



Decision and Reasons for Decision

Citation:	<i>X85 and Economic Development Queensland [2025] QICmr 26 (22 May 2025)</i>
Application Number:	318295
Applicant:	X85
Respondent:	Economic Development Queensland
Decision Date:	22 May 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - INFORMATION PRIVACY ACT - APPLICATION FOR PERSONAL INFORMATION - SCOPE OF APPLICATION - applicant applied under the <i>Information Privacy Act 2009</i> (Qld) for information relating to their address - right of access to personal information - meaning of personal information - whether information is about the applicant - whether information falls outside scope of application - sections 12 and 40(1)(a) of the <i>Information Privacy Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Respondent (**EDQ**) for access under the *Information Privacy Act 2009* (Qld) (**IP Act**) to documents relating to the applicant's residential address between 1 January 2018 and 15 August 2024.
2. During the processing of the application, the applicant confirmed to EDQ that it was his intention to limit his access request to documents containing his personal information.
3. EDQ located 57 responsive pages and decided² to give the applicant full access to 54 pages and partial access to three pages. It refused access to some information on the basis that it was the personal information of individuals other than the applicant and disclosure of this information would, on balance, be contrary to the public interest.
4. In its decision, EDQ also notified the applicant that it had identified other documents relating to his address but, as those documents did not contain the applicant's personal information, they fell outside the scope of his application under the IP Act, and access could only be sought through making an application under the *Right to Information Act 2009* (Qld) (**RTI Act**).

¹ Application made on 15 August 2024.

² Decision dated 25 October 2024. The Principal RTI Officer at the Department of State Development and Infrastructure holds a delegation to make decisions in response to access applications made to EDQ.

5. The applicant applied³ to the Office of the Information Commissioner (**OIC**) for review of EDQ's decision to exclude documents from the scope of his application.

Reviewable decision

6. The decision under review is EDQ's decision dated 25 October 2024.

Evidence considered

7. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes). I have taken account of the applicant's submissions to the extent that they are relevant to the issues for determination in this review.⁴
8. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁵ 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 and the RTI Act.⁶ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on equivalent pieces of Victorian legislation:⁷ '*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.*'⁸

Information in issue

9. The information in issue comprises 224 pages that EDQ decided fall outside the scope of the access application because they do not contain the applicant's personal information (**Excluded Information**).

Issue for determination

10. The issue for determination is whether the Excluded Information can properly be regarded as containing the applicant's personal information such that it falls within the scope of his access application made under the IP Act.

Relevant law

11. Section 40(1)(a) of the IP Act gives an individual the right to access documents of an agency '*to the extent they contain the individual's personal information*'.
12. 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.

13. For information to qualify as personal information, two criteria must be satisfied:

³ On 31 October 2024.

⁴ Contained in the applicant's email of 16 April 2025.

⁵ Section 21 of the HR Act.

⁶ *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].

⁷ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

⁸ *XYZ* at [573].

- (a) the information or opinion must be about the individual; and
- (b) the individual's identity must be apparent or reasonably ascertainable from the information or opinion.

14. In *Privacy Commissioner v Telstra Corporation Limited*,⁹ the Full Federal Court considered the equivalent definition of 'personal information' in the *Privacy Act 1988* (Cth).¹⁰ The Court upheld a decision of the Administrative Appeals Tribunal that, in determining whether information is personal information, it is not enough that an individual is identifiable: the information must also say something 'about' that individual. The Full Court agreed that the threshold question to be answered is whether the information is 'about' the individual. It found that the words 'about an individual' direct attention to the need for the individual to be a subject matter of the information. While information and opinions can have multiple subject matters, the Full Court said that it is necessary, in every case, to consider whether each item of information requested, individually or in combination with other items, is 'about an individual'. This requires an evaluation of the facts of any individual case.
15. Accordingly, whether or not information is about an individual is a question of fact, to be resolved by reference to the information itself.

Submissions

16. By letter dated 16 April 2025, OIC conveyed to the applicant a preliminary view that, while the Excluded Information contained references to the address of his property, it was not about him. Rather, it was about the property. OIC referred the applicant to the former Information Commissioner's decision in *Mahoney and Ipswich City Council*¹¹ (**Mahoney**), in which it was decided that a request for documents relating to a property address could not be made under the IP Act because the information in question was not about the applicant but, rather, was about the property in question and therefore did not fall within the definition of 'personal information'.¹²
17. In its letter, OIC described the nature of the Excluded Information and advised the applicant that the Excluded Information contained no reference to his name, or to any other identifying information. Furthermore, in terms of whether the applicant's identity was reasonably ascertainable from the Excluded Information, OIC acknowledged that an address search could be conducted through Titles Queensland to learn of the applicant's identity as the current owner of the property. However, it was OIC's view that the taking of this additional step went beyond what is intended by the term 'reasonably ascertainable'.
18. The applicant rejected OIC's preliminary view and submitted as follows:¹³
 - the decision in *Mahoney* is not '*a legally binding precedent in this matter...*'; it '*holds absolutely no precedent power to influence any other matter other than its own...*'; and '*if you wish to adjudicate such a decision you will need to run a new case*'
 - OIC's Guideline, 'What is Personal Information?',¹⁴ states that a person's address is part of their personal information and so it must be 'about' them; and

⁹ [2017] FCAFC 4.

¹⁰ Like the definition in the IP Act, this definition requires the information to be about the individual who has requested access, and whose identity is apparent, or can reasonably be ascertained, from the information or opinion – see the definition in Part II – Interpretation.

¹¹ (Unreported, Queensland Information Commissioner, 17 June 2011).

¹² At [18]-[35]. In *Mahoney*, the entire application was found to fall outside the scope of the IP Act. In the present case, EDQ processed those documents that it considered contained the applicant's personal information.

¹³ Email of 16 April 2025.

¹⁴ [OIC Guideline-Checklist-what-is-personal-information](#)

- the Guideline also supports the view that being able to ascertain a person's identity simply by taking one additional step (that is, conducting a Titles search) means that the person's identity is 'reasonably ascertainable'.
19. The applicant concluded by submitting that *'the documents requested do contain my personal information or are [sic] at the very least I am easily identifiable from the address upon them and request them [sic] released to me'*.

Findings

20. The applicant's objection to OIC treating *Mahoney* as having precedent value is unclear, given that he has not identified any grounds upon which he contends that *Mahoney* should be distinguished from the present case. In any event, OIC referred the applicant to *Mahoney* at the preliminary view stage simply as an example of the former Information Commissioner's approach to information of a similar nature and a determination of the question of whether that information could properly be regarded as being about the applicant in that case. As I have noted above, deciding whether or not information is about an individual is a question of fact, to be determined in each case from an assessment of the information itself. It depends upon the context in which the information appears and whether there is a sufficient connection with the individual such as to regard the individual as a subject matter of the information.
21. In this case, regardless of whether or not the applicant's identity as the current owner of the property in question can be regarded as 'reasonably ascertainable' through taking the additional step of paying a fee to conduct a Titles search of the relevant address, I am satisfied that the clear answer to the threshold question – is the Excluded Information about the applicant? – is 'no'. Having reviewed the Excluded Information, which was described in OIC's letter to the applicant dated 16 April 2025, I am satisfied, on a factual assessment, that the applicant cannot properly be regarded as a subject matter of any of the documents. As noted, the Excluded Information contains no reference to the applicant's name or to any other identifying information. Moreover, the Excluded Information pre-dates the applicant's ownership of the property. Some contains the personal information of other individuals, and business information, in connection with previous dealings over the property, including a previous contract of sale.
22. I accept that OIC's Guideline on personal information includes an individual's address as an example of personal information. However, these Guidelines are intended to provide general guidance only about the interpretation and application of key provisions of the IP and RTI Acts. As noted, whether or not information can properly be characterised as being 'about' an individual is a question of fact, and depends upon an analysis in each case of the information itself and the context in which it appears. An individual's address *may* comprise their personal information, but only where there is a sufficient connection between the information in question and the individual such that the individual can properly be regarded as a subject matter of the information. This is made clear in the following example of personal information contained in the Guideline – *'A report states that Council will resume the property at number 37 Mary Street to widen the intersection. This is personal information of the owner of 37 Mary Street'*. The applicant relied upon this example in his submission as support for his position that a person's address will always comprise their personal information. However, the Guideline goes on to explain that the address in that case is the personal information of the owner of 37 Mary Street because it reveals a fact about the land – it is going to be resumed – which reveals a fact about the owner – they are going to lose their land. The requisite connection is therefore established.

23. In the present case, the only connection between the applicant and the Excluded Information is that the applicant is the current owner of the property that is the subject matter of the Excluded Information. That connection is not sufficient to support a finding that the applicant himself is also a subject matter of the Excluded Information, such as to regard the Excluded Information as being about him. The Excluded Information, of itself, says nothing about the applicant.
24. Accordingly, for the reasons explained, and based on an assessment of the Excluded Information, I am not satisfied that the Excluded Information can properly be characterised as being about the applicant. It therefore does not comprise the applicant's personal information under section 12 of the IP Act and there is no right of access to it under section 40(1)(a) of the IP Act.

DECISION

25. I affirm the decision under review by finding that there is no right of access to the Excluded Information under section 40(1)(a) of the IP Act because it does not contain the applicant's personal information.

Joanne Kummrow
Information Commissioner

Date: 22 May 2025