



Decision and Reasons for Decision

Citation:	<i>Paluma & District Community Association Incorporated and Department of Transport and Main Roads [2026] QICmr 117 (1 July 2026)</i>
Application Number:	318760
Applicant:	Paluma & District Community Association Incorporated
Respondent:	Department of Transport and Main Roads
Decision Date:	1 July 2026
Catchwords:	ADMINISTRATIVE LAW – RIGHT TO INFORMATION – agency estimates between 3000–6000 pages requiring assessment – whether substantial and unreasonable diversion of resources – section 41 of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. I affirm the reviewable decision¹ of the Department of Transport and Main Roads (**Department**) to refuse to deal with the application under section 41 of the *Right to Information Act 2009* (Qld) (**RTI Act**).²
2. This means that the Department is not required to process the access application.
3. My reasons for the decision follow.



Katie Shepherd
Assistant Information Commissioner

Date: 1 July 2026

¹ As defined in footnote 7 below.

² Under section 110(1)(a) of the RTI Act as a delegate of the Information Commissioner under section 145 of the RTI Act.

REASONS FOR DECISION

Summary

4. The Paluma & District Community Association Incorporated (**Applicant**) applied to the Department under the RTI Act³ for access to a wide range of documents relating to the closure of Mount Spec Road to public use, following a rain event in early 2025.⁴
5. The Department issued a notice of intention to refuse to deal under section 42(1) of the RTI Act⁵ and the Applicant agreed to narrow the scope of the application.⁶ However, the Department determined that the narrowing of the scope did not sufficiently reduce the scope, and refused to deal with the application under section 41 of the RTI Act.⁷
6. The Applicant applied to the Office of the Information Commissioner (**OIC**) for external review.⁸ During the review further scope narrowing negotiations between the Applicant and Department were facilitated by OIC.⁹ During those negotiations, the Applicant made genuine attempts to narrow the scope, and the Department demonstrated willingness to process a narrowed scope, and to assist the Applicant to identify specific documents of interest. However, the Department ultimately maintained its position that, due to the volume of documents captured by the scope, and the work involved in searching, retrieving, assessing and determining the issue of access, dealing with the application would be a substantial and unreasonable diversion of its resources.¹⁰
7. Therefore, the issue for determination is whether dealing with the application, as narrowed on external review, would be a substantial and unreasonable diversion of the Department's resources, under section 41 of the RTI Act.

Relevant law

8. An agency is required to deal with an access application unless doing so would, on balance, be contrary to the public interest.¹¹ Section 41(1) of the RTI Act permits an agency to refuse to deal with an application if the agency considers the work

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. As the application was made before this change, the RTI Act **as in force prior to 1 July 2025** remains applicable. 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 in this decision is to that Act, which can be accessed here: <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013>>.

⁴ Access application dated 30 May 2025.

⁵ Letter to the Applicant dated 6 June 2025.

⁶ Emails between the Applicant and Department dated 19 June 2025.

⁷ Decision dated 1 July 2025. This is the *reviewable decision* for the purpose of this review.

⁸ External review application dated 3 July 2025.

⁹ OIC's correspondence to the Department dated 15 July 2025, 27 August 2025, 22 October 2025, 3 November 2025, 27 November 2025 and 2 March 2026; OIC's correspondence to the Applicant dated 15 July 2025, 29 August 2025, 3 November 2025, 15 December 2025 and 3 June 2026; the Department's submissions dated 29 July 2025, 27 August 2025, 21 November 2025, 11 December 2025 and 16 March 2026; and the Applicant's submissions dated 2 September 2025, 23 December 2025, 30 January 2026 and 11 June 2026.

¹⁰ Submission to OIC dated 16 March 2026.

¹¹ Section 39(1) of the RTI Act.

involved in dealing with the application would, if carried out, substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions.

9. An agency may only refuse to deal with an application under section 41 of the RTI Act if a procedural prerequisite has been met – giving the applicant an opportunity to narrow the scope of the application, so as to re-frame it into a form that can be processed.¹² The applicant is to be given the benefit of any information an agency may be able to supply to help with this narrowing process, as far as is reasonably practicable.
10. The phrase '*substantially and unreasonably*' is not defined in the RTI Act, nor in the *Acts Interpretation Act 1954 (Qld) (AI Act)*. It is therefore appropriate to consider the ordinary meaning of these words.¹³ The dictionary definitions¹⁴ of those terms relevantly provide:
 - 'substantial' means 'of ample or considerable amount, quantity, size, etc.'
 - 'unreasonable' means 'exceeding the bounds of reason; immoderate; exorbitant.'
11. In deciding whether dealing with an application would substantially and unreasonably divert an agency's resources from the performance of its functions, a decision-maker must not have regard to any reasons the applicant gives for applying for access or any belief they may hold about the applicant's reasons for applying for access.¹⁵ The decision-maker must have regard to the resources that would be used for:¹⁶
 - identifying, locating or collating the documents, or
 - deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations, or
 - making copies or editing copies of any documents, or
 - notifying any final decision on the application.
12. Assessing whether the work involved in processing a given application would, if carried out, substantially and unreasonably divert resources is a question of fact to be assessed in each individual case, taking into account a given agency's operations and resources.¹⁷
13. The question of whether the impact on an agency's resources would be 'substantial' is a question of fact. In previous decisions, the Information Commissioner has identified that relevant factors to consider include:¹⁸

¹² Section 42(1) of the RTI Act.

¹³ Section 14B of the AI Act.

¹⁴ Macquarie Dictionary, 2nd Edition, 1992.

¹⁵ Section 41(3) of the RTI Act.

¹⁶ Section 41(2) of the RTI Act. The word 'or' as it appears in this provision indicates that a finding of a substantial and unreasonable diversion of resources can be made on the basis of one or some of the subsections alone rather than having a cumulative effect.

¹⁷ *Davies and Department of Prime Minister and Cabinet* [2013] AICmr 10 (22 February 2013) at [28].

¹⁸ This is not an exhaustive list.

- the agency's resources and size¹⁹
 - the other functions of the agency;²⁰ and
 - whether and to what extent processing the application will take longer than the legislated processing period of 25 business days.²¹
14. In determining whether the work involved in dealing with an application is unreasonable, it is not necessary to show that the extent of the unreasonableness is overwhelming.²² Rather, it is necessary to weigh up the considerations for and against, and form a balanced judgement of reasonableness, based on objective evidence.²³ Factors that have been taken into account in considering this question include:²⁴
- whether the terms of the request offer a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought
 - the public interest in disclosure of documents
 - whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications
 - the agency's estimate of the number of documents affected by the request, and by extension the number of pages and the amount of officer time
 - the reasonableness or otherwise of the agency's initial assessment and whether the applicant has taken a cooperative approach in rescoping the application
 - the timelines binding on the agency
 - the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and
 - whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications.
15. The RTI Act does not expressly address the procedure to be followed by the Information Commissioner before deciding to refuse to deal with an application on the ground that doing so would substantially and unreasonably divert an agency's resources from the performance of its functions. However, the Information Commissioner, or their delegate, has the power to decide any matter in relation to an application that could have been decided by the agency; and is required to identify opportunities for early resolution and to promote settlement of external review applications. The procedure to be taken is, subject to the RTI Act, at the discretion of the Information Commissioner.²⁵

¹⁹ *Middleton and Building Services Authority* (Unreported, Queensland Information Commissioner, 24 December 2010) at [34]–[37].

²⁰ *60CDYY and Department of Education and Training* [2017] QICmr 52A (7 November 2017) at [18].

²¹ *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [40].

²² *F60XCX and Department of the Premier and Cabinet* [2016] QICmr 41 (13 October 2016) at [90].

²³ *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [42], adopting *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (**Smeaton**) at [30].

²⁴ *Smeaton* at [39].

²⁵ Sections 90(1), 95(1)(a) and 105(1) of the RTI Act.

Submissions

16. In a schedule of documents provided to OIC during the review (**Schedule**),²⁶ the Department detailed the particular types of documents, business units, and approximate number of responsive pages. In summary, the total number of pages listed in the Schedule exceeded 6700, with documents located across three business units and including a variety of document types such as emails, reports, correspondence, briefing notes, minutes, legal advice and memoranda. That Schedule formed the basis for the Applicant's agreement to narrow the scope further, as follows:²⁷

Documents from the Engineering and Technology Branch

Emails and attachments (including photographs)

Slip Risk Assessments/Reports

Technical memorandums related to slope risk

Deputy Director-General, Infrastructure Management Division

Emails and attachments

Final versions of briefing notes and attachments

Ministerial correspondence

Question on Notice

Northern District

Briefing notes

Emails and attachments

Handwritten notes

Memorandums and attachments

Meeting minutes

Community Notices

Avada Traffic – Traffic Management Plan

Briefing Notes and attachments (final versions)

Northern District's Decision-Making Chronology for Mt Spec Road

Project Brief – Mr Spec Road – Geotechnical Slips Detailed Design

Itinerary – Community Cabinet

Legal Advice

Mount Spec reopening timelines

Correspondence

17. The Applicant estimated that narrowing to the above categories of documents²⁸ should have reduced the estimated number of pages to approximately 5300. The Applicant provided the following submissions in support of the narrowed scope:²⁹

I strongly suspect that there are no more that 100–200 pages that would fully satisfy the terms of my request, and that if the Department was to act in good faith by assigning an officer at management level with direct oversight of the development of the permit terms and the risk analysis to oversee the search, the appropriate documents could be identified in short order.

²⁶ On 11 December 2025.

²⁷ As confirmed by email to OIC dated 23 December 2025.

²⁸ The Applicant excluded publicly available documents and some other categories, and refined the search terms applicable to emails to assist in reducing the number of responsive pages.

²⁹ Email to OIC dated 23 December 2025.

As the department has previously indicated it does not wish to release any of the technical data nor the internal decision making process that led to the current permit restrictions, the only recourse is for the PDCA to guess what documents have been generated by TMR in conducting their analyses and making their decisions. TMR knows what documents it used to make and document its decisions; we don't!

The list of documents provided is mostly too vague to allow any informed decisions on which items may not be required. It would have been helpful if further information was provided on the search criteria applied in the discovery process. I suspect that for email discovery and possibly other documents, a simple search was entered into a computer system. Could TMR share the exact search phrase used? I would be happy to work iteratively with TMR to narrow the search criteria in order to reduce the number of spurious hits.

You have asked if the PDCA could "narrow the scope of their application to **specific documents** described in the attached schedule". The majority of the items listed in the schedule are not specific documents, rather they describe broad classes of documents which could include both relevant and irrelevant items. Nevertheless I have attached an annotated schedule in which I identify 21 out of the 44 items that could be omitted and 3 additional items where the selection could be narrowed considerably by using more restrictive search criteria.

TMR has indicated that the removal of duplicates in the retrieved documents would require considerable time. I don't see why the duplicates couldn't just be ignored and sent through. Since all the material is likely electronic (and since I have previously offered to reduce the scope to electronic documents only) there is no significant effort of cost in simply transmitting a larger file to me.

If the OIC is considering refusal under section 41 I would hope that in deciding how reasonable the diversion of resources would be, you will also take into consideration the degree to which the request addresses a matter of public good. The information could lead to a conclusion that decisions made by TMR are an unreasonable and unjustified impost on the public. Future decisions based on possible faulty analysis and reasoning employed by TMR for Paluma could affect roads and residents anywhere in Queensland.

18. The Department also made the following submissions on the narrowed scope:³⁰

Following this update, we have re-assessed the documents located late last year in response to the application. While we acknowledge the applicant's genuine efforts to narrow the scope, TMR remains of the view that processing the application, even with the reduced scope, would still substantially and unreasonably divert the department's resources.

As outlined in our correspondence dated 16 December 2025, the majority of the material comprises emails and associated attachments. Even with the refined scope, the emails from the Northern District alone still exceed 3,000 pages, as you noted. Although the applicant has indicated a willingness to further limit the scope by applying specific keywords, a significant amount of time would still be required to review all emails and identify those that are now relevant. It is also important to note that although the applicant has removed certain documents (primarily, reports and draft briefing notes), many of these remain attached to emails that still fall within the reduced scope. As a

³⁰ On 16 March 2026.

result, the overall volume of material is not significantly reduced. As outlined in our previous correspondence, some documents that may initially appear irrelevant are nonetheless captured because they are attachments to in-scope emails.

Additionally, there are numerous duplicate documents that would need to be identified and removed, which would require considerable effort. The documents also include communications that would require consultation with third parties before any disclosure decision could be made, further increasing the time needed to process the application.

TMR is currently experiencing significant resourcing constraints coupled with an exceptionally high workload. Under these conditions, processing this application, even with the scope being narrowed, would still require a substantial allocation of time, effort and resources. This would place an undue strain on the department's already limited resources and could jeopardise its ability to meet the statutory timeframes for existing access applications.

19. The Department originally provided submissions to OIC outlining the estimated time that it would take to process the application.³¹ In summary, the Department submitted that search and retrieval processes by relevant business units would take approximately 39 hours, with an additional 10–15 hours required in processing/determining access by the RTI Unit. I also note that in the decision, the Department stated:³²

While this department has a significant workforce, there are currently only five delegated decision makers to process access applications. As each of these decision makers carries multiple active files at any given time, it is unreasonable to expect one person to devote almost eight entire days to the processing of a single application.'

Findings

20. I am satisfied that the access application was originally framed in very broad terms and that the Department followed the process in section 42 of the RTI Act to consult with the applicant to narrow the scope of the request. I am also satisfied that during the course of the review further reasonable attempts were made to consult with the applicant in accordance with the process set out in section 42 of the RTI Act. As outlined above, this consultation resulted in the applicant making genuine attempts to narrow the scope, with the Department, at one point in the review, indicating a willingness to process a narrowed scope. However, once the number of responsive pages became clearer to the Department through searches by the business units, it reverted to its original position under section 41 of the RTI Act.
21. Taking into account the applicant's narrowing of scope, I accept that at least 5000 pages remain responsive. I am satisfied that the estimate of 3000 pages of emails alone, even with refinement of search terms, is a substantial volume of documents to be dealt with in the context of a single access application. I am further satisfied that the resources already expended and time already spent by the Department on this application, including during the review, have been substantial.

³¹ On 29 July 2025.

³² At page 5.

22. I have also taken into account the information provided by the Department as to estimated time it would take to search for, retrieve, consider and form a view on access in relation to the responsive documents. While these estimates were provided to OIC before the final narrowing of scope was submitted by the applicant, I am satisfied that given the volume of pages involved is still in the realm of 5000, it is likely to require the application of a significant amount of the Department's resources. Noting that the estimate of time was around 54 hours, I consider that was relatively conservative, given that 5000 pages are estimated to be responsive. I am satisfied that the steps involved to process that volume of pages would be a substantial diversion of the Department's resources.
23. As set out in its decision and submission outlined in paragraph 19 above, the Department has a small number of delegated decision makers to process access applications and is experiencing significant resourcing constraints coupled with an exceptionally high workload. I accept the Department's submission that it *'would place an undue strain on the Department's already limited resources and could jeopardise its ability to meet the statutory timeframes for existing access applications.'* I am satisfied that it is reasonable for the Department to use the mechanisms in sections 41 and 42 of the RTI Act to set parameters around applications to ensure that it can reasonably manage its workload and deal with the high volume of applications equitably and fairly.
24. In the circumstances of this case, I am not satisfied that it would be reasonable for the Department to process a request of this magnitude, taking into account the significant number of documents involved, the estimated time it would take to examine the documents and prepare them for release, and the finite resources the Department has available to devote to processing a significant volume of information access applications.
25. I acknowledge that obtaining information about the road closure is of great importance to the Applicant as a representative community group in the local area. To this end, I have turned my mind to the public interest in disclosure of the requested documents and have had regard to the submissions made by the Applicant during the review. I accept that public road accessibility, repair and safety are matters of important community interest. However, given my findings regarding the significant volume of responsive material and the corresponding impact on the Department's resources, I am satisfied the public interest considerations are not sufficient to justify a finding that it would not also be an *unreasonable* diversion of resources.
26. For the reasons set out above, I am satisfied that dealing with the narrowed scope would substantially and unreasonably divert the Department's resources from their use in performance of its functions under section 41 of the RTI Act.

Conclusion

27. The above are the reasons for my decision set out at paragraph 1.