become less significant and the use of RTI are reduced because information is given in a civilised manner. However, when faced with the opposite, it becomes extremely challenging because the councils do not wish the public to be informed on many matters. Just this last week the mayor has been under pressure to inform the public how much was spent on a misleading advertising campaign. He has refused to provide this information but on channel 7 news he stated that the following "I will release the costs only if and when the federal government agree to what we want".

We contend that the present system fails to encourage councillors to raise standards of behaviour and if anything provides them with an opportunity the use or hide behind the system for their own benefit. The result is that there is a perception of corruption and that they have something to hide.

In addition the minister for Local Government does not carry out audits on the conduct of councils and the complaints system is ineffective in that complaints are referred to the CEO of the Council.

We contend that the present system fails to encourage councillors to raise standards of behaviour and if anything provides them with an opportunity the use or hide behind the system for their own benefit.

Queensland's freedom of information rules are unfair when compared with the rest of the country in that not for profit community organisations, such as a resident association have to pay for any information using the freedom of information system where as they are free in other states and federally. This protects councils because these organisations cannot afford the costs.

We therefore agree with the following major points:

1. The 'push model', favouring proactive disclosure of information, is clearly inadequate and action needs to be taken to provide the public with information to avoid the need for RTI applications

In our experience:

- *The minister for local government needs to ensure that transparency is being followed and be given powers to ensure that this is the case.*
- *inadequate action is being taken by most government departments to actively provide the public with the information needed to ensure transparency and accountability in governance;*
- *much more frequently than not, the public must apply to access information they seek, actively, repeatedly pursue their request with the public office to which they applied and await lengthy delays while applications are being decided, often to the point of making the information redundant due to the delay; and*
- *decisions under RTI applications are often not in favour of disclosure, usually citing vague grounds of commercial-in-confidence, or broadly ongoing government deliberations.*

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

The 'push model' should inherently mean the departments, as part of their 'publication schemes' should provide documents relevant to the public interest proactively. 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.

Too much weight is put in favour of non-disclosure, more weight should be provided to the public interest of disclosed information. Narrow the number of considerations for when non-disclosure should be favoured

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:

- for the protection of the environment;
- to reveal environmental or health risks;
- to contribute to promoting open discussion of public affairs and enhancing government accountability; or
- to ensure effective oversight of expenditure of public funds, for example for major projects.

3. The ability to refuse documents due to potential implications to commercial interests and deliberative processes must be better defined and restrained.

Currently there is insufficient guidance provided as to when possible harm may be claimed to warrant favouring non-disclosure of documents. 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 purposes of ensuring public servants are not hampered from being honest in the decision-making processes of governance.

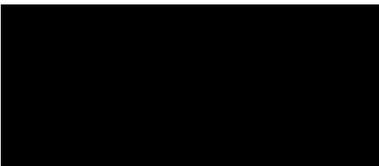
4. To decrease the processing time of applications is required.

Having to wait 3 months for information, a mere 32 pages, most of a single document, dated 2009 is unacceptable.

In conclusion we feel that 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. A system of audit of local government is essential.

Decision-makers need to note 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.

Yours sincerely,

A solid black rectangular box redacting the signature of Charles Toms.

Charles Toms for ResDev.