



**QUEENSLAND
COURTS**

CHAMBERS OF Justice Ann M Lyons

TO: Right to Information and Privacy Unit
Department of Justice and Attorney-general
GPO Box 149
BRISBANE QLD 4001

FAX: 07 30065929

DATE: 26 May 2015

FROM: JUSTICE ANN LYONS
SUPREME COURT OF QLD
415 GEORGE STREET
BRISBANE 4000

FAX: 07 3229 4364

PAGES: 2 (INCLUDING COVER SHEET)

Faxed herewith is Response to Third Party Consultation Process form.

You will note my handwritten notation on this document. For clarity, appended herewith this is quoted in typewritten form:

“I consider that all the documents which have been authorised by me should be released in FULL.

I do not agree with the redactions by you or the reasons you give namely Sch.2,2,(1). The redacted parts of the documents authored by me relate to decisions which are administrative in nature – they are not judicial. Redaction also reduces the meaning of the memos.”

AM Lyons 25.5.15”

Supreme Court
QEII Courts of Law Complex
415 George Street
Brisbane QLD 4000

PO Box 15167
City East QLD 4002

PH (07) 32474467
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www.courts.qld.gov.au

Response to Third Party Consultation Process
under the
Right to Information Act 2009

JAG reference: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341, 151345

To: Right to Information and Privacy Unit
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Fax: 07 3006 5929

Date: 25 May 2015

From: Ann Lyons J. (Name)

Supreme Court of Qld (Business name, if applicable)

415 George St. (Address)

The Department of Justice and Attorney-General (the Department) has received applications for access to documents under the *Right to Information Act 2009*. The applicants seek access to certain documents held in the possession of the department.

On 25 May 15 (date) pursuant to section 37 of the RTI Act, I received a Third Party Consultation letter of 25 May 2015. A copy of each of the documents was provided to me.

Please tick this box if you have no objections to the release of the documents

I have no objections to the release of the documents to the applicant

Signature: A Lyons Print name: Ann Lyons J.

I consider that all the documents which have been authored by me should be released in Full.

I do not agree with the redactions by you or the reasons you give namely Sch. 2, 2(c) the redacted parts of the documents authored by me relate to decisions which are administrative in nature - they are not judicial. Redaction also reduces the meaning of the memos.

RTI 151718 - File 13 - Page 2
A Lyons 25.5.15

Date/Time: 26. May. 2015 9:15

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Reason for error

- E. 1) Hang up or line fail
- E. 2) Busy
- E. 3) No answer
- E. 4) No facsimile connection
- E. 5) Exceeded max. E-mail size



CHAMBERS OF Justice Ann Lyons

TO: Right to Information and Privacy Unit
 Department of Justice and Attorney-general
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Supreme Court
 QDN Centre of Law/Legal
 415 George Street
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 City One QLD 4000
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Faxed herewith is Response to Third Party Consultation Process form.

You will note my handwritten notation on this document. For clarity, appended herewith this is quoted in typewritten form:

"I consider that all the documents which have been authorised by me should be released in FULL.

I do not agree with the redactions by you or the reasons you give namely Sch.2.2.(1). The redacted parts of the documents authored by me relate to decisions which are administrative in nature - they are not judicial. Redaction also reduces the meaning of the memos."

AM Lyons 25.5.15"

Our reference: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341,
Your reference: 219494/2658816



25 May 2015

Department of
Justice and Attorney-General

Justice A Lyons
Supreme Court of Queensland
Delivered by hand

Dear Justice Lyons

Consultation process – *Right to Information Act 2009*

As you may know, the Department of Justice and Attorney-General has received a number of applications under the *Right to Information Act 2009* (RTI Act) for access to documents from the Supreme Court. The table below details these applications.

Applicant	Request
Courier-Mail RTI 151295	Correspondence between Chief Justice Tim Carmody and judges relating to the Chief Justice's court sitting arrangements.
Courier-Mail RTI 151297	Correspondence between Chief Justice Tim Carmody and judges relating to the Court of Disputed Returns and the electorate of Ferny Grove.
The Australian RTI 151326	Minutes of all meetings of Supreme Court judges, with or without their District Court colleagues, excluding any case-related information, for the period 31 January to 27 March 2015.
ABC RTI 151327	Emails and/or correspondence and/or documents regarding discussions between the Chief Justice Tim Carmody and John Byrne and/or other judges regarding: 1. The appointment process for the Court of Disputed Returns 2. The workload of the Chief Justice and his appearance on the Supreme Court trial division calendar.
Guardian Australia RTI 151328	All communications between judicial officers relating to the process of appointment of a judge to the court of disputed returns. I note these documents relate to the administration functions of the court - rather than judicial functions - and should not be appropriately considered exempt under Schedule 2 of the Right to Information Act 2009.
Seven Network RTI 151329	Any documents, including briefing notes and correspondence involving Chief Justice Tim Carmody, such as emails, since 31 January 2015, relating to: 1. The seat of Ferny Grove 2. The possibility of a challenge in the seat of Ferny Grove. Please exclude duplicates, documents that have already been publicly released, media reports/articles/releases and correspondence with media.
Courier-Mail RTI 151330	All documents relating to Chief Justice Tim Carmody dismissing Justice John Byrne from the role of senior judge administrator, and Justice Byrne's reinstatement.

State Law Building
50 Ann Street Brisbane 4000
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone 07 3239 3439
Facsimile (07) 3006 5929
Website www.justice.qld.gov.au
ABN 13 846 673 994

Applicant	Request
Alex McKean RTI 151341	Subject matter of the documents the applicant is seeking: 1. The Court of Disputed Returns ('the Court') 2. The constitution of the Court 3. The roster for selecting the Justice who would sit as the Court 4. Any change, or proposal to change, the roster, or the roster system 5. Any proposal that the Chief Justice sit at the Court himself, or select who would sit as the Court 6. Any communication, or attempted communication, with any Justice on the roster about their role, or anticipated role, sitting as the Court 7. The position of the Senior Judge Administrator 8. Any proposal to remove, or attempt to remove, the Senior Judge Administrator 9. Any action taken to remove, or attempt to remove the Senior Judge Administrator.
Courier-Mail RTI 151345	I am seeking any correspondence and/or documents shared between judicial officers on the topic of the Court of Disputed Returns and sitting following the election in 2015. Specifically I would seek any documents and/or correspondence between 1 January 2015 and 30 March 2015. I am very interested in any correspondence from 13 February 2015. Please include reports, statistics and audits (if appropriate). Please exclude duplicates, media clippings and any information that has already been made publicly available.

Request for Information

The RTI Act gives the community a right of access to information held by the Queensland Government, subject only to limited exceptions. Where an application is received for documents which, if released, could reasonably be expected to be of concern to another person, the department is required under section 37 of the RTI Act to take such steps as are reasonably practicable to obtain the views of the person concerned as to whether or not the matter in the documents contain any exempt information or contrary to public interest information.

I have formed the opinion that you may be concerned by the release of the appended documents.

If you wish, you may object to the release of the information in question. Any concerns you raise will then be taken into account when a decision is made as to whether the information is to be released.

The RTI Act requires the department to release information unless it demonstrates that the information is either exempt from release, or that its release is contrary to the public interest. I have attached copies of schedules 3 and 4 of the RTI Act which outlines the conditions under which we may or may not release information.

While the conditions that apply to RTI applications are complicated, you do not need to be an RTI expert to exercise your lawful rights under the RTI Act. Rather, you have three options available to you:

- **If you have no objections to the release of the consulted documents please complete the attached form and return to me;** or
- You may advise in writing any explanation of concerns you may have. It is desirable that you provide supporting arguments as it will assist us in understanding the nature of your concerns. However, such arguments are not essential. This agency will then apply those concerns to the provisions in the RTI Act that it considers are relevant; or
- You may provide a written submission citing sections of the RTI Act that you consider relevant, accompanied by detailed supporting arguments.

If you object to the release of the information, it would be appreciated if, where possible, you specifically identify the information about which you are concerned (for example, page number, paragraph number).

Timeframes

To enable a decision to be made within the time prescribed by the RTI Act, it would be appreciated if you could advise me of your views in writing by **29 May 2015**.

If a response is not received by **29 May 2015**, it will be assumed that you have no objections to the release of the documents and a decision will be made accordingly. If there is any difficulty in your meeting this deadline, please contact this office to arrange an alternative due date.

Disclosure Log

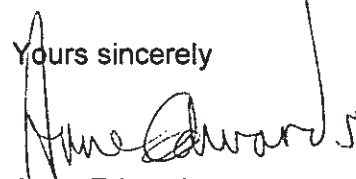
The Department of Justice and Attorney-General is obliged under the legislation to notify you that information released under the RTI Act must also be considered for publication in a disclosure log. The department's disclosure log provides details of information released in accordance with sections 78 and 78B of the RTI Act. Documents published in the disclosure log can be accessed at: <http://www.justice.qld.gov.au/corporate/accessing-departmental-information/disclosure-log>

Review Rights

If it is decided to release the documents against your wishes, you will be advised of the decision and you will have 20 business days after the date on the decision letter to request a review of the decision. The documents in question will not be disclosed to the applicant until the period of 20 business days has passed, or the avenues of review have been exhausted. I will enclose further details of your rights to review if I make such a decision.

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151295**.

Yours sincerely



Anne Edwards
Director

Right to Information and Privacy Unit

Attachments

- Response to third party consultation process
- Schedules 3 and 4 —*Right to Information Act 2009* Note these pages are to be printed from the current legislation
- Consultation documents

Our reference No: 151295, 151297, 151326, 151327, 151328, 151329, 151330, 151341
Your reference No: 219494/2658816



15 June 2015

Department of
Justice and Attorney-General

Justice A Lyons
Supreme Court of Queensland
Delivered by hand

Dear Justice Lyons

Right to Information access application – Contrary to Views

Thank you for your facsimile of 26 May 2015 concerning applications made under the *Right to Information Act 2009* (the RTI Act) by several media organisations and by Mr Alex McKean seeking access to correspondence between judges.

As you will no doubt know by this stage, I have refused access by the applicants to a number of documents that I sent you attached to my letter of 25 May 2015, on grounds that I considered some of the material related to the holder of a judicial office in relation to the court's judicial functions. Other grounds that I decided were relevant public interest factors for consideration included the right to privacy of some individuals, including the Chief Justice, and the potential for the material to undermine public confidence in the judiciary. I have appended to this letter my decision letter of 5 June 2015 addressed to one of the applicants for your information.

As part of my decision-making process, I noted your view that all the documents you had authored should be released in full, and that you did not agree with the redactions I had made regarding Schedule 2,2,(1).

In coming to my decision I carefully considered all the relevant factors under the RTI Act. Particularly, and ultimately, my decision aims to serve the public interest.

Review rights

I have reviewed the meaning of a reviewable decision under Schedule 6 of the RTI Act and have noted that, where a review may be lodged by a relevant third party whose views have been obtained under section 37 of the Act, the right of review is defined as follows:

A decision: (i) to disclose a document contrary to the views of a relevant third party obtained under section 37; or (ii) to disclose a document if an agency or Minister should have taken, but has not taken, steps to obtain the views of a relevant third party under section 37.

As you have not objected to the disclosure of the information, and in fact have clearly supported its release, and you are not the applicant for access to the documents, I note you have no review rights under the RTI Act in relation to my decision.

State Law Building
50 Ann Street Brisbane 4000
GPO Box 149 Brisbane
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Telephone 07 3239 3439
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ABN 13 846 673 994

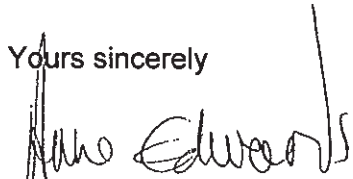
However, I advise that several of the applicants have lodged an external review request with the Office of the Information Commissioner already, and you may well be considered under section 89(2) to be a person affected by the decision the subject of an external review, as a person consulted under section 37 of the RTI Act, in which case you may apply to the Information Commissioner to participate in any external review relating to this subject matter.

Any application you wish to make in relation to participating in an existing external review should be addressed to:

Office of the Information Commissioner
PO Box 10143
Adelaide Street
BRISBANE QLD 4000
Phone: 3405 1111

For further enquiries please contact this office on telephone number 3239 3439 quoting reference number **151295**.

Yours sincerely



Anne Edwards
Director
Right to Information and Privacy Unit