

**PRESENTATION TO THE QUEENSLAND SPATIAL INFORMATION COUNCIL  
2 December 2009**

A little more than a decade ago spatial information was focussed on mapping and the cadastre, nurtured by a specialists who valued standards, verification and data integrity. As with the record-keeping and information management community more generally, the spatial information community is in the wake of an information explosion, without the tools to properly organise it and the systems that can overlay information to make it useful for the community. The spatial information community like the broader information community is simultaneously challenged by gaps in fundamental data sets such as cadastre and topography, identified in part by the accelerating demand for better and more data.

The industry was in fact a microcosm of the issues identified by the Independent FOI Review Panel when it reviewed Queensland's Freedom of Information legislation, commencing in 2007. The industry through the National Summit on Open Access to Public Sector Information held here in Brisbane in 2007, demonstrated it was already influenced by OECD thinking, and it had by that time already identified for itself many of the issues facing the industry and reflected upon by the Independent FOI Review Panel. The Queensland Spatial Information Council itself demonstrated its commitment to the principles of open government through its acceptance in 2006 of the Government Information and Open Content Licensing: an Access and Use Strategy. But we should not let this take away from the story of reform of Queensland's Freedom of Information legislation and the implications for information policy generally.

In September 2007 within days of Premier Bligh becoming the Premier, Cabinet had approved the terms of reference for a broad ranging review of FOI. An independent panel chaired by Dr David Solomon AM was appointed. The independent panel delivered its final report in June 2008. The government responded in August 2008 by supporting most of the 141 recommendations.

Terms of reference

The independent panel was asked to assess whether the FOI laws were working effectively and what improvements could be made in the context of the Premier announcing to Parliament that the FOI legislation is one of the most important accountability mechanisms for a healthy democracy. In the words of the Premier

*“By establishing this independent review panel to comprehensively review our freedom of information laws, my government is demonstrating its ongoing commitment to open and accountable government.”*

### General findings

In answer to the question “has FOI in Queensland brought about a “major philosophical and cultural shift in the institutions of Government and the democratisation of information in the last 15 years?” The review said ‘no’. The review essentially found that FOI had become an administrative task for agencies and that this had weakened its capacity to be employed strategically and to bring about organisational change. Specifically the review found in relation to the legislation that serial amendments to the law had been contrary to the objective of the Act. In relation to the administration of the law the Review found that the atmosphere did not encourage the fearless application of the law. In short the new era of openness in government had succumbed to the long held views Australia’s early public servants inherited the British attitude to official secrecy where the public was provided with information when the government decided there was a need to know, rather than a right to know, and the anonymity of public servants and confidentiality were seen as the twin pillars of professional public service.

The Independent FOI Review identified necessary pre-conditions to sustaining freedom of information law and practice in the spirit of the original draft of the Act. They were

- a favourable policy momentum
- congruent political will (use e.g.)
- a supportive architecture including a **strategic information policy together with a governance framework** that has clearly articulated roles for all relevant agencies including the Public Service Commission, the Information Commissioner, Qld State Archives and the QG Chief Information Office. The architecture includes a **new Act** which has as a basis the notion that information is to be pushed into the public space rather than pulled out of the government space and a **strategic information policy**.

The new Right to Information reforms have four basic tenets. Firstly all internal documents are considered open as a starting

point. Secondly, there is to be maximum disclosure of information with information being pushed out into the public space, rather than pulled out by individuals. To support this the Act requires agencies to have publication schemes, and disclosure logs. Agencies also need administrative release which may one day be supported by ex-ante decision making and the push model. Secondly all personal information will be accessed under the new Information Privacy Act. Thirdly, RTI is to be considered a last resort. And fourthly, once RTI is engaged, there are two questions to be answered:

Does the request fall within the scope of a limited number of exemptions exemption? If it does, it is exempt. If it doesn't, access is to be provided unless disclosure on balance would be contrary to the public interest.

Part of the legislative framework includes new privacy laws, also recommended by the Independent Panel. The new privacy laws effect record-keeping practices and have placed particular emphasis on information security, also highlighted by Auditor General reviews of information security both in Queensland and Victoria. The Audit Offices have both released reports that assess whether governance and risk management practices in several departments have been sufficient. Importantly, the Victorian Audit Office assessed whether central policy direction and guidance has effectively driven the public sector to achieve this aim. This reflects one of Solomon's key points about a favourable policy momentum being necessary to successful implementation of the RTI reforms.

In recommending a strategic information policy the Independent FOI Panel was concerned to shift the priority of government from technology and interoperability to information management and for agencies to recognise information as a strategic asset which is to be easily accessible.

### **A new role for the Information Commissioner**

Previously the Office of the Information Commissioner performed the single function of independently reviewing the FOI decisions made by government agencies and Ministers in a similar way to that of a Tribunal. Under the RTI and Information Privacy Acts, the Office will continue this role and have significantly enhanced

functions. The Office will have a lead role in the improvement of public sector privacy and RTI administration in Queensland by

- Promoting understanding of and compliance with the privacy and RTI principles
- Providing best practice leadership and advice including advice on the interpretation of the legislation,
- Training and education
- Issuing guidelines
- Providing an enquiries service
- Conducting compliance audits and reviews and if appropriate report to Parliament
- comment on any issues relating to the administration of privacy in the public sector environment or legislative or administrative changes that would improve the administration of the legislation
- Conciliating privacy complaints and approving waivers of the privacy principles.

Under the RTI legislation the Information Commissioner is to provide report cards to Parliament on the performance by agencies of their obligations under the RTI legislation.

### **What does this all mean for spatial information and the Council?**

Now that I have your attention, I can't answer that question for you, lacking your necessary knowledge and expertise. I can say these few general things. The business of government differs from doing business within a marketplace. Primarily the differences stem from the necessity for government to always act in the public interest and its accountability through the Parliament to the electorate. The differences have implications for many things including the way in which the government prices its services, contracts, prioritises, and engages with the community.

The Premier aims to have the most open and accountable government in Australia. This aim says something about how the Government would like to transform the interface between it and the community. Government's embrace open government for a range of reasons including fighting corruption and improved accountability, making government more user friendly in order to improve service delivery and increasing interaction between

government and external stakeholders, promoting confidence in democracy as a system of government, and achieving other equally important policy goals such as social cohesion and economic growth. This last one is familiar to the spatial information community through the recent work undertaken to show the contribution of spatial knowledge to economic growth and productivity. The RTI reforms are central to achieving all this as they are intended to provide better and easier access to information for the community which in turn provides them with the capability to better scrutinise government.

The OECD has established that

*From the public's point of view, an open government is one where businesses, NGOs and citizens can "know things" ie obtain relevant and understandable information; "get things" ie obtain services from and undertake transactions with the government; and "create things" ie take part in government decision making processes.<sup>1</sup>*

Reflecting on these things it becomes apparent that open government has the three dimensions identified by the OECD:

*transparency, in other words being exposed to public scrutiny; accessibility to anyone, anytime, anywhere; and responsiveness to new ideas and demands. These dimensions sound familiar and simple but they present a major challenge to our systems and structures.<sup>2</sup>*

Better and easier access to government information has a number of dimensions important for the Council's consideration. It's not just access to information though, it's an orientation around what information would be useful to assist the community to do a range of things including: scrutinise the government, making it more accountable, building knowledge and innovation, solving problems, preparing for future challenges and improving resilience. The utility of spatial information in the hands of the community is largely determined by the following range of factors: legal restrictions on making information public including 'information exemptions' which have been reformed in the the legislation which commenced in July this year; availability; searchability; discoverability; transparency of public language; transaction costs; the

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<sup>1</sup> OECD Policy Brief. 2005. "Public Sector Modernisation: Open Government", p1

<sup>2</sup> Ibid., p2

preservation of information and conditions on the use of the information. The RTI reforms require agencies to improve on each of these dimensions of accessibility and it may be that the Council has a role in assisting agencies move to a maximise disclosure position: from the old pull model to the push model of information disclosure.