



Decision and Reasons for Decision

Citation:	<i>Prisoners Legal Service and Queensland Corrective Services [2022] QICmr 54 (14 December 2022)</i>
Application Number:	316454
Applicant:	Prisoners Legal Service
Respondent:	Queensland Corrective Services
Decision Date:	14 December 2022
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - CABINET INFORMATION - document attached to Cabinet submission - whether document would reveal or prejudice confidentiality of Cabinet considerations or operations - whether exempt - sections 47(3)(a) and 48 and schedule 3, section 2(1)(b) and section 2(3)(a) of the <i>Right to Information Act 2009 (Qld)</i>

REASONS FOR DECISION

Summary

1. The applicant applied to Queensland Corrective Services (**QCS**)¹ under the *Right to Information Act 2009 (Qld)* (**RTI Act**) to access the final copy of a report produced by KPMG International Limited (**KPMG**) in relation to an independent review of the Parole Board Queensland (**Report**).²
2. QCS decided³ to refuse access to the Report, on the ground that the Report comprised exempt information.⁴
3. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of QCS' decision.⁵
4. Initially, QCS maintained⁶ that the Report comprised exempt information under schedule 3, section 2(1)(a) of the RTI Act. However, QCS subsequently submitted that, as the Report had been included as an attachment to a Cabinet Budget Review

¹ The application dated 30 September 2021 was initially made to Queensland Treasury, however, it was transferred to QCS, as notified to the applicant on 7 October 2022.

² The timeframe nominated in the application is April 2021 to September 2021.

³ On 1 November 2021.

⁴ Under schedule 3, section 2 of the RTI Act, on the basis the Report had been prepared for the consideration of Cabinet. However, the decision did not rely upon section 47(3)(a) of the RTI Act for the access refusal—instead, it relied on section 40 of the RTI Act, which allows an agency to refuse to deal with an application where it appears all documents requested comprise exempt information.

⁵ On 29 November 2022.

⁶ On 24 January 2022.

Committee submission (**CBRC Submission**), it comprised exempt information under schedule 3, section 2(1)(b) of the RTI Act.⁷

5. During the review, I reviewed a copy of the CBRC Submission (and its attachments).⁸
6. For the reasons set out below, I vary QCS' decision and find that access to the Report may be refused under sections 47(3)(a) and 48 of the RTI Act, on the basis that it comprises exempt information under schedule 3, section 2(3)(a) and/or section 2(1)(b) of the RTI Act.

Background

7. In 2021, the Queensland Government engaged KPMG to '*provide current state insights and advice on future efficiencies and modernisation considerations for the Parole Board Queensland*'.⁹
8. The applicant was consulted as part of that review and provided a joint response, with LawRight, on 21 April 2021.¹⁰

Reviewable decision

9. The decision under review is QCS' decision dated 1 November 2021.
10. As noted above, while this decision stated QCS refused access to the Report, it referenced section 40 of the RTI Act in the reasons for decision. I did initially assess whether section 40 of the RTI Act applied in this matter. However, as external review is a merits review¹¹ and the Information Commissioner is empowered to decide any matter in relation to an application that could have been decided by the agency under the RTI Act,¹² the review has proceeded to consider whether there are grounds for refusing access to the Report.

Evidence considered

11. Evidence, submissions,¹³ legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and Appendix). The significant procedural steps taken in this review are set out in the Appendix to this decision.
12. Individuals in Queensland have human rights under the *Human Rights Act 2019* (Qld) (**HR Act**). Although the applicant in this review is not an 'individual', it submitted that the human rights identified in sections 19, 21, 23, 26, 27, 28, 29, 30 and 34 of the HR Act

⁷ By letter dated 25 March 2022.

⁸ A copy of which I obtained from the Cabinet Secretary on 13 April 2022. Prior to having access to the Cabinet submission, a preliminary view had been conveyed to QCS that it had not established the application of schedule 3, sections 2(1)(a) or 2(1)(b) of the RTI Act (in letters dated 23 February 2022 and 15 March 2022).

⁹ Queensland Government statement about the review of the Parole Board Queensland at: <<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/72e72521-ef77-424c-9807-dc3414817a47/qld-govt-statement-kpmg-report-review-of-pbq-003.pdf?ETag=86b83ac9045e6f1ae431d539b5a685f9>>.

¹⁰ Refer to <<https://pls.qld.com/pls-calls-for-urgent-attention-to-parole-delays-2/>>.

¹¹ That is, an administrative reconsideration of a case.

¹² Section 105(1)(b) of the RTI Act. However, this does not apply to the discretion in section 44(4) of the RTI Act, to give access to a document to which access can be refused, as the Information Commissioner does not have power to direct that access be given to a document which is exempt or contrary to public interest to disclose: section 105(2) of the RTI Act.

¹³ During the external review, I conveyed a preliminary view to QCS that it had not satisfied its review onus of establishing that the Report comprised exempt information under schedule 3, section 2(1)(a) of the RTI Act. As noted in paragraph 4 above, QCS subsequently submitted that it relied on the exemption in schedule 3, section 2(1)(b) of the RTI Act, rather than schedule 3, section 2(1)(a) of the RTI Act. Accordingly, to the extent that the applicant's submissions dated 29 November 2022 address the exemption in schedule 3, section 2(1)(a) of the RTI Act, I have not considered that part of the submissions in this decision.

are relevant considerations in this matter.¹⁴ I consider that a decision-maker will, when observing and applying the law prescribed in the RTI Act, be ‘*respecting*’ and ‘*acting compatibly with*’ the rights prescribed in the HR Act.¹⁵ I further consider that, having done so when reaching my decision, I have acted compatibly with and given proper consideration to relevant human rights, as required under section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between the Victorian equivalents of Queensland’s *Information Privacy Act 2009* (Qld), RTI Act and HR Act: ‘*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*’.¹⁶

Information and issue for determination

13. As noted above, the information in issue comprises the Report.
14. The issue for determination is whether the Report comprises exempt information under schedule 3, section 2 of the RTI Act (**Cabinet Exemption**).

Relevant law

15. The RTI Act confers a right of access to documents of government agencies such as QCS.¹⁷ This right is subject to other provisions of the RTI Act, including grounds on which access may be refused.¹⁸ Section 47(3)(a) of the RTI Act permits an agency to refuse access to documents to the extent they comprise exempt information.¹⁹
16. Schedule 3 to the RTI Act states the types of information which Parliament has identified will comprise exempt information. The Cabinet Exemption provides that:
 - (1) *Information is exempt information for 10 years after its relevant date if—*
...
 - (b) *its disclosure would reveal any consideration of Cabinet or would otherwise prejudice the confidentiality of Cabinet considerations or operations ...*
 - (2) *Subsection (1) does not apply to—*
 - (a) *information brought into existence before the commencement of this section; or*

¹⁴ Being the rights to freedom of movement, freedom of expression (which includes the right to seek, and receive, information), taking part in public life, protection of families and children, cultural rights generally and for Aboriginal and Torres Strait Islander peoples, liberty and security of person, humane treatment when deprived of liberty and not to be tried or punished more than once. Section 11(2) of the HR Act provides that **only** individuals have human rights, and the applicant here is a not for profit community legal centre. However, I note that Kingham J in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors* [2020] QLC 33 at [90] confirmed that where section 58(1) of the HR Act applies, there need be no move to raise human rights issues because that section requires the relevant public entity to properly consider engaged human rights and to not act or make a decision that is not compatible with human rights.

¹⁵ See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; and *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

¹⁶ *XYZ* at [573]. OIC’s approach to the HR Act set out in this paragraph has recently been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (noting that Judicial Member McGill saw ‘*no reason to differ*’ from our position).

¹⁷ Section 23 of the RTI Act.

¹⁸ Section 47 of the RTI Act. These grounds are to be interpreted narrowly: section 47(2)(a) of the RTI Act, a requirement I have borne in mind in making my decision, together with Parliament’s intention that the Act be administered with a pro-disclosure bias (section 44 of the RTI Act).

¹⁹ As defined in section 48 of the RTI Act.

- (b) information officially published by decision of Cabinet.
- (3) Without limiting subsection (1), the following documents are taken to be documents comprised exclusively of exempt information under subsection (1)—
- (a) Cabinet submissions ...
- ...
- (4) A report of factual or statistical information attached to a document mentioned in subsection (3) is exempt information under subsection (1) only if—
- (a) its disclosure would have an effect mentioned in subsection (1)(b); or ...
- (5) In this section—
- Cabinet** includes a Cabinet committee or subcommittee.
- consideration** includes—
- (a) discussion, deliberation, noting (with or without discussion) or decision; and
- (b) consideration for any purpose, including, for example, for information or to make a decision.
- relevant date**, for information, means—
- (a) for information considered by Cabinet—the date the information was most recently considered by Cabinet; or
- (b) for other information—the date the information was brought into existence.

Findings

17. The Report was created in 2021 and there is no evidence that the Report (or the information within the Report) has been officially published by decision of Cabinet. Accordingly, I am satisfied that no exceptions to the Cabinet Exemption apply in this matter.²⁰

Documents comprised exclusively of exempt information

18. Under schedule 3, section 2(3)(a) of the RTI Act, Cabinet submissions are presumed to comprise exclusively of exempt information, to which access may be refused.²¹
19. Having carefully reviewed the CBRC Submission, I can confirm that it includes the Report as an attachment.
20. The applicant submitted²² that schedule 3, section 2(3)(a) of the RTI Act applies only to Cabinet submissions themselves, not *attachments* to Cabinet submissions, and that this is consistent with the wording of schedule 3, section 2(4) of the RTI Act.

²⁰ The operation of these exceptions is outlined at paragraph 16 above.

²¹ As then Chief Justice Holmes noted in *Commissioner of the Police Service v Shelton & Anor* [2020] QCA 96 at [44]: 'Within the category of Cabinet information, some documents are made exempt by their very character; as Cabinet submissions, or briefing notes, for example'.

²² Submissions dated 13 September 2022.

21. As noted above, schedule 3, section 2(4) of the RTI Act specifies that, *for a particular type of attachment*—namely, a report of factual or statistical information—there are additional requirements in order for such an attachment to comprise exempt information under schedule 3, section 2(3) of the RTI Act. This provision does not, as the applicant contends, preclude the exemption in schedule 3, section 2(3) of the RTI Act from applying to all Cabinet submission attachments.
22. I have carefully considered both the Report and the CBRC Submission. While some of the Report could be characterised as comprising factual or statistical information, I consider that the Report, as a whole, is not of that nature, as it includes deliberative information. While the RTI Act precludes me from describing the Report in any detail,²³ I can also confirm that information from the Report is largely interwoven into the CBRC submission. For these reasons, I am satisfied that schedule 3, section 2(4) of the RTI Act is not relevant in the circumstances of this matter and, accordingly, the Report is exempt from disclosure under schedule 3, section 2(3)(a) of the RTI Act.
23. However, if I am wrong in this regard and schedule 3, section 2(4) of the RTI Act applies, I am also satisfied that disclosure of the Report *'would have an effect mentioned in subsection 1(b)'*—that is, for the reasons explained below at paragraphs 24 to 33, I am satisfied that the Report would reveal Cabinet considerations or otherwise prejudice the confidentiality of Cabinet considerations or operations.²⁴

Information that would reveal or prejudice Cabinet considerations

24. In considering the application of schedule 3, section 2(1)(b) of the RTI Act, the relevant question I must consider is whether disclosure of the Report would:
 - reveal a consideration²⁵ of Cabinet; or
 - otherwise prejudice the confidentiality of Cabinet considerations or operations.
25. Having carefully considered the submissions received from the parties, the Report and the Cabinet Submission, I am satisfied that, as a matter of fact, disclosure of the Report would reveal a consideration of Cabinet or otherwise prejudice the confidentiality of Cabinet considerations or operations.²⁶ As the Report formed part of the Cabinet Submission, it seems reasonable to expect that its disclosure would reveal a consideration of Cabinet, by revealing information that has been considered by Cabinet. Additionally, disclosing the Report would, at a minimum, enable reliable inferences to be drawn about the subject matter of Cabinet discussions and this would undermine or prejudice the confidentiality of Cabinet considerations or operations.²⁷
26. On this basis, I find that the Report satisfies the requirements for exemption under schedule 3, section 2(1)(b) of the RTI Act.

²³ Under section 108(3) of the RTI Act, I must not disclose information that is claimed to be exempt in a decision or reasons for a decision on external review.

²⁴ Schedule 3, section 2(1)(b) of the RTI Act.

²⁵ As this term is defined in schedule 3, section 2(5) of the RTI Act (refer to paragraph 16).

²⁶ As noted in *Hart MP and Department of Transport and Main Roads* [2022] QICmr 28 (25 May 2022) (**Hart**) at [13], the words 'reveal' and 'operations' are undefined in the RTI Act. I have therefore had regard to the ordinary meanings of those words and noted the dictionary definitions identified in *Hart*.

²⁷ I note that similar findings were made in *V17 and Department of Transport and Main Roads* [2021] QICmr 34 (30 June 2021) (**V17**) at [22]-[23].

27. The applicant submitted that:²⁸

- in deciding whether this exemption applies, I ‘*must ignore any information extraneous to*’ the Report²⁹—specifically, the CBRC Submission—and only have regard to whether the Report ‘*itself reveals a Cabinet consideration*’;³⁰ and
- the Report does not ‘*reveal or suggest it was considered by Cabinet or otherwise prejudice Cabinet confidentiality*’.³¹

28. In support of this position, the applicant relied on the following passage from the decision in *Quandamooka Yoolooburrabee Aboriginal Corporation and Department of Natural Resources and Mines; Sibelco Australia Ltd (Third Party)* [2014] QICmr 47 (19 November 2014) (**Quandamooka**):³²

In considering the application of schedule 3, section 2(1)(b) of the RTI Act, the relevant question is whether it can be said that disclosure of the actual information in issue itself would reveal a consideration of Cabinet or otherwise prejudice Cabinet confidentiality or operations. It must be shown that any person viewing the documents would have revealed to them a consideration of Cabinet, or that relevant disclosure would otherwise prejudice Cabinet confidentiality.

29. More specifically, the applicant submitted that:

- this passage in *Quandamooka* indicates that a decision-maker cannot have regard to ‘*information external to the document*’ when determining whether the document would reveal a Cabinet consideration;³³ and
- a reference in the subsequent decision of *North Queensland Conservation Council Incorporated and Queensland Treasury* [2016] QICmr 21 (10 June 2016) (**NQCC No 2**) to the consideration of ‘*other information available to the decision maker, under the RTI Act*’³⁴ should either not be taken to suggest that extraneous information can be taken into account or should not be followed.³⁵

30. I do not consider the decisions referenced by the applicant support the applicant’s restrictive interpretation of the exemption in schedule 3, section 2(1)(b) of the RTI Act. On external review, the applicant specifically acknowledged that, in *Quandamooka*, it was determined that ‘*two categories of extraneous information could not be used to re-*

²⁸ Submissions dated 30 May 2022 and 13 September 2022.

²⁹ In its submission dated 30 May 2022, the applicant argued that a decision-maker cannot have regard to information external to the requested document, such as ‘*a later assertion by a body that the document was considered by Cabinet or was submitted to Cabinet, or the contents of the legislation or subordinate legislation later passed by Parliament*.’

³⁰ The applicant nominated examples of where a Cabinet consideration would be revealed—where the document states it was submitted to or will be considered by Cabinet; it discusses submissions to Cabinet; or it contains ‘*some similar type of information that would prejudice Cabinet confidentiality*.’

³¹ In explaining the basis for this submission, the applicant asserted that 1. as KPMG would not have provided the Report directly to Cabinet, it would not be marked ‘CBRC attachment’, ‘Cabinet document’ or something similar; 2. the Report would not state that it will be submitted to Cabinet; and 3. ‘*it is inconceivable that the [Report] will discuss other cabinet submissions or documents*’.

³² At [57]. The applicant also submitted that this passage was ‘repeated’ in *North Queensland Conservation Council Incorporated and Queensland Treasury* [2016] QICmr 9 (29 February 2016) (**NQCC No 1**) at [24].

³³ Submissions dated 30 May 2022. In these submissions, the applicant also argued that this restrictive interpretation of the exemption in schedule 3, section 2(1)(b) is consistent with the findings in *Ryman and Department of Main Roads* (1996) QAR 416 (**Ryman**) at [43]-[44] and *Sunshine Coast Environment Council Inc and Department of National Parks, Sporting and Racing; Springborg MP (Third Party)* [2016] QICmr 10 (4 March 2016) (**SCECI**) at [48]-[50]. However, as noted in *Quandamooka*, the decision in *Ryman* related to the Cabinet matter exemption provisions in the *Freedom of Information Act 1992* (Qld).

³⁴ **NQCC No 2** at [24].

³⁵ Submissions dated 30 May 2022. The Information Commissioner noted in **NQCC No 2** at [24] that ‘*... I consider that the relevant question is whether, if a reasonable person viewed the information, a Cabinet consideration would be revealed to them, or the confidentiality of the Cabinet considerations or operations would be prejudiced. In my view, the answer to this largely depends on the particular nature of the information in question, the circumstances relating to creation of the information and the other information available to the decision maker, under the RTI Act*’. The applicant acknowledged that these observations were subsequently cited with approval in *Ringland and Department of Housing and Works* [2020] QICmr 7 (13 February 2020) (**Ringland**) at [48]-[49], however, argued that as *Ringland* failed to discuss the decisions of *Quandamooka* or *Ryman* it also should not be followed.

cast certain documents as indicative of Cabinet considerations'.³⁶ That is, extraneous information was taken into account in *Quandamooka* when considering whether the exemption in schedule 3, section 2(1)(b) of the RTI Act applied to the documents requested in that matter. Information extraneous to the requested documents was also considered in *SCECI* and *Ryman*, however, it was found to be insufficient to establish that the Cabinet Confidentiality Exemption applied to the documents in issue in those matters.³⁷ It is also relevant to note that, unlike the current circumstances, the documents claimed to be exempt in these referenced decisions had not been submitted to Cabinet.³⁸

31. The applicant also argued³⁹ that, even if regard can be had to extraneous information for a determination under schedule 3, section 2(1)(b) of the RTI Act, *'there remain limitations on the relevancy of certain types of extraneous information'* and the fact that the Report may have ultimately been attached to a Cabinet submission is immaterial. In this regard, the applicant asserted that:⁴⁰

- information from a respondent to an application that the sought-after document was attached to a submission to Cabinet or provided to Cabinet cannot of itself bring the document within the ambit of schedule 3, section 2(1)(b) of the RTI Act⁴¹
- extraneous documents that simply attest to a document being given to Cabinet remain irrelevant to the determination under schedule 3, section 2(1)(b) of the RTI Act; and
- *'Categorising the Report as "exempt information", simply because QCS or the Cabinet Secretary has provided the CBRC submission showing that the [Report] was attached to it, relies on an interpretation of schedule 3, section 2(1)(b) of the RTI Act that is anathema to the purpose and pro-disclosure bias of the RTI Act. Provision of the CBRC submission by QCS or the Cabinet Secretary, cannot, of itself, be used to refuse access to the Report given the discussion in Ryman. A different conclusion may or may not be reached if it was already a widely known and publicly available fact that the Report was submitted to Cabinet, but that is not the case in this matter'*.

32. I accept that not all extraneous information will be relevant in determining whether requested documents comprise exempt information under schedule 3, section 2(1)(b) of the RTI Act. However, the decisions in *Quandamooka* and *Ryman* concerned documents, and extraneous information, qualitatively different to those in issue in this

³⁶ Submissions dated 30 May 2022. The relevant finding in *Quandamooka* at [64] was: *'I cannot accept that legislative amendments related to issues discussed in the Sibelco documents, or ensuing media commentary about those amendments, combined with the Sibelco documents themselves, render those documents capable of revealing or prejudicing Cabinet considerations.'*

³⁷ In *SCECI*, the submitted extraneous information was found to be speculative and it was determined, at [48]-[49], that there was *'no evidence on the face of the documents in Issue which reveals they were themselves considered by Cabinet or which otherwise connects them to any Cabinet consideration. ...In any event, on consideration of schedule 3, section 2(1)(b) of the RTI Act, I am unable to envisage how this provision could apply to hypothetical Cabinet considerations as raised by the Leader of the Opposition'*. The extraneous information considered in *Ryman* was *'the Department's submission that it had verified that maps in issue were similar to, but not the same as, a map attached to the Cabinet submission'*. I also note that, in NQCC No 1, regard was not had to any extraneous information as the Right to Information Commissioner determined that *'the particular nature of this information could reasonably be expected to reveal the Cabinet's noting of some information, and the focus of its discussions, deliberations and decisions regarding other information'* and *'disclosure of the Cabinet Information would prejudice the confidentiality of Cabinet considerations, as awareness of their contents would reduce or remove the confidentiality of Cabinet considerations'*.

³⁸ I note that, when considering the application of schedule 3, section 2(1)(b) of the RTI Act in *V17*, the Right to Information Commissioner had regard to the Department's advice that the information in issue in that matter had formed part of a submission considered by Cabinet.

³⁹ Submissions dated 30 May 2022.

⁴⁰ Submissions dated 30 May 2022.

⁴¹ The applicant referred to *Ryman* at [43]-[44] in support of this argument and submitted this approach was applied, in a slightly different context, in *Quandamooka* at [64].

review. Here, the Report is *directly* connected to Cabinet considerations and/or operations—that is, the Report:

- informed a CBRC submission
- was included as an attachment to the CBRC Submission, which was put before and considered by Cabinet;⁴² and
- was an integral component of the CBRC submission and, as noted in paragraph 22 above, information from the Report is largely interwoven into the CBRC submission.

33. For the reasons outlined above, I consider it is entirely appropriate to have regard to the Cabinet Submission in determining whether the exemption in schedule 3, section 2(1)(b) of the RTI Act applies to the Report.

Conclusion

34. For the above reasons, I am satisfied that the Report meets the requirements of the Cabinet exemption and that the exceptions do not apply. On this basis, I find access to the Report may be refused,⁴³ as it comprises exempt information.⁴⁴

35. To the extent the applicant's submissions raise other reasons why the Report should be disclosed,⁴⁵ I am unable to take these into account. Once information is found to be exempt, as is the case here, this obviates the need to engage in a public interest balancing exercise.⁴⁶ This is because Parliament has already determined that disclosure of exempt information is contrary to the public interest in all circumstances.⁴⁷

36. I have also considered the applicant's request for the Report to be disclosed, subject to the deletion of the exempt information. Section 74 of the RTI Act requires an agency to consider whether it is practicable to give access to a copy of a document from which the exempt information has been deleted. Given the nature of the Report, I do not consider that any deletions can be applied in a practicable way to this document in order to release parts of it to the applicant.

DECISION

37. For the above reasons, I find that access to the Report may be refused under sections 47(3)(a) and 48 of the RTI Act, on the basis that it comprises exempt information under schedule 3, section 2(3)(a) and/or section 2(1)(b) of the RTI Act.

⁴² Insofar as the applicant's submissions appear to contend that extraneous information which confirms a document has been submitted to Cabinet may only become relevant if that fact is '*was already widely-known*' or '*publicly available*', I note that the definition of 'consideration' in schedule 3, section 2(5) of the RTI Act is broad and non-exhaustive. Accordingly, I am satisfied that *any* material presented to Cabinet, by way of a formal submission, has been subject to consideration within the meaning of schedule 3, section 2(5) of the RTI Act. This is also consistent with the finding in *V17* at [22]. In *V17*, the Information Commissioner found that where there is evidence that documents have been attached to a submission put before and considered by Cabinet (as is the case here), they will comprise exempt information under schedule 3, section 2(1)(b) of the RTI Act.

⁴³ Under sections 47(3)(a) and 48 of the RTI Act.

⁴⁴ Under schedule 3, section 2(3)(a) and/or section 2(1)(b) of the RTI Act.

⁴⁵ For example, in its submissions dated 13 September 2022, the applicant argued that a number of public interest factors favouring disclosure apply to the Report and the public interest favours disclosure.

⁴⁶ Consistent with the findings of the Queensland Civil and Administrative Tribunal in *BL v Office of the Information Commissioner* [2012] QCATA 149 at [15]-[16] and *Walker Group Holdings Pty Ltd v Queensland Information Commissioner* [2021] QCATA 30 at [32].

⁴⁷ Section 48(2) of the RTI Act. Also, section 105(2) of the RTI Act confirms that the Information Commissioner does not have the power to direct that access is to be given to exempt information (see also *Minogue v Information Commissioner & Queensland Health* [2014] QCATA 98 at [25]).

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

T Lake
Acting Assistant Information Commissioner

Date: 14 December 2022

APPENDIX

Significant procedural steps

Date	Event
29 November 2022	OIC received the applicant's application for external review.
23 December 2021	OIC notified the applicant that the application for external review had been accepted.
6 January 2022	OIC notified QCS that the application for external review had been accepted and requested further information.
24 January 2022	OIC received information from QCS.
25 January 2022	OIC requested further information from QCS.
15 February 2022	OIC received QCS' submission.
23 February 2022	OIC conveyed a preliminary view to QCS.
14 March 2022	OIC inspected Cabinet documents.
15 March 2022	OIC conveyed a further preliminary view to QCS that the inspected documents were insufficient to satisfy exemption grounds and requested further information requested from QCS.
25 March 2022	OIC received QCS' further submission.
29 March 2022	OIC requested further information from QCS.
30 March 2022	OIC received the requested information from QCS. OIC wrote to the Department of Premier and Cabinet, requesting a copy of the CBRC submission (including attachments).
13 April 2022	OIC received a copy of the CBRC submission.
3 May 2022	OIC conveyed a preliminary view to PLS.
30 May 2022	OIC received PLS' submission, contesting the preliminary view.
15 August 2022	OIC conveyed a further preliminary view to PLS.
13 September 2022	OIC received PLS' further submission.