



## Decision and Reasons for Decision

---

<b>Citation:</b>	<b><i>P30 and Queensland Building and Construction Commission; E75 (Third Party) [2026] QICmr 80 (21 May 2026)</i></b>
<b>Application Number:</b>	<b>318673</b>
<b>Applicant:</b>	<b>P30</b>
<b>Respondent:</b>	<b>Queensland Building and Construction Commission</b>
<b>Third Party:</b>	<b>E75</b>
<b>Decision Date:</b>	<b>21 May 2026</b>
<b>Catchwords:</b>	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - request for information provided to regulatory agency by a complainant - objection to disclosure by complainant - accountability and transparency - administration of justice - personal information and privacy - flow of information - contrary to public interest - section 47(3)(b) of the <i>Right to Information Act 2009</i> (Qld)</b>

### DECISION

1. I set aside<sup>1</sup> the reviewable decision<sup>2</sup> of Queensland Building and Construction Commission (**QBCC**). In substitution, I have decided that access to all information in the Deferred Documents<sup>3</sup> should be refused under section 47(3)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**) on the basis that disclosure would, on balance, be contrary to the public interest.<sup>4</sup>
2. This means that no information is to be released to the Third Party.<sup>5</sup>
3. My reasons for the decision follow.



---

**Katie Shepherd**  
**Assistant Information Commissioner**

**Date: 21 May 2026**

---

<sup>1</sup> I have made this decision under section 110(1)(c) of the *Right to Information Act 2009* (Qld) (**RTI Act**) as a delegate of the Information Commissioner, under section 145 of the RTI Act.

<sup>2</sup> Defined in paragraph 5 of the reasons that follow as the Disclosure Decision.

<sup>3</sup> As defined in paragraph 6 of the reasons that follow.

<sup>4</sup> On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) came into force, effecting significant changes to the RTI Act. As the access application was made prior to 1 July 2025, references in this decision are to the RTI Act as in force prior to 1 July 2025 in accordance with the transitional provisions in Chapter 7, Part 9 of the RTI Act.

<sup>5</sup> The entity defined as the Company in paragraph 4 of the reasons that follow.

## REASONS FOR DECISION

### Background

4. This external review arises out of an access application made under the RTI Act to QBCC by a director on behalf of his engineering company (the **Company**). Access was sought to a range of information regarding a complaint that had been made to QBCC regarding building work undertaken by the Company.<sup>6</sup> QBCC located 870 pages and 5 audio recordings and decided to release 845 pages and 3 audio recordings to the Company, refusing access to the remaining information.<sup>7</sup>
5. During processing of the application, QBCC consulted another individual (the **Complainant**) in relation to the disclosure of certain documents, in accordance with section 37 of the RTI Act. The Complainant objected to disclosure and QBCC partially accepted their objections, deciding to disclose the consultation documents in part only.<sup>8</sup> The Complainant then applied to QBCC for internal review<sup>9</sup> of the decision to release parts of the consultation documents contrary to their objection. On internal review, QBCC affirmed the decision to grant partial access to the consultation documents (**Disclosure Decision**),<sup>10</sup> but deferred access to those documents in full, pending the exercise of review rights by the Complainant.
6. The Complainant applied to the Office of the Information Commissioner (**OIC**) for external review of the Disclosure Decision.<sup>11</sup> OIC contacted the Company to confirm that it still sought access to those parts of the consultation documents that QBCC had decided to release. The Company confirmed this was the case, and it applied to participate in the review.<sup>12</sup> On external review, OIC independently assessed the Complainant's objections and the information which QBCC had decided to disclose contrary to those objections, as contained in 12 full and 8 part pages (**Deferred Documents**). OIC formed the view that the public interest favoured nondisclosure of the Deferred Documents in their entirety. This view was conveyed to the review participants and submissions were invited in response.<sup>13</sup> The Company contested the view and made submissions in support of its case.<sup>14</sup> QBCC did not provide any submissions in response to OIC's preliminary view.
7. The Company is recorded as the access applicant that originally applied to QBCC for access to information. However, on external review, the Company assumed the role of Third Party as they were consulted by OIC and joined as a participant to the external review process. For ease of reference, I refer to this participant as **the Company** in these reasons. During processing of the application by QBCC, the Complainant took on the role of a consulted third party and exercised their right of review to OIC by contesting the Disclosure Decision. As such, the Complainant became the Applicant for the purpose of the external review process. For ease of reference, I refer to this participant as **the Complainant** in these reasons.

---

<sup>6</sup> Access application received by QBCC on 2 December 2024.

<sup>7</sup> QBCC decision issued to the Company, dated 19 February 2025. The Company did not seek review of the QBCC decision to refuse access to information.

<sup>8</sup> QBCC decision issued to the Complainant, dated 21 February 2025 which decided to release 12 pages in full and 8 pages in part contrary to the Complainant's objections. QBCC also decided to refuse access to 4 full and the remaining 8 part pages that formed part of the consultation documents; to the extent the decision determined to refuse access to information, it replicated the decision that was issued to the Company on 19 February 2025.

<sup>9</sup> Internal review application dated 27 March 2025.

<sup>10</sup> QBCC internal review decision dated 28 April 2025. This is the *reviewable decision* as defined in schedule 5 of the RTI Act, as a *decision to disclose a document contrary to the views of a relevant third party under section 37*.

<sup>11</sup> External review application dated 2 June 2025.

<sup>12</sup> Email to OIC dated 4 January 2026. A delegate of the Information Commissioner allowed the Company to be joined as a participant, under section 89 of the RTI Act, and confirmed this by email dated 5 January 2026.

<sup>13</sup> Emails to participants dated 11 March 2026.

<sup>14</sup> Submission dated 12 April 2026.

## Issues for determination

8. Generally, under the RTI Act, the agency which made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the access applicant.<sup>15</sup> However, where the decision under external review is a disclosure decision, as is the case here, the participant who opposes the disclosure decision (here, the Complainant) has the onus of establishing that a decision not to disclose the document or information is justified, or that the Information Commissioner should give a decision adverse to the person who applied for access to the document or information (here, the Company).
9. The Information Commissioner's jurisdiction in this external review is limited to reviewing the Disclosure Decision which determined to release the Deferred Documents contrary to the Complainant's objections. The issue for determination is whether the Complainant has demonstrated that there are grounds to justify refusing access to the Deferred Documents. I am limited in the extent to which I can describe the Deferred Documents in these reasons.<sup>16</sup> Generally, they comprise information that was provided to QBCC by the Complainant, including the original statement of complaint.
10. As outlined in paragraph 4 above, QBCC decided<sup>17</sup> to release a significant amount of information to the Company under the RTI Act, which was *not* the subject of third party consultation (**Released Documents**). QBCC provided a copy of the Released Documents to OIC. However, despite multiple requests,<sup>18</sup> OIC was unable to obtain express confirmation from QBCC as to when, and in what format, the Released Documents were disclosed to the Company. Noting that the Company did not separately seek review of any of the refused information in the Released Documents,<sup>19</sup> I have not considered those documents in this review, nor do I have jurisdiction to do so.

## Relevant law

11. Under the RTI Act, an individual has a right to be given access to documents in the possession or under the control of an agency.<sup>20</sup> The legislation is to be administered with a pro-disclosure bias<sup>21</sup> however, the right of access is subject to certain limitations, including grounds for refusing access.<sup>22</sup>
12. Access to information may be refused where disclosure would, on balance, be contrary to the public interest.<sup>23</sup> In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision-maker must take certain steps as set out in section 49(3) of the RTI Act, including, identifying and disregarding irrelevant factors, identifying factors for and against disclosure, and deciding whether, on balance, disclosure of the information would be contrary to the public interest.<sup>24</sup>
13. The term public interest refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, generally, a public interest consideration is one which is common to all members of, or

---

<sup>15</sup> Section 87(2) of the RTI Act.

<sup>16</sup> Section 108 of the RTI Act.

<sup>17</sup> Pursuant to the original decision dated 19 February 2025.

<sup>18</sup> Issued on 19 June 2025, 5 January 2026, 4 February 2026, 16 February 2026 and 27 April 2026.

<sup>19</sup> This included the refused information in the Deferred Documents: see footnote 8 above.

<sup>20</sup> Section 23 of the RTI Act.

<sup>21</sup> Section 44 of the RTI Act.

<sup>22</sup> Section 47 of the RTI Act.

<sup>23</sup> Section 47(3)(b) of the RTI Act.

<sup>24</sup> Schedule 4 of the RTI Act lists factors that may be relevant in determining where the balance of the public interest lies.

a substantial segment of the community, as distinct from matters that concern purely private or personal interests.

14. Under section 105 of the RTI Act, the Information Commissioner (or delegate) has the power to decide any matter that could have been decided by the agency. The external review process is merits review whereby the Information Commissioner ‘stands in the shoes’ of the agency and reconsiders questions of law and of fact in order to reach the correct and preferable decision under the RTI Act. After conducting an external review, the Information Commissioner must make a decision affirming, varying, or setting aside and making a decision in substitution for, the decision under review.<sup>25</sup>
15. In making this decision, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**) to the extent that an individual (here, the Complainant) has a right not to have their privacy unlawfully or arbitrarily interfered with, under section 25(a) of the HR Act, and have acted compatibly with this human right, in accordance with section 58(1) of the HR Act. Ordinarily, the Information Commissioner would have regard to the human right to seek and receive information in section 21 of the HR Act. However, as the Company is a business entity and as only individuals have human rights,<sup>26</sup> I have not taken that human right into account in reaching this decision.

## Submissions

16. The Complainant submitted that they considered their complaint to QBCC had been provided confidentially.<sup>27</sup>
17. As noted above, QBCC elected not to make any submissions in response to my preliminary view. I have, however, taken into account the reasons QBCC set out in the Disclosure Decision which generally acknowledged that the Complainant considered they had provided information to QBCC in confidence and the potential for harm if that information were to be inappropriately disclosed. The QBCC decision maker considered that they had taken steps to delete or withhold any information that could intrude upon the Complainant’s privacy, expose them to unfair treatment, or discourage future cooperation with QBCC via the public interest balancing test.
18. The Company submitted as follows<sup>28</sup> in support of their case for access to the Deferred Documents:

### 1. **Contrary to Public Interest**

*The Applicant is a company registered in Queensland whose director is ... a Registered Professional Engineer of Queensland ...*

*On or about 24.08.23 the complainant entered into a contract appointing [the director of the business] to act for the complainant in the design and construction of a new cattery with a capacity of 15 cats, all as defined by [regional Council] in the development permit reference ...*

*This cattery is for public use and must be compliant with the National Construction Codes, Australian Standards and the standards required to comply with recognised animal husbandry norms. The permit issued by [regional Council], calls for the project to be designed, managed and certified both in terms of design and construction by an RPEQ including workplace health and safety. All aspects of the project are therefore the professional responsibility of the RPEQ.*

---

<sup>25</sup> Section 110 of the RTI Act.

<sup>26</sup> Section 11(2) of the HR Act.

<sup>27</sup> External review application and email to OIC dated 14 January 2026.

<sup>28</sup> Submission to OIC dated 12 April 2026.

*Importantly there are major environmental concerns relating to an adjacent creek, stormwater considerations and a publicly available car park to facilitate the public when delivering and collecting their cats to the cattery and indeed the existing kennel.*

*I therefore point out that this project has the control of [regional Council] and is for use by the public. There are safety issues including fire and security. There are third party livestock roaming in the adjacent fields and the existence of adjacent farming interests.*

*In summary, the security of this matter is entirely in the public interest and, in the final analysis, needs to be approved by [regional Council] including the issue of an operational licence.*

## **2. QBCC has not undertaken an investigation**

*The regulatory authority of the QBCC does not regulate Professional Engineers and therefore cannot undertake any investigation into the events that are perceived to have occurred at the site as a result of decisions taken by the Professional Engineer.*

## **3. the Deferred Documents contain personal information**

*I have not had the opportunity to respond to the Deferred Documents which is the principal reason why these Deferred Documents should be released to me for scrutiny. I believe that these documents should be released in order to be afforded natural justice and procedural fairness. It should be remembered that I, in my professional capacity, am still liable for these works and require full access to statements made and documents provided to other regulatory authorities.*

## **Findings**

19. I have considered the factors set out in schedule 4 of the RTI Act<sup>29</sup> and I have not taken any irrelevant factors into account. I have also applied the RTI Act's pro-disclosure bias<sup>30</sup> and had regard to Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.<sup>31</sup>
20. In the circumstances of this case, I am satisfied the following public interest factors favouring disclosure arise for consideration:
- enhance QBCC's accountability in its handling of complaints<sup>32</sup>
  - reveal the reason for QBCC decisions made in relation to investigation of the complaint and background or contextual information that informed the decisions<sup>33</sup>
  - provide an individual (here, the director of the Company) with access to their personal information<sup>34</sup>
  - allow inquiry into possible deficiencies in the conduct of the agency<sup>35</sup>
  - reveal that information was incorrect or misleading;<sup>36</sup> and
  - contribute to the administration of justice generally and for a person (here, the Company).<sup>37</sup>
21. On the other hand, there are a number of factors which I consider favour nondisclosure of the Deferred Documents, as listed below:

---

<sup>29</sup> Relevant factors are discussed below.

<sup>30</sup> Section 44 of the RTI Act.

<sup>31</sup> Section 47(2) of the RTI Act.

<sup>32</sup> Schedule 4, part 2, items 1 and 3 of the RTI Act.

<sup>33</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>34</sup> Schedule 4, part 2, item 7 of the RTI Act.

<sup>35</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>36</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>37</sup> Schedule 4, part 2, item 16 and 17 of the RTI Act.

- protection of the Complainant's right to privacy<sup>38</sup>
- safeguarding the Complainant's personal information<sup>39</sup>
- prejudice to the flow of information to QBCC, a regulatory agency;<sup>40</sup> and
- prejudice QBCC's ability to obtain confidential information.<sup>41</sup>

22. I discuss these factors, and the relative weight that I consider should be applied in the circumstances of this case, below.

### ***Factors favouring disclosure***

23. I acknowledge that disclosing the Deferred Documents would, to some degree, enhance QBCC's accountability and transparency in terms of how it deals with and investigates complaints and performs its regulatory functions. In attributing weight to these factors, I consider it is relevant to take into account the particular nature of the Deferred Documents, being the original information provided in support of the complaint, and the extent of information that QBCC determined to release to the Company in the Released Documents. I am satisfied that the Released Documents have served to significantly discharge these disclosure factors as they show steps taken by QBCC in investigating the complaint, whereas the Deferred Documents themselves represent the source complaint information only; they do not show any investigative/regulatory actions that were taken by QBCC. Therefore, I do not consider disclosure would enhance accountability and transparency of QBCC to any significant degree and I afford these factors<sup>42</sup> low weight.

24. I accept however, that disclosure of the Deferred Documents would provide the Company with a more fulsome understanding of the substance of the complaint and the type of information provided by the Complainant which led to QBCC commencing the investigation. While the nature of the complaint has effectively been made known to the Company during the course of the QBCC investigation and in correspondence issued to the Company, I accept that disclosure of the Deferred Documents would further enhance the Company's understanding of what was before QBCC in assessing the complaint and making decisions, and provide further context to the circumstances of the complaint. For these reasons, I afford this factor<sup>43</sup> moderate weight.

25. As outlined earlier in these reasons, the Deferred Documents are in the nature of the originating documents authored by the Complainant and provided to QBCC prior to any investigation commencing. I do not consider that disclosure of such information could reasonably be expected to allow inquiry into possible deficiencies in QBCC actions or conduct as they do not record any actions or steps taken by QBCC on the matter that could be scrutinised through disclosure. Accordingly, I afford this factor<sup>44</sup> no weight.

26. There is a public interest in an individual being provided with access to their personal information held by a government agency. To the extent the Deferred Documents contain information that refers to the director, personally, I consider this factor<sup>45</sup> applies and should be afforded moderate weight. However, because the information has been provided by the Complainant, in a personal capacity, it also contains their personal information which serves to counter the pro-disclosure factor, as discussed below.

---

<sup>38</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>39</sup> Schedule 4, part 4, section 6 of the RTI Act.

<sup>40</sup> Schedule 4, part 3, item 13 of the RTI Act.

<sup>41</sup> Schedule 4, part 3, item 16 of the RTI Act.

<sup>42</sup> Schedule 4, part 2, items 1 and 3 of the RTI Act.

<sup>43</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>44</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>45</sup> Schedule 4, part 2, item 7 of the RTI Act.

27. Given the regulatory investigation context to which the Deferred Documents relate, by their very nature, they comprise opinions and versions of events as expressed by the Complainant. This inherent subjectivity does not mean that information provided to QBCC is necessarily incorrect or misleading.<sup>46</sup> It is a matter for QBCC to weigh the evidence collected as part of an investigation in making any recommendations and findings; to the extent the Company is dissatisfied with the handling of the matter, that is beyond the jurisdiction of the Information Commissioner under the RTI Act. I acknowledge that the Company is seeking information for procedural fairness reasons and I have addressed that factor separately below. While I accept that disclosing the Deferred Documents may provide the Company with additional context/background to decisions made by QBCC, as discussed above, I do not consider they would reveal that information is incorrect or misleading. For these reasons, I afford this factor<sup>47</sup> no weight.
28. The Company has submitted they are seeking information for procedural fairness reasons. I accept that, to some degree, disclosure of the Deferred Documents may contribute to the administration of justice for the Company and generally<sup>48</sup> as it would provide the Company with the complete details of the complaint which the Company may seek to refer to in connection with any further legal/complaint/regulatory proceedings that may arise in connection with the matter. However, as the information available to me indicates QBCC determined not to take further action on the complaint, I consider these factors carry only low weight in favour of disclosure.

#### ***Factors favouring nondisclosure***

29. I am satisfied that the Deferred Documents contain the personal information of the Complainant as they were authored by that individual and expressed in their own words. This raises two factors favouring nondisclosure, in terms of safeguarding another person's right to privacy and causing a public interest harm by disclosing personal information of another individual.<sup>49</sup> While I am limited in the level of detail I can include in these reasons about what the Complainant said in their correspondence to QBCC, given the particular context and circumstances, I consider disclosure would result in a moderate level of intrusion into the Complainant's private sphere and cause a moderate level of public interest harm by disclosing their personal information associated with the complaint.
30. The RTI Act also recognises that the public interest will favour nondisclosure of information where disclosure could reasonably be expected to prejudice the flow of information to a regulatory agency.<sup>50</sup> Obtaining contemporaneous information from parties involved in a dispute or who have concerns that arise during a building and construction project is, to my mind, integral to the effectiveness of QBCC discharging its compliance and regulatory functions. If source complaint documents and statements were subject to routine and unconditional disclosure under the RTI Act, members of the community may be reluctant to provide full and frank statements to QBCC regarding a dispute, thereby prejudicing QBCC's ability to effectively conduct regulatory investigations. I am satisfied that this important public interest factor is enlivened by the Deferred Documents, and I afford it significant weight in favour of nondisclosure.
31. I have also taken into account that the Complainant submitted their communications to QBCC about the complaint were made confidentially and the potential for disclosure to prejudice QBCC's ability to obtain confidential information in the future. For similar

---

<sup>46</sup> See *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [15]-[20].

<sup>47</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>48</sup> Schedule 4, part 2, items 16 and 17 of the RTI Act.

<sup>49</sup> Schedule 4, part 3, item 3 and schedule 4, part 4, section 6 of the RTI Act.

<sup>50</sup> Schedule 4, part 3, item 13 of the RTI Act.

reasons to those outlined in the preceding paragraph, I consider that parties to a dispute, particularly complainants, may be less forthcoming about the full details of their complaint if QBCC was in the practice of routinely disclosing source statements of complaints, under the RTI Act. In the circumstances, I afford this factor<sup>51</sup> significant weight.

32. In affording weight to the applicable nondisclosure factors outlined above, I have also had regard to the principle that there can be no control over further dissemination of information disclosed under the RTI Act, and this is particularly relevant in protecting the personal information of other individuals and safeguarding information that is provided on the presumption of confidentiality to QBCC.<sup>52</sup>
33. On balance, I am satisfied that the weight of the public interest factors favouring nondisclosure exceeds that of the factors favouring disclosure of the Deferred Documents, and accordingly, I find that access to the Deferred Documents may be refused under section 47(3)(b) of the RTI Act as disclosure would, on balance, be contrary to the public interest.
34. The above paragraphs [4] to [33] are the reasons for my decision at paragraph [1].

---

<sup>51</sup> Schedule 4, part 3, item 16 of the RTI Act.

<sup>52</sup> *FLK and Information Commissioner* [2021] QCATA 46 at [17].