

# RIGHT TO INFORMATION, INFORMATION PRIVACY AND PRIVACY ACT PROCEDURE

## ACCESS AND AMENDMENT APPLICATIONS

<b>Date</b>	<b>Custodian</b>
August 2011	General Manager Corporate Services
August 2014	General Manager Corporate Services
November 2015	General Manager Corporate Services
November 2018	General Manager Corporate Services
January 2020	General Manager Corporate Services
November 2020	General Manager Corporate Services

## 1. PURPOSE

To establish and maintain a procedure to process Right to Information, Information Privacy and Privacy Act access and amendment applications to meet requirements of the Right to Information Act 2009 (RTI Act), the Information Privacy Act 2009 (IP Act) and the Commonwealth *Privacy Act 1988* (Privacy Act).

## 2. BACKGROUND

The RTI Act promotes the right of the public to access information and records held by Government Owned Corporations (GOC). Ports North is subject to the RTI Act and acknowledges the right of the public to seek access to documents held by Ports North, unless the disclosure of information would on balance, be contrary to the public interest.

The IP Act provides individuals with a right to access and amend personal information held by GOCs, if that information is believed to be inaccurate, incomplete, or out of date or misleading.

Under the Privacy Act, Ports North must take reasonable steps to correct personal information it holds to ensure it is accurate, up-to-date, complete, relevant and not misleading, having regard to the purpose for which it is held. This may occur where Ports North becomes aware that personal information it holds is incorrect, or if an individual requests correction of their personal information.

## 3. DEFINITIONS

**Documents** – are any form of recorded information, both created and received, that provides evidence of the decisions and actions of the corporation while undertaking its business activities. The RTI Act does not apply to documents received or brought into existence by a GOC in the course of its commercial activities prior to 1 July 2009.

**Disclosure Log** – A list of the documents released in response to an RTI application.

**Publication Scheme** – Sets out information made publically available by the Corporation and the terms under which the information is available.

**Personal Information** – is an opinion or information, whether true or false, about an identified individual or an individual who is reasonably identifiable. It does not have to be written and can be spoken or contained in a database or a computer screen or photograph or visual or audio recording.

## 4. FORMAL APPLICATION UNDER (QLD) RTI ACT AND IP ACT

If you would like to be given access to a document held by Ports North, you may apply for access under the RTI Act.

Under the IP Act, subject to some exceptions, you have the right to be given access to a document that contain your personal information and to request amendment of your personal information if it is inaccurate, incomplete, out-of-date or misleading.

In order for a request for information to be processed, a valid application must be submitted. There is one form for both [RTI and IP access applications](#) and a form for [IP amendment applications](#). Refer Attachment 1 for information on the application process and relevant forms.

### **A valid application must:**

1. Be on an approved form (available from: [www.rti.qld.gov.au](http://www.rti.qld.gov.au) and individually linked above)
2. Provide sufficient information to identify the document(s)
3. State a mailing address

4. Be accompanied by the application fee prescribed by the *Right to Information Regulation 2009* (“the application fee”) (RTI applications only)
5. Evidence is required for access to personal information within 10 business days after making the application (must be certified copy if forwarded by post). Evidence of identity includes:
  - Current driver’s licence
  - Identifying page of current passport
  - Birth Certificate
  - Identity Card
  - Statutory Declaration of an individual who has known the applicant for at least one year

## 1) COST OF APPLICATION

### Personal information

No application fee. Access fees may apply (for example, photocopying and postage). See applicable fees at this link: <https://www.rti.qld.gov.au/fees-and-charges>.

### Non personal information

The application fee must be paid. Other charges as determined in the Act apply to applications that require more than five hours of processing. Access charges may also apply. These charges may be waived as determined by Ports North or if the applicant can demonstrate financial hardship. See applicable fees at this link: <https://www.rti.qld.gov.au/fees-and-charges>.

## 2) PROCESSING OF APPLICATION

If Ports North decides the application is outside the scope of the Act, Ports North will contact the applicant within ten (10) working days after the application is received and give a prescribed written notice of the decision.

If the application does not comply with all relevant requirements, Ports North will make reasonable efforts to contact the applicant within fifteen (15) working days after the application is received and inform the person how the application does not comply.

The processing period for RTI and IP applications is a period of twenty-five (25) business days or thirty-five (35) business days if consultation with a third party is required.

The processing period may also be extended if:

- the application is transferred to another Government Agency (period extended by no more than 10 business days);
- the applicant is given a charges estimate notice (period commencing from when notice issued to the day applicant confirms or agrees to narrow the application);
- Upon request of Ports North to the applicant
- Notice given to applicant because work involved in dealing with application would unreasonably divert resources or substantially interfere the performance of Ports North’s functions (period extended by prescribed consultation period outlined in notice).

## 3) NON-DISCLOSURE OF INFORMATION

Access to information is based on the presumption that information held by Ports North is open and accessible and the release of information would, on balance, not be contrary to public interest.

Factors favouring non-disclosure in the public interest are defined in the RTI and IP Acts. Some common non-disclosure factors would be documents subject to:

- ongoing deliberative process;
- legal professional privilege;
- information disclosure of which would found an action for breach of confidence; and
- not prejudicing an individual's right to privacy and personal information including personal information of a deceased person.

#### 4) GIVING ACCESS

The applicant is to be notified in writing of the decision to grant access. Copies of documents may accompany the notification which should be mailed to the applicant via registered mail. An applicant is entitled to access the information within forty (40) business days after the date of the decision to grant access.

#### 5) REVIEW RIGHTS

Two options are available to an individual who is not satisfied with the granting of access decision -

##### **The individual may apply for an internal review:**

- Under section 80 of the RTI Act an application for internal review must be made in writing to Ports North within twenty (20) business days after the day on which the decision is received. No specific form of application is required. The application can be lodged:
  - In person: Level 1, Cnr Grafton & Hartley Streets, Cairns
  - Post: RTI&IP Officer, Ports North, PO Box 594, Cairns Qld 4870
  - Fax: (07) 4052 3853
  - Email: [enquiries@portsnorth.com.au](mailto:enquiries@portsnorth.com.au)

The internal review is to be undertaken by an officer more senior to the original decision maker.

##### **The individual may apply for an external review:**

- The [application form](#) should be lodged in writing within twenty (20) business days after the date of the decision letter. The application should be lodged with the Information Commissioner in one of the following ways:
  - In person: Level 7, 133 Mary Street, Brisbane, Qld 4000
  - Post: Office of the Information Commissioner  
PO Box 10143, Adelaide Street  
Brisbane QLD 4000
  - Fax: (07) 3405 1122
  - Email: [administration@oic.qld.gov.au](mailto:administration@oic.qld.gov.au)
  - Online: <https://www.oic.qld.gov.au/about/right-to-information/apply-for-external-review-of-an-access-or-amendment-decision>

An applicant does not have to have an internal review prior to applying for an external review.

#### 6) DISCLOSURE LOGS

Upon a decision made by Ports North to give access to documents that do not contain personal information, Ports North is required to provide details of the disclosed documents in a disclosure log available on its website.

## 5. APPLICATIONS UNDER (CTH) PRIVACY ACT 1988

The accuracy of your personal information is important. Ports North takes reasonable steps to ensure personal information we hold about you is accurate, up-to-date, complete, relevant and not misleading.

If you believe that any personal information Ports North holds about you is incorrect, please contact the RTI&IP Officer on the details set out below and we will respond within 30 business days.

- In person: Cnr Grafton & Hartley Streets, Cairns
- Post: Ports North, PO Box 594 Cairns Qld 4870
- Fax: (07) 4052 3853
- Email: [enquiries@portsnorth.com.au](mailto:enquiries@portsnorth.com.au)

We will ask you to verify your identity before we give you access to your information or correct it. If we refuse to give you access to or correct your personal information we will notify you in writing, setting out the reasons.

## 6. HOW TO MAKE A COMPLAINT ABOUT HOW YOUR PERSONAL INFORMATION IS HANDLED

If you wish to complain to us about how we have handled your personal information you should do so in writing. If we receive a complaint from you, we will determine what (if any) action we should take to resolve the complaint.

If we decide that a complaint should be investigated further, the complaint will usually be handled by a more senior officer than the officer whose actions you are complaining about.

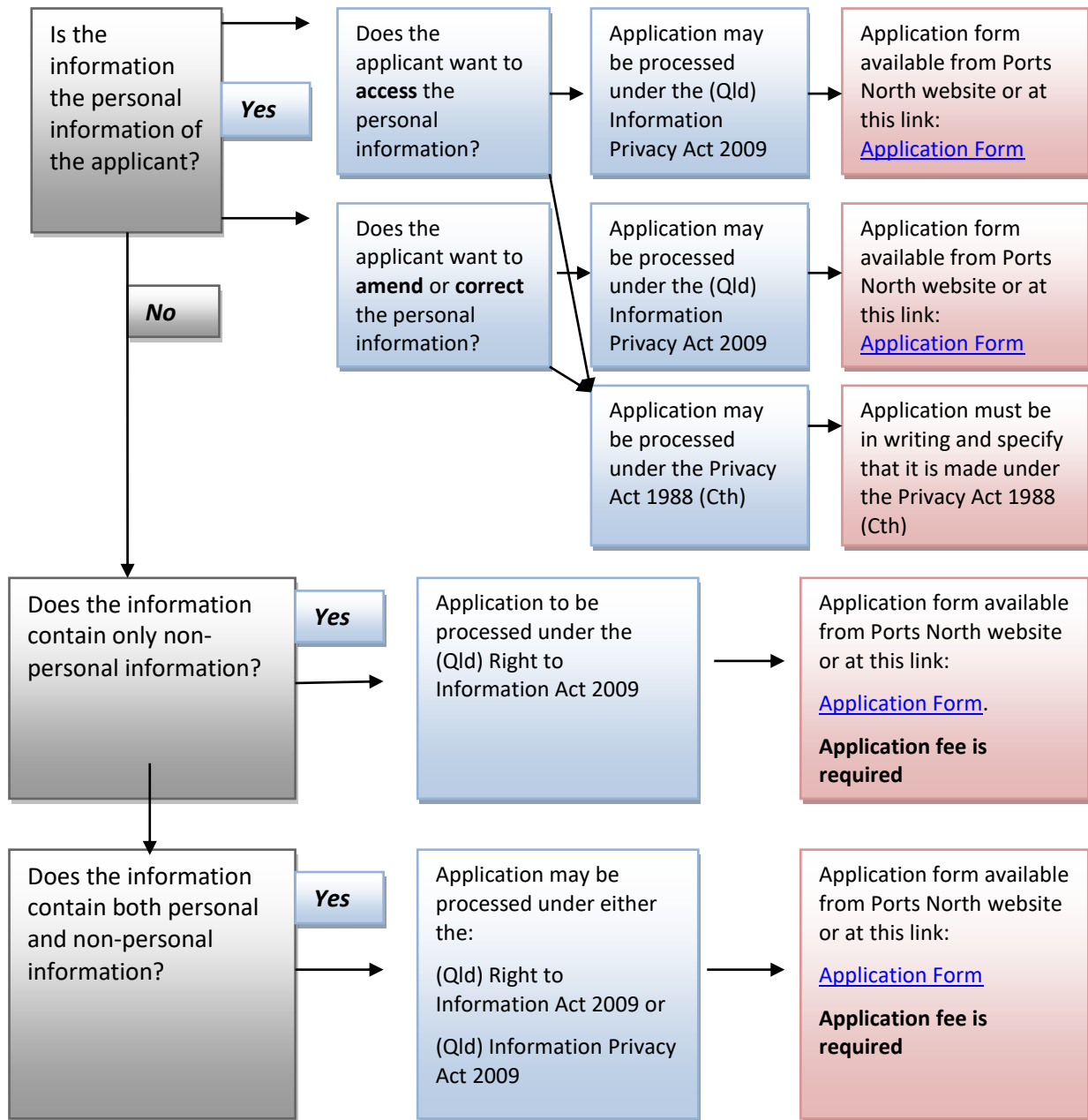
We will tell you promptly that we have received your complaint and then respond to the complaint within 30 business days.

If you are not satisfied with our response you may ask for a review by a more senior officer within Ports North (if that has not already happened) or you can complain to the Commonwealth Ombudsman.

If you wish to make a complaint or enquiry, please contact the RTI&IP Officer on the contact details outlined above.

**Attachment 1**

**Right to Information/Information Privacy flow sheet**



All applications to be submitted and assessed by the RTI&IP Officer