



Decision and Reasons for Decision

Citation:	<i>A14 and Brisbane City Council [2026] QICmr 69 (6 May 2026)</i>
Application Number:	318640
Applicant:	A14
Respondent:	Brisbane City Council
Decision Date:	6 May 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - transcripts of audio recordings - investigation of complaint at a development site - accountability and transparency - administration of justice - assisting inquiry - personal information and privacy - flow of information - business information - contrary to public interest - section 47(3)(b) of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. For the reasons that follow, I vary¹ the reviewable decision of Brisbane City Council (**Council**) and find access to the remaining information in the Transcripts² may be refused under section 47(3)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**) on the basis that its disclosure would, on balance, be contrary to the public interest.³
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



Katie Shepherd
Assistant Information Commissioner

Date: 6 May 2026

¹ I have made this decision under section 110(1)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**) as a delegate of the Information Commissioner under section 145 of the RTI Act.

² As defined in paragraph 7 of the reasons for this decision below.

³ 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.

REASONS FOR DECISION

Background

4. A director of an entity (**the Business**) applied, on behalf of the Business, to Council for access to documents about Council approvals and investigations relating to a specified development site.⁴ Council located 392 pages and four audio recordings⁵ and released 230 pages in full and 162 pages in part to the applicant.⁶ Council decided⁷ to refuse access to the recordings in their entirety on the basis they comprised contrary to the public interest information.
5. On internal review⁸ the applicant submitted the recordings were '*crucial to understanding the decisions and conduct of Council and its officers*'. Council varied its initial decision in relation to the partial release pages but maintained its refusal of access decision in relation to the four recordings.⁹
6. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision,¹⁰ seeking access to the four audio recordings. The applicant argued that Council had failed to properly consider transparency and accountability factors, overstated the '*impracticability of redacting personal information*', and did not engage with its interest as a '*party affected by the subject matter of the recordings*'. The applicant submitted to OIC that it would accept a redacted transcript of the relevant recordings as an alternative form of access.

Information in issue

7. On external review, Council agreed to provide the applicant with access to the recordings in the format of written transcripts¹¹ subject to the redaction of information Council considered would, on balance, be contrary to the public interest to release. The transcripts of the four audio recordings are therefore, the information in issue for the purpose of this external review (**Transcripts**).¹² The Transcripts record communications of the following events:
 - A. Engineering prestart meeting between Council officers and various third parties
 - B. Telephone call between Council officer and complainant
 - C. Telephone call between a Council officer and an employee of the Business
 - D. Site inspection by a Council officer and various third parties (**Transcript D**).
8. The issue for determination is whether Council is entitled to refuse access to the remaining information in the Transcripts on the basis that it comprises information that is on balance, contrary to the public interest to release (**Refused Information**). While I am limited in the extent to which I can describe the Refused Information¹³ it generally comprises the names, contact details and opinions of other individuals who communicated with Council in relation to the development site, including some employees/associates of the Business.

⁴ Access application dated 20 January 2025.

⁵ Comprising 52:17, 2:24, 9:00 and 27:43 minutes duration, respectively.

⁶ With 54 of those pages accessible by way of inspection due to copyright.

⁷ Council's decision dated 1 April 2025.

⁸ Internal review application dated 30 April 2025.

⁹ Internal review decision dated 19 May 2025. This is the *reviewable decision* for the purpose of the external review.

¹⁰ External review application dated 20 May 2025.

¹¹ In accordance with section 68(1)(d) of the RTI Act which allows access to be given to a written transcript of a document where words are recorded in the form of sound.

¹² 42 pages.

¹³ Section 108 of the RTI Act.

Relevant law

9. 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.¹⁴ The legislation is to be administered with a pro-disclosure bias¹⁵ however, the right of access is subject to certain limitations, including grounds for refusing access.¹⁶
10. Access to information may be refused where disclosure would, on balance, be contrary to the public interest.¹⁷ 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.¹⁸
11. 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 a substantial segment of the community, as distinct from matters that concern purely private or personal interests.

Submissions

12. The applicant¹⁹ made extensive submissions as to why it considers the public interest favours the disclosure of the Refused Information, including as follows:²⁰

The current redactions are...excessive and significantly hinder our ability to properly understand the critical context required for our defense regarding the regulatory investigation. Specifically, these documents are crucial in supporting our position that Council officers actively intervened in the engineering design of the site, and that erosion controls were, in fact, installed but subsequently failed due to those design inadequacies.

...

A key point of contention is that Council officers provided specific technical instructions that effectively altered the engineering design of the site's erosion controls.

...

The transcript of the phone call on [relevant date] contains critical evidence that contradicts the allegation that [the Business] failed to install controls.

...

The extensive redactions in the Inspection transcript [date] render significant portions of the conversation unintelligible.

...

Allowing these redactions permits the Council to present a narrative of "non-compliance" while suppressing evidence that the builder was adhering to the Council's own design advice, which subsequently failed.

...

Given the current housing shortage in Queensland, there is a significant public interest in ensuring that regulatory oversight is efficient and does not arbitrarily impede construction.

¹⁴ Section 23 of the RTI Act.

¹⁵ Section 44 of the RTI Act.

¹⁶ Section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 47(2) of the RTI Act

¹⁷ Section 47(3)(b) of the RTI Act.

¹⁸ Schedule 4 of the RTI Act lists factors that may be relevant in determining where the balance of the public interest lies.

¹⁹ The director made submissions on behalf of the Business during the review, however, for the purpose of the review, the Business has been treated as the applicant, as this is consistent with what was set out in the access application to Council.

²⁰ Applicant's submissions dated 27 November 2025.

13. The applicant made extensive submissions²¹ in relation to the identity of an individual present during the site inspection (Transcript D). The applicant submits that the person has no employment, contractual or business relationship with the Business and is a:

'... business principal who attended a regulatory inspection in a professional capacity ... where the adequacy of his firm's work was directly in issue. The opinions, observations and responses he provided to Council in that context are not personal information in the ordinary sense.'

14. The applicant requests that OIC reconsider the weight of public interest factors in relation to privacy, flow of information, accountability and transparency:

The correct position is that Council's investigation was conducted partly through a site inspection at which the designer of the allegedly deficient controls was present, speaking to the investigating officer, in circumstances where that designer had a direct interest in the findings. If [named person] made statements to Council's officer during the inspection that characterised [the Business's] implementation as the source of the problem, rather than acknowledging the design's limitations, those statements may have materially shaped Council's investigative findings. The refused information is therefore potentially central to understanding whether Council's investigation was conducted with a full and accurate appreciation of the relevant facts, or whether it was shaped by representations from a party whose interest lay in a particular outcome.

15. Council submitted to OIC²² as follows:

The majority of the transcripts are from phone calls or meetings where information was shared with Council by persons other than the applicant. Aside from the phone call that was undertaken with the complainant, the majority of the parties to these recordings are employees or associates of the applicant.

Whilst information such as their name or position could be removed, the remaining information generally comprises these persons' thoughts, feelings and / or opinions and as a result is personal in nature.

I acknowledge that the applicant contends that the information is required in their defence, however, none of the redacted information indicates that Council officers actively intervened in the engineering design nor did I redact any evidence of Council staff providing technical instructions. The information conveyed by Council officers was largely released in the transcripts, with the information of the applicant's employees and associates being the information which was redacted.

I also acknowledge that the current housing shortage in Queensland is of great importance, however I do not find this particularly relevant in my decision making under the RTI Act, in relation to the release of some information in a limited number of audio transcripts.

I also placed significant weight on the consideration that should Council intend to release this information to the applicant, then it would likely deter persons from providing information to Council during investigations in the future (sch 4, pt 3, item 13).

Although the applicant contends that the Council officer/s have 'actively intervened' and 'altered the engineering design', I have failed to identify any information within the transcripts that would indicate as such, and as a result I have found that public interest factors favouring disclosure such as items 5 or 6 do not apply.

²¹ Applicant's submissions provided to OIC on 14 March 2026 (dated 21 March 2026).

²² Council's submissions dated 3 February 2026.

As a result, I found that the majority of the information of Council officers was within the public interest to release, however, I found that the public interest does not favour the disclosure of the following types of information:

- *Name, contact information, position or other identifying information of individuals within the audio recordings.*
- *The thoughts, feelings and / or opinions of the applicant's employees / associates.*
- *Information conveyed by a Council staff member that could reasonably be expected to reveal any of the above types of information.*

Findings

16. I have considered the factors in schedule 4 of the RTI Act²³ and not taken any irrelevant factors into account. I have also applied the RTI Act's pro-disclosure bias²⁴ and considered Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.²⁵
17. I consider that the following public interest factors favouring disclosure arise for consideration:
- promote open discussion of public affairs and enhance the Department's accountability²⁶
 - allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official²⁷
 - reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct²⁸
 - reveal the reason for a government decision and background or contextual information that informed the decision²⁹
 - reveal that information was incorrect or misleading³⁰; and
 - contribute to the administration of justice generally and for a person.³¹
18. On the other hand, there are a number of factors which I consider favour nondisclosure of the Refused Information, as listed below:
- protection of other individuals' right to privacy³²
 - flow of information to a regulatory agency³³
 - Council's ability to obtain confidential information,³⁴ and
 - the business, commercial or financial affairs of an entity.³⁵
19. I accept that Council needs to be transparent in how it responds to and investigates complaints about development, and how it conducts associated compliance and regulatory investigations and activities.³⁶ I also accept that the disclosure of the Refused Information could reasonably be expected to provide the applicant with a more comprehensive understanding of background and contextual information that was

²³ Relevant factors are discussed below.

²⁴ Section 44 of the RTI Act.

²⁵ Section 47(2) of the RTI Act.

²⁶ Schedule 4, part 2, items 1 and 3 of the RTI Act.

²⁷ Schedule 4, part 2, item 5 of the RTI Act.

²⁸ Schedule 4, part 2, item 6 of the RTI Act.

²⁹ Schedule 4, part 2, item 11 of the RTI Act.

³⁰ Schedule 4, part 2, item 12 of the RTI Act.

³¹ Schedule 4, part 2, item 16 and 17 of the RTI Act.

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

³³ Schedule 4, part 3, item 13 of the RTI Act.

³⁴ Schedule 4, part 3, item 16 of the RTI Act

³⁵ Schedule 4, part 3, item 2 of the RTI Act.

³⁶ Schedule 4, part 2, items 1 and 3 of the RTI Act.

available to Council in making findings in connection with its investigation.³⁷ However, the information already released to the applicant in the Transcripts has, to my mind, advanced Council's transparency and accountability to a significant degree as it shows the actions and steps taken by Council, and what they communicated in their interactions with other individuals.

20. In addition, nearly 300 pages were released to the applicant by Council pursuant to the original decision, with relatively minimal information redacted from those pages. The applicant did not seek review of those documents and therefore, I have not examined the redacted information in those documents in this review. However, I consider it is relevant, in affording weight to the public interest factors, to take into account the extent of information that has been disclosed by Council to the applicant under the RTI Act in response to this access application, including the original documents and partial Transcripts. In the circumstances, I afford these factors moderate weight in favour of disclosure.
21. As set out above, I accept that disclosing information provided by other individuals to Council in connection with the site, development and complaint investigation would reveal to the applicant additional contextual and background information that was before Council in making its decisions in connection with the investigation. I also accept that, to some degree, disclosure of the Refused Information may contribute to the administration of justice for the applicant and generally³⁸ as it would provide the applicant with more fulsome details of the exchanges recorded by Council which the applicant may seek to refer to in connection with any further legal/complaint/regulatory proceedings involving the Business. I afford these factors moderate weight in favour of disclosure.
22. Given the applicant's concerns that Council has '*actively intervened*' and '*altered the engineering design*' I have considered whether releasing the Refused Information could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of Council or Council officers (**Inquiry Factor**), and/or whether it could be reasonably expected to reveal or substantiate that Council or Council officers have engaged in misconduct or negligent, improper or unlawful conduct (**Misconduct Factor**).³⁹
23. I acknowledge the applicant's concerns with how Council officers have acted and its submissions that they have '*provided specific technical instructions*' and that there appears to be '*critical evidence ... that contradicts the allegation that [the Business] failed to install controls*'.⁴⁰ Having independently examined the Refused Information, I do not consider there is sufficient evidence available to me to find that the Misconduct Factor applies in this case. However, I afford moderate weight to the Inquiry Factor, noting that the threshold for that factor to apply is relatively low as it requires that disclosure of information could reasonably be expected to '*allow or assist inquiry*' into '*possible*' deficiencies. Given the type of concerns raised by the applicant in connection with Council's actions and taking into account the nature of the Refused Information, I am satisfied disclosure would advance the Inquiry Factor to a moderate degree in terms of *allowing* the applicant to inquire as to *possible* deficiencies in Council's conduct.
24. The applicant has made extensive submissions regarding what it considers to have been misrepresentations made to Council by other individuals, particularly at the site inspection (Transcript D). Given the regulatory context in which the Refused Information appears, it, by its very nature, comprises opinions and versions of events as expressed

³⁷ Schedule 4, part 2, item 11 of the RTI Act.

³⁸ Schedule 4, part 2, items 16 and 17 of the RTI Act

³⁹ Schedule 4, part 2, items 5 and 6 of the RTI Act.

⁴⁰ Applicant's submissions provided to OIC on 14 March 2026 (dated 21 March 2026).

by individuals during the course of Council's investigation. This inherent subjectivity does not mean that information provided to Council is necessarily incorrect or misleading.⁴¹ It is a matter for Council to weigh the evidence collected as part of an investigation in making any recommendations and findings; to the extent the applicant is dissatisfied with the outcome of Council's investigation, that is beyond the jurisdiction of the Information Commissioner under the RTI Act.

25. I acknowledge that the applicant is seeking to understand what information was provided by another individual at the site inspection as it considers it to be '*essential to understanding whether Council's findings reflected the full picture*'. While I accept that disclosing the Refused Information may provide the applicant additional context/background for Council's decision, as discussed above, I do not consider it would reveal that information is incorrect or misleading. For these reasons, I afford this factor⁴² no weight.
26. Turning to factors favouring nondisclosure, under the RTI Act, there is a strong public interest in protecting the right to privacy of other individuals.⁴³ The RTI Act also recognises that disclosing the personal information of an individual to another person, can reasonably be expected to cause a public interest harm.⁴⁴ In affording weight to these factors, it is relevant to take into account that where information is disclosed under the RTI Act there can be no control over further dissemination of information, nor can limitations be placed on disclosure.⁴⁵
27. The Refused Information identifies, or is about, a number of individuals; some of those are employees/associates of the Business, whereas others are external/not connected to the Business. Specifically, the information is in the form of names, opinions, observations, recollections and versions of events conveyed by various individuals to Council as part of Council's investigation into the complaint, and subsequent discharge of its compliance, regulatory and investigative activities in connection with the development site. I am satisfied that the Refused Information comprises the *personal information* of those other individuals.⁴⁶
28. The applicant made comprehensive submissions as to the identity of an individual present at the site inspection, specifically emphasising that the individual was not an employee/associate of the Business.⁴⁷ In determining whether the Refused Information contains the personal information of the individual present at the site inspection, and other individuals who communicated with Council, it is not relevant whether those individuals were employees/associates of the Business or otherwise; no matter what their relationship is to the Business, an individual will have personal information. In considering the weight of the personal information harm and privacy factors, what is relevant is that they are individuals who provided information to Council in relation to a regulatory investigation that arose from a complaint, which I consider affords their information a level of sensitivity. In this context, I consider the personal information harm factor and privacy factor should both be afforded significant weight in favour of nondisclosure.
29. In addition to information that would identify other individuals, the Refused Information also comprises the substance of their communications with Council. Given the context in which the information was provided, I consider it is akin to witness statements. I am

⁴¹ See *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [15]-[20].

⁴² Schedule 4, part 2, item 12 of the RTI Act.

⁴³ Schedule 4, part 3, item 3 of the RTI Act.

⁴⁴ Schedule 4, part 4, item 6 of the RTI Act.

⁴⁵ *FLK and Information Commissioner* [2021] QCATA 46 at [17].

⁴⁶ As that term is defined in schedule 5 of the RTI Act and section 12 of the *Information Privacy Act 2009* (Qld).

⁴⁷ Applicant's submissions provided to OIC on 14 March 2026 (dated 21 March 2026).

satisfied that disclosure of such information could reasonably be expected to prejudice the flow of information to Council and prejudice its ability to obtain confidential information when investigating complaints in the future as individuals may be reluctant to cooperate with Council in its regulatory capacity. This, in turn, would significantly prejudice Council's ability to effectively discharge its regulatory functions as Council relies on the willingness of individuals to bring issues of concern within Council's regulatory jurisdiction to its attention and to provide evidence in relation to such concerns. Accordingly, I afford these factors⁴⁸ significant weight.

30. In the particular circumstances of this case, I also consider that disclosure of certain Refused Information in the transcript of the site inspection (Transcript D) could reasonably be expected to prejudice the business affairs of another commercial entity as an individual who communicated to Council during the site inspection was speaking on behalf of a commercial entity. While I am limited in the extent to which I can describe the content of those communications, taking into account that it was provided in the context of a regulatory investigation and the individual was speaking in connection with their business activities, I am satisfied that disclosure could reasonably be expected to prejudice the business affairs of an entity. I afford this factor⁴⁹ moderate weight against disclosure.
31. In summary, I have found that there are a number of public interest factors which moderately favour disclosure of the Refused Information in terms of enhancing Council's accountability and transparency, contributing to the administration of justice and allowing inquiry into possible deficiencies in Council's conduct. On the other hand, I am satisfied that safeguarding the privacy and personal information of other individuals who communicated with Council in relation to the investigation should be afforded significant weight. Similarly, I have found that disclosure of the substance of those individuals' communications to Council would significantly prejudice the flow of information to Council and its ability to obtain confidential information, in connection with regulatory investigations. I have also afforded moderate weight to the prejudice I consider would occur to another entity's business affairs from disclosure of certain Refused Information in Transcript D.
32. On balance, I am satisfied that the weight of the public interest factors favouring nondisclosure is greater than the weight of the factors favouring disclosure of the Refused Information, and accordingly, find that access to the Refused Information may be refused under section 47(3)(b) of the RTI Act as disclosure would, on balance, be contrary to the public interest.
33. The above paragraphs [4] to [32] are the reasons for my decision at paragraph [1].

⁴⁸ Schedule 4, part 3, items 13 and 16 of the RTI Act.

⁴⁹ Schedule 4, part 3, item 2 of the RTI Act.