

Decision and Reasons for Decision

Citation: *MCC Pty Ltd and Redland City Council* [2026] QICmr 7 (22 January 2026)

Application Number: 318447

Applicant: MCC Pty Ltd ACN 002 243 263

Respondent: Redland City Council

Decision Date: 22 January 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - descriptions of infrastructure on a private property - photographs within private property boundary - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to Redland City Council (**Council**) under the *Right to Information Act 2009* (Qld) (**RTI Act**)¹ for access to various documents regarding the removal of fig trees at a specified location.²
2. Council located 130 pages and decided to refuse access to eight pages and parts of 91 pages as disclosure would, on balance, be contrary to the public interest.³
3. The applicant sought internal review of that decision.⁴ On 8 January 2025, Council decided to release further information to the applicant, and otherwise affirm the decision that the disclosure of some information would, on balance, be contrary to the public interest.⁵
4. The applicant applied⁶ to the Office of the Information Commissioner (**OIC**) for external review of Council's '*decision to redact parts of the released documents relating to "private*

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 RTI Act. References in this decision to the RTI Act however, are to the Act 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 applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.

² Access application dated 9 October 2024.

³ Decision dated 14 November 2024.

⁴ By letter dated 9 December 2024.

⁵ On internal review, Council refused access to parts of 98 pages on the basis that disclosure would be contrary to the public interest and decided to release 32 pages (with some information deleted on the basis it is not relevant to the terms of the access application, under section 73 of the RTI Act). The decision dated 8 January 2025 is the **reviewable decision** for the purpose of this decision.

⁶ External review application dated 4 February 2025.

infrastructure".⁷

5. During the review, Council agreed that a small amount of further information could be disclosed to the applicant.⁸
6. The remaining refused information (**Remaining Information**) relates to '*private infrastructure*' and can be broadly categorised as:⁹
 - descriptions of specific type/s of infrastructure on a private residential property; and
 - photographs from within a private property boundary.
7. The issue I must determine is whether access to the Remaining Information may be refused on the basis that disclosure would, on balance, be contrary to the public interest.
8. For the reasons set out below, I affirm Council's internal review decision and find that access to the Remaining Information may be refused as disclosure would, on balance, be contrary to the public interest.¹⁰

Relevant law

9. Under the RTI Act, a person has a right to be given access to documents of an agency.¹¹ However, this right of access is subject to certain limitations, including grounds upon which access to information may be refused.¹² The RTI Act requires the grounds for refusing access to be interpreted narrowly, and decisions on access to be made with regard to the pro-disclosure bias.¹³
10. Relevantly, access to information may be refused where its disclosure would, on balance, be contrary to the public interest.¹⁴ 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 in general, a public interest consideration is one which is common to all members of, or a substantial segment of, the community, as distinct from matters that concern purely private or personal interests. There are, however, some recognised public interest considerations that may apply for the benefit of an individual.
11. The RTI Act explains the steps that the decision-maker must take in deciding the public interest.¹⁵ It also identifies a non-exhaustive list of factors in Schedule 4 that may be relevant to deciding the balance of the public interest. I have considered all these factors, together with other relevant information in reaching my decision, and discuss relevant factors below.

⁷ The only issue for determination is the applicant's entitlement to information relating to private infrastructure. Other information refused by Council as contrary to the public interest to release (such as names, contact details and pricing information within company quotes) and information identified by Council as irrelevant do not form part of this decision.

⁸ A small amount of information on page 114 of the located documents. Council disclosed this information to the applicant on 2 June 2025.

⁹ The Remaining Information comprises parts of 20 pages.

¹⁰ Sections 47(3)(b) and 49 of the RTI Act.

¹¹ Section 23 of the RTI Act.

¹² Section 47(3) of the RTI Act.

¹³ Section 47(2)(a) and 44 of the RTI Act.

¹⁴ Sections 47(3)(b) and 49 of the RTI Act.

¹⁵ Section 49(3) of the RTI Act.

Applicant submissions

12. In summary, the applicant has raised the following relevant submissions in support of its right of access to information under the RTI Act:¹⁶
- release of information will promote Council's transparency, openness and accountability, and reveal the reason for Council's decision to remove trees;¹⁷
 - release will contribute to informed debate on important ecological issues as well as contribute to the protection of the environment;
 - disclosure would reveal and assist inquiry into possible deficiencies in Council conduct, including whether Council had a proper basis to remove trees;¹⁸
 - the Remaining Information is not personal information, as it is not about an individual;
 - descriptions of particular infrastructure within private property would not prejudice an individual's right to privacy;
 - the relevant land is subject to covenants which protect (in addition to general obligations regarding the clearing of vegetation) the fig trees from being cleared;
 - the *'identification of the specific impacted infrastructure is material to the dispute and concerns raised by the public'*;
 - *'The infrastructure in question appears to be a reference to infrastructure associated with public services (e.g. water pipes or telecommunications)'* and if so its location *'is able to be identified through public searches.'* On this basis it *'has a public element owing to its relationship with external infrastructure and the functioning of the infrastructure network'*;
 - the treatment of descriptions of infrastructure as subject to a right to privacy is akin to treating development application plans as subject to privacy obligations;
 - the information is *'inherently impersonal despite being captured from a private location'*; and
 - the information *'has a clear relationship with the public sphere... because the redacted information has resulted in the clearing of fig trees partly within the public road reserve'.*

Findings

13. In reaching my decision on the Remaining Information, I have had regard to the RTI Act's pro-disclosure bias¹⁹ and Parliament's intention that the grounds for refusing access to information are to be interpreted narrowly.²⁰ I have not taken any irrelevant public interest factors into account in making this decision.²¹

Factors favouring disclosure

14. The applicant is particularly interested in accessing the Remaining Information to assess whether Council had a proper basis to remove the fig trees. I recognise that disclosure of the Remaining Information would further enhance Council's transparency and accountability in relation to the tree removal by enabling access to all responsive government-held information.²² Additionally, disclosure would give the applicant a more

¹⁶ Applicant's submissions dated 4 February 2025, 11 February 2025 and 9 June 2025.

¹⁷ The applicant contends that the released information has not discharged these factors favouring disclosure.

¹⁸ Including the lawfulness of Council's decision to remove the trees.

¹⁹ Section 44 of the RTI Act.

²⁰ Section 47(2)(a) of the RTI Act.

²¹ Section 49(3) of the RTI Act.

²² Schedule 4, part 2, items 1 and 3 of the RTI Act.

fulsome understanding of the information relied on by Council when deciding to remove the trees.²³

15. However, the Remaining Information is of a confined nature, comprising descriptions of specific type/s of infrastructure on a private property, and photographs from within a private property boundary. Due to the steps taken by Council to advance its transparency in relation to the decision to remove the fig trees (including through the release of information in response to this access application), I consider that Council's transparency and accountability of its decision-making process has been significantly discharged. I consider the weight to be afforded to the transparency and accountability factors is reduced. Accordingly, I afford minimal weight to these factors favouring disclosure.
16. I accept the applicant's submission that release of the Remaining Information may also promote positive and informed debate²⁴ on ecological issues. However, due to the limited nature of the Remaining Information relating to a private property, I consider any such promotion would be marginal.
17. The applicant submits that the trees were removed from land which is subject to covenants about the removal of vegetation. The covenants require that a person who removes a tree from the park, reserve or nature-strip for any reason must then replace the tree.
18. The information provided by the applicant indicates that the *purchaser* of land is bound by the covenant obligations. From the limited information before me about the covenant, it is not apparent that the obligations extend to Council in relation to public land, as it is not a purchaser of land forming part of the estate. As such, I do not consider that this raises a factor favouring disclosure.
19. The applicant contends that the Remaining Information is material to the concerns raised by the public. I have also considered whether disclosure could contribute to the general administration of justice.²⁵ When assessing this factor, I must consider whether:
 - the applicant has suffered loss, or damage, or some kind of wrong, in respect of which a remedy is, or may be, available under the law
 - the applicant has a reasonable basis for seeking to pursue the remedy; and
 - disclosing the Remaining Information would assist the applicant to pursue the remedy, or evaluate whether a remedy is available or worth pursuing.²⁶
20. There is nothing before me indicating that a legally recognised wrong was perpetrated against the applicant and that the evaluation or pursuit of a remedy might be facilitated by disclosure of the Remaining Information. In this respect, it is important to note that the trees were removed from a public nature strip and as explained above, the information before me does not demonstrate that Council is bound by the covenant.
21. In the absence of a legally recognised wrong perpetrated against the applicant, and noting the information already released about the decision to remove trees, I do not consider that the Remaining Information is required for the applicant to pursue a legal

²³ Schedule 4, part 2, item 11 of the RTI Act.

²⁴ Schedule 4, part 2, item 2 of the RTI Act

²⁵ Schedule 4, part 3, item 16 of the RTI Act.

²⁶ *Willsford and Brisbane City Council* (1996) 3 QAR 368 at [17] and confirmed in *10S3KF and Department of Community Safety* (Unreported, Queensland Information Commissioner, 16 December 2011).

remedy or evaluate whether a remedy (legal or otherwise) is available or worth pursuing. On this basis, I do not consider this factor is enlivened.²⁷

22. While I am not satisfied the applicant has suffered a legal wrong, I recognise that the applicant is dissatisfied with Council's decision to remove the fig trees. It is open for the applicant to pursue its concerns directly with Council or with the Queensland Ombudsman by making a complaint. For completeness, I do not consider that the Remaining Information is required for the applicant to make such a complaint.
23. The applicant submits that disclosure of the Remaining Information would reveal or assist enquiries into possible deficiencies in Council's conduct,²⁸ or potential misconduct by Council.²⁹ I understand that the applicant's contention arises from its dissatisfaction with Council's decision to remove the fig trees. Having carefully consider the Remaining Information, from an objective viewpoint, I am satisfied that it does not demonstrate deficiencies in Council's conduct, or potential misconduct by Council. As such, I do not consider that these factors favouring disclosure are enlivened.³⁰
24. Finally, the applicant submits that disclosure of the Remaining Information could reasonably be expected the contribute to the protection of the environment. However, the refused information is of a very confined nature – that is – information about a private residential property. Having considered the private nature of this information, I do not consider that the disclosure of this information could reasonably be expected to contribute to the protection of the environment. For this reason, I do not consider that this factor is enlivened.³¹

Factors favouring nondisclosure

25. A factor favouring nondisclosure arises when the disclosure of information could reasonably be expected to prejudice the protection of an individual's right to privacy.³² While the concept of 'privacy' is not defined in the RTI Act, it can be viewed as the right of an individual to preserve their personal sphere free from interference from others.³³
26. The applicant contends that disclosure of the Remaining Information would not prejudice an individual's right to privacy as it is not sufficiently linked to an individual nor does it have a '*sufficiently personal character*.' The applicant also submits that the infrastructure on a private property is associated with public services, with information about the location of these public services freely available. Due to the accessibility of this information through other means, the applicant contends that disclosure of the location of public services on a private property would not interfere with an individual's privacy.
27. I accept that the location of public services is information available through other processes.³⁴ However, the Remaining Information is not limited to information about the

²⁷ The information before me does not indicate that the applicant has suffered a legal wrong, to which a remedy is available which would enliven this factor. In the event the applicant has suffered a legal wrong which is not apparent to me, I would consider any weight to be afforded to this general factor favouring disclosure to be low, given Council's actions to promote transparency through the release of information enabling the applicant to pursue legal proceedings.

²⁸ Or the administration of an agency. See schedule 4, part 2, item 5 of the RTI Act.

²⁹ Schedule 4, part 2, items 6 of the RTI Act.

³⁰ While not raised expressly by the applicant, for completeness, there is nothing within the Remaining Information that I consider the disclosure of would reveal that Council has engaged in negligent, improper or unlawful conduct, under schedule 4, part 2, item 5 of the RTI Act.

³¹ Schedule 4, part 2, item 13 of the RTI Act.

³² Schedule 4, part 3, item 3 of the RTI Act.

³³ See the Australian Law Reform Commission's definition of the concept in "For your information: Australian Privacy Law and Practice" Australian Law Reform Commission Report No. 108 released 11 August 2008, at paragraph 1.56.

³⁴ For completeness, I do not consider the accessibility of information about public services on private land would provide for unfettered access under the RTI Act. I do however recognise that this would be a relevant consideration to determine the public interest, if the information were limited to the location of public services.

location of these services. Rather, it includes photographs and descriptions of the impact of fig trees on the infrastructure and utilities of a private residential property. On this point, the applicant submits that *'the disclosure of descriptions of private infrastructure does little more than identify the impacted infrastructure relied upon by Council.'* However, the description or photographs of the impacted infrastructure is what brings the Remaining Information into the private sphere of the occupiers and/or owners of the relevant property.

28. Given this context, I consider the Remaining Information has a private nature, sufficiently linked to the occupiers and/or owners of the property, as distinct from the publicly available information. I am satisfied that information about the damage caused to a private residential property by a public tree falls within the property occupiers' private sphere.
29. The applicant also submits that as the Remaining Information contributed to Council's decision to clear trees from a public road reserve, there is a clear relationship with the public sphere. To the extent that the applicant sought information relating to public land, I am satisfied this has been released by Council as far as is possible without impacting on the privacy of private individuals. Protecting individual privacy is an important public interest, and I afford this consideration relatively substantial weight.
30. Finally, it is uncontested that the Remaining Information is not personal information, as it is not about an individual. This harm factor favouring nondisclosure is therefore not enlivened.³⁵

Balancing the public interest

31. I have considered the pro-disclosure bias³⁶ and factors favouring disclosure outlined above. I accept that there is public interest in enhancing Council's accountability and transparency by revealing background information about the decision to remove the fig trees. I also recognise the public interest where disclosure would contribute to positive and informed debate on ecological issues (albeit to a limited degree). However, due to the information released by Council, I afford these factors favouring disclosure minimal weight. Balanced against this I consider the public interest in protecting the privacy of other individuals carries significant and determinative weight so as to favour nondisclosure of the Remaining information.
32. On balance, I am satisfied that the nondisclosure factor outweighs the disclosure factors and the requested information would, on balance, be contrary to the public interest to disclose. As such, access may be refused under section 47(3)(b) of the RTI Act.

DECISION

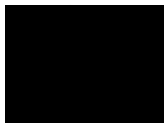
33. I affirm³⁷ Council's internal review decision and find that access to the Remaining Information may be refused under sections 47(3)(b) and 49 of the RTI Act as disclosure is, on balance, contrary to the public interest.

³⁵ Schedule 4, part 4, item 6 of the RTI Act.

³⁶ Section 44 of the RTI Act.

³⁷ Section 110(1)(a) of the RTI Act.

34. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Brianna Luhrs
Manager, Right to Information

Date: 22 January 2026