

Decision and Reasons for Decision

Citation: *N77 and Sunshine Coast Regional Council [2026] QICmr 65*
(23 April 2026)

Application Number: 318712

Applicant: N77

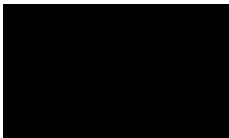
Respondent: Sunshine Coast Regional Council

Decision Date: 23 April 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - applicant submits agency did not locate all relevant documents - whether agency has conducted all reasonable searches - whether access to further documents may be refused on the basis they are unlocatable - sections 47(3)(e) and 52(1)(b) of the *Right to Information Act 2009* (Qld)

DECISION

1. I vary¹ the decision under review by finding that access to the documents sought by the applicant as described in her application for external review may be refused under sections 47(3)(e) and 52(1)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**) on the ground that they are unlocatable. I am satisfied that Sunshine Coast Regional Council (**Council**) has taken all reasonable steps to try to locate the requested documents.
2. My reasons for the decision follow.



R Moss
Principal Review Officer

Date: 23 April 2026

¹ Under section 110(1)(b) of the RTI Act.

REASONS FOR DECISION

Summary

3. The applicant applied² to Council under the RTI Act³ for access to all information received from the Queensland Herbarium⁴ *'which was available to prepare the attached report called the "Representative Site Map and Data".'* The attached report comprised a spreadsheet containing eight lines of data (with a footnote indicating that the data was based on information received from the Queensland Herbarium) as well as a Google Earth map showing *'Corveg Sites Representative Sites'*.⁵ This information was published on Council's website in 2019 in connection with the publication of an associated *'Cottonwood Tree Study'* report. Council had resolved in 2017 to undertake an investigation into the characteristics of cottonwood trees to assist in making decisions about coastline vegetation management.⁶
4. Council did not process and decide the application within the statutory timeframe under the RTI Act and was therefore deemed to have refused access to the requested information. However, in an effort to assist the applicant, Council provided the applicant with administrative access to an 11 page .pdf file of documents relating to the Herbarium data. It also gave the applicant administrative access to another 656 pages which were previously released by Council in 2020 to another RTI applicant.⁷ On 26 May 2025, Council provided the applicant with administrative access to a further 34 pages of information and 15,000 rows of digital data.
5. By application dated 13 June 2025, the applicant applied to the Office of the Information Commissioner (**OIC**) for review of Council's decision. The applicant raised a number of sufficiency of search issues and identified the documents to which she sought access.
6. Further documents were released to the applicant during the course of the review. However, the applicant continued to raise sufficiency of search issues throughout the review.
7. The only issue for OIC's determination concerns the sufficiency of Council's searches for the documents sought by the applicant.

Background

8. The applicant considers that the information published by Council in the *'Representative Site Map and Data'* document (in association with the Cottonwood Tree Study) is misleading and has been incorrectly used by Council for the past seven years. The applicant seeks information to determine how the information was sourced, specifically,

² On 2 April 2025.

³ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act and *Information Privacy Act 2009* (Qld) (**IP Act**). As the applicant's application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act, which require that applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**.

These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> respectively.

⁴ The Queensland Herbarium forms part of the Department of Environment and Science. It is the centre for science, research and information on Queensland's ecosystems and species of plant, fungi, algae and animals: <https://www.qld.gov.au/environment/plants-animals/plants/herbarium/about> (accessed 21 April 2026)

⁵ The CORVEG database (now called the QBEIS survey database) is managed by the Queensland Herbarium and is a dataset containing site-based flora, soil and vegetation data collected at study locations across Queensland since 1982: <https://researchdata.edu.au/queensland-biodiversity-ecology-system-qbeis/2029010> (accessed 21 April 2026)

⁶ <https://www.sunshinecoast.qld.gov.au/environment/education-resources-and-events/environment-resources-and-publications/natural-resource-management-and-conservation-techniques/cottonwood-tree-study> (accessed 21 April 2026)

⁷ As stated in Council's notice of a deemed decision dated 16 May 2025.

in emails and associated documents around August 2018 from the Queensland Herbarium to Council (and/or to Council's contractor/subcontractor⁸ who were involved in undertaking the cottonwood tree study on behalf of Council and preparing the associated report).

Reviewable decision

9. The decision under review is Council's deemed refusal of access decision dated 16 May 2025.

Evidence considered

10. Evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes).
11. I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁹ 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 RTI Act and the *Information Privacy Act 2009* (Qld) (**IP Act**).¹⁰ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:¹¹ '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act.*'¹²

Issue for determination

12. The only issue for OIC's determination is whether access to any additional responsive documents sought by the applicant may be refused under the RTI Act on the grounds that such documents are unlocatable.

Relevant law

13. The RTI Act permits an agency to refuse access to information where the requested information is non-existent or unlocatable.¹³
14. Under section 130(2) of the RTI Act, the Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate requested documents. QCAT confirmed in *Webb v Information Commissioner*¹⁴ that this '*does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents*' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents. OIC is also reliant on the agency's own knowledge of its structure, and its records management systems, practices and procedures, to determine whether the searches by the agency have been reasonably targeted, and ought reasonably be expected to have located the requested document.

⁸ Council contracted with a planning consultancy to undertake the work. This consultancy then subcontracted with an ecology and environmental planning consultancy.

⁹ Section 21(2) of the HR Act.

¹⁰ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (XYZ) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

¹¹ *Freedom of Information Act 1982* (Vic) and *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹² XYZ at [573].

¹³ Sections 47(3)(e) and 52(1) of the RTI Act.

¹⁴ [2021] QCATA 116 (22 October 2021).

15. The Information Commissioner has power under section 102 of the RTI Act to require additional searches to be conducted by an agency during an external review.
16. In assessing an agency's searches, the Information Commissioner has confirmed that the relevant question is whether the agency has taken all *reasonable* steps to identify and locate responsive documents, as opposed to all *possible* steps.¹⁵
17. A document is *unlocatable* if it has been, or should be, in the agency's possession and all reasonable steps have been taken to find it, but it cannot be found.¹⁶ In determining whether a document is unlocatable, it is necessary to consider the specific circumstances of each case,¹⁷ and, in particular, whether:
 - there are reasonable grounds for the agency to be satisfied that the requested documents have been or should be in the agency's possession; and
 - the agency has taken all reasonable steps to find the document.¹⁸
18. Where the issue of missing documents is raised on external review, the agency must demonstrate that reasonable steps have been taken to identify and locate relevant documents.¹⁹ If the applicant maintains further documents exist, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation. Suspicion and mere assertion will not satisfy this onus.²⁰

Submissions of the parties

19. In her application for external review, the applicant stated as follows:

It appears the material I require was emailed from the Queensland Herbarium to the Council (and/ or to the Council's duly appointed representatives and contractors [names deleted] in approximately August 2018.

This information should include:

- *the emails exchanged between the Queensland Herbarium (likely author [name]) and the Council (and/ or to the Council's duly appointed representatives and contractors [names] - likely contacts [names])*
- *a Corveg spreadsheet prepared by the Queensland Herbarium*
- *several Corveg site reports*
- *several draft Technical Descriptions prepared by the Queensland Herbarium.*

The above material was then available for the Council to use to author their "Representative Site Map and Data" document.

20. At the commencement of the review, Council provided OIC with a copy of the documents that had been released administratively to the applicant. Council also provided OIC with a submission regarding the various searches and inquiries that had been conducted for responsive documents in respect of both the current access application, as well as an earlier access application that had been lodged by the applicant but subsequently

¹⁵ *Isles and Queensland Police Service* [2018] QICmr 27 (7 June 2018) at [15] which adopted the Information Commissioner's comments in *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*) at [37]-[38]. *PDE* addresses the application of section 28A of the now repealed *Freedom of Information Act 1992* (Qld). Section 52 of the RTI Act is drafted in substantially the same terms as the provision considered in *PDE* and, therefore, the Information Commissioner's findings in *PDE* are relevant.

¹⁶ Section 52(1)(b) of the RTI Act. For example, a document has been lost or disposed of.

¹⁷ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [21]. See also, *F60XCX and Office of the Queensland Parliamentary Counsel* [2016] QICmr 42 (13 October 2016) at [84] and [87], and *Underwood and Minister for Housing and Public Works* [2015] QICmr 27 (29 September 2015) at [33]-[34] and [49].

¹⁸ Section 52(1)(b) of the RTI Act.

¹⁹ Section 130(2) of the RTI Act.

²⁰ *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36].

deemed to have been withdrawn under section 36(3) of the RTI Act. Council considered that the terms of the earlier application captured the same requested information from the Herbarium, and that the searches conducted by Council in connection with that earlier application had not identified any responsive documents. Nor had the additional searches and inquiries that had been conducted by Council since May 2025. The various searches and inquiries were summarised by Council as follows:

- 24 March 2025 - document retrieval request sent to operational area for earlier application (SCRC ref RTI24/061), for a scope which includes "communication between these same parties [i.e. the Herbarium and Council or its representatives], regarding this subject matter [i.e. the cottonwood tree species at Shelly Beach], including all communication before and after"
- 2 April 2025 - initial response received for document retrieval request, but which provides only one digital calendar item.
- 2 April 2025 until 30 June 2025 - multiple emails and other verbal/phone follow up enquiries made with operational area for the requested documents for the earlier application RTI24/061
- 23 April 2025 - charges estimate notice sent to applicant for RTI24/061 which provides some details about the searches conducted until that time
- 2 May 2025 - email sent directly to Herbarium to query the source of the representative site data, after I had conducted various searches online in an effort to find the published data
- 8 May 2025 - administrative release to applicant of 11 pages, comprising excerpts from the published report and documents released to a different applicant in 2020 (SCRC ref RTI19/043)
- 16 May 2025 - administrative release to applicant of 661 pages from RTI19/043
- 22 May 2025 - email system searches commenced
- 26 May 2025 - administrative release to applicant of relevant items identified from email system, comprising 34 pages plus a spreadsheet with 14,610 rows of data
- 11 June 2025 - email request sent directly to [Council's contractor] but there has been no response to date other than a "read receipt"
- 16 June 2025 - follow up email sent directly to Herbarium
- 16 June 2025 - response received directly from Herbarium, but from looking at the referenced currently-active public data, it is not clear that it contains the exact same fields and details which are reflected in the 8 rows of data relevant to this current RTI application
- 3 July 2025 - response received to document retrieval request for RTI24/061, but this has identified no documents from the period in 2019 when the 8 rows of data were obtained for the published report

The emails with the applicant also provide further details and records of the searches conducted, as does the charges estimate notice for RTI24/061 which is included within the PDF provided [to OIC]. ...

21. This information was communicated to the applicant.²¹ The applicant contended further searches and inquiries were reasonably required, as follows:²²

1. Council officers created the "Representative Site Map and Data" Report on 11 July 2019 and published this Report to the general public.
2. The Representative Site Map and Data Report is an incorrect document for a number of reasons. Even though it is an incorrect document, it continues to be published on the Council's website today for access by the general public.
3. My RTI requested "All information received from the Queensland Herbarium which was available to prepare the attached report called the Representative Site Map and Data".

²¹ Letter to applicant dated 23 October 2025.

²² Email from the applicant on 18 November 2025.

4. At this time Council has not undertaken all reasonable searches.

5. The following search words would be relevant for Council to perform under this RTI. Relevant documents would not always have "Queensland Herbarium" and "Queensland Herbarium correspondence" written on them (as referred to in page 2 of the Annexure to your letter dated 23 October 2025), however these records would still fall into the category of "All information received from the Queensland Herbarium".

These further searches and inquiries would be reasonable to ask Council to undertake across their email system and electronic document management system (EDRMS).

Word search terms / parameters:

Technical Description

TD

Peel

27647

C27647

61977

9246

Ecotonal

Corveg Site Report

Foredune complex

[name of Herbarium officer]

[variation of name of Herbarium officer]

Tidal flat of brown

6. A further search of any correspondence and emails received by Council or its [sic] consultants from [name deleted] from the Herbarium (email either [direct email addresses] would also be reasonable to ask Council to undertake. Is it possible that this email address is slightly different, ie. [name variation].

7. On page 3 of the Annexure of your letter dated 23 October 2025, Council confirms it asked DETSI to provide any email or correspondence in 2018 or 2019 which the Herbarium sent to [the subcontractor] in respect of the Representative Site Map and Data, including correspondence which provided the 'Draft Technical Description'. Is there a reason why Council did not request the same email or correspondence between the Herbarium and [the contractor], as it's [sic] duly appointed representative and contractor? Any correspondence between the Herbarium and [the contractor] in respect of the Representative Site Map and Data or any 'Draft Technical Description' or 'Technical Description' during the 2018 or 2019 period is relevant to this RTI.

My understanding is that Council's consultants would also hold documents with these search parameters from the Herbarium, and this material would vest with Council.

22. In response, Council maintained that it had conducted all reasonable searches in an effort to locate responsive documents, and responded to the issues raised by the applicant as follows:

With respect to the issues raised by the applicant in her email on 14 November, I would like to again highlight the following:

- A. The email to the applicant on 8 May 2025 provided an email from [Council officer] dated 11 July 2019 about how the data was sourced and then published on the Council website.
- B. The email to the applicant on 26 May 2025 stated that "I have now been given **the full quantity of emails to and from [Council officer] on 10 and 11 July 2019**, which do include multiple internal and external messages about the site data from the Herbarium". This is therefore a broader search than what the applicant has suggested in item 5 of their email. If this search had instead been conducted by using the filters and

terms as suggested in item 5 of the applicant's email, it would have instead yielded a narrower quantity of documents, instead of the full quantity.

- C. The full quantity of emails with [Council officer] does include an email from [the contractor] at 10:25 am on 11 July 2019 which provides the exact same [information].

In these circumstances, it is clear the document was first created by [Council officer] on 11 July 2019, by taking data from the spreadsheet with 15,000 rows as received in an email from [the contractor] at 10:25 am on 11 July 2019. Furthermore, there is absolutely no reason, evidence or indication to suggest that Council had previously obtained this same data from its contractors or from the Herbarium, prior to 11 July 2019. The available records therefore demonstrate when the information was first received by Council. To then find when it was previously received or obtained by Council's contractor/s would be the next logical search, with all reasonable efforts of course having since been completed on that front, as previously explained and evidenced in Council's previous correspondence and documents provided to OIC.

As for the question raised by item 7 in the applicant's email ... the referenced request to the Herbarium is dated 16 June 2025 and did expressly request "Any other email or correspondence in 2018 or 2019 which the Herbarium sent to [the contractor and subcontractor]). ... This means that the Herbarium has already been asked for all relevant communications as sent to either or both of [the contractor and subcontractor]. The following points may also be relevant to note for this issue:

- The response email from the Herbarium did provide an email chain [from August 2019] between [Herbarium officer] and [the subcontractor] that contains the technical description. That email also affirms that the relevant site data was and still is publicly available.
- Council's previous email to [the applicant] on 26 May 2025 quotes the following written statement made by [Council officer], which is from his email to [Council officer] on 11 July 2019 at 12:31 pm:

"[Council's contractor] advised **their contractor obtained the data directly** from the source". (bold emphasis added)

- Additionally, the site data is of course quoted and attached to the report as authored by [the subcontractor].
- ...

23. The applicant continued to dispute Council's position and argued that there was still missing information, including various versions of Technical Descriptions (TDs) produced by the Herbarium. The applicant sought access to the draft TDs attached to the 2019 Herbarium email that had been referred to by Council in its submission above. She also contended that another Herbarium officer had produced a draft TD in 2019 and sought access to any email from this officer to Council. The applicant argued that further inquiries with Council's contractor and subcontractor, and with the Herbarium, were required in order to locate these missing documents.²³

Council should also be prepared to conduct reasonable searches on the relevant search word parameters as documented in Item 5 below on [sic] my email dated 14th November. The below word searches **would only identify Herbarium initiated documents**. They are **uniquely and specifically targeted to this RTI and will assist in providing the relevant documents as part of this RTI**.

These further searches and inquiries are reasonable for Council to undertake across their email system and electronic document management system (EDRMS).

²³ Applicant's email of 3 December 2025.

Word search terms / parameters:

Technical Description

TD

Peel

27647

C27647

61977

9246

Ecotonal

Corveg Site Report

Foredune complex

[name of Herbarium officer]

[name of Herbarium officer]

Tidal flat of brown

24. In response, Council advised that, although it did not consider that the 2019 email chain fell within the terms of the access application, it was prepared to give the applicant administrative access to the emails attaching two draft TDs. This information was released to the applicant. Council further submitted as follows:

As for the [applicant's] request for further searches involving [Herbarium officer] and other terms, it is important to again note the specific nature of the applicant's original request. The applicant's request does directly and explicitly refer to documents which were "available to prepare" a one-page document which merely lists and maps eight representative sites. These 8 sites are mentioned in a separate document which provides only their unique identifier numbers, and so it was acknowledged that the full details could be published which correspond to the 8 unique identifier numbers.

It is also relevant to again note the following context for the creation of the specific one-page list and map:

- 1. A query about the 8 sites was first raised with the local Councillor, and then Council officers on 10 July 2019.*
- 2. On 10 July 2019 the resulting one-page document which lists and maps the sites was created by extracting the relevant 8 rows from a broader data set with nearly 15,000 rows.*
- 3. All relevant emails from these dates have been obtained, and they do not reference any earlier drafts of regional ecosystem documents, nor any other matters involving the Herbarium or [Herbarium officer], nor any other documents that were available to prepare the specific list and map of the 8 sites.*

These things demonstrate that there is no other data or document which can reasonably be considered as available to prepare the specific one-page document. Based on this information alone, Council submits that all reasonable searches have been conducted to identify that the specific documents which were available to the responsible Council officers at that specific time, to prepare the single page which lists and maps 8 rows of data. Council has also conducted some other searches to locate other documents outside of these dates, in order to assist the applicant with different requests and queries which she has raised. The 2019 email chain as referenced above is one such document, and I would point out that it would not fall within scope of this application which is currently under external review.

Notwithstanding the above, a narrow interpretation of the extent of documents "available" is also supported by the fact that the applicant had already made a previous and separate access applications which was seeking communications with the Herbarium that would include the period before 2019, and had been made only 2 weeks prior to this application now under external review. ... The type of additional searches and documents which the applicant has described in her email of 3 December, would therefore have been part of this separate and previous access application. However, that previous application did not proceed past a charges estimate notice. For reference, the application currently under external review was submitted on 2 April 2025, only 2 weeks after the previous application, and well before the

charges estimate notice which was issued for the previous application on 24 April 2025. It would therefore appear to me that the recent communications from the applicant may be an attempt to expand or re-interpret the scope of this application which is under external review, so that it may capture as many documents as possible that were sought in the prior application that did not proceed past a charges estimate notice. As you are aware, there are multiple published external review decisions which have established that an applicant cannot unilaterally expand the scope of their application.

If the applicant were to have requested all "available" documents in terms which may require searches of a potentially unlimited number of matters or broad libraries of hypothetical documents or resources that may have some loose or indirect connection to a list of 8 sites, then such an application would likely not comply with section 24(2)(b) of the Right to Information Act 2009.

25. The applicant made further submissions on 16 February 2026 regarding responsive information that she continued to contend was missing, including information in 2019:

1. The Herbarium's advice, received by [Council's contractor] in 2018 and 2019.

2. Any correspondence between [name of officer] at the Herbarium and [Council's contractor/subcontractor] up to the 11 July 2019. This includes [Herbarium officer]'s reference to "I've attached the draft TD's again". These draft TD's contain representative sites from the Herbarium.

There are no reasonable grounds on which this information is able to be withheld. It is relevant to my RTI and should be provided. Instead, the Council is withholding the release of this information for seemingly improper purposes.

Given the purpose of the "Representative Site Map and Data" table was to provide information to the public, and this document is entirely incorrect, it can only be in the public interest for disclosure of the above relevant information.

This "Representative Site Map and Data" table is still currently published on the Council's website for the public to view this entirely incorrect information.

...

26. The applicant was reminded by OIC of the scope of the sufficiency of search concerns that she raised in her application for external review, as set out in paragraph 19 above, and sought access to emails and associated documents from the Herbarium to Council (and/or to Council's contractor/subcontractor) in approximately August 2018.²⁴
27. In her response,²⁵ the applicant argued, in short, that Council should be required to make further efforts to contact the Herbarium, and Council's contractor and subcontractor, and to require them to search their records in an effort to locate relevant emails within the timeframe, as well as any earlier draft TDs.
28. As noted in Council's initial submission, Council had previously made unsuccessful attempts to contact its contractor. It also advised that the terms of its contractual engagement in 2018 did not require the contractor to provide Council with access to any material prepared or received by the contractor in the course of the contract. However, at OIC's request, it agreed to attempt to contact the contractor and subcontractor and to seek their agreement to conducting a search of their records in an effort to locate any responsive documents from the Herbarium.

²⁴ Email to the applicant on 17 February 2026.

²⁵ Email of 27 February 2026.

29. As a result of these further inquiries, both parties located documents related to the work performed for Council in 2018/19 and provided Council with copies of the documents they had been able to locate. These included 10 pages of emails from August 2018 located by the subcontractor. In respect of the remainder of the documents located by these parties, Council advised as follows:

This firm [the subcontractor] did also identify the email from the Herbarium dated 27 August 2019, but that is not included as it was of course already provided to the applicant administratively on 23 December 2025.

Council does not object to disclosure of the 10 pages in this attached PDF file, other than the limited contact details which are marked for redaction within the red boxes.

I was additionally able to obtain various documents directly from [the contractor] which included the final Cottonwood Tree Study and all of its attachments. However, the documents from [the contractor] did not include any emails nor any other documents from the Herbarium, other than documents which are duplicates of what has already been published or obtained from previous searches.

*With respect to the spreadsheet with 14,610 rows of "CORVEG" data, which is attached to the email dated 24 August 2018, identical copies of this were obtained from both [the contractor and subcontractor]. Furthermore, the only difference between these earlier copies and the copy which was already in Council's possession, is minor formatting for a background colour across 8 individual rows, as demonstrated in the **attached** workbook which I have generated using the Microsoft "Spreadsheet Compare" app.*

I am satisfied that these documents represent the only additional documents which were "available to prepare" the list and map of 8 representative sites which the applicant attached with their original access application.

30. Council released the 10 pages of responsive emails to the applicant on 31 March 2026. Also on 31 March 2026, a preliminary view was communicated to the applicant in the following terms:

I am unable to identify any further searches or inquiries that Council could reasonably be asked to undertake in an effort to locate any additional responsive documents. In my preliminary view, the searches of its own records that Council had already carried out were reasonable in all the circumstances, and I am now satisfied that Council had made reasonable inquiries of its contractors. Council is not required under the RTI Act to make inquiries with other agencies. An applicant is entitled to make an access application direct to those agencies should they wish.

31. The applicant did not accept my preliminary view, stating that the release of the documents 'is a start, but there are more documents still missing'. The applicant sought access to the original Corveg spreadsheet that was attached to the email from the Herbarium on 24 August 2018. While acknowledging Council's advice that the spreadsheet was identical to that held by Council, the applicant argued that: 'The original file should not be analysed by Council, against other versions, and then withheld'.²⁶ In respect of other emails, the applicant sought access to the draft TD that was stated to be attached to an email from the Herbarium to the contractor on 23 August 2018, as well as an email which the applicant argued must have been sent by the Herbarium to the contractor 'at some time between 1 September 2018 and 26 August 2019' that attached drafts TDs.

32. The applicant also questioned Council's advice that the documents provided by its contractor did not include new emails or documents from the Herbarium, arguing that if

²⁶ Council has since released the spreadsheet to the applicant.

the documents related to the Cottonwood Tree Study, they may be relevant to the information that was available to Council to prepare the Representative Site Map and Data. The applicant also sought access to the following additional information:

Any other documents which explain why [the contractor and subcontractor] and Council officers obtained the following information, but then decided to omit this information and mislead the community, when Council officers prepared the 'Representative Site Map and Data' document. The following information was available but was omitted from the "Representative Site Map and Data" document:

- a. Peel Island being the only site that contained Hibiscus Tiliaceus and the other 7 sites were not correctly reported as not containing Hibiscus Tiliaceus.*
- b. Peel Island was not correctly disclosed as being a Mangrove community. Especially when this was clearly identified on page 10 of the latest release of documents and in the file name "RE12.2.14a sites.xlsx". A copy of this RE12.2.14a sites.xlsx file should also be provided for this RTI.*
- c. The Council officers did not accurately disclose that 6 of the sites were in fact disturbed sites, and these sites never contained Hibiscus Tiliaceus. Especially when this was clearly identified on page 10 of the latest release of documents and in file name "RE12.2.14a sites.xlsx". As above, a copy of this RE12.2.14a sites.xlsx file should also be provided for this RTI.*

Reasonable searches and inquiries to determine why the Council mislead [sic] the community with their preparation of the 'Representative Site Map and Data' document, would include the following terms "Disturbed", "Distrurbed" (misspelt on page 10 of the latest release of documents), "Mangroves", "Peel", "Bruguiera" and "RE12.2.14a sites.xlsx".

Findings

33. As noted at paragraph 16 above, the issue for OIC's determination is whether Council has discharged its obligation to take all reasonable steps (as opposed to all possible steps) to identify and locate documents in its possession or under its control²⁷ that fall within the scope of the applicant's sufficiency of search request on external review, as set out in paragraph 19 above.
34. In terms of Council's own records, I have reviewed the submissions and other information provided by Council (as set out above) that describe what I consider to be comprehensive searches and inquiries undertaken by Council in an effort to locate responsive documents (both in respect of the current access application and the previous access application lodged by the applicant). The search records and associated information provided by Council indicate that searches were conducted across Council's email system and its electronic document management system (EDRMS) using search terms including 'Queensland Herbarium' and 'Queensland Herbarium correspondence', as well as searches of relevant operational areas such as Environmental Operations/Liveability & Natural Assets. Council's RTI officer also made inquiries directly with relevant staff who had involvement with the project, including conducting searches of relevant staff OneDrive email accounts (including online archive folders). I consider that these searches and inquiries were reasonably targeted and should reasonably have been expected to locate responsive information.
35. Based on the information provided by Council, as well as the additional searches and inquiries that Council has conducted during the review, I am unable, on the information before me, to identify any further searches or inquiries that I consider it would be reasonable to ask Council to undertake in respect of its own records or staff in an effort to locate any additional responsive documents. I note the additional search terms that

²⁷ See the definition of 'document of an agency' in section 12 of the RTI Act.

the applicant has listed in her final submission at paragraph 32 above. I acknowledge the applicant's belief that Council has misled the community in connection with the Representative Site Map and Data. However, I am not satisfied that further searches of Council's records based on the terms provided by the applicant are reasonably required given the extensive searches and inquiries already conducted, nor that such searches would, in any event, be reasonably be expected to locate documents responding to the scope of the sufficiency of search issue that the applicant raised on external review.

36. I am therefore satisfied that Council has discharged its search obligations under the RTI Act in respect of its own records by taking all reasonable steps to locate any responsive documents.
37. In respect of any responsive emails or related documents from the Herbarium held by Council's contractor and subcontractor, I am again satisfied that Council has taken all reasonable steps in an effort to locate responsive documents and bring them within Council's control. Both parties agreed to Council's request to search their records for responsive documents, and each provided Council with the documents they were able to locate as a result of those searches. I also note that the documents sought by the applicant are now nearly eight years old, as well as Council's advice that the key staff from the contractor and subcontractor who were involved in the project are no longer employed by the relevant entities.
38. I am unable to identify any further steps Council could reasonably be expected to take in relation to accessing documents held by its contractor/subcontractor. I acknowledge that the applicant seeks access to the TD that is stated to be an attachment to an email sent by the Herbarium to the contractor on 23 August 2018. However, the email located by the contractor within its records did not include the attachment.²⁸ As to the applicant's request for access to an email that she considers must have been sent by the Herbarium to the contractor or subcontractor at some time between 1 September 2018 and 26 August 2019, I again note the scope of the applicant's sufficiency of search issue raised on external review, which sought access to emails and associated documents sent by the Herbarium in approximately August 2018. But, in any event, I reiterate that I am unable to identify any further steps that I consider that Council could reasonably be expected to undertake in terms of accessing documents held by these external parties. Searches of their records were undertaken at Council's request, and copies of all documents located as a result of those searches were provided to Council.
39. I am satisfied that Council has discharged its search obligations in respect of documents held by its contractor and subcontractor by requiring those parties to search their records for relevant documents and to provide copies to Council. I therefore find that Council has taken all reasonable steps to locate any responsive documents held by its contractor and subcontractor.
40. I would also take the opportunity to note that the two emails in question are emails from the Herbarium. As noted at the outset, the Herbarium forms part of the Department of Environment and Science. As such, it is subject to the RTI Act and an individual is entitled to make an access application to the Department for access to documents held by the Herbarium. Nevertheless, in an effort to assist the applicant, Council contacted

²⁸ I note that Council gave the applicant administrative access to draft TDs that were attached to a 27 August 2019 email from the Herbarium. That email states, in part: *'With no data acquisition going on in these ecosystems, the technical descriptions are still considered draft. I have attached the draft TDs again.'* [my emphasis] The email of 23 August 2018 states as follows: *'...I have attached the same draft technical description I supplied to other involved with this case...'* [my emphasis] Based on the highlighted wording, it may be reasonable to assume that the draft TDs referred to by the Herbarium in 2018 are the same as those from 2019 to which the applicant has been given access. There is nothing in the Herbarium's various communications to indicate that amendments were made to the draft TDs between 2018 and 2019.

the Herbarium on 16 June 2025²⁹ and requested that it provide Council with copies of any emails or correspondence in 2018 or 2019 sent to Council's contractor/subcontractor. The applicant was given administrative access to the material provided to Council by the Herbarium.

41. Lastly, in respect of the issue raised by the applicant in paragraph 32 above, I am satisfied that the information located by Council's contractor (and described by Council in paragraph 29 above) does not fall within the scope of the applicant's sufficiency of search request for emails and associated documents from the Herbarium in August 2018, or has otherwise been released to the applicant previously. I am similarly satisfied that the applicant's request for any other documents that explain why Council's contractor and subcontractor and Council officers obtained certain information '*but then decided to omit this information and mislead the community*' does not fall within scope. Leaving aside the vague terms of that request, and even if such information were to exist, I do not accept that it is reasonable to expect that it would be located in emails from the Herbarium. If the applicant wishes to pursue access to information of this nature, a fresh access application to Council would be required.

Conclusion

42. The above are the reasons for my decision set out in paragraph 1 above.
43. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner under section 145 of the RTI Act.

²⁹ See paragraphs 20 and 22 above.