Office of the Information Commissioner
Queensland

Decision and Reasons for Decision

Citation:	***W75 and Department of Youth Justice and Victim Support* [2025] QICmr 1 (16 January 2025)**
Application Number:	**317980**
Applicant:	**W75**
Respondent:	**Department of Youth Justice and Victim Support**
Decision Date:	**16 January 2025**
Catchwords:	**ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - EFFECT ON AGENCY'S FUNCTIONS - request for documents about, or related to, the applicant - whether the work involved in dealing with the application would substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions - section 60(1)(a) of the *Information Privacy Act 2009* (Qld)**

REASONS FOR DECISION

Summary

1. The applicant applied to the Department of Justice and Attorney-General (**Department**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) to access documents about, or related to, him.[1]

2. Following consultation between the applicant and the Department about the terms of the access application, the Department decided[2] to refuse to deal with the access application, as narrowed by the applicant.

3. The applicant applied[3] for internal review of the Department's decision and, on internal review, the Department affirmed its refusal to deal decision.[4]

4. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision.[5]

5. For the reasons set out below, I affirm the Department's decision refusing to deal with the Narrowed Application (as defined below) under section 60 of the IP Act, as dealing

[1] By email to the Department dated 19 February 2024 (**access application**). By letter dated 23 February 2024, the Department notified the applicant that the access application became compliant on 22 February 2024.
[2] Decision dated 4 April 2024.
[3] By email dated 4 April 2024.
[4] Although the Department's internal review decision is dated 30 April 2024, it was sent by email to the applicant on 28 April 2024.
[5] By email dated 29 April 2024 (**External Review Application**).

with it would constitute a substantial and unreasonable diversion of the Department's resources.

Background

6. The original terms of the access application sought a wide range of documents, including '[a]*ll internal memos, emails (sent and received), recordings, witness statements, and communications*' about the applicant, or in any way related to the applicant, within a timeframe identified as: '*2019 – current time and date*'.

7. After the access application became compliant, the Department notified[6] the applicant that it considered the work involved in dealing with the access application would substantially and unreasonably divert the agency's resources and invited the applicant to confirm or amend the scope of his access request (**Notice**).

8. When responding to the Notice,[7] the applicant agreed to:

   - exclude emails and correspondence he had exchanged with Victim Assist Queensland (**VAQ**) and exact duplicates; and
   - reduce the timeframe of his request by one year.[8]

9. As a result, the narrowed application being considered in this review (**Narrowed Application**) sought access to the following documents:

> *All internal memos, emails (sent and received), recordings, witness statements, and communications about* [the applicant] *or in any way related to* [the applicant] *and A29810 in their possession.* [The applicant] *also wish to receive a copy of any emails that they* [sic] staff, *including* [Person A] *and* [Person B] *sent to QCAT & anyone else. Ensure you check all the email inboxes of* [nominated email address] *and* [nominated email address] *and victimassist@justice.qld.gov.au and* [nominated email address] *for any emails that they sent and received about* [the applicant], *including amongst one another. Please also check all of the incoming and outgoing text cellular messages and incoming and outgoing emails of* [Person B], [Person A] *and* [Person C], *and any other victim assist staff in any way related to* [the applicant].
> Excluding:
> - *all emails and correspondence from* [the applicant] *to VAQ*
> - *all emails and correspondence from VAQ to* [the applicant]
> - [the applicant] *wish to, where possible, agree to exclude exact duplicates of pages*.
>
> *Date range: 2020-19 February 2024*.

10. VAQ provides information and advice for victims of crime, including information about support services, victim's rights and financial assistance.[9] The 'A29810' reference in the Narrowed Application is to a VAQ matter number relating to an application made by the applicant.[10] When the External Review Application was received, VAQ formed part of the Department. Due to machinery of government changes which occurred in November 2024,[11] the functions of VAQ have recently passed to the Department of Youth Justice and Victim Support.[12]

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[6] By letter dated 11 March 2024.
[7] By email dated 11 March 2024.
[8] Namely, changing the date range to '*2020 up until 2024 (current time)*'.
[9] VAQ operates under the legislative framework in *Victims of Crime Assistance Act 2009* (Qld).
[10] As confirmed by the Department on external review. To avoid identifying the applicant, I am unable to provide any further details about this matter number in this decision.
[11] Administrative Arrangements Order (No. 2) 2024.
[12] Notwithstanding these recent machinery of government changes, the Department of Youth Justice and Victim Support confirmed that the Department continues to hold a delegation to deal with access applications relevant to the transferred VAQ functions.

11. In the External Review Application, the applicant submitted that:

    - the Department had '*erred, including law, fact and or a mix of fact and law*'; and
    - he considered the Department was, for '*strategic reasons and purposes*', attempting to '*hide and not provide access to information*' that he was '*legally required to receive*'.

12. External review under the IP Act is a merits review process.[13] In undertaking an external review, the Information Commissioner is required to identify opportunities for early resolution and to promote settlement of the external review application.[14] Reflecting this obligation, I invited the applicant to identify if there were particular documents within the Narrowed Application that were of specific interest to him.[15] After the applicant confirmed that '*any texts and internal Emails and memos as initially requested are of particular interest*' to him,[16] I asked him to clarify whether he intended to exclude '*recordings, witness statements and communications*' from the Narrowed Application on external review.[17] In the absence of that requested clarification, the review necessarily proceeded on the basis that the applicant continued to seek access to all the documents requested in the Narrowed Application.[18]

13. During the review, I also conveyed a preliminary view to the applicant that the Department was entitled to refuse to deal with the Narrowed Application under section 60 of the IP Act,[19] and I invited the applicant to provide a submission, if he wished to contest that preliminary view. In response, the applicant confirmed that he wished to proceed with the external review '*for all of the before mentioned grounds and reasons*'.[20] Therefore, apart from the grounds referenced in paragraph 11 above, the applicant has not otherwise addressed the Department's entitlement to rely upon section 60 of the IP Act.

14. The significant procedural steps taken during this review are set out in the Appendix.

Reviewable decision

15. The decision under review is the Department's internal review decision, refusing to deal with the Narrowed Application.

Evidence considered

16. 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).

17. Generally, it is necessary that decision-makers have regard to the *Human Rights Act 2019* (Qld) (**HR Act**), as section 11(1) of the HR Act provides that all individuals **in Queensland** have human rights. The applicant does not reside in Queensland. However, at times relevant to the information requested in the access application he did

[13] That is, external review is an administrative reconsideration of a case which can be described as *'stepping into the shoes'* of the primary decision-maker to reach the correct and preferable decision. Under section 118(1)(b) of the IP Act, the Information Commissioner is empowered to make any decision in respect of an access application that could have been made by the agency.
[14] Section 103(1) of the IP Act.
[15] By email dated 18 July 2024. A similar invitation had previously been made in OIC's 7 June 2024 letter to the applicant.
[16] Applicant's email dated 18 July 2024.
[17] By letter dated 6 August 2024.
[18] I subsequently confirmed this to the applicant by email dated 7 August 2024.
[19] As set out in the Appendix. It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner (or her 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.
[20] Applicant's email dated 6 August 2024.

reside in Queensland. On the basis of this nexus to Queensland, I have also had regard to the HR Act, particularly the right to seek and receive information.[21] I consider a decision-maker will be '*respecting and acting compatibly with*' this right and others prescribed in the HR Act, when applying the law prescribed in the IP Act and the *Right to Information Act 2009* (**RTI Act**).[22] I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.[23]

Issue for determination

18. The issue for determination is whether the Department was entitled to refuse to deal with the Narrowed Application under section 60 of the IP Act.

Relevant law

19. An individual has a right to be given access to documents of an agency, to the extent they contain the individual's personal information,[24] and the IP Act requires an agency to deal with an access application unless this would not be in the public interest.[25]

20. One of the circumstances in which it would not be in the public interest to deal with an access application is where the work involved in dealing with the application would, if carried out, substantially and unreasonably divert an agency's resources from their use by the agency in the performance of its functions.[26] However, the power to refuse to deal with an application under section 60 of the IP Act can only be exercised if the procedural prerequisites nominated in section 61 of the IP Act have been met—these prerequisites involve giving the applicant an opportunity to narrow the scope of the application, so as to re-frame it into a form that can be processed.[27]

21. Assessing whether the work involved in processing a given application would, if carried out, substantially and unreasonably divert resources is a question of fact to be appraised in each individual case.[28] The volume of documents is not the only consideration—it is necessary to assess the work required to deal with the application in the context of the agency's operations and resources.

22. The terms 'substantially' and 'unreasonably' are not defined in the IP Act, the RTI Act or the *Acts Interpretation Act 1954* (Qld) (**AI Act**). It is therefore appropriate to consider the ordinary meaning of these words,[29] that is:

    - '*substantial*' – defined as meaning '*of ample or considerable amount, quantity, size, etc.:* a substantial sum of money*'* and *'large in amount or degree'* [30]

[21] Section 21(2) of the HR Act.
[22] *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]. I note that OIC's approach to the HR Act set out in this paragraph was considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (where Judicial Member McGill saw '*no reason to differ*' from OIC's position).
[23] I also note the following observations made by Bell J in *XYZ* at [573], on the interaction between equivalent pieces of Victorian legislation (namely, the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic)): '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*'.
[24] Section 40 of the IP Act.
[25] Section 58(1) of the IP Act. Section 58(2) of the IP Act specifically confirms that the only circumstances in which Parliament considers it would not be in the public interest to deal with an access application are set out in section 59, 60 and 62 of the IP Act.
[26] Section 60 of the IP Act.
[27] Section 61(1) of the IP Act sets outs the requirement for the notice which an agency must give to an applicant before the agency may refuse to deal with an access application.
[28] *Davies and Department of Prime Minister and Cabinet* [2013] AICmr 10 (22 February 2013) at [23]].
[29] Section 14B of the AI Act.
[30] Macquarie Dictionary (7th ed, 2017).

- '*unreasonable*' – defined as meaning '*exceeding the bounds of reason; immoderate; exorbitant'* and '*immoderate; exorbitant*'.[31]

23. In deciding whether dealing with an application would substantially and unreasonably divert an agency's resources from the performance of its functions, a decision-maker is required to have regard to the resources that would be used for identifying, locating or collating the documents; making copies, or edited copies of any documents; deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations; or notifying any final decision on the application.[32]

24. On external review, the Department has the onus of establishing that the decision under review was justified or that the Information Commissioner should give a decision adverse to the applicant.[33]

Findings

Refusal to deal prerequisites

25. In the Notice, the Department stated its intention to refuse to deal with the access application. The Department invited the applicant to give a written notice by a specified date[34] confirming or narrowing the scope of the access application. The Notice included information that would help make the access application in a form that would remove the ground for refusal[35] and confirmed that, if the applicant did not respond by the specified date, he would be taken to have withdrawn the access application.

26. Having carefully reviewed the Notice, I am satisfied that it complied with the requirements of section 61 of the IP Act and the applicant was therefore given an opportunity to narrow the scope of the access application, so as to re-frame it into a form that the Department could process.

27. Accordingly, I did not consider it was necessary to provide the applicant with a further, formal opportunity to re-frame the terms of the access application, when the Department had previously done so.

What work would be involved in dealing with the Narrowed Application?

28. In the Notice, the Department noted that the applicant had made approximately five applications to VAQ. The Department stated that identifying responsive documents would involve checking many email accounts and document management systems, using broad search terms, and this was expected to return thousands of potentially relevant pages. The Notice also confirmed that a preliminary search conducted by one VAQ officer had identified 95 potentially responsive emails (which may contain attachments that would require downloading, and conversion to pdf) and noted that this

[31] Ibid.
[32] Section 60(2) of the IP Act. The word 'or' as it appears in this provision indicates that a finding of a substantial and unreasonable diversion of resources can be made on the basis of one or some of the subsections alone rather than having a cumulative effect. I also note that section 60(3) of the IP Act provides that a decision-maker must not have regard to any reasons the applicant gives for applying for access or any belief they may hold about the applicant's reasons for applying for access—in accordance with section 60(3), I have not had regard to such matters in making this decision.
[33] Section 100(1) of the IP Act.
[34] Namely 25 March 2024, which reflected the prescribed consultation period defined in section 61(6) of the IP Act.
[35] The Notice invited the applicant to consider a number of suggested actions that could reduce the amount of documents captured by the access application (namely, a reduction of the access application timeframe and the exclusion of certain document categories). The suggested exclusions were not limited to the document exclusions which the applicant agreed to when responding to the Notice. The Notice also specifically noted that taking one or more of these actions may not remove the ground for refusing to deal with the application.

preliminary search did not include potentially relevant documents located in other document management systems.

29. In its original decision, the Department decided that, notwithstanding the one year reduction of the application timeframe and the exclusion of some documents, the scope of the Narrowed Application remained so broad, due to the number of applications that the applicant had made to VAQ, that conducting searches for responsive documents would be an unreasonable diversion of agency resources. The Department also confirmed that:

- having conducted further enquiries with VAQ, they were unable to determine the exact number of documents that would be responsive to the Narrowed Application or estimate the time it would take for officers to locate all relevant documents
- a preliminary search conducted by only **one** VAQ officer had identified 95 potentially responsive emails, which may contain attachments
- locating the requested documents would involve checking numerous email accounts and document management systems to identify all potentially relevant documents, which '*may return results in the tens of thousands of pages*';[36] and
- it may take '*more than 10 hours*' to prepare a '*lengthy and detailed notice of decision*'.

30. The decision under review provided the following additional reasons for the Department's decision:

- although the applicant had agreed to reduce the timeframe of his request by one year, this had not substantially reduced the anticipated volume of documents, as the applicant's first contact with VAQ did not occur until 2020; and
- as some of the requested documents related to officers no longer employed by VAQ, processing the Narrowed Application would require the email records of those previous VAQ officers to be individually searched for relevant documents.

31. On external review, the Department maintained that it was entitled to refuse to deal with the Narrowed Application and provided the following further information in support of its position:[37]

- documents generated in relation to the applicant's review application to the Queensland Civil and Administrative Tribunal (**QCAT**)[38] would be responsive to the Narrowed Application and the Department estimated that responsive documents in this regard would exceed 1,000 pages
- documents related to a number of complaints made by the applicant would also be responsive to the Narrowed Application
- the Department estimated that, based on its preliminary searches and enquiries conducted across the email accounts of only **five** VAQ officers, *in excess of* 2965 pages of email documents would also be responsive to the Narrowed Application[39]

[36] The Department also noted that officers would then need to collate, copy/scan, convert located documents to PDF format and examine the documents to confirm their relevance to the Narrowed Application and, for documents identified as relevant, a decision-maker would need to assess whether any refusal of access grounds applied, conduct third party consultation/s and prepare a decision.
[37] Submission dated 17 July 2024.
[38] This application to QCAT sought external review of a particular VAQ decision made about the applicant. Again, to avoid identifying the applicant, I am unable to provide any further details about this QCAT matter.
[39] These preliminary searches identified 207 emails—based on its knowledge of the usual email attachments for the applicant's matters, the Department estimated that each email comprised 15 pages and, therefore, over 3000 pages of potentially responsive documents had been located by these preliminary searches.

- further searches/enquiries would need to be conducted to locate other responsive email records that may exist in the email accounts of other VAQ officers (given the terms of the Narrowed Application) and, for emails created or received by officers who are no longer with VAQ, those further searches would need to be conducted of relevant back-up systems; and
- additional searches would also need to be undertaken of VAQ's other record keeping systems,[40] particularly as the Narrowed Application also requested '*recordings'* and *'witness statements*'.

32. I note that the documents requested in the Narrowed Application encompass:

- *All* internal memos, emails, recordings, witness statements and communications, over a four year period, which VAQ sent and received about the applicant or which are in any way related to the applicant (excluding emails and correspondence the applicant sent to, or received from, VAQ)
- *All* internal memos, emails recordings, witness statements and communications, over a four year period, which VAQ sent and received about, or in any way related to, A29810 (excluding emails and correspondence the applicant sent to, or received from, VAQ)
- *Any* emails which VAQ staff sent to QCAT *or anyone else*, over a four year period, which are about or related to the applicant; and
- *All* incoming and outgoing text cellular messages, over a four year period, of VAQ staff which are in any way related to the applicant.

33. As outlined in paragraph 23 above, when considering the work involved in dealing with an application, a decision-maker is required to have regard to the resources that would be used for:

- identifying, locating or collating the documents
- making copies, or edited copies of any documents
- deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations; or
- notifying any final decision on the application.

34. Most external reviews, where the issue being considered is the effect processing an application would have on an agency's resources, relate to circumstances where the agency has completed, or largely completed, the work noted at the first point in the preceding paragraph. However, in this matter, an approximation of the volume of documents responsive to the Narrowed Application (and an extrapolation from that volume to estimate the time and resources required to process the Narrowed Application) has not yet been possible. This is because, to make such a volume approximation in this matter, it would first be necessary for the Department to conduct substantial further searches in order to identify, locate and collate relevant documents.[41]

35. As I have noted above, the Department's position on external review is based upon the outcome of its preliminary searches and enquiries and the resulting partial estimate of the documents that would be responsive to the Narrowed Application—namely, the estimated 2965 pages of email documents identified by the Department's preliminary searches of only five email accounts and the estimated 1000 pages relevant to the applicant's review application to QCAT. The applicant has not sought to challenge the Department's partial estimate and there is nothing before me which questions the

[40] The Department referred to VAQ's Resolve and eDocs databases.
[41] In some circumstances, an assessment of how much time an access application is likely to take to process could, in itself, substantially and unreasonably divert the agency's resources (*McIntosh v Victoria Police (General)* [2008] VCAT 916 at [10]).

veracity, or reasonableness, of this partial estimate. Noting the limited nature of these preliminary searches and enquiries, and the further searches that would be required if the Department was to process the Narrowed Application (as discussed below), I consider it is reasonable to expect that in excess of 3965 pages would be responsive to the Narrowed Application.

36. Based on the information which is before me, I am satisfied that the work involved in dealing with the Narrowed Application under the IP Act would require the Department's decision-maker to:

- assess the already located documents to confirm their relevance to the Narrowed Application
- conduct further and more comprehensive searches for additional relevant documents—noting the broad terms of the Narrowed Application (that is, the applicant's request includes '*all*' internal memos, emails, recordings, witness statements and communications about, or '*in any way*' related to, him), these further searches would need to include:
  - searches of the email records of *all* individuals who worked at VAQ within the nominated four year period, including the email records of individuals who are no longer with VAQ; and
  - searches of all VAQ's other record keeping systems, including VAQ's Resolve and eDocs databases
- determine if grounds for refusal apply to any part of the located, relevant documents[42]
- conduct third party consultations[43]
- redact documents; and
- prepare a written decision.

37. It is difficult to formulate estimates of the time and resources that would be required to complete the steps outlined above. This is because the searches necessary to reach an approximation of the number of documents which would be responsive to the Narrowed Application (and to gain a general understanding of their nature) are themselves part of the work in issue. As a result, it is also difficult to reach an estimate of the amount of time and resources that would be required to deal with the Narrowed Application.[44]

Would the impact on the Department's functions be substantial and unreasonable?

38. I acknowledge that the Department is a relatively large Queensland government agency. However, its functions support a wide range of frontline services[45] and, in this regard, only a small number of Departmental staff are available for dealing with applications received under the IP Act and RTI Act.[46] In the 2022-23 financial year, the Department received 470 compliant access and amendment applications, together with 26 internal

[42] The general right to access documents under the IP Act is subject to limitations. Section 67(1) of the IP Act confirms that access to information may be refused on the same grounds information may be refused under section 47 of the RTI Act.
[43] Under section 56 of the IP Act, a decision-maker is required to consult relevant third parties concerning the disclosure of information which may be of concern to those parties.
[44] This was also the case in two previous OIC decisions, namely *Middleton and Department of Health* (Unreported, Queensland Information Commissioner, 10 June 2011) and *J85 and Queensland Police Service* [2024] QICmr 36 (12 August 2024).
[45] Refer to < https://www.justice.qld.gov.au/about-us/services> (accessed 16 January 2025), which identifies the Department's service areas as being Corporate Services, Courts and Tribunals, Crown Law, Harm Prevention and Regulation, Justice Policy and Reform, Portfolio Governance and Executive Services and Women's Safety and Victims and Community Support. In this regard, I also note that page 50 of the Department of Justice and Attorney-General Annual Report 2023-2024 (<https://www.publications.qld.gov.au/dataset/2023-24-djag-annual-report/resource/8d745b2e-d697-41e9-b0c0-48596e87dfe3>, accessed 6 January 2025) provides additional information about the size of the Department.
[46] The remaining staff are involved in the Department's other service areas.

review applications and 40 external review applications.[47] As I have noted in paragraph 10 above, in addition to providing financial assistance to victims of violent crime in Queensland, VAQ's functions include the provision of information and support services to victims of crime.

39. The usual time allowed for processing an application in the IP Act is 25 business days.[48] While this period can be extended in certain circumstances,[49] it is relevant to have regard to this timeframe when considering whether the time involved in processing a single access application will have a substantial impact on an agency's resources.

40. In terms of the time reasonably required to deal with the Narrowed Application, I am satisfied that:

- identifying and locating relevant documents would take a significant amount of time and resources, given the four year time frame of the request, the various types of requested documents and the multiple locations that the Department would be required to search[50]
- collating the located documents would require further time and resources, noting the search of all staff emails '*about or in any way related to*' the applicant over a four year period is likely to lead to some level of duplication; and
- assessing the collated relevant documents to decide whether to give, refuse or defer access (including conducting third party consultations and redacting the personal information of other individuals, which is likely to appear in at least some of the requested documents) would take significant further time and resources.

41. On this basis, I am satisfied that the work involved in dealing with the Narrowed Application, as outlined above, could reasonably be expected to equal, or exceed, the entirety of the usual IP Act processing period. To provide some context to this conclusion, and using the Department's partial estimate that in excess of 3965 pages would be responsive to the Narrowed Application, I consider that:

- assessing this volume of documents to decide whether to give, refuse or defer access, would take at least approximately 66 hours (equating to approximately 9 business days[51]), based on the assessment being completed by the Department's decision-maker at the rate of 1 minute per page[52]
- it would take at least an additional 66 hours (equating to approximately 9 business days[53]) to redact documents to reflect the Department's disclosure position for

[47] Refer to the Right to Information Act 2009 and Information Privacy Act 2009 Annual Report 2022-23 (<https://www.publications.qld.gov.au/dataset/right-to-information-and-privacy-annual-reports>, accessed 6 January 2025). I also note that this report confirms that the Department is delegated to deal with applications received by a number of other agencies.
[48] Sections 22 and 66 of the IP Act.
[49] Such as consultation with third parties under section 56 of the IP Act, which extends the processing period by a further 10 business days.
[50] In this regard, having reviewed QCAT's published decision concerning the matter referenced in footnote 38, I am also satisfied that the Narrowed Application may encompass recordings which were provided to the Tribunal in those proceedings. Again, to avoid identifying the applicant, I am unable to provide any further details about this QCAT decision.
[51] Based on a 7hr, 15 minute business day.
[52] I consider this rate is reasonable, having reviewed agency rates for completion of similar actions in OIC's previous decisions (for example, the rate of 60 pages per hour for examining documents in *Angelopoulos and Mackay Hospital and Health Service* [2016] QICmr 47 (8 November 2016) (***Angelopoulos***) at [32]; the rate of 3 minutes per document to determine whether any grounds for refusal apply in *W41 and Logan City Council* [2021] QICmr 56 (28 October 2021) at [30]; the rate of 4 minutes per page for reviewing and processing documents in *A55 and Gold Coast Hospital and Health Service* [2019] QICmr 51 (26 November 2019) at [31]; and the rate of 3 to 5 minutes per page to consider responsive documents in *L65 and Queensland Police Service* [2024] QICmr 14 (17 April 2024) at [28]. Additionally, I have noted that, in *Zone Planning Group Pty Ltd and Council of the City of Gold Coast* [2020] QICmr 57 (6 October 2020) at [31], the agency estimated that assessing the relevance of located objects would take 1 minute per object (the term 'object' in this matter referred to an individual entry in the Council's electronic document record system).
[53] Based on a 7hr, 15 minute business day.

those documents, based on relevant redactions being completed by the Department's decision-maker at the rate of 1 minute per page;[54] and
- it would take 10 hours to prepare the decision (as per Department's estimate set out in paragraph 29 above).

42. If a full-time Department decision-maker was to work exclusively on the Narrowed Application for a period equalling, or exceeding, the usual IP Act processing period, this would substantially impact the ability of the Department to process other applications for that period. In these circumstances, I am satisfied the work involved in dealing with the Narrowed Application would, if carried out, substantially divert the resources of the Department from their use in the performance of its functions. I am also satisfied that completing the further and more comprehensive searches required to process the Narrowed Application could require substantial assistance from operational VAQ staff and this would divert those staff from their other duties[55] while that assistance was provided.

43. In determining whether the work involved in dealing with an application is unreasonable, it is not necessary to show that the extent of the unreasonableness is overwhelming.[56] Rather, it is necessary to weigh up the considerations for and against, and form a balanced judgement of reasonableness, based on objective evidence.[57]

44. Factors that have been taken into account in considering this question include:[58]

- whether the terms of the request offer a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought
- the public interest in disclosure of documents
- whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications
- the agency's estimate of the number of documents affected by the request, and by extension the number of pages and the amount of officer time
- the reasonableness or otherwise of the agency's initial assessment and whether the applicant has taken a cooperative approach in rescoping the application
- the timelines binding on the agency
- the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and
- whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications.

45. I acknowledge the applicant did engage with the Department after receiving the Notice. However, the slight reduction of the application timeframe and the document exclusions which the applicant agreed to did not, in any substantive way, have the effect of reducing the work involved in dealing with his application.

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[54] Again, I consider this rate is reasonable, having reviewed agency rates for completion of similar actions in OIC's previous decisions, for example, the rate of 60 pages per hour to mark up documents in *Angelopoulos* (at [32]).
[55] Including performance of their core functions under the *Victims of Crime Assistance Act 2009* (Qld).
[56] *F60XCX and Department of the Premier and Cabinet* [2016] QICmr 41 (13 October 2016) at [90].
[57] *ROM212 and Queensland Fire and Emergency Services* [2016] *QICmr 35* (9 September 2016) at [43], adopting *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (***Smeaton***) at [30].
[58] *Smeaton* at [39], adapting the factors listed in *Cianfrano v Director General, Premier's Department* [2006] NSWADT 137 at [62] to [63], the latter cited in *Zonnevylle v Department of Education and Communities* [2016] NSWCATAD 49 at [29]. The factors are not exhaustive.

46. The terms of the Narrowed Application are broad—subject to the identified document exclusions, the applicant seeks '*all*' internal memos, emails, recordings, witness statements, and communications which are about, or which are '*in any way*' related to the applicant or a particular VAQ matter number. Accordingly, if the Department were to process the Narrowed Application, searches of electronic records would need to be carried out using the applicant's name and the VAQ matter number as the broad search terms. Additionally, as noted above, the email records of *all* individuals who worked at VAQ at any time within the four year timeframe of the Narrowed Application would need to be searched.

47. Noting the work that would be required for a decision-maker to deal with the Narrowed Application (as I have outlined in paragraph 36 above), I am satisfied that such work is not reasonably manageable. While the Department (and its RTI unit) may be larger than that of many other agencies, its workload is also larger, and I am satisfied that processing the Narrowed Application would significantly impact its capacity to deal with other applications, including meeting relevant timeframes, and perform other work. I also note again that operational VAQ staff may need to provide substantial assistance to complete the required further searches, if the Department was to deal with the Narrowed Application.

48. As noted in paragraph 11 above, the applicant considers the Department has attempted to hide information from him for '*strategic reasons and purposes*'. There is no evidence before me to suggest that this was the Department's intent. While I recognise that the applicant has a strong personal interest in obtaining access to the requested documents, on the information before me, I am not satisfied that it would be reasonable to prioritise this interest over the public interest in an agency not being diverted from its other operations, due to the broad terms of the Narrowed Application.

49. As I have also explained above, it is difficult to estimate the amount of documents that would be responsive to the Narrowed Application, given the searches necessary to do so are themselves part of the work in issue. However, the Department's partial estimate does inform a reasonable expectation that *in excess of* 3965 pages would be responsive to the Narrowed Application and that processing such a volume of documents could reasonably be expected to equal, or exceed, the entirety of the usual IP Act processing period.

50. I am aware of four other access applications which the applicant made to the Department during 2024. As the Narrowed Application seeks '[a]*ll internal memos, emails (sent and received), recordings, witness statements, and communications*' about or in any way related to the applicant over a four year period, it is likely there will be some overlap between documents already dealt with by the Department in those other access applications and the documents requested in the Narrowed Application.

51. Taking the above considerations into account, I am satisfied that processing the Narrowed Application would, if carried out, unreasonably divert the Department's resources from their use in the performance of its functions.

Conclusion

52. I am satisfied that the Department met the procedural requirements of section 61 of the IP Act. I am further satisfied that, in the circumstances outlined above, the work involved in processing the Narrowed Application would, due to the way it is currently framed, both substantially and unreasonably divert the Department's resources under section 60 of the IP Act.

DECISION

53. For the reasons set out above, I affirm the Department's decision refusing to deal with the Narrowed Application on the basis that dealing with it would substantially and unreasonably divert the Department's resources from their use in the performance of its functions.

54. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

T Lake
Principal Review Officer

Date: 16 January 2025

APPENDIX

Significant procedural steps

Date	Event
29 April 2024	OIC received the external review application.
7 June 2024	OIC notified the applicant and the Department that the application for external review had been accepted and requested information from the Department.
21 June 2024	At the Department's request, OIC granted an extension (to 5 July 2024) for provision of the requested information
5 July 2024	At the Department's request, OIC granted a further extension (to 12 July 2024) for provision of the requested information.
12 July 2024	At the Department's request, OIC granted a further extension (to 17 July 2024) for provision of the requested information.
17 July 2024	OIC received the requested information from the Department.
6 August 2024	OIC conveyed a preliminary view to the applicant and invited the applicant to provide a submission if he wished to continue with the external review by contesting the preliminary view. OIC received the applicant's confirmation that he wished to proceed with the external review based upon his previous submissions.
7 August 2024	OIC wrote to the applicant to confirm the preliminary view and notify the applicant that a decision would be issued to finalise the external review.