Attachment 1
Department of Science, Information Technology and Innovation (the department)

Responses to the 2016 public consultation paper- review of the *Right to Information Act 2009* (the RTI Act) and the *Privacy Act 2009* (the IP Act)
Note: Questions deemed not applicable to the department or where no change has been recommended, have been omitted from this table.
Question 1. Are the objects of the RTI Act being met? Is the push model working? Are there ways in which the objects could be better met? An approved Queensland Government Open Data Policy would support the philosophy of the push model. If the objects of the RTI and IP Acts are reviewed, consideration should be given to consistency between those Acts and the *Public Records Act 2002*, as both the RTI and Public Records Act cross reference each other. The purpose of the *Public Records Act 2002* is ensure records are made, kept and preserved in forms for the benefit of present and future generations. QSA supports that exemptions be minimised to encourage open information, noting that changes to the exemptions may require consequential amendments to the Public Records Act.
Question 2. Is the privacy object of the IP Act being met? Is personal information in the public sector environment dealt with fairly? Are there ways that this object could be better met? There is a misconception around the understanding of public good vs privacy of the individual (personal vs private information). As a result, information privacy is often used as a default response to close access to records. Under the *Public Records Act* a restricted access period (RAP) is a period of time set by the CEO of a public authority or authorised delegate where a public record in the custody of QSA may not be accessed except by application under the *Right to Information Act 2009* or specific authorisation from the responsible public authority. 52% of the entire QSA collection is currently closed under a RAP and this number is increasing, as 90% of the records transferred to QSA are restricted for 30-100 years. Section 16 of the *Public Records Act 2002*, sets out the conditions under which a RAP can be applied, but these conditions are broad and agencies use section 16(4)(a) *"... containing information about the personal affairs of an individual"* to close many records for up to 100 years.
Question 3. Should the way the RTI Act and Chapter 3 of the IP Act applies 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? If changes are made to the way these entities are handled in the RTI and IP Acts, there may be a requirement to review and make amendments to the obligations of these entities under the *Public Records Act.* There would be recordkeeping implications, as a disclosure regime is based on sound recordkeeping and information management practice. Consideration should be given to maintain consistency in the management of information and public records for entities, deemed public authorities in accordance with the *Public Records Act 2002.*
Question 4. Should the RTI Act and Chapter 3 of the IP Act apply to the documents of contracted service providers where they are performing functions on behalf of government? Access to documents of service providers who are undertaking work on behalf of Government is preferable to ensure the accountability of Government (funded) work. Contracted service providers undertaking works for a public authority create public records, which are governed under the *Public*

Records Act 2002. Where possible consistency on the type of requirements 3rd party providers must meet when managing and providing access to public records/information should be considered.
Question 6. Does the IP Act deal adequately with obligations for contracted service providers? Should privacy obligations in the IP Act be extended to sub-contractors? Yes, to both questions.
Question 7. Has anything changed since 2013 to suggest there is no longer support for one single point of access under the RTI Act for both personal and non-personal information? As per response to question 2, if a separate or single point of access is taken under the RTI Act for both personal and non-personal information clear definition of the two is required to remove confusion when seeking access to information.
Question 11. Are the exempt information categories satisfactory and appropriate? Are further categories of exemption needed? Should there be fewer exemptions? Note that any changes to the exemptions may require consequential amendments to section 16 of the *Public Records Act 2002*. The meaning of personal information referenced under s16 (4)(a) of the *Public Records Act 2002* is taken from s12 of the IP Act. As highlighted in the response to question 2 this definition is broad and used to justify restricting access to records that may not be exempt.
Question 17. Should the disclosure log requirements that apply to departments and Ministers be extended to agencies such as local councils and universities? Yes. Note that the *Public Records Act 2002* that applies to these entities, and changes may bring these Acts into alignment.
Question 18. Is the requirement for information to be published on a disclosure log 'as soon as practicable' after it is accessed a reasonable one? Yes.
Question 19. Do agency publication schemes still provide useful information? Or are there better ways for agencies to make information available? Yes, publish the documents on https://publications.qld.gov.au/dataset. An assessment of the value of the information being released, the time it takes agencies to do this, and the currency of the information should be undertaken to ensure resources are used appropriately.
Question 20. Should internal review remain optional? Should the OIC be able to require an agency to conduct an internal review after it receives an application for external review? Yes, to both questions.

Question 21. Should applicants have a right to appeal directly to QCAT? If so, should this be restricted to an appeal on a question of law, or should it extend to a full merits review? Full merits review.
Question 25. Should the definition of 'personal information' in the IP Act be the same as the definition in the Commonwealth Act? The definition of personal information should be consistent across all levels of government to ensure consistency particularly in the context of service delivery. This should align with Federal Government's definition and should be about identifiable information so that there is a clear boundary of what information will be caught within the privacy legislation. Where possible consistency in definitions is preferred.
Question 26. Does the IP Act inappropriately restrict the sharing of information? If so, in what ways? Do the exceptions need to be modified? Would adopting a 'use' model within government be beneficial? Are other exceptions required where information is disclosed? Customer research indicates that customers already believe government is already sharing information, and yet practices and legislation mean this is not the case. The scope of the IP Act should be modified to encourage broader sharing of customer data within government based on a set of public good principles. For example: data sharing in the UK considers the following principles https://www.gov.uk/government/news/launch-of-new-data-sharing-consultation. By broadening the act (and specific agency legislation) to include reusing within government means that a) customers own and control their information and when / who it is shared with); b) improved efficiency through seamless government (enables tell us once of changed circumstance, record the event i.e. change of address, once and shared with all government agencies); and c) better outcomes for the community (through proactive, predictive use of higher quality controlled information). The department supports a model that enables the sharing of and access to information as broadly as possible to achieve the maximum value of the information.

34. Are there other ways in which the RTI Act or the IP Act should be amended?

The department takes a customer centric approach to service delivery to ensure a more consistent, streamlined and accessible customer experience. This includes a digital first approach adopting a digital by default service delivery, customer informed service design and personalised, proactive joined up services centred around the customer.

To join up, personalise and proactively offer services it is important to be able to reuse information stored in agency databases to proactively highlight services available, customer needs or to prefill forms to maximise customer value and decrease customer effort to obtain services. Current norms within Government expect customers to provide fresh and often repeated information at the time of applying for each service. This has an impact on efficiency, costs and outcomes for both Queenslanders and Government. Within the digital age, there is a need to rethink our approach to information. In a few recent cases it has been agency specific legislation or the risk adverse interpretation of it, not Privacy legislation that restricts the reuse of customer information. With the ability to reuse information stored in agency databases, Queensland Government could proactively target services and support to those customers who are entitled or require more holistic support. This will meet customer expectations of seamless and personalised customer experiences.

The ONE STOP SHOP (OSS) strategy includes the principle that customer information belongs to the customer and there should be both transparency and the ability for an individual to control who their information is shared with. New OSS capabilities, such as customer identity are based on providing the customer with full control on whether to reuse the information stored or not. This principle is further expanded in the current draft identity blueprint (developed by the Queensland Government Chief Information Office). The identity blueprint is out for consultation however it is in draft only until the consultation process has concluded. It is available for review internal to government via the following here.

Attachment 2
Department of Science, Information Technology and Innovation (Queensland Government Chief Information Office)

Responses to the 2016 public consultation paper- review of the *Right to Information Act 2009* (the RTI Act) and the *Privacy Act 2009* (the IP Act)
Note: Questions deemed not applicable to the department or where no change has been recommended, have been omitted from this table.
Question 1. Are the objects of the RTI Act being met? Is the push model working? Are there ways in which the objects could be better met? Queensland Government Chief Information Office (QGCIO): An indicator of the effectiveness of the RTI Act would be to analyse the data from each in scope organisation. As the objectives of the Act were to move towards proactive release of information, data showing a decrease in RTI requests over time (mapped further back to requests under the FOI Act would provide a more accurate indication) would indicate the objective is being met – that is more information is available without citizens needing to request it. Analysis of the decisions and the extent of redactions (e.g. if applications are being refused or largely redacted) however, may negatively influence citizen behaviour i.e. it's not worth their while to make an application/request and also contribute to decreasing requests (false positive).
Question 2. Is the privacy object of the IP Act being met? Is personal information in the public sector environment dealt with fairly? Are there ways that this object could be better met? QGCIO: There is evidence to support that current interpretation is too focused on an absolute need for privacy rather than on a more nuanced and much harder conversation around end user benefit. The focus needs to be shifted to customer centricity rather than organisational centricity.
Question 3. Should the way the RTI Act and Chapter 3 of the IP Act applies 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? QGCIO: Care would need to be taken that entities covered by the Commonwealth IP Act are not also covered by the State Act.
Question 4. Should the RTI Act and Chapter 3 of the IP Act apply to the documents of contracted service providers where they are performing functions on behalf of government? QGCIO: Care would need to be taken that entities covered by the Commonwealth IP Act are not also covered by the State Act. It may be better to include any requirements as contractual conditions.
Question 5. Should GOCs in Queensland be subject to the Queensland's IP Act, or should they continue to be bound by the Commonwealth Privacy Act? QGCIO: Models exist currently in other jurisdictions without state based legislation (government and GOC's are bound by the Commonwealth Act. Any substantive differences that are considered high value should be considered for enactment in policy of regulation.
Question 6. Does the IP Act deal adequately with obligations for contracted service providers? Should privacy obligations in the IP Act be extended to sub-contractors? QGCIO: Care would need to be taken that entities covered by the Commonwealth IP Act are not also covered by the State Act.

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Department of Science, Information Technology and Innovation (Queensland Government Chief Information Office)

Question 15. Are there benefits in departmental disclosure logs having information about who has applied for information, and whether they have applied on behalf of another entity? QGCIO: Yes, on a voluntary basis and it is made clear that the released information is now in the public domain.
Question 19. Do agency publication schemes still provide useful information? Or are there better ways for agencies to make information available? QGCIO: One of the challenges faced by citizens is the need to trawl through disclosure logs, all stored on individual agency websites to identify information of potential interest. The increased prominence and maturity in open data across government may provide an opportunity to move up the spectrum to open information. Leveraging the concept (and possibly the technology) of the open data portal ('raw data') to provide a centralised, searchable catalogue of released requests under RTI would provide greater utility for citizens (and other organisations) to access released information, further strengthen the push model and support increased transparency by government.
Question 24. What would be the advantages and disadvantages of aligning the IPPs and/or the NPPs with the APPs, or adopting the APPs in Queensland? QGCIO is aware of evidence surfacing in cross jurisdictional projects where the differences in the privacy principles, adds additional complexity to data sharing arrangements. This adds delays to effective execution of projects and inhibits delivery outcomes. QGCIO: The benefit of the existing additional layer Qld legislation should be assessed. Adoption of the Commonwealth legislation with policy or regulation to provide coverage for any deficient dimensions should be considered. Failing that, consistency in principles would assist in simplifying interpretation and application across jurisdictions. Examples exist where Queensland is the only jurisdiction unable to participate in federally coordinated projects.
Question 25. Should the definition of 'personal information' in the IP Act be the same as the definition in the Commonwealth Act? QGCIO is aware of evidence surfacing in cross jurisdictional projects where the differences in the definition of personal information adds additional complexity to data sharing arrangements. This adds delays to effective execution of projects and inhibits delivery outcomes. The benefit of the existing additional layer Qld legislation should be assessed. Adoption of the Commonwealth legislation with policy or regulation to provide coverage for any deficient dimensions should be considered. Failing that, consistency in principles would assist in simplifying interpretation and application across jurisdictions. Examples exist where Queensland is the only jurisdiction unable to participate in federally coordinated projects.
Question 26. Does the IP Act inappropriately restrict the sharing of information? If so, in what ways? Do the exceptions need to be modified? Would adopting a 'use' model within government be beneficial? Are other exceptions required where information is disclosed?

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Department of Science, Information Technology and Innovation (Queensland Government Chief Information Office)

QGCIO: Definitions under IPP's for collection that specifies "for a lawful purpose directly related to a function of activity of the agency" restrict the ability for government to provide effective and efficient services. Generally, customer expectation indicates operation of "government as a single enterprise" rather than a series of explicitly separated entities e.g. I've already given this information to Transport (or Transport already have my licence information) why do I need to provide it again. Acknowledging cases exist where for a range of reasons there is a need for discretion, a general preference for improved sharing of personal information across government departments exists. In this regard, a default position of sharing by default should be considered, with an 'opt out' option for cases where sharing is not preferred (such as domestic violence, child safety).

There is evidence to suggest that a culture of risk aversion, inconsistent interpretation of legislation, contradicting or overlapping legislation and fear of penalties, drives behaviour towards a default position of not sharing information (supported with statements such as "we can't do this because of Privacy"). While technology is rarely a barrier (there is definitely a cultural barrier to sharing information), advancements in technology place a different lens on disclosure vs use. An architecture that honours authorisation policies provides an opportunity to enable 'use' of personal information without tripping over disclosure provisions. This essentially means that an authorised officer could have visibility of an individual's details or circumstance from another service area in a read/view only context without needing to duplicate, store or manage the content. Visibility of contextual information for forms of compliance activity where an officer is visiting a premises (be they relating to environmental permits or licences, social service interaction or building inspections) would improve the safety and well-being of officers, as well as supporting better outcomes for individuals through provision of support services.

We encourage future thinking into a digital landscape where access or 'visibility' is possible without having a physical document, or authorisation or access to modify or on-share the data or information.

Further, South Australia's IPPs recognise that privacy is not an absolute right and must be balanced against other important rights and interests. Fundamental questions relating to the business of government and outcomes for the community need to be considered, with additional emphasis/weight given to the benefit of the whole as opposed to the risk (perceived or otherwise) to an individual.

The development of information sharing policy (or legislation) to guide information sharing activities more holistically across government would provide greater clarity and certainty. Many of the barriers arise due to risk aversion (it's easier not to), inconsistent interpretation or conflicting or unclear interaction between the Privacy Act and other specific legislation e.g. Child Protection Act.

While the reference to the change of address service is notable and highlights how customer information can be shared to reduce the burden on customers, it only serves to highlight one dimension of information sharing where the individual has "expressly or impliedly agreed" to the sharing. Many of the challenges facing officers involved in complex service delivery activities requires information to be shared across departments and service delivery lines (as a single enterprise) without express consent. If a fundamental position was taken that acknowledged government as a single entity that is charged with delivering services for the betterment of society, this constraint would be reduced (acknowledging that for a range of reasons, some people do not want government to be joined up).

Questions could be asked as to why a specific use case for law enforcement agencies exist and why this should not be broadened to delivery of government services generally.

The other dimension that is often overlooked in conversations about government use of personal information is the comfort of citizens with providing detailed personal information in their daily interactions with social media companies and in a very public context. There is a high level of trust (which could be perceived to be ignorance) in providing sensitive data such as date of birth, locational information (in terms of movement and places frequented), relationship status and relationship network. The comfort level in providing this data to the likes of Facebook, twitter, Strava, Google and others is incongruent with the comfort level in government having this level of knowledge. The perceived benefit (convenience,

richness of experience etc.) to the citizen of social media use must outweigh the personal risk of things like identity theft or physical safety in the eyes of the user, or they are ignorant to the risks and monetisation of the data they share (deliberately or inadvertently).

Question 27. Does section 33 create concerns for agencies seeking to transfer personal information, particularly through their use of technology? Are the exceptions in section 33 adequate? Should section 33 refer to the disclosure, rather than the transfer, of information outside Australia?

QGCIO supports the change from "transfer" to "disclosure". The widespread use of smartphone apps and web sites which hold/transfer personal information and which are hosted anywhere on the planet makes the "transfer" clause rather anachronistic and not in line with common practices by private individuals. Two specific cases illustrate the challenge with off-shoring data. Firstly, from a pure data storage perspective, many of the large cloud providers are international corporations (Amazon, Google, Microsoft etcetera) and while they are progressively increasing their footprint in Australia, the need for distributed copies for redundancy, business continuity and resilience means that data storage across the globe is a core tenant of their business model. The key aspect of data storage is that the data may be stored or replicated off Australia soil, but not exposed or used by anyone. Operational policies from a government perspective can assist in ensuring appropriate safeguards are in place for example, encryption in transit and at rest. The second perspective relates to the use of vendors or service provides that utilise support services (help desk / call centres) that operate off Australian soil whereby customer information may be accessed in the course of service delivery or support purposes.

Question 32. Should IPP 4 be amended to provide, in line with other IPPs, that an agency must take reasonable steps to ensure information is protected against loss and misuse?

QGCIO: Definitions using "document" do not adequately deal with the prevalence of personal information in databases or associated systems. Data or information would be preferable.

Attachment 3

The State Library of Queensland (SLQ) - response to the 2016 review of the *Right to Information Act 2009* (the RTI Act) and the *Privacy Act 2009* (the IP Act)

Responses to the 2016 public consultation paper- review of the *Right to Information Act 2009* (the RTI Act) and the *Privacy Act 2009* (the IP Act)
Note: Questions deemed not applicable to the department or where no change has been recommended, have been omitted from this table.
Question 1. Are the objects of the RTI Act being met? Is the push model working? Are there ways in which the objects could be better met? SLQ supports the 'push' model and strategies that support this model within the RTI legislation. This model aligns with our value "We provide free and equitable access" and key strategy of "Reducing barriers to access".
Question 2. Is the privacy object of the IP Act being met? Is personal information in the public sector environment dealt with fairly? Are there ways that this object could be better met? SLQ supports personal information that is collected in the public sector environment to be clearly identified for use and purpose as per Information Privacy Principle (IPP) 10 and 11 and as such only used for the intended purpose.
Question 4. Should the RTI Act and Chapter 3 of the IP Act apply to the documents of contracted service providers where they are performing functions on behalf of government? SLQ: Service Providers for public sector entities (including sub-contractors) who are performing functions on behalf of the government should ensure any information in the public or community interest is subject to the provisions of the RTI and IP acts and relevant contracts and agreements should reflect this. (This does not include commercial-in-confidence payments.)
Question 8. Noting the 2013 response, should the requirement to provide a schedule of documents be maintained? SLQ: Scheduling documents and the inclusion of additional detail (definition, document type and content is a time consuming task); communication between RTI officers and applicants can alleviate the need for excessively detailed schedules.
Question 9. 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? SLQ: There is a level of interpretation as to what would be classified as "substantial". Should the legislation change to this threshold for third party consultation a clear definition of "substantial concern" would need to be incorporated.
Question 12. Given the 2013 responses, should the public interest balancing test be simplified; and if so how? Should duplicated factors be removed or is there another way of simplifying the test? SLQ supports the reduction of duplicated factors. As such the public interest test should be combined into one schedule to clearly apply a weighting for the public interest test. A consistency of language should be applied across the RTI and IP Acts.
Question 19. Do agency publication schemes still provide useful information? Or are there better ways for agencies to make information available? SLQ supports publications schemes that assist in 'pushing' government information into the public domain. SLQ notes that there is currently a legislative imperative for the delivery of published material to the State Library and Parliamentary Library in ss68 – 70 of the Libraries Act 1988 (Qld). This legislation should drive

the deposit and long term public access to Queensland government publications, rather than ongoing use of the government publication portal. Access via the State Library's catalogue is managed by professional staff ensuring that metadata enables discoverability of contemporary and legacy content. Processes are also in place to ensure the preservation of digital publications ensuring access will be maintained for future generations using new technologies. State Library staff are available to explore opportunities to facilitate deposit process with government departments to assist with compliance.

There appears to be multiple processes/avenues for publishing government data: the Open Data portal, Publications Portal, Publication Schemes, in addition to the SLQ and Parliamentary library.

On the one hand, there is a legislative imperative to provide these documents to SLQ/Parliamentary Library for their preservation and future accessibility, and on the other hand, there is also a government publications portal that appears to exist for the same purpose.

The review might look at streamlining the process with a view to simplify publication.

The obligation for government departments to lodge their publications with the State Library (and also the Queensland Parliamentary Library) was highlighted by the then Premier Anna Bligh in a letter to all government departments in August 2009.

Question 20. Should internal review remain optional? Should the OIC be able to require an agency to conduct an internal review after it receives an application for external review?

SLQ supports internal review as a process for resolution of decisions. OIC should be able to recommend an internal review if a client seeks an external review and there is a reasonable chance of a satisfactory resolution without progressing to an external review.

Question 25. Should the definition of 'personal information' in the IP Act be the same as the definition in the Commonwealth Act?

SLQ supports ongoing efforts to provide consistency in definitions across jurisdictions, and the integration of the Commonwealth definition of 'personal information' into the Queensland legislation.

Question 26. Does the IP Act inappropriately restrict the sharing of information? If so, in what ways? Do the exceptions need to be modified? Would adopting a 'use' model within government be beneficial? Are other exceptions required where information is disclosed?

SLQ: The information shared between agencies should be in line with the intent of purpose and use as identified in the initial capture of this information. SLQ would support adopting a "use" model as long as the "purpose-related focus" was maintained.

Question 31. Should the definition of 'generally available publication' be clarified? Is the Commonwealth provision a useful model?

SLQ supports the clarification of the definition of a generally available publication. The Commonwealth provision is a useful model, and is technologically neutral, and clarifies that it applies to both free and paid for publications.

Attachment 3

The State Library of Queensland (SLQ) - response to the 2016 review of the *Right to Information Act 2009* (the RTI Act) and the *Privacy Act 2009* (the IP Act)

Question 32. Should IPP 4 be amended to provide, in line with other IPPs, that an agency must take reasonable steps to ensure information is protected against loss and misuse? SLQ supports this amendment to IPP 4 as it will bring this principle into alignment with IPP 2 and provide reasonable protection for agencies who might currently be responsible for a breach of IPP 4 despite all reasonable steps being taken to ensure such a breach could not occur.
Question 33. Should the words 'ask for' be replaced with 'collect' for the purposes of IPPs 2 and 3? SLQ believes this would provide clarity in determining if a breach of IPP 2 or IPP 3 has taken place, and this would also bring the language of the principle into alignment with other jurisdictions, including the Commonwealth.