

# Terms of reference for the review of the *Public Records Act 2002*

## Background

The creation and management of public records in Queensland is governed by the *Public Records Act 2002* (the Act). This Act applies to an estimated 500 public authorities across Queensland including government departments, local governments, government-owned corporations and statutory bodies such as universities and water boards.

The current objectives of the Act are to ensure:

- the public records of Queensland are made, managed, kept and, if appropriate, preserved in a useable form for the benefit of present and future generations, and
- public access to records under the Act is consistent with the principles of the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

The Act has not been reviewed since commencement. During the last two decades public authorities have increasingly used digital technologies and platforms to undertake the business of government. This has driven a dramatic increase in the volume and types of information, data and records created by government. The Act now requires review to support legislative effectiveness within this digital environment and to enable efficient recordkeeping for digital channels.

The significant growth in use of digital platforms has not reduced the Queensland Government's reliance on paper. There has been a consistent growth of both digital and physical records with implications on the effective delivery of government services and fiscal impacts due to the significant costs incurred in storing information.

A comprehensive review of the Act is required to meet public expectations and to ensure the legislative framework enables contemporary information and recordkeeping practices that support good governance and decision making by government. A review may also support determinations about whether modernisation of the Act would enable the realisation of savings and efficiency gains and ensure the Act continues to deliver on its original intent of preserving records in a useable form for the benefit of present and future generations.

It is considered that the optimal approach is for the review to be led independently by an external party, given the level of public interest in Queensland State Archives.

## Scope

An external review of the Act will consider whether there is a need for any reform to enhance or update the PR Act, taking into account Australian and international best practices related to recordkeeping and archiving.

In undertaking this review, consideration will be given to whether there is a need for any reform, and if so, the scope of the reform including:

- a. enabling the inclusion of First Nations Peoples in decision making about control and access of public records regarding First Nations Peoples;
- b. identifying any appropriate opportunities to increase accountability and transparency of government through appropriate procedures and systems for making and keeping records, including the adequacy of monitoring, compliance and penalty provisions within the PR Act;
- c. reviewing the functions and powers of the State Archivist;
- d. considering efficiency gains which could be achieved, with regard to the scope of records retained;

- e. examining whether the current legislative framework appropriately supports the management and preservation of digital records and emerging technology impacts;
- f. considering the extent to which the legislative framework supports other important matters such as right to information and privacy legislation; and
- g. considering other jurisdictions' legislative frameworks and outcomes of their similar legislative reviews.

## Consultation

Given the broad reach of the Act, its significance to the Queensland community and the level of public interest in these matters, it is expected that the external review lead will develop and implement a robust consultation strategy, including seeking input from the public authorities currently regulated by the Act, Public Records Review Committee and other jurisdictions, along with the Queensland community.

## Timeframe

The external review lead will be requested to submit interim findings to the department in mid-August 2022 and a final report, for the consideration of Government by 31 August 2022.