



No 10



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Environmental Protection Agency

Incorporating the
Queensland Parks and Wildlife Service

28 February 2006

Dr Lesley Clark
Chair
Legal, Constitutional and
Administrative Review Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Dr Clark

The Accessibility of Administrative Justice

Thank you for your letter of 1 December 2005, seeking this Agency's comments on the Legal, Constitutional and Administrative Review Committee's discussion paper on The Accessibility of Administrative Justice.

Attached is the Environmental Protection Agency's submission to this review.

If you have any queries regarding this submission please contact Ms Rhonda Morse, Manager Executive Services Unit, on (07) 3227 7721.

Thank you for the opportunity to comment.

Yours sincerely

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Environmental Protection Agency's response to the
Legal, Constitutional and Administrative Review Committee
Review of the Accessibility of Administrative Justice

Issues regarding the accessibility of administrative justice

Key issue 1: What is the effect, if any, of the fees and charges regime under the FOI Act on access to information and the amendment of documents? Is amendment of the FOI Act and/or administrative reform necessary?

Response

Overall, the introduction of fees and charges has had the following effects on the EPA.

- Following the introduction of processing charges, the number of applications received decreased for approximately the first six months, before returning to the level received prior to the introduction of the charging regime.
- Since the introduction of charges, FOI applicants are more inclined to negotiate the scope of their requests if it is clear that this will reduce the overall time and costs associated with the processing of their applications.

In relation to access charges:

- it is considered that if different charges were to be applied to different classes of information or applicants, this would create another reviewable decision-making process. Therefore the EPA would be reluctant to support this proposal unless a very accurate classification scheme for information and/or applicants was established.
- given that all fees and charges received under FOI are remitted to Treasury/Consolidated Revenue, the EPA does not support the refund of deposits unless the refund is provided from Treasury/Consolidated Revenue, otherwise agencies will be disadvantaged.

Key issue 2: Do costs associated with an application under the Judicial Review Act affect genuine challenges to administrative decisions and actions? If so, can this be addressed?

Response

It is not considered that costs associated with applications under the *Judicial Review Act 1991* affect genuine challenges to administrative decisions and actions.

- The availability of or a requirement to seek ADR, case manage review applications, or attend pre-hearing conferences may increase the number of matters resolved by consent and consequently reduce the legal costs associated with an application.
- The Court has a very broad discretion in relation to costs, which supports the ability to make genuine challenges.
- Standing is already very broad given the judicial interpretation of 'a person aggrieved'. Any further broadening of the definition may lead to an increase in speculative or vexatious challenges to Government decision-making and adversely impact on Government.

Key issue 3: Is information relevant to, and about, government decisions and actions adequate and accessible? How can it be improved?

Response

It is considered that information relevant to, and about, government decisions and actions is adequate and accessible.

- In Queensland, appropriate mechanisms are in place to ensure (a) Government publishes certain information of public interest, (b) people can access information held by Government, and (c) people can access reasons for decisions.
- Adequate information about those mechanisms is widely known and readily available.

Key issue 4: Can a diversity of people access administrative justice? If not, how can this be improved?

Response

It is considered that a diversity of people can access administrative justice.

- The issues surrounding access to administrative justice are the same as those that surround access to justice generally.
- There has been a trend by Government to take steps to increase the ability of people that may have socio-economic or other disadvantage to access justice.
- Sources of advice on issues of Administrative Justice should be written in plain English (i.e. website information).

Key issue 5: Is access to administrative justice effective and efficient? Is reform necessary?

Response

While the present system of administrative justice is operating effectively, given the ever-changing nature of government, it is considered that regular reviews need to occur.