Office of the Information Commissioner
Queensland

Decision and Reasons for Decision

Citation:	***Australian Broadcasting Corporation and Council of the City of Gold Coast* [2025] QICmr 44 (10 July 2025)**
Application Number:	**318608**
Applicant:	**Australian Broadcasting Corporation**
Respondent:	**Council of the City of Gold Coast**
Decision Date:	**10 July 2025**
Catchwords:	**ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - noncompliance with application requirement - whether the application complies with application requirements - requirement to provide sufficient information about requested documents - section 24(2)(b) and 33 of the *Right to Information Act 2009* (Qld)**

REASONS FOR DECISION

Summary

1. The applicant applied to the Council of the City of Gold Coast (**Council**) under the *Right to Information Act 2009* (Qld) (**RTI Act**)[1] for access to *'any documents detailing any requests or notices from the council CEO to review or quash/cancel any parking fines or notices of traffic infringements notices for which he is the driver or owner of the vehicle, or his council vehicle*.'[2]

2. Council refused to deal with the Access Application[3] on the basis the applicant had not provided *'sufficient information'* about the requested documents, as required by section 24(2)(b) of the RTI Act.

3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of Council's decision.

4. I set aside Council's decision.[4] The applicant has complied with all requirements of section 24 of the RTI Act including providing sufficient information about the requested documents. I find that the Council decision to refuse to deal with the Access Application was incorrect and it must process the Access Application.

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[1] On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the *Information Privacy Act 2009* (Qld) and RTI Act. References in this decision to the RTI Act, however, are to the Act as in force prior to 1 July 2025. This is in accordance with chapter 7, part 9 of the RTI Act, comprising transitional provisions requiring that access or amendment applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.
[2] The **'Access Application**' dated 23 January 2025. By email dated 7 February 2025, the applicant narrowed the scope of the Access Application: it is this narrowed scope that is quoted in this paragraph.
[3] Decision dated 2 May 2025, which is the decision under review in this matter.
[4] Section 110(1)(c) of the RTI Act.

Relevant law

5. Section 24 of the RTI Act specifies the requirements for a valid access application, one of which is that the application *'give sufficient information concerning the document to enable a responsible officer of the agency…to identify the document'*.[5]

6. If a person purports to make an access application and the agency takes the view the application does not comply with all relevant application requirements set out in section 24 of the RTI Act, the agency must:[6]

   - make reasonable efforts to contact the person within 15 days after the purported application is received
   - inform the person how the application does not comply with the relevant application requirements; and
   - give the person a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements.

7. If, after giving the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements, the agency then decides that the application does not comply with all such requirements, the agency must give the applicant prescribed written notice of the decision.[7]

Discussion

8. Having followed the process outlined above, Council decided the Access Application did not satisfy the requirement stated in paragraph 5 above; ie, that it did not give sufficient information concerning requested documents to enable identification of those documents by Council RTI officers.

9. The applicant applied for external review and by letter to the Council dated 23 May 2025, an Assistant Information Commissioner (**AIC**) acting under delegation from the Information Commissioner, set out his preliminary view that the Access Application did satisfy the requirements of section 24(2) of the RTI Act (footnotes omitted):[8]

> *The access application… sufficiently describes the documents to which the applicant seeks access, and therefore satisfies the requirements of section 24(2) of the RTI Act. As the applicant submits in its application for external review:*
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> > …under the way we have reduced the scope of the RTI application, [Council] only has to ask the CEO's office if they are aware of the existence of documents that would be responsive. If the CEO or his office is aware of such documents, they can present them for a decision to be made. If the CEO or his office is unaware of such documents, then no documents are responsive. This is a clearly understandable and feasibly undertaken request.
>
> *I agree. It is difficult to see why initial search inquiries could not be undertaken of the Council CEO's office, in the manner the applicant submits.*

10. Council responded to the 23 May 2025 preliminary view by letter dated 13 June 2025, contesting that view and setting out submissions in response. It is not necessary to set

[5] Section 24(2)(b) of the RTI Act.
[6] Section 33(2) and (3) of the RTI Act.
[7] Section 33(6) of the RTI Act.
[8] The AIC went on this letter to nominate a potential 'starting point' for possible searches, being a search of the CEO's email account using words from the Access Application as search terms: footnote 3 of that letter.

out those submissions in detail in these reasons; their general tenor was adequately summarised in a subsequent letter issued to the Council by the AIC on 17 June 2025:[9]

> *…the reviewable question in this review is relatively simple: whether the applicant's access application provides sufficient information concerning the documents to which the applicant seeks access, to enable a responsible officer of Council to identify those documents.*
>
> *My 23 May 2025 letter explained why I consider that the relevant application does meet the above requirement, and that it is not, therefore, open to Council to refuse to deal with the application.*
>
> *In reply, Council has made relatively extensive submissions. Those submissions, however, mainly traverse issues beyond the limited ambit of the current external review. Submissions concerning whereabouts of documents, lines of enquiry, and what may or may not comprise 'reasonable steps' to search for documents in the circumstances of this case are all matters going to the reasonableness of search efforts and/or whether or not grounds may exist to justify a decision to refuse access to documents requested by way of a valid application, on the grounds said documents are nonexistent or unlocatable* [in accordance with sections 47(3) and 52 of the RTI Act].
>
> *The issue in the present review is* ***not*** *what steps might reasonably be required of Council to identify requested documents, but a confined, threshold issue: simply, whether the access application gives sufficient information concerning the document to enable Council to identify the document requested.*
>
> *The present application, in my view, meets this requirement: the applicant plainly states in that application that it seeks access to '*documents detailing any requests or notices from the council CEO to review or quash/cancel any parking fines or notices of traffic infringements notices for which he is the driver or owner of the vehicle, or his council vehicle*.' As a matter of fact, this is sufficient, in my preliminary view, to satisfy the requirements of section 24(2)(b) of the RTI Act.*
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> *As noted in my previous letter, there would appear to be at least one initial line of enquiry that might conceivably be pursued by Council in an effort to deal with the application – although* ***even if*** *Council maintains that this or any other line of enquiry does not fall within its obligation to undertake all reasonable searches, the access application itself is nevertheless framed with sufficient clarity to permit Council to deal with and make a considered decision on that application, ie, by deciding that requested documents are nonexistent or unlocatable.*
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> *To reiterate, the issue at this stage is* ***not*** *what searches might reasonably be required of Council to locate and deal with requested documents – but simply whether there is sufficient information in the access application to enable Council to identify those documents, ie, to understand what is being requested. The very tenor of Council's recent submissions suggests that it does appreciate what is being requested, but contests what should be required of it to locate that information. This is, as noted, a matter potentially standing to be addressed by way of considered decision on that application, and not a ground for refusing to deal with the application altogether.*
>
> *Accordingly, it continues to be my preliminary view that Council is not entitled to refuse to deal with the relevant access application.*

11. By email dated 2 July 2025, Council maintained its position:

> *We acknowledge that the applicant has used clear language to describe the type of documents they are seeking. However, section 24(2)(b) is not solely concerned with the applicant's clarity of language or intent. Rather, it requires that the application provide sufficient information about the documents to allow the agency to perform effective and*

[9] And are adequately encapsulated in Council's final 2 July 2025 submissions, extracted in paragraph 11.

> *complete searches to identify them. This is a threshold requirement for the validity of the application.*
>
> *In this case, the City cannot identify or locate documents responsive to the application without making inquiries outside the ordinary scope of our search capabilities — specifically, by asking the subject of the request (the CEO) whether any such documents exist, or attempting to determine what vehicles the CEO may own or drive, information which is not recorded in Council systems and would require assumptions or speculative investigation.*
>
> *Searchability is central to the purpose of section 24(2)(b). If the City does not hold enough information to commence meaningful searches — such as vehicle registration numbers or infringement references — then it cannot identify whether responsive documents exist at all. Without that capacity, the request cannot be dealt with in the manner intended by the RTI Act.*
>
> *The City submits that there is a distinction between clarity of intent and identifiability of documents for search purposes which should be preserved. While the applicant's wording may be subjectively understandable, the absence of essential identifying details means that no practical searches can be undertaken. Therefore, the application fails to meet the requirements of section 24(2)(b) and the City remains its position to refuse to deal with it on this ground.*
>
> [sic]

12. It is my view that those submissions conflate the threshold question in issue in this review – whether, as the AIC stated in the 17 June 2025 letter, '*there is sufficient information in the access application to enable Council to identify those documents, ie, to understand what is being requested*'[10] – with what search efforts may then be required to locate any such documents.

13. In my view, the Access Application meets the threshold imposed by section 24(2) of the RTI Act, for reasons explained by the AIC in each of his 23 May 2025 and 17 June 2025 letters quoted above. Indeed, Council in its own submissions through this review essentially concedes that it, too, understands what it is the Access Application requests.

14. Council's difficulty with the Access Application appears not to be a matter of comprehending the nature of the request that application embodies, but of what might be required of Council to process and deal with that request, such as *'asking the subject of the request (the CEO) whether any such documents exist*'.[11]

15. In his preliminary view dated 17 June 2025, the AIC explained that this is a secondary issue, and not one invalidating the Access Application under section 24(2)(b) of the RTI Act.

16. For the reasons explained above,[12] I am satisfied that the applicant has given sufficient information about the requested documents as required by the RTI Act, and Council is not entitled to refuse to deal with the Access Application on the basis of noncompliance with section 24 application requirements.

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[10] See paragraph 10.

[11] Which at face value is a striking submission, given both that the CEO is the principal officer under the RTI Act charged with primary decision-making responsibilities (section 30(1) of the RTI Act), and the fact that a document in the possession of an individual officer (which would include the CEO), in their official capacity, is expressly specified to be a document of an agency subject to the RTI Act: section 12(b) of the RTI Act. I will, however, refrain from commenting further on this issue, given the reasonableness of Council search efforts is not, as noted, the question falling to be determined in this review, and could potentially stand to be assessed in a subsequent review arising from this Access Application.

[12] Particularly the reasoning set out in the AIC's 23 May 2025 and 17 June 2025 preliminary view letters, with which I agree and adopt as final for the purposes of this decision.

DECISION

17. For the reasons set out above I set aside Council's decision of 2 May 2025.[13] In substitution I find that the Access Application complies with the requirements of section 24(2) of the RTI Act. The effect of this decision is that Council must continue processing the Access Application.

18. While the applicant in this review is a corporate entity and therefore does not enjoy human rights under the *Human Rights Act 2019* (Qld) (**HR Act**), this matter may affect the human rights of individuals acting on behalf of that entity. Accordingly, I have in making this decision nevertheless, had regard to the HR Act, particularly the right to seek and receive information.[14] I consider a decision-maker will be *'respecting and acting compatibly with'* that right, and others prescribed in the HR Act, when applying the law prescribed in the IP Act and the *Right to Information Act 2009* (Qld).[15] I have acted in this way in reaching my decision, in accordance with section 58(1) of the HR Act.

[redacted]

S Winson
Acting Information Commissioner
Date: 10 July 2025

[13] Section 110(1)(c) of the RTI Act.
[14] Section 21(2) of the HR Act.
[15] *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. The Information Commissioner's approach to the HR Act set out in this paragraph has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw '*no reason to differ*' from our position [23].