

# *Development Watch Inc*

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3 February 2017

RTI and Privacy Review

Department of Justice and Attorney-General

Sent via email: [FeedbackRTIandprivacy@justice.qld.gov.au](mailto:FeedbackRTIandprivacy@justice.qld.gov.au)

Dear Department,

## **Submission on Right to Information Act 2009 and Information Privacy Act 2009 Review**

Thank you for the opportunity to make a submission on this Review.

Development Watch is a volunteer community group based in Coolum Beach on the Sunshine Coast. Our goals include, amongst other things, “to encourage greater public involvement in development issues by keeping our members and the general public informed of Local Government actions”. We have prepared this submission with this in mind.

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.

Based on this preamble, we make the following comments:

1. DW’s experiences with RTI Applications have thus far been confined to Local Government. Although the author has had experiences with RTI Applications during her vocation in a Law Office.
2. In DWs experience, the first step in obtaining documents under the RTI Act is to lodge an Application and pay the relevant fee. Once that Application is lodged, requested documents are collated and put into categories. At this current time, this process can take several weeks and several extensions can be requested.

This time period has not changed substantially for many many years, despite our advances in technology.

3. When the documents are presented to the Applicant in order for it to choose which ones it wants, all documents are lumped together into 3 or 4 categories and one must choose which category it wants. It would make the process a lot simpler if a list of documents in each category were provided and the Applicant could choose which specific documents it required from that list, rather than having to select a category and being supplied with and charged for a lot of documents it does not need. (See response to RTI Application by DW to SCRC dated 1 September 2016).
4. To our knowledge, the next step is to consult third parties to seek their agreement or otherwise to the release of the documents. We understand that some documents are privileged eg. legal documents which are the subject of a current Court case, letters or documents that the other party has specifically marked as confidential, and/or documents relating to a pending Development Application. However, most documents are already in the possession of the Government and are the property of the Government. In the name of transparency and accountability, these documents should be able to be accessed by the public, regardless of whether another party agrees or not. If documents do not fit into a specific privileged category and/or are marked "confidential" then surely the Local Government itself could use its discretion in deciding what can be released and what cannot, whether they involve another party or not.
5. Often, when one is seeking documents under the RTI Act, they are required as matter of priority. Lengthy time periods or delays can often render information/documents being sought redundant. Surely with our advancements in technology and the reduction in the need to even leave a desk to collate the documents, would mean all time period should be substantially reduced and any requested extensions/pauses should be limited.
6. We submit that, with technology such that it is today, all information legally allowed to be accessed by the public should be posted on-line and be accessible at any time. And any documents that may have been privileged once should not be privileged once a matter (legal or otherwise) has been completed (so long as there is no applicable Appeal period). This should include documents, internal and external correspondence relating to Planning Scheme amendments, minutes of confidential meetings, Court cases etc. Similarly, all Local Government financial figures and a break-up of expenditure associated with projects/Local Government owned businesses etc. should be able to be accessed by the public on-line at any time. These measures would

drastically reduce the need to lodge an RTI application and would improve transparency within Governments at both State and Local levels.

7. Finally, given that documents are no longer required to be copied and can be sent electronically, any fee for reproducing documents should be waived. The only fee applicable should be the Application which could be adjusted depending on the length of time over which the documents are requested, not the number of documents requested (something which is out of the control of the Applicant).

## **CONCLUSION:**

Decision-makers must remember that the government is acting on behalf of the public, and in the interest of the public, with public tax/ratepayers' money; any commercial activities and deliberations of the government are inherently in the public interest and should be open to the public.

Extensions granted to the Government and 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 stricter time limits for consultation also need to apply.

Fees for copying need to be waived and one Application fee should be applicable which could be adjusted in accordance with the length of the requested time period.

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 afford the review the attention it deserves. This has resulted in our submission not being as thorough as we would have liked and being lodged at the midnight hour.

Yours sincerely



Lynette Saxton,  
President

Officer: [REDACTED]  
Direct Telephone: [REDACTED]  
Email: [REDACTED]  
Our Reference: RTI16/003  
Your Reference:

1 September 2016

Mrs Lynette Saxton  
President, Development Watch Inc  
PO Box 1076  
COOLUM BEACH QLD 4573

Dear Ms Saxton

**Your application under the *Right to Information Act 2009***

I write regarding your application made to Council under the *Right to Information Act 2009* ("RTI Act"). You have sought access to documents in relation to the proposal by Sekisui House to develop land at Yaroomba.

The RTI Act prescribes processing and access charges in relation to all documents that do not contain personal information for the applicant. Section 36(1) of the RTI Act requires this agency to supply you with a charges estimate notice and schedule of relevant documents.

**Schedule of relevant documents**

The following sets out a brief description of the classes of documents that have been identified to be relevant to your application. Please note the number of folios is an estimate only and may include duplicates. The final number considered for release may differ.

<b>Class</b>	<b>Total quantity (estimate only)</b>
1. Correspondence or communications to or from Sekisui House or their representatives	150 pages
2. Other documents including internal emails, correspondence with members of the public, correspondence with a law firm engaged by council and media articles	1850 pages
3. Documents held by law firm engaged by council	unknown

**Processing charges**

The charge for time spent by an agency in searching for or retrieving a document, or in making, or doing things related to making a decision on an application for access is \$7.20 for each 15 minutes or part thereof, if the agency spends more than 5 hours doing so.

Based on the time already spent to identify and review the above documents (which is over 61.5 hours), as well as an estimate of the further time required to make the decision, I have calculated that the total time required to process your application will be 94 hours, for which the charge would be **\$2,678.40**.

**Access charges**

You have requested a copy of the documents by email. There is no access charge for provision of the documents by email.

**Your response**

No payment is required at this stage. You may narrow, confirm or withdraw your application:

Narrow the terms of your application

If you wish to discuss whether you could alter your application in a way that might reduce the time required to process it and/or any charges, please contact us. If you do amend your application so that the processing charges are reduced to 5 hours or less, the processing charges will be waived. However, please note that in the present case over 11.5 hours have already been spent on searches.

On receipt of your written advice as to the narrowed terms of your application, a new Charges Estimate Notice will be sent to you.

Confirm your application

By confirming your agreement with this charges estimate notice you agree to pay the charges. Please confirm your acceptance of this charges estimate notice in writing to allow processing of your application to continue. Written notification via email is accepted.

**Please do not send any money at this time.** This notice is an estimate of charges only. The final amount required to be paid will be provided in the notice of decision and may differ from this notice but will not be more than the estimate given above.

The applicable charges must be paid in full before any access to documentation is provided.

Withdraw your application

If you decide to withdraw your application, please advise in writing within 20 business days of this notice.

If you do not provide a response within 20 business days from the date of this notice, or any longer agreed period, your application will be taken to have been withdrawn.

Please note that you are not entitled to an internal or external review of the amount of a charge stated in this notice, as per the provisions of section 81 and 86 of the RTI Act.

If you have any questions, please contact me.

Yours sincerely

A large black rectangular redaction box covering the signature of the Right to Information Officer.

Right to Information Officer