



Decision and Reasons for Decision

Citation: *W39 and Queensland Building and Construction Commission* [2025] QICmr 100 (17 December 2025)

Application Number: 318059

Applicant: W39

Respondent: Queensland Building and Construction Commission

Decision Date: 17 December 2025

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LEGAL PROFESSIONAL PRIVILEGE - communications with agency's internal and external legal advisers - whether information would be privileged from production in a legal proceeding on the ground of legal professional privilege - whether access to information may be refused on the basis that it is exempt - sections 47(3)(a) and 48 and schedule 3, section 7 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - whether access to an additional audio recording of a site inspection may be refused on the ground it is nonexistent - sections 47(3)(e) and 52(1) of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Building and Construction Commission (QBCC) under the *Right to Information Act 2009* (Qld) (RTI Act) to access a range of

¹ The access application is dated 3 February 2024, but was emailed to QBCC on 4 February 2024 and was taken to have been received on the next business day (namely 5 February 2024).

documents, which generally concern building works performed at the applicant's property (**Access Application**).²

2. QBCC notified the applicant that it estimated an extremely large volume of documents would be responsive to the Access Application.³ Consultation then occurred between the applicant and QBCC about the terms of the Access Application. By email dated 27 March 2024, QBCC notified the applicant about the terms of an 'agreeable scope' that would be 'a reasonable size' (**Narrowed Application**).⁴
3. QBCC located 6968 pages, 33 video documents and 12 audio documents as relevant to the Narrowed Application and disclosed 5871 pages, 33 videos and 12 audios to the applicant. QBCC decided⁵ (**Original Decision**) to refuse access, on various grounds, to the remaining located documents (being 1007 pages and parts of a further 90 pages).⁶ QBCC also decided to refuse access to a requested additional audio recording of a site inspection (**Additional Site Inspection Audio**) on the basis it was nonexistent.
4. The applicant applied to QBCC for an internal review of the Original Decision.⁷ As QBCC did not make an internal review decision within the statutory timeframe, it was taken to have affirmed the Original Decision.⁸
5. The applicant then applied⁹ to the Office of the Information Commissioner (**OIC**) for external review and raised concerns that QBCC had not located all relevant documents.
6. For the reasons set out below, I affirm the decision under review and find that access may be refused to the information remaining for consideration on the basis that it comprises exempt information; its disclosure would, on balance, be contrary to the public interest; or it does not exist.

Reviewable decision

7. The decision under review is the decision QBCC is taken to have made under section 83(2) of the RTI Act, affirming the Original Decision.

Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix).

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act and *Information Privacy Act 2009* (Qld) (**IP Act**). As the application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act, which require that applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**.

³ For example, QBCC's emails to the applicant dated 26 February 2024 and 18 March 2024. The estimates of responsive documents in these communications exceeded 15,000 and 11,000, respectively.

⁴ In the applicant's 2 April 2024 email to QBCC, the applicant confirmed their expectation that the QBCC decision-maker would keep them posted as to the progress of providing this 'second batch of released documents', indicating acceptance of the terms for the Narrowed Application as nominated in the 27 March 2024 email (noting that the applicant's email also raised a number of questions about the applicant's prior access application). In other correspondence exchanged between QBCC and the applicant subsequent to QBCC's 27 March 2024 email, the applicant raised the possibility of the Narrowed Application being broadened to include additional documents (or types of documents). However, that correspondence does not record QBCC's agreement to expand the terms set out in the 27 March 2024 email (and in some cases, such as in an email dated 4 April 2024, QBCC specifically confirmed that adding additional documents to the scope of the Narrowed Application was not 'realistically feasible').

⁵ Decision dated 8 April 2024.

⁶ QBCC also deleted irrelevant information from four pages of the located documents, however, this information is no longer in issue and is not addressed in this decision.

⁷ On 5 May 2024 (**Internal Review Application**).

⁸ Pursuant to 83(2) of the RTI Act. QBCC's letter to the applicant dated 5 June 2024 confirmed this.

⁹ By letter dated 5 June 2024 (**External Review Application**), which is substantially the same as the Internal Review Application.

The significant procedural steps taken by OIC in conducting this review are set out in the Appendix.

9. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to freedom of expression¹⁰ (which includes the right to seek and receive information) and the right to privacy and reputation.¹¹ I consider a decision-maker will be '*respecting, and acting compatibly with*' these rights, and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.¹² 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 of Bell J on the interaction between equivalent Victorian legislation,¹³ that '*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*'.¹⁴

Information in issue

10. In the External Review Application, the applicant confirmed they sought access to all the located information which had not been disclosed by QBCC (**Undisclosed Information**).
11. During the review, I conveyed a preliminary view to the applicant about the Undisclosed Information.¹⁵ Following this, the applicant confirmed that they did not seek to access to the following components of the Undisclosed Information—the small portions of information which QBCC had deleted as irrelevant; information which had been refused by QBCC on the basis that other access to it was available; and the mobile telephone numbers of third parties.¹⁶ The applicant otherwise maintained their request to access the remaining Undisclosed Information, which broadly comprises:
 - information to which QBCC refused access on the basis it was exempt information (**Category A Information**); and
 - information, apart from mobile telephone numbers, to which QBCC had refused access on the basis disclosure would, on balance, be contrary to the public interest (**Category B Information**).

Issues for determination

12. As mentioned in paragraph 5 above, the applicant raised concerns in the External Review Application that QBCC had not located all relevant documents. During the review, the applicant confirmed that they no longer required those concerns to be considered in the external review.¹⁷ However, the applicant confirmed that they did not agree any '*secondary site recordings*' were nonexistent and they continued to seek access to the Additional Site Inspection Audio. As a result, the issues remaining for determination are limited to whether:

¹⁰ Section 21 of the HR Act.

¹¹ Section 25 of the HR Act.

¹² *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].

¹³ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹⁴ *XYZ* at [573]. This approach 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.*'

¹⁵ As set out in the Appendix. The preliminary view also addressed the Additional Site Inspection Audio. It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner (or delegate) at that time, to an adversely affected participant. This is to explain the issues under consideration to the participant and affords them the opportunity to put forward any further information they consider relevant to those issues. It also forms part of the Information Commissioner's processes for early resolution of external reviews.

¹⁶ Applicant's submission dated 16 July 2025.

¹⁷ Applicant's email dated 3 December 2025. Accordingly, those concerns are no longer in issue and are not addressed in this decision.

- the Category A Information comprises exempt information and access to it may be refused on that basis¹⁸
- disclosure of the Category B Information would, on balance, be contrary to the public interest and access to it may be refused on that basis;¹⁹ and
- access to the Additional Site Inspection Audio may be refused on the basis that it does not exist or cannot be located.²⁰

Category A Information

13. The schedule to the Original Decision identified the pages which comprise the Category A Information (or on which the Category A Information appears). QBCC described that information in the Original Decision as consisting of *'communications relating to legal advice prepared by QBCC, as well as communications in relation to QBCC preparation for and conduct of litigation by QBCC external lawyers'*.
14. On external review, QBCC maintains that the Category A Information comprises exempt information. The applicant wishes to access the Category A Information and generally submitted that, without further specific details about the Category A Information, they were unable to assess whether it contained exempt information.²¹
15. When conveying a preliminary view to the applicant about the Category A Information:²²
 - I explained to the applicant that section 108 of the RTI Act restricted the level of detail that OIC can provide to an applicant about the nature and content of information that an agency claims to be exempt information or contrary to the public interest information;²³ and
 - I confirmed that there was a significant level of duplication within the Category A Information and that:
 - most of this information comprised communications²⁴ within QBCC's legal files concerning proceedings that had been commenced in QCAT (in which QBCC was represented by its external lawyers)²⁵
 - the remaining Category A Information broadly comprised internal references to requests for/receipt of legal advice appearing in coversheets and casenotes.
16. The applicant subsequently submitted that they could only reference general legal principals concerning legal professional privilege, as they did not have particulars of the

¹⁸ Sections 47(3)(a) and 48 of the RTI Act.

¹⁹ Sections 47(3)(b) and 49 of the RTI Act.

²⁰ Sections 47(3)(e) and 52(1) of the RTI Act.

²¹ For example, in the External Review Application, the applicant submitted that:

- they were unable to assess whether the Category A Information is exempt unless they were *'informed more about all the documents for which LPP is claimed e.g. the date of the documents, the purpose of why the document was created and 'who the information was provided to and from'*.
- they also needed to be informed about the author/s of the documents; and
- they needed to know more about the documents to assess whether copies of non-privileged documents were made for the explicit purpose of obtaining legal advice.

The applicant made additional submissions of a similar nature, including those confirmed in a letter to the applicant dated 25 July 2025 (which set out the text of certain additional submissions the applicant relied upon).

²² Letter dated 3 July 2025.

²³ In the 3 July 2025 letter, I also explained to the applicant that the Queensland Civil and Administrative Tribunal (**QCAT**), in *Mokbel v Queensland Police Service* [2023] QCATA 158 (**Mokbel**) at [8]-[12], had confirmed that, on external review, OIC is not required to provide an applicant with a list describing documents claimed to be exempt. While this decision related to an access application made under the IP Act, I consider it is also relevant to access applications made under the RTI Act, given the identical terms of section 108 of the RTI Act and 121 of the IP Act.

²⁴ I also confirmed to the applicant that many of these communications comprised email chains of substantial length.

²⁵ The applicant is also a party to these commenced proceedings and would therefore be aware that QBCC had retained external lawyers to represent them in those proceedings. To avoid identifying the applicant, I can provide no further details about these proceedings.

documents.²⁶ The applicant also requested that they be provided with ‘a broad description’ of what the Category A Information comprised.²⁷

17. While I am, as noted above, limited in the extent to which I can describe the Category A Information in this decision,²⁸ I can confirm that it includes:

- correspondence between QBCC and its external lawyers seeking/providing legal advice and legal assistance, including in relation to then existing legal proceedings, and internal QBCC references to the seeking/providing of such external legal advice/legal assistance; and
- correspondence with QBCC’s internal legal advisers seeking/providing legal advice.

Relevant law

18. The RTI Act creates a right to access government held information, however, this right is subject to certain limitations, including grounds on which access to information may be refused.²⁹ One ground of refusal is where information comprises exempt information.³⁰

19. Information will comprise exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.³¹ Legal professional privilege protects confidential communications between a lawyer and their client, made for the dominant purpose of seeking or giving legal advice or professional legal assistance, or, for use in legal proceedings either on foot or reasonably anticipated, at the time of the relevant communication.³² The dominant purpose has been described as ‘the ruling, prevailing or most influential purpose’,³³ and it is to be determined objectively.³⁴

20. The privilege:

- will extend to copies of unprivileged documents made for the dominant purpose of obtaining legal advice;³⁵ and
- may protect communications between salaried employee legal advisers of a government department or statutory authority and his/her employer as the client (including communications through other employees of the same employer) provided there is a professional relationship of legal adviser and client, which secures to the advice an independent character, notwithstanding the employment.³⁶

21. Qualifications and exceptions to legal professional privilege (such as waiver and improper purpose) may, in particular circumstances, affect the question of whether

²⁶ Applicant’s submission dated 16 July 2025. More specifically, the applicant submitted: ‘How can one make submissions when they have no details at all about the documents, not even a date range of when they were created’. To ensure there was no misunderstanding about the submissions which the applicant relied upon in respect of the Category A Information, I confirmed those submissions in a 25 July 2025 letter sent to the applicant.

²⁷ Applicant’s submission dated 16 July 2025.

²⁸ By virtue of section 108 of the RTI Act.

²⁹ The grounds on which access can be refused are set out in section 47 of the RTI Act.

³⁰ Schedule 3 of the RTI Act identifies the types of information which Parliament has determined will comprise exempt information under the RTI Act.

³¹ Schedule 3, section 7 of the RTI Act. This exemption reflects the requirements for establishing legal professional privilege at common law.

³² *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49 at page 73; *Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission* (2002) 213 CLR 543 at page 552.

³³ *Commissioner of Taxation (Cth) v Spotless Services Ltd* (1996) 186 CLR 404 at page 416.

³⁴ In *AWB Limited v Cole* (No 5) (2006) 155 FCR 30 at [50], Justice Young observed that ‘[d]ominant purpose must be determined objectively’.

³⁵ As confirmed by the High Court in *Commissioner of Australian Federal Police v Propend Finance Pty Ltd* (1997) 188 CLR 501 (*Propend*) at page 509 (Brennan CJ).

³⁶ *Waterford v Commonwealth* (1987) 163 CLR 54 at page 63-64 per Mason and Wilson JJ.

information attracts or remains subject to legal professional privilege, and therefore whether the information comprises exempt information under the RTI Act.

Findings

22. As referenced above, I broadly identified the nature of the Category A Information to the applicant during the review and explained the basis upon which it was not disclosed.³⁷ When doing this, I invited the applicant to provide submissions if they wished to contest OIC's preliminary views and the applicant has provided submissions to OIC in support of their position.
23. Having carefully reviewed the Category A Information, the Original Decision and the applicant's submissions, I am satisfied that:
 - the necessary professional relationship exists between QBCC (as the client) and its internal and external legal advisers
 - these communications with QBCC's legal advisers were created for the dominant purpose of seeking/providing legal advice and legal assistance, including in existing legal proceedings; and
 - there is no evidence before me to indicate that the Category A Information (or any part of it) has been disclosed outside of the lawyer-client relationship.
24. Accordingly, I am satisfied that the Category A Information meets the requirements of legal professional privilege.
25. While the applicant's submissions set out the general legal principles relevant to waiver and improper purpose, the applicant has offered no evidence that legal professional privilege in the Category A Information has been waived³⁸ or that any communication within the Category A Information was created in furtherance of an illegal, improper or dishonest purpose.³⁹
26. As there is nothing before me which indicates that any qualification or exception arises in respect of this information, I find that the Category A Information comprises exempt information and access to it may be refused on that basis.⁴⁰
27. For completeness, I note the applicant's submission that '*original (and other copies) of any non-privileged documents (which must exist for copies to be given) given to QBCC lawyers are not exempt and should be made available to me.*'⁴¹ To the extent the applicant's submission seeks confirmation about whether the 'originals' (and copies) of such documents had been disclosed by QBCC in response to the Narrowed Application (or otherwise), I note that section 108 of the RTI Act precludes me from identifying specific components of the Category A Information.

³⁷ Letter dated 3 July 2025.

³⁸ Once a factual basis for a claim of legal professional privilege has been established, the party asserting that privilege has been waived bears the onus of establishing such waiver (refer to *Sanrus Pty Ltd & Ors v Monto Coal 2 Pty Ltd & Ors* [2019] QSC 144 at [28], citing *New South Wales v Belfair Pty Ltd* (2009) 180 FCR 543 at 556 [54]).

³⁹ *Propend* at 591. In *Fletcher & Ors v Fortress Credit Corporation (Australia) II Pty Limited & Ors* [2014] QSC 303 at [61], McMurdo J observed that a party alleging legal professional privilege does not apply is required to establish 'a *prima facie* case' that the relevant communications were for the purpose of facilitating the alleged misconduct.

⁴⁰ Under section 47(3)(a) of the RTI Act.

⁴¹ Applicant's submission dated 28 February 2025. The applicant also made a similar submission, as set out in OIC's letter to the applicant dated 25 July 2025.

Category B Information

28. The schedule to the Original Decision confirmed the pages on which the Category B Information appears and QBCC described this information in the Original Decision as:
- the personal information of third party individuals including, but not limited to, personal information of QBCC employees and other parties and personal opinions; and
 - information concerning the business or financial affairs of a number of entities, which includes information about the financial operations of a company and payment arrangements for external solicitors.⁴²
29. The Category B Information appears on 79 pages (being 67 full pages and portions of information on a further 12 pages). The RTI Act prevents me from providing a detailed description of the Category B Information,⁴³ however, I can confirm that this information broadly comprises the opinions of individuals other than the applicant; personal information about QBCC officers; and standing offer arrangements for legal services.⁴⁴ There is also significant duplication within the Category B Information.
30. In the External Review Application, the applicant submitted that public interest factors including, *'but are not limited to'*, those in schedule 4, part 2, items 1, 5, 10, 11, 12, 16 and 17 of the RTI Act apply to favour disclosure and would outweigh any factors favouring nondisclosure. The applicant subsequently submitted that additional public interest factors applied to favour disclosure, namely those in schedule 4, part 2, items 2, 3, 4, 6 and 7 of the RTI Act.⁴⁵ More specifically, the applicant submitted:⁴⁶
- *'The personal opinions may be relevant to provide context to events that happened and may be relevant to any decisions made and credibility issues. ... If comments, personal opinions or allegations are made that involve me or my house then I should be provided with the full information/document'*; and
 - *'There are matters of concern in my files which affect myself and my property in relation to QBCC staff and how they have dealt with matters and my file. This information is particularly important to me and QBCC should be transparent with this information, and it should not be just deleted as a whole. ... If I am transparent to raise my issues of concern with the QBCC (including in relation to QBCC staff and issues with how my case has been handled) then I should know all the information of how my concerns were dealt with, including any acknowledgement by QBCC that there was an issue and how the QBCC have addressed the same. The QBCC is a government agency and accountable for their actions.'*

Relevant law

31. Access to information may be refused where its disclosure would, on balance, be contrary to the public interest.⁴⁷ 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, in general, a public interest consideration is one

⁴² As noted in paragraph 11 above, the applicant excluded mobile telephone numbers of third parties from further consideration in this review. Accordingly, information of this nature is not included in the Category B Information and is not being addressed in this decision.

⁴³ Section 108 of the RTI Act.

⁴⁴ The schedule to the Original Decision identified 36 of the 67 fully refused pages as 'Standing Offer Arrangement'.

⁴⁵ These submissions were confirmed by letter to the applicant dated 25 July 2025, which set out the text of the additional submissions the applicant relied upon.

⁴⁶ External Review Application.

⁴⁷ Sections 47(3)(b) and 49 of the RTI Act.

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.⁴⁸

32. In deciding whether disclosure of information would, on balance, be contrary to the public interest, the RTI Act requires a decision-maker to:⁴⁹
- identify any irrelevant factors and disregard them
 - identify relevant public interest factors favouring disclosure and nondisclosure
 - balance the relevant factors favouring disclosure and nondisclosure; and
 - decide whether disclosure of the information in issue would, on balance, be contrary to the public interest.
33. 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, together with all other relevant information before me, in reaching my decision. I have also kept in mind Parliament's requirement that grounds for refusing access to information be interpreted narrowly⁵⁰ and that the RTI Act is to be administered with a pro-disclosure bias.⁵¹

Findings

Irrelevant factors

34. I have not taken any irrelevant factors⁵² into account in making this decision.

Factors favouring disclosure

35. A small amount of the Category B Information is about the applicant and comprises the applicant's personal information.⁵³ This gives rise to a factor favouring disclosure,⁵⁴ to which I attribute moderate weight, given the limited nature of that personal information of the applicant.⁵⁵
36. Public interest factors favouring disclosure will arise under the RTI Act where disclosing information could reasonably be expected to:
- promote open discussion of public affairs and enhance the Government's accountability⁵⁶
 - inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community;⁵⁷ and
 - reveal the reason for a government decision and any background or contextual information that informed the decision.⁵⁸

⁴⁸ However, there are some recognised public interest considerations that may apply for the benefit of an individual.

⁴⁹ Section 49 of the RTI Act.

⁵⁰ Section 47(2)(a) of the RTI Act.

⁵¹ Section 44 of the RTI Act.

⁵² Including the irrelevant factors listed in schedule 4, part 1 of the RTI Act.

⁵³ The fact the Category A Information appears in documents which generally relate to investigations/court processes associated with the applicant's property does not make all of the Category B Information 'about' the applicant.

⁵⁴ Schedule 4, part 2, item 7 of the RTI Act.

⁵⁵ For clarity, I confirm that this factor does not apply to the majority of the Category B Information, which does not comprise, or include, the applicant's personal information.

⁵⁶ Schedule 4, part 2, item 1 of the RTI Act.

⁵⁷ Schedule 4, part 2, item 3 of the RTI Act.

⁵⁸ Schedule 4, part 2, item 11 of the RTI Act.

37. As noted in paragraph 3 above, QBCC disclosed a large volume of information to the applicant in response to the Narrowed Application. I consider this disclosed information has substantially advanced the government accountability and transparency factors referenced in the preceding paragraph, by enabling scrutiny of QBCC's processes and providing contextual information to QBCC decisions which concern the subject matter of the Narrowed Application. Noting the nature of the Category B Information, I consider disclosure of some (but not all) of it could, to varying degrees, be expected to further advance these factors, as discussed below.
38. In respect of the opinions within the Category B Information, the applicant submitted that they should be disclosed '*as they may be relevant to context/background information or relevant to matters QBCC took into account in any decisions they made at that time or in a future time (being addressed to QBCC or QBCC being cc'd in and presumably read by them)*'.⁵⁹ Most of the opinions within the Category B Information concern, or are about, QBCC's processes (including the perceived impact of those processes). This information is quite limited and I consider its disclosure could only be expected to marginally advance the factors in schedule 4, part 2, items 1 and 3 of the RTI Act. On that basis, I afford these factors low weight.⁶⁰ The remaining small amount of third party opinions concern, or are about, the applicant. Given their nature, I do not consider their disclosure would further advance QBCC's accountability in any notable way and, for that reason, I find that the factor in schedule 4, part 2, item 1 of the RTI Act is deserving of no weight.⁶¹
39. While the personal information of QBCC employees within the Category B Information appears in a work context, it relates to the personal circumstances of those employees. The applicant considers this information is relevant for them to know, given issues they raised with QBCC about certain building inspectors.⁶² Having carefully reviewed this component of the Category B Information, I consider its disclosure could only be expected to further promote QBCC's accountability and transparency in a limited way. For this reason, I afford the public interest factors referenced in paragraph 36 above only low weight.
40. There is also a small amount of information about the personal circumstances of non-public sector individuals and private businesses. Given the nature of this information, I do not consider its disclosure would further advance QBCC's accountability or transparency in any way and, for that reason, I consider the public interest factors in paragraph 36 above do not apply to favour disclosure of this component of the Category B Information.
41. In respect of the balance of the Category B Information, I note that the use of standing offer arrangements for provision of legal services to Queensland government entities is not novel and the Department of Justice publishes general information about these arrangements.⁶³ I acknowledge that disclosure of this component of the Category B Information could be expected to further advance government accountability and transparency considerations. Given the particular nature of this information, I afford moderate weight to the factors referenced in paragraph 36 above.

⁵⁹ Applicant submissions as confirmed in OIC's letter to applicant dated 25 July 2025.

⁶⁰ Taking the nature of these opinions into account, I do not consider their disclosure could be expected to provide any background or contextual information to QBCC's decisions. On that basis, I am satisfied that the public interest factor in schedule 4, part 2, item 11 of the RTI Act does not apply.

⁶¹ Taking the nature of these opinions into account, I do not consider their disclosure could be expected to inform the community about Government operations or provide any background or contextual information to QBCC's decisions. On that basis, I am satisfied that the public interest factors in schedule 4, part 2, items 3 and 11 of the RTI Act do not apply.

⁶² External Review Application.

⁶³ This general information (available at justice.qld.gov.au) includes the terms and conditions applicable to such service arrangements and a template order form for such services.

42. The RTI Act recognises that a public interest factor favouring disclosure will arise where disclosing information could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.⁶⁴ While the applicant submitted that this factor applied in respect of the opinion component of the Category B Information, the applicant has not explained how they consider this factor is enlivened in respect of that information (or any other component of the Category B Information). I acknowledge that the subject matter of the documents sought in the access application is of particular importance to the applicant. However, I am not satisfied that disclosing any of the Category B Information could, given its nature, reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest. Accordingly, I do not consider this factor applies to favour disclosure.
43. Factors favouring disclosure also arise where disclosure of information could reasonably be expected to allow or assist inquiry into possible conduct deficiencies of agencies or officials, or reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.⁶⁵ The applicant submitted that these factors apply to favour disclosure of third party opinions and the personal information about QBCC officers.⁶⁶ Although the applicant referred to the issues they had raised with QBCC about certain building inspectors and concerns they have about the manner in which their files were handled,⁶⁷ they have not otherwise enunciated how they consider disclosure of these components of the Category B Information (or the balance of the Category B Information) could be expected to allow or assist enquiry into, reveal or substantiate, agency or official conduct deficiencies. Having carefully reviewed the Category B Information (together with the applicant's submissions and the information which has been disclosed to the applicant), I consider that, to the extent these factors may apply to the components of the Category B Information referenced in the applicant's submissions, they are deserving of low weight.⁶⁸
44. A public interest factor favouring disclosure will also arise where disclosing information could reasonably be expected to contribute to the administration of justice for a person.⁶⁹ In determining whether this public interest factor applies, I must consider whether:⁷⁰
- the applicant has suffered loss, damage, or some kind of wrong, in respect of which a remedy is, or may be, available under the law⁷¹
 - the applicant has a reasonable basis for seeking to pursue the remedy; and
 - disclosing the information held by an agency would assist the applicant to pursue the remedy, or evaluate whether a remedy is available or worth pursuing.
45. The applicant submitted that this factor applies to favour the disclosure of certain components of the Category B Information, namely, the third party opinions and the personal information of QBCC officers.⁷² I note that the information which has been disclosed by QBCC confirms that, in respect of certain decisions made by QBCC concerning the subject matter of the Narrowed Application, the applicant is already

⁶⁴ Schedule 4, part 2, item 2 of the RTI Act.

⁶⁵ Schedule 4, part 2, items 5 and 6 of the RTI Act.

⁶⁶ Applicant's submissions confirmed in OIC's letter to applicant dated 25 July 2025.

⁶⁷ Applicant's submissions confirmed in OIC's letter to applicant dated 25 July 2025.

⁶⁸ Given the nature of the remaining Category B Information, I do not consider these factors apply to favour its disclosure.

⁶⁹ Schedule 4, part 2, item 17 of the RTI Act.

⁷⁰ *Willsford and Brisbane City Council* (1996) 3 QAR 368 at [17] and confirmed in *10S3KF and Department of Community Safety* (Unreported, Queensland Information Commissioner, 16 December 2011) at [16]-[17].

⁷¹ In *Deemal-Hall v Office of the Director of Public Prosecutions* [2024] QCATA 131 (*Deemal-Hall*), Judicial Member DJ McGill SC confirmed, at [12], that this public interest factor 'refers to the ordinary processes for the administration of justice for a person'.

⁷² External Review Application and applicant's submissions confirmed in OIC's letter to applicant dated 25 July 2025.

involved in court proceedings.⁷³ In this review, the applicant has not explained how they consider disclosure of the opinions and officer personal information (or any other component of the Category B Information) is required to assist the applicant in those already commenced court proceedings. Nor has the applicant identified any other remedy they wish to pursue or explained how disclosure of any part of the Category B Information would assist them to pursue, or evaluate, such a remedy. Having carefully reviewed the information before me (and noting the nature of the Category B Information), I do not consider this public interest factor applies to favour disclosure of any part of the Category B Information.

46. Under the RTI Act, factors favouring disclosure will also arise where disclosing information could reasonably be expected to:
 - advance the fair treatment of individuals in accordance with the law in their dealings with agencies;⁷⁴ and
 - contribute to the administration of justice generally, including procedural fairness.⁷⁵
47. I note that the subject matter of the Narrowed Application generally concerns matters in which the applicant was the complainant to QBCC. On the information before me, it appears that the applicant participated in QBCC's complaint processes and also pursued available review avenues as part of those processes. In these circumstances, and given the particular nature of the Category B Information, I am not satisfied that there is any reasonable expectation that disclosure of the Category B Information would, in any meaningful way, advance the applicant's fair treatment in their dealings with QBCC (or any other agency) or contribute to the general administration of justice. On this basis, to the extent these factors may apply, I afford them no weight.
48. A public interest factor favouring disclosure also arises in circumstances where disclosing information could reasonably be expected to reveal the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.⁷⁶ The applicant specifically raised this factor as favouring disclosure of opinions within the Category B Information. Information of this nature generally includes the relevant individuals' observations and versions of events which are shaped by factors such as the individuals' memories of relevant events and their subjective impressions. This inherent subjectivity does not itself mean that the information is necessarily incorrect, misleading or unfairly subjective.⁷⁷ I have carefully considered the Category B Information (together with the applicant's submissions and the information which has been disclosed to the applicant). There is nothing before me which suggests that any part of the Category B Information is incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant. Accordingly, I do not consider this factor applies.

⁷³ In this regard, I also note that the access right under the RTI Act was not intended to operate as an adjunct to court disclosure processes.

⁷⁴ Schedule 4, part 2, item 10 of the RTI Act. This public interest factor is about providing information to advance fair treatment in an applicant's future dealings with agencies (*F60XCX and Department of Natural Resources and Mines* [2017] QICmr 19 (9 June 2017) at [101]).

⁷⁵ Schedule 4, part 2, item 16 of the RTI Act. The fundamental requirements of procedural fairness—that is, an unbiased decision-maker and a fair hearing—should be afforded to a person who is the subject of a decision (refer, for example, to *Kioa v West* (1985) 159 CLR 550 (*Kioa*) at 584 per Mason J). Accordingly, the person who is the subject of a decision must be provided with an opportunity to deal with adverse information that is credible, relevant and significant to the decision (*Kioa* at 629 per Brennan J citing *Bushell v Environment Secretary* [1981] A.C., at p. 97. (Lord Diplock)).

⁷⁶ Schedule 4, part 2, item 12 of the RTI Act.

⁷⁷ *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [15]-[20]; *Brodsky and Gympie Regional Council* [2014] QICmr 17 (2 May 2014) at [32].

49. In respect of information about standing offer arrangements within the Category B Information, the applicant submitted⁷⁸ that the factor in schedule 4, part 2, item 4 of the RTI Act applies to favour its disclosure.⁷⁹ More specifically, the applicant submitted:

*... any Lawyer's bills/invoices and Costs Agreement/Standing Offer Arrangement (SOA) should also be provided to me ... Given the above and the strong public interest in ensuring effective oversight of the expenditure of public funds in my submission it would not be contrary to the public interest to release this.*⁸⁰

*QBCC is a public organisation and accountable for their expenditure.*⁸¹

50. Some of this information is simply a request for services, completed by QBCC, in a template order form. Given the nature of this type of information, I do not consider the factor in schedule 4, part 2, item 4 of the RTI Act applies.
51. The remaining Category B Information about standing offer arrangements includes additional information in template order forms, namely, cost estimates completed by QBCC's external legal advisers. In respect of this type of Category B Information, the applicant submitted⁸² that the quotes '*could have been accepted (in later documents not produced in these bundles) and therefore be (sic) expenditure incurred*'. The later documents referenced by the applicant do not form part of the Category B Information. Having carefully reviewed these remaining standing offer documents, I note that they record cost estimates only, rather than incurred expenditure. Taking this into account, I consider that, to the extent the factor in schedule 4, part 2, item 4 of the RTI Act may apply to this information, I afford it no weight.⁸³
52. I have carefully considered all the other factors listed in schedule 4, part 2 of the RTI Act and the applicant's submissions. Having done so, and given the nature of the Category B Information, I cannot identify any other public interest considerations favouring its disclosure.⁸⁴

Factors favouring nondisclosure

53. The RTI Act recognises that disclosing an individual's personal information⁸⁵ to someone else can reasonably be expected to cause a public interest harm⁸⁶ and that disclosing information which could reasonably be expected to prejudice the protection of an individual's right to privacy gives rise to a public interest factor favouring nondisclosure.⁸⁷

⁷⁸ External Review Application and applicant's submissions confirmed in OIC's letter to applicant dated 25 July 2025.

⁷⁹ This public interest factor arises where disclosing information could reasonably be expected to ensure effective oversight of expenditure of public funds.

⁸⁰ External Review Application.

⁸¹ Applicant's submission confirmed in OIC's letter to the applicant dated 25 July 2025.

⁸² Applicant's submission dated 16 July 2025.

⁸³ For clarity, I do not consider the factor in schedule 4, part 2, item 4 of the RTI Act applies to any other component of the Category B Information.

⁸⁴ I cannot see how disclosing the Category B Information could, for example, contribute to the protection of the environment, the maintenance of peace and order or the enforcement of the criminal law (schedule 4, part 2, items 13, 15 and 18 of the RTI Act); or reveal environmental or health risks or measures relating to public health and safety (schedule 4, part 2, item 14 of the RTI Act). In the event that further relevant factors exist in favour of disclosure, I am satisfied that there is no evidence before me to suggest that any would carry sufficient weight to outweigh the weight that I have afforded to the public interest factors that favour the nondisclosure of the Category B Information.

⁸⁵ 'Personal information' is defined in section 12 of the IP Act 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'.

⁸⁶ Schedule 4, part 4, section 6 of the RTI Act. QCAT has confirmed that, if information meets the definition of personal information this factor applies (*Deemal-Hall* at [27]).

⁸⁷ Schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in the IP Act or the RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their 'personal sphere' free from interference from others (paraphrasing the Australian Law Reform Commission's definition of the concept in '*For your information: Australian Privacy Law and Practice*' Australian Law Reform Commission Report No. 108, Vol. 1, released 12 August 2008, at paragraph 1.56).

54. Having carefully reviewed the Category B Information, I am satisfied that some of it comprises the personal information of individuals other than the applicant (such as the third party opinions and the personal information of QBCC officers).⁸⁸ Accordingly, the factor in schedule 4, part 4, section 6 of the RTI Act applies to favour nondisclosure of this personal information of other individuals. This personal information relates to the personal circumstances of other individuals or records their feelings and opinions. Given this, I consider disclosure of this information could reasonably be expected to cause a significant level of harm and accordingly, I afford this factor significant weight in favour of nondisclosure.⁸⁹ I am also satisfied that disclosing the personal information of others within the Category B Information would intrude significantly into their privacy. Accordingly, I afford significant weight to the factor in schedule 4, part 3, item 3 of the RTI Act for that information.
55. As noted in paragraph 28 above, QBCC confirmed in the Original Decision that some of the Category B Information concerns business or financial affairs information. Under the RTI Act, factors favouring disclosure will arise where disclosing information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities⁹⁰ or prejudice trade secrets, business affairs or research of an agency or person.⁹¹ Additionally, the RTI Act recognises that disclosing information could reasonably be expected to cause a public interest harm where it would disclose information which has a commercial value to an agency or another person and the disclosure could reasonably be expected to destroy or diminish the commercial value of the information.⁹²
56. I consider the factors referenced in the preceding paragraph apply to favour nondisclosure of some components of the Category B Information, including information concerning the standing offer arrangements. While I cannot describe the content of the Category B Information in any detail, I can confirm that it includes references to the nature of, and perceived impacts on, private business affairs and the methodologies for providing the requested services and the rates for provision of those services. Noting there is no restriction placed on the use, dissemination or publication of information disclosed under the RTI Act in response to an access application, I afford these factors moderate weight.

Balancing the public interest

57. After carefully reviewing the Category B Information, I have identified and considered above the public interest factors which are relevant to the various components of that information.
58. For the small amount of the applicant's personal information within the Category B Information, I have afforded moderate weight to the public interest factor which favours disclosure of an applicant's personal information⁹³ (noting that where this personal information of the applicant appears, it is intertwined with the personal information of other individuals). I have also identified further public interest factors which apply to

⁸⁸ A very small amount of this personal information of other individuals appears intertwined with a small amount of the applicant's personal information, however, the manner in which it appears means that disclosing the personal information of the applicant would necessarily also disclose the personal information of individuals other than the applicant.

⁸⁹ In considering the weight to be afforded to this factor, I have noted that the RTI Act places no restriction on the use, dissemination or republication of information which has been disclosed in response to an access application.

⁹⁰ Schedule 4, part 3, item 2 of the RTI Act.

⁹¹ Schedule 4, part 3, item 15 of the RTI Act.

⁹² Schedule 4, part 4, section 7(1)(b) of the RTI Act.

⁹³ Schedule 4, part 2, item 7 of the RTI Act.

favour disclosure of some components of the Category B Information.⁹⁴ For the reasons addressed above, I afford moderate, low and no weight to these factors, in respect of different components of the Category B Information.

59. On the other hand, I have identified a number of factors which favour nondisclosure of the Category B Information.⁹⁵ For the reasons addressed above, I afford significant weight to the nondisclosure factors relating to the personal information and privacy for some parts of the Category B Information and moderate weight to nondisclosure factors relating to business and financial affairs for other components of the Category B Information.
60. For some small components of the Category B Information, the public interest is finely balanced. However, overall, I am satisfied that the public interest factors favouring nondisclosure of the Category B Information outweigh the applicable factors which favour disclosure. Accordingly, I find that disclosure of the Category B Information would, on balance, be contrary to the public interest and access may be refused on that basis.⁹⁶

Additional Site Inspection Audio

61. The additional audio sought by the applicant relates to a nominated site inspection attended by QBCC officers (specifically including Officers RM, AC and DL).
62. In a separate process,⁹⁷ one audio recording of the site inspection was located and disclosed to the applicant. During that separate process, the applicant also sought any additional recordings that existed of the site inspection. To address that request, further targeted searches were conducted by Officer DL to locate any further audio recordings of the site inspection, however, none were located. In that separate process, the applicant was also informed that, where more than one inspector is present at a site inspection, QBCC's standard practice is for only one officer to record the inspection.
63. In the Original Decision, QBCC confirmed that:
 - QBCC's Salesforce Databases and Electronic Content Manager (**ECM**) system were searched for documents responsive to the Narrowed Application; and
 - the previously disclosed audio recording of the site inspection was located in the ECM system and comprised the site inspection recording taken (and uploaded to QBCC's record keeping systems) by Officer RM.⁹⁸
64. QBCC provided further information to OIC about its conducted searches for documents responsive to the Narrowed Application. That provided information confirmed that:
 - in addition to searching Salesforce and ECM, searches were also conducted of QBCC's OneDrive, Sharepoint and intranet
 - the QBCC decision-maker used the Salesforce reporting tool and the applicant's customer profile to search for, and extract, responsive documents; and
 - requests for information were also issued to a wide range of officers and internal QBCC business units.

⁹⁴ Being those in schedule 4, part 2, items 1, 3, 4, 5, 6, 10,11 and 16 of the RTI Act.

⁹⁵ Being those in schedule 4, part 3, items 2, 3 and 15 and schedule 4, part 4, sections 6 and 7(1)(b) of the RTI Act.

⁹⁶ Under section 47(3)(b) of the RTI Act.

⁹⁷ To avoid identifying the applicant, I can provide no further details about that separate process.

⁹⁸ The Original Decision also referenced the recording requirements set out in QBCC's Resolution Service – Disputes Procedures Manual (a copy of which was disclosed to the applicant, subject only to the deletion of irrelevant information on four pages). I note that this Manual required 'a' voice recording to be made at a site inspection.

65. QBCC relied on its searches and inquiries to justify its position that the Additional Site Inspection Audio does not exist.
66. Notwithstanding QBCC's searches and inquiries and the explanations QBCC provided both in the separate process and in the Original Decision, the applicant does not accept that no further audio recording of the site inspection exists. In support of their position, the applicant submitted⁹⁹ that further direct inquiries should be made of Officer AC¹⁰⁰ and a search is required of QBCC's 'back up system'.

Relevant law

67. Access may be refused to a document where the document is nonexistent or unlocatable.¹⁰¹
68. To be satisfied that a document does not exist, the Information Commissioner has previously identified key factors to consider.¹⁰² It may not be necessary for searches to be conducted when proper consideration is given to relevant factors—rather, it is sufficient that the relevant circumstances to account for the nonexistent document are adequately explained by the agency.¹⁰³ However, searches may be relied on to satisfy the decision-maker that a document does not exist—if searches are relied on to justify a decision that the document does not exist, all reasonable steps must be taken to locate the document.¹⁰⁴ What constitutes reasonable steps will vary from case to case.¹⁰⁵
69. To determine whether a document exists, but is unlocatable, requires consideration of whether there are reasonable grounds to be satisfied that the requested document has been or should be in the agency's possession; and whether the agency has taken all reasonable steps to find it.¹⁰⁶ In answering these questions, regard should again be had to the circumstances of the case and the key factors referenced above.¹⁰⁷
70. Section 29(1) of the RTI Act confirms that an access application, however expressed, for a document does not require an agency to search for the document from a backup system. However, a search of a backup system for a document is required 'only if' the agency considers the document 'has been kept in, and is retrievable from, the backup system'.¹⁰⁸

⁹⁹ External Review Application.

¹⁰⁰ In the applicant's submission dated 28 February 2025, the applicant acknowledged that inquiries had previously been made of Officer DL. That submission also appeared to confirm that the applicant accepted enquiries could no longer be made of Officer RM (due to reasons that had previously been conveyed to the applicant).

¹⁰¹ Sections 47(3)(e) and 52(1) of the RTI Act. A document is unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document but it cannot be found—section 52(1)(b) of the RTI Act. A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist—section 52(1)(a) of the RTI Act.

¹⁰² These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (*Pryor*) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[38] (*PDE*). They include the administrative arrangements of government; the agency's structure; the agency's functions and responsibilities (Particularly with respect to the legislation for which it has administrative responsibility and the other legal obligations that fall to it); the agency's practices and procedures (including but not exclusive to its information management approach); and other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates. These factors were more recently considered in *Van Veenendaal and Queensland Police Service* [2017] QICmr 36 (28 August 2017) at [23]-[25] and *P17 and Queensland Corrective Services* [2020] QICmr 68 (17 November 2020) at [17]-[19].

¹⁰³ For example, where a particular document was not created because the agency's processes do not involve creating that specific document. In such instances, it is not necessary for the agency to search for the document.

¹⁰⁴ As set out in *PDE* at [49].

¹⁰⁵ As the search and enquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances.

¹⁰⁶ Section 52(1)(b) of the RTI Act.

¹⁰⁷ *Pryor* at [21].

¹⁰⁸ Section 52(2) of the RTI Act. Section 52(3) of the RTI Act further provides that, subject to section 52(2), a search for document from a backup system is not required before the document is nonexistent or unlocatable for section 47(3)(e).

71. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.¹⁰⁹ QCAT has confirmed that this function 'does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.¹¹⁰
72. In assessing an agency's searches, the Information Commissioner has confirmed the relevant question is whether the agency has taken all reasonable steps to identify and locate documents, as opposed to all possible steps.¹¹¹

Findings

73. Noting the searches that have been undertaken to locate audio recordings of the site inspection (including in previous searches conducted by Officer DL) and the explanations that have already been provided to the applicant, I am satisfied that QBCC does not consider the Additional Site Inspection Audio is kept in, or is retrievable from, QBCC's record keeping systems, including its back up system. On that basis, I find that a search of QBCC's backup system for the Additional Site Inspection Audio is not required.
74. There is nothing before me which calls into question either the efficacy of QBCC's searches or the accuracy of the information QBCC provided concerning the recording of site inspections.¹¹² I therefore accept QBCC's evidence in relation to its search efforts and inquiries. Having reviewed the Original Decision and the search information provided by QBCC, I am satisfied that QBCC has conducted reasonable searches of the locations where it was reasonable to expect that the Additional Site Inspection Audio would, if it existed, have been stored. I am also satisfied that the explanations provided by QBCC (as outlined above) support a reasonable expectation that the Additional Site Inspection Audio does not exist. In these circumstances, I do not consider any further inquiries need to be made of QBCC Officers, as suggested by the applicant.¹¹³
75. Having reviewed the information before me, I am satisfied that QBCC has taken all reasonable steps to locate the Additional Site Inspection Audio and access to such audio may be refused, on the basis it does not exist.¹¹⁴

DECISION

76. For the reasons set out above, I affirm¹¹⁵ the reviewable decision and find that:
 - the Category A Information comprises exempt information and access to it may be refused on that basis¹¹⁶

¹⁰⁹ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 102 of the RTI Act to require additional searches to be conducted during an external review.

¹¹⁰ *Webb v Information Commissioner* [2021] QCATA 116 (*Webb*) at [6].

¹¹¹ *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

¹¹² In this regard, I note that the RTI Act does not prescribe the manner in which an agency is to search for documents requested in an access application.

¹¹³ In reaching this conclusion, I note that QCAT has acknowledged that it is open to reach a finding that an agency has taken all reasonable steps 'even if, at least in theory, further and better searches might possibly disclose additional documents' (*Webb* at [6]). I have also noted the reference in the Original Decision to officer unavailability.

¹¹⁴ Under sections 47(3)(e) and 52(1) of the RTI Act.

¹¹⁵ Under section 110(1)(a) of the RTI Act.

¹¹⁶ Under sections 47(3)(a) and 48 of the RTI Act.

- access may be refused to the Category B Information on the basis that its disclosure would, on balance, be contrary to the public interest;¹¹⁷ and
- access may be refused to the Additional Site Inspection Audio on the basis it does not exist.¹¹⁸

77. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.



T Lake
Principal Review Officer

Date: 17 December 2025

¹¹⁷ Under sections 47(3)(b) and 49 of the RTI Act.

¹¹⁸ Under sections 47(3)(e) and 52(1) of the RTI Act.

APPENDIX

Significant procedural steps

Date	Event
5 June 2024	OIC received the External Review Application.
1 July 2024	OIC notified the applicant and QBCC that the External Review Application had been accepted and requested information from QBCC.
15 July 2024	OIC received requested information from QBCC.
29 November 2024	Taking into account the applicant's reasons provided in respect of requested extensions of time in the applicant's other external review matters, OIC confirmed to the applicant that no correspondence would be sent to the applicant in this external review matter until January 2025.
18 December 2024	OIC requested a response from QBCC concerning the terms of the Narrowed Application.
3 January 2025	OIC received QBCC's response about the terms of the Narrowed Application.
31 January 2025	OIC wrote to the applicant requesting the following responses by 14 February 2025: <ul style="list-style-type: none"> • a response concerning the terms of the Narrowed Application • confirmation of whether there was any Undisclosed Information that the applicant no longer sought to access; and • identification of the additional documents listed in the External Review Application which they wished to pursue on external review.
11 February 2025	At the applicant's request, the due date for the applicant's response was extended to 28 February 2025.
28 February 2025	OIC received the applicant's responses, which disputed the terms of the Narrowed Application; effectively confirmed they sought all the Undisclosed Information; confirmed that, apart from one item, all of the additional documents listed in the External Review Application were sought; identified further additional documents they wished to pursue on external review.
2 April 2025	OIC requested a further response from the applicant, by 16 April 2025, about the terms of the Narrowed Application.
14 April 2025	At the applicant's request, the due date for the applicant's response was extended to 2 June 2025.
2 June 2025	At the applicant's request, the due date for the applicant's response was further extended to 4 June 2025.
3 June 2025	OIC received the applicant's response.
3 July 2025	OIC conveyed a preliminary view to the applicant about refusal of access issues and invited the applicant to provide a submission by 17 July 2025 if they wished to contest the preliminary view.
16 July 2025	OIC received the applicant's submission.

Date	Event
17 July 2025	<p>OIC wrote to the applicant to:</p> <ul style="list-style-type: none"> • confirm the preliminary view • confirm the information which they no longer sought to access; and • identify what OIC understood to be the submissions the applicant relied upon in the review.
24 July 2025	OIC received an additional submission from the applicant that they wished to rely upon.
25 July 2025	OIC confirmed the preliminary view and the submissions the applicant wished to rely upon.
13 November 2025	OIC conveyed a preliminary view to the applicant about the documents which the applicant considered to be missing and invited the applicant to provide a submission by 4 December 2025 if they wished to contest the preliminary view.
3 December 2025	OIC received the applicant's confirmation that they no longer sought to access the documents they considered to be missing.