



## Decision and Reasons for Decision

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**Citation:** M43 and Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development [2026] QICmr 139 (7 August 2026)

**Application Number:** 00022867

**Applicant:** M43

**Respondent:** Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development

**Decision Date:** 7 August 2026

**Catchwords:** ADMINISTRATIVE LAW – RIGHT TO INFORMATION – SCOPE OF APPLICATION – whether certain documents fall within the scope of the application – whether the terms of the application can be unilaterally expanded on external review – documents fall outside the timeframe of the application – section 43 of the *Information Privacy Act 2009* (Qld)

ADMINISTRATIVE LAW – RIGHT TO INFORMATION – CONTRARY TO THE PUBLIC INTEREST INFORMATION – third party personal information – whether disclosure of information would, on balance, be contrary to the public interest – sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

## DECISION

I vary<sup>1</sup> the reviewable decision of the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development (**Department**) and find that:<sup>2</sup>

- certain information referred to by the applicant falls outside the scope of the application; and

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<sup>1</sup> Under section 123(1)(b) of the *Information Privacy Act 2009* (Qld) (**IP Act**).

<sup>2</sup> I have made this decision as a delegate of the Information Commissioner under section 139 of the IP Act. On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) came into force, effecting changes to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**). As the applicant's application was made before this change, the IP Act and RTI Act **as in force prior to 1 July 2025** is the applicable legislation.

- access to the Information in Issue<sup>3</sup> may be refused under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

This means that no further information is to be released to the applicant.

My reasons for the decision follow.



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**K Zaidiza**  
**A/Assistant Information Commissioner**

**Date: 7 August 2026**

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<sup>3</sup> This information is identified at paragraph 9 of the decision.

## REASONS FOR DECISION

### Summary

1. The applicant applied to the Department under the IP Act,<sup>4</sup> for all documents that either referenced or concerned the applicant for the time period 1 January 2020 to 18 June 2025.
2. The Department did not locate any documents responsive to the applicant's request and refused access on the ground that the requested information was nonexistent.<sup>5</sup>
3. The applicant then applied to the Office of the Information Commissioner (**OIC**) for an external review of the Department's decision.<sup>6</sup>

### Reviewable decision

4. The decision under review is the Department's decision dated 17 July 2025.

### Evidence considered

5. The evidence, submissions,<sup>7</sup> legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
6. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.<sup>8</sup> 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 IP Act.<sup>9</sup> I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.<sup>10</sup>

### Information in issue

7. In their external review application, the applicant submitted that they were aware that the Department held documents relevant to their application, as they had been

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<sup>4</sup> On 18 June 2025.

<sup>5</sup> Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act. Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent the agency could refuse access to the document under section 47 of the RTI Act were the document to be subject of an access application under that Act.

<sup>6</sup> On 12 August 2025.

<sup>7</sup> Including the applicant's submissions dated 12 August 2025, 17 October 2025 and 17 July 2026.

<sup>8</sup> Section 21 of the HR Act.

<sup>9</sup> *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]. This approach, in the context of the IP Act and RTI Act, was endorsed by Judicial Member DJ McGill SC in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23], observing that the Information Commissioner '*was conscious [of the right to seek and receive information] and considered that the application of the Act gave effect to the requirements of the Human Rights Act. I see no reason to differ from that conclusion.*'

<sup>10</sup> I note the following observations made by Bell J in *XYZ* at [573], on the interaction between equivalent pieces of Victorian legislation (namely, the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic)): '*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.*'

contacted by the Department<sup>11</sup> and informed of a complaint that had been made about them.

8. Early in the review, the Department informed OIC that it had located relevant information.<sup>12</sup> Given the number of documents located by the Department, the applicant agreed to exclude certain documents from the scope of the external review.<sup>13</sup>
9. In relation to the information that remained in the scope of the external review, the Department accepted OIC's preliminary view that this information should be disclosed to the applicant, subject to the refusal of certain information.<sup>14</sup> The applicant did not accept OIC's preliminary view that access may be refused to certain complaint documents.<sup>15</sup> The information remaining in issue appears in two part-pages<sup>16</sup> and three full pages<sup>17</sup> (**Information in Issue**).

### Issues for determination

10. The issues for determination are:
  - whether certain information referred to by the applicant falls outside the scope of the access application; and
  - whether access to the Information in Issue may be refused on the ground its disclosure would, on balance, be contrary to the public interest.

### Matters outside OIC's jurisdiction

11. The applicant made allegations about the conduct of the Department officer who investigated the complaint about them. External review under the IP Act is a merits review process<sup>18</sup> of government decisions about access to, and amendment of documents, meaning the applicant's entitlement to access information requested in the access application has been considered afresh. OIC's jurisdiction on external review does not extend to investigating the conduct of the Department officer. However, in making my decision in this external review, I have considered the applicant's submissions to the extent they are relevant to the issues for determination in the context of this review.

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<sup>11</sup> On 16 June 2025.

<sup>12</sup> Email to OIC dated 25 August 2025.

<sup>13</sup> Emails from the applicant dated 26 May 2026 and 29 May 2026.

<sup>14</sup> Email from the Department dated 12 June 2026. The information was disclosed to the applicant by the Department on 22 June 2026.

<sup>15</sup> Referred to as the Category B Information in OIC's letter to the applicant dated 6 July 2026.

<sup>16</sup> At pages 12 of File C and 6 of File G.

<sup>17</sup> At pages 13–14 of File C and 7 of File G.

<sup>18</sup> That is, external review is an administrative reconsideration of a case which could be described as '*stepping into the shoes*' of the primary decision maker to reach the correct and preferable decision.

## Does certain information fall within the scope of the access application?

### Relevant law

12. The IP Act requires that an access application must *'give sufficient information concerning the document to enable a responsible officer of the agency or Minister to identify the document'*.<sup>19</sup>
13. The Information Commissioner has previously recognised that the scope of an access application should not be interpreted legalistically or narrowly<sup>20</sup> however, balanced against this is the need for agencies to be able to restrict their searches for documents with reference to the terms used in the application. There are sound practical reasons for the documents sought being clearly and unambiguously identified. The terms of an access application set the direction and parameters of an agency's search efforts<sup>21</sup> and are therefore of primary importance when an applicant contends – as is the case in this review – that the agency has not located all relevant documents. For these reasons, the scope of an access application may not be unilaterally widened on external review.<sup>22</sup>

### Findings

14. As noted in paragraph 7 above, the applicant indicated they had been contacted by the Department in June 2025 and informed of a complaint made about them. On external review, the applicant raised concern about the conduct of a Department officer and demanded to know if the Department was contacted again. I understand the applicant to be referring to whether the complainant contacted the Department again, after June 2025, in relation to their complaint.
15. However, as noted in paragraph 1 above, the timeframe of the access application was limited to 1 January 2020 to 18 June 2025. Given this, I am satisfied that any documents relating to the Department contacting the applicant in August 2025, fall outside the timeframe of the scope of this application. As such, the Department was not required to conduct searches for these documents.
16. In addition, the applicant stated that the Department conducted a physical inspection of their site with the assistance of Queensland Police Service (**QPS**) and that information should be disclosed to hold the Department accountable for permitting a safety allegation *'to be used to weaponize a police presence on a lease'*.

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<sup>19</sup> Section 43(2)(b) of the IP Act.

<sup>20</sup> *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) at [21].

<sup>21</sup> In this regard, I note the following observations of the Information Commissioner in *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 at [8], when addressing similar considerations under the predecessor of the RTI Act, the *Freedom of Information Act 1992* (Qld) (**FOI Act**): *'The terms in which an FOI access application is framed set the parameters for an agency's response under Part 3 of the FOI Act, and in particular set the direction of the agency's search efforts to locate all documents of the agency which fall within the terms of the FOI access request. The search for relevant documents is frequently difficult, and has to be conducted under tight time constraints. Applicants should assist the process by describing with precision the document or documents to which they seek access'*.

<sup>22</sup> *Robbins and Brisbane North Regional Health Authority* (1994) 2 QAR 30 at [17].

In this respect, the applicant requested access to the information that was provided to QPS to justify its attendance at the site while the inspection was undertaken.

17. During the review, OIC asked the Department to provide information about when the site inspection was conducted. The Department stated that the inspection of the applicant's mining tenement was conducted on 18 November 2025.<sup>23</sup> Given that the inspection was conducted in November 2025, I am satisfied that any information provided to QPS about the inspection could reasonably be expected to have occurred outside the timeframe of the application – that is, after 18 June 2025. As such, the Department was not required to conduct searches for these documents.

### **Can access be refused to the Information in Issue?**

#### ***Relevant law***

18. The IP Act provides a person with a right to access documents of an agency to the extent that they contain the individual's personal information,<sup>24</sup> however this right of access is subject to certain limitations, including grounds upon which access to information may be refused.<sup>25</sup> Relevantly, access may be refused to information where disclosure would, on balance, be contrary to the public interest.<sup>26</sup>
19. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision-maker must:<sup>27</sup>
- identify factors irrelevant to the public interest and disregard them
  - identify factors in favour of disclosure of the information
  - identify factors in favour of nondisclosure of the information; and
  - decide whether, on balance, disclosure of the information would be contrary to the public interest.
20. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of the public interest lies in a particular case. I have considered these lists,<sup>28</sup> together with all other relevant information, in reaching my decision. I have kept in mind the IP Act's pro-disclosure bias<sup>29</sup> and Parliament's requirement that grounds for refusing access to information be interpreted narrowly.<sup>30</sup>

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<sup>23</sup> Email to OIC dated 26 July 2026.

<sup>24</sup> Section 40(1)(a) of the IP Act.

<sup>25</sup> Section 47(3) of the RTI Act.

<sup>26</sup> Section 47(3)(b) of the RTI Act.

<sup>27</sup> Section 49(3) of the RTI Act.

<sup>28</sup> I have considered each of the public interest factors outlined in schedule 4 of the RTI Act.

<sup>29</sup> Section 58(4) of the IP Act.

<sup>30</sup> Section 47(2)(a) of the RTI Act.

## Findings

21. The Information in Issue comprises the personal information<sup>31</sup> of the individual that made the complaint about the applicant, including their name, contact details and the content of the complaint.

### Applicant's submissions

22. In response to OIC's preliminary view,<sup>32</sup> the applicant submitted that the Information in Issue should be disclosed because:<sup>33</sup>
- the Department's reliance on privacy grounds '*actively shields serious malpractice, procedural deception and a coordinated campaign of harassment against [the applicant]*'
  - it is in the public interest to disclose government held information to ensure that a regulatory body is held accountable for its record keeping integrity and its use of coercive powers; and
  - a Departmental officer engaged in personal, out-of-hours social media stalking of the applicant.

### Irrelevant factors

23. I have not taken any irrelevant factors into account in reaching my decision.<sup>34</sup>

### Factors favouring disclosure

24. The applicant's submissions raise several factors favouring disclosure, namely that disclosure of the Information in Issue could reasonably be expected to:
- a) Enhance the Department's transparency and accountability in how it investigated the complaint about the applicant.<sup>35</sup>
  - b) Allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official.<sup>36</sup>
  - c) Reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.<sup>37</sup>
  - d) Reveal the reason for a government decision and any background or contextual information that informed the decision.<sup>38</sup>
25. In addition, the Information in Issue contains the applicant's personal information.<sup>39</sup>

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<sup>31</sup> Section 12 of the IP Act defines personal information as '*information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion*'.

<sup>32</sup> Letter to the applicant dated 6 July 2026.

<sup>33</sup> Email to OIC dated 17 July 2026.

<sup>34</sup> Schedule 4, part 1 of the RTI Act.

<sup>35</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>36</sup> Schedule 4, part 2, item 5 of the RTI Act.

<sup>37</sup> Schedule 4, part 2, item 6 of the RTI Act.

<sup>38</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>39</sup> Schedule 4, part 2, item 7 of the RTI Act.

26. In relation to the factors favouring disclosure referred to at a) and d) above, while disclosure of the Information in Issue would provide the applicant with the full details of the complaint that was made about them, including the identity of the complainant, the information that has been disclosed to the applicant shows that the Department advised the applicant of the nature of the complaint both by telephone and in writing. In addition, the Information in Issue is limited in nature and it does not reveal how the Department investigated the complaint or any actions taken by the Department. I consider that the information already provided to the applicant has already served to discharge the public interest in promoting the Department's transparency and accountability, and releasing information about the nature of the complaint would only marginally advance these two factors. Given this, I afford these factors only moderate weight in relation to disclosure of the Information in Issue.
27. Given the nature of the Information in Issue, that is, the personal information of the complainant – I cannot identify how its disclosure could reasonably be expected to advance the factors referred to at b) and c) above, and accordingly I do not consider these factors apply.
28. As noted above, the Information in Issue contains the applicant's personal information. Noting the public interest in individuals being able to access their own personal information held by government agencies, in the circumstances, I afford the factor favouring disclosure of this information significant weight.
29. I have carefully considered the remaining factors favouring disclosure listed in schedule 4, part 2, of the RTI Act, and factors favouring disclosure more generally, given the factors listed in schedule 4 are not exhaustive. I can identify no other public interest considerations in favour of disclosure of the Information in Issue.

### **Factors favouring nondisclosure**

30. The RTI Act recognises that there is a public interest harm in disclosing an individual's personal information to someone else<sup>40</sup> and that disclosing information which could reasonably be expected to prejudice the protection of an individual's right to privacy<sup>41</sup> gives rise to a public interest factor favouring nondisclosure.<sup>42</sup>
31. The Information in Issue appears in the context of an individual making a complaint to the Department. I consider that disclosure of that information would represent a significant intrusion into the privacy of that individual. I also consider that a high level of harm could be expected to arise from disclosure of their personal information. For these reasons, I afford significant weight to the factors favouring nondisclosure.

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<sup>40</sup> Schedule 4, part 4, section 6 of the RTI Act.

<sup>41</sup> The concept of privacy is not defined in the RTI Act or the IP Act. It can however, be viewed as the right of an individual to preserve their '*personal sphere*' free from the interference of others.

<sup>42</sup> Schedule 4, part 3, item 3 of the RTI Act.

32. In relation to the applicant's request that OIC redact the identifying details of the complainant and release '*the exact text, wording ...*' of the complaint, the entirety of the Information in Issue comprises the complainant's personal information and therefore redacting the identifying details of the complainant would not render the above factors favouring nondisclosure irrelevant.
33. In addition, I consider that disclosing the Information in Issue could reasonably be expected to prejudice the Department's ability to obtain confidential information about compliance with the *Mineral Resources Act 1989* (Qld) in the future.<sup>43</sup> I consider that the individual who made a complaint to the Department did so with an understanding that the information they provided would be treated with as much confidentiality as possible. In my view, disclosing this type of complaint information under the IP Act could reasonably be expected to make individuals reluctant to make complaints to the Department, and prejudice the future flow of information.<sup>44</sup> This, in turn, could reasonably be expected to adversely impact the Department's ability to conduct investigations into such complaints. For these reasons, I afford these factors favouring nondisclosure significant weight also.

### **Balancing the public interest**

34. I acknowledge the pro-disclosure bias in deciding access to documents under the IP Act.<sup>45</sup> Taking into account the nature of the Information in Issue and the information already provided to the applicant about the complaint, I afford the public interest factors relating to the Department's transparency and accountability and revealing the reason for a government decision moderate weight. The Information in Issue contains the applicant's personal information and this factor favouring disclosure warrants significant weight.
35. On the other hand, for the reasons noted above, I afford significant weight to the factors favouring nondisclosure relating to personal information and privacy, the Department's ability to obtain confidential information and prejudicing the flow of information to the Department.
36. On balance, in the circumstances of this matter, I am satisfied that the public interest factors favouring nondisclosure outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Information in Issue would, on balance, be contrary to the public interest and access may be refused on that basis.
37. The above are the reasons for my decision set out at pages 1–2.

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<sup>43</sup> Schedule 4, part 3, item 16 of the RTI Act.

<sup>44</sup> Schedule 4, part 3, item 13 of the RTI Act.

<sup>45</sup> Section 58(4) of the IP Act.