



Decision and Reasons for Decision

Citation: Australian Broadcasting Corporation and Department of Customer Services, Open Data and Small and Family Business [2026] QICmr 95 (10 June 2026)

Application Number: 318538

Applicant: Australian Broadcasting Corporation

Respondent: Department of Customer Services, Open Data and Small and Family Business

Decision Date: 10 June 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LAW ENFORCEMENT AND PUBLIC SAFETY INFORMATION - request for documents related to the awarding of a government cyber security program - whether disclosure of information could reasonably be expected to prejudice the investigation of a contravention or possible contravention of the law in a particular case - whether exempt information - sections 47(3)(a) and 48 and schedule 3, section 10(1)(a) of the *Right to Information Act 2009* (Qld)

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

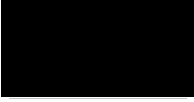
DECISION

I vary¹ the reviewable decision of Department of Customer Services, Open Data and Small and Family Business (**Department**) and find that there is no basis under the *Right to Information Act 2009* (Qld) (**RTI Act**) to refuse access to the information which remains for consideration in this matter.

¹ Under section 110(1)(b) of the *Right to Information Act 2009* (Qld).

The documents remaining in issue are be released in accordance with the marked-up copy provided to the Department with my decision.

My reasons for the decision follow.²



T Lake
Principal Review Officer

Date: 10 June 2026

² I have made this decision as a delegate of the Information Commissioner under section 145 of the RTI Act. On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act and *Information Privacy Act 2009* (Qld) (**IP Act**). As the applicant's 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 and chapter 8, part 3 of the IP 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, which may be accessed at <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013>> and <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014>> respectively.

REASONS FOR DECISION

Summary

1. The applicant applied³ to access documentation generally concerning the awarding of a government cyber security program.
2. Due to machinery of government changes, the application was transferred to the Department on 12 December 2024.
3. The Department located 205 pages as relevant to the application and disclosed seven pages and parts of a further eight pages to the applicant. The Department decided⁴ to refuse access to the remaining information, on the basis its disclosure would, on balance, be contrary to the public interest.
4. The applicant then applied to the Office of the Information Commissioner for external review.⁵
5. During the review, consultation was undertaken with a number of third parties and the Department disclosed some further information to the applicant. While the applicant has confirmed that they did not seek to access some types of undisclosed information, they continue to seek access to the remaining undisclosed information.

Background

6. In 2024, a government contract for the provision of cyber security services (**Contract**) was awarded to Cryptoloc Holdings Pty Ltd (**Cryptoloc**).⁶
7. The Contract was subsequently terminated and, in April 2025, Cryptoloc was placed into liquidation.
8. As mentioned in paragraph 5 above, a number of third parties were consulted during the review regarding the potential release of certain information that may be of concern to them. Some, but not all, of the consulted parties objected to disclosure of the information they were consulted about.⁷ In consulting some of these third parties, the Department required that only descriptions of the information being consulted about be provided (rather than copies of relevant documents).⁸ When responding to such consultation, some third parties indicated that this method of consultation made it difficult for them to formulate and provide their views about disclosure. I accept that some of the Department's consultation requirements did impact the ability of certain consulted parties to provide their views in a timely and

³ Access application to the Department of Employment, Small Business and Training Department of Employment, Small Business and Training dated 7 November 2024.

⁴ Decision dated 13 March 2025.

⁵ External review application dated 31 March 2025.

⁶ This was announced in a Government Media Statement dated 30 September 2024.

⁷ One consulted party only objected to disclosure of small portions of the information they were consulted about.

⁸ The disclosure restrictions in section 107 of the RTI Act prevented the Information Commissioner from providing a copy of these documents to the consulted parties during the external review.

meaningful way. As a result, the consultation process also took considerable time to complete.

9. None of the consulted third parties sought to participate in the external review.

Reviewable decision

10. The decision under review is the Department's decision dated 13 March 2025.

Evidence considered

11. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
12. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁹ I consider a decision-maker will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.¹⁰ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.¹¹

Information in issue

13. In the decision under review, the Department described the information to which it had refused access as follows:

Category A – personal information: including '*mobile telephone numbers and declarations or conflict of interest statements*'; and

Category B – commercially sensitive information: including '*documentation outlining due diligence which occurred as a result of awarding [the Contract] during a market tender process*'.

⁹ Section 21 of the HR Act.

¹⁰ *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].

¹¹ All participants in this review are corporations or an agency, such that at face value it may not appear necessary to consider the application of the HR Act, which only affords human rights to individuals in Queensland. However, Kingham J in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors* [2020] QLC 33 at [90] indicated that where section 58(1) of the HR Act applies, there need be no mover to raise human rights issues because that section requires the relevant public entity to properly consider engaged human rights and to not act or make a decision that is not compatible with human rights. In any event, in observing and applying the law prescribed in the RTI Act, an RTI decision maker will be '*respecting and acting compatibly with*' applicable human rights as stated in the HR Act (*XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]. This approach to the Victorian analogues of the HR Act and RTI Act has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23]. Having taken this approach in this review, I have observed relevant rights under section 58(1) of the HR Act to the extent then that it is necessary to do so.

14. As outlined in paragraph 5 above, some of the information which the Department had decided not to disclose to the applicant is no longer in issue in this review.¹²
15. The undisclosed documents to which the applicant continues to seek access comprise 129 pages of the Category B documents which are the subject of a consulted third party's disclosure objection (**Remaining Category B documents**). The applicant has confirmed to OIC that they do not seek to access personal information¹³ appearing within the Remaining Category B documents.¹⁴

Issues for determination

16. It is the Department's position that access may be granted to the Remaining Category B documents, subject to deletion of personal information (which the applicant does not seek to access).
17. On the other hand, a consulted third party objected to disclosure of all information within the Remaining Category B documents due to what they perceive as the sensitivity of ongoing investigations.¹⁵
18. Accordingly, the issues for determination are whether access may be refused to the Information in Issue on the basis that:
 - it comprises exempt information; and/or
 - its disclosure would, on balance, be contrary to the public interest to disclose.

Exempt information

Relevant law

19. A person has a right to be given access to documents of an agency under the RTI Act.¹⁶ However, this right is subject to other provisions of the RTI Act, including the grounds upon which an agency may refuse access to documents.¹⁷

¹² In the external review application, the applicant confirmed that they did not contest the Department's refusal of access to personal information that includes mobile telephone numbers or '*specific information about earnings or margins that the company had expected to earn on the government contract*'. The applicant also confined their request for the Category A documents to declarations or conflict of interest statements which contained '*any relevance to Cryptoloc*'. Noting this, and following third party consultation, the Department partially disclosed one Category A document to the applicant (on 30 January 2026), and the applicant did not seek to access the information redacted from that disclosed document (which OIC confirmed to the applicant by letter dated 7 May 2026). The Department also partially disclosed the Category B documents which were not the subject of consulted third party disclosure objections, and the applicant confirmed (by email dated 1 June 2026) that they did not seek to access the information redacted within those disclosed documents.

¹³ Being names and contact details (such as direct/mobile telephone numbers and email addresses).

¹⁴ Applicant's email dated 1 June 2026.

¹⁵ To avoid identifying this third party (as they did not wish to participate in the review), I must be necessarily circumspect in how I describe their disclosure objection.

¹⁶ Section 23 of the RTI Act.

¹⁷ These refusal grounds appear in section 47 of the RTI Act.

20. One ground of refusal is where information is exempt information.¹⁸ Information will qualify as exempt where its disclosure could reasonably be expected to¹⁹ prejudice an investigation of a contravention or possible contravention of the law.²⁰

The received disclosure objections

21. In November 2025, the Department sought the views of a third party concerning disclosure of the Remaining Category B Documents and that third party notified the Department of their objection to disclosure.
22. Having considered the detail provided in the received disclosure objection, I conveyed a preliminary view to the third party²¹ that it was unclear how disclosing the Remaining Category B documents could, given their nature, be expected to prejudice any investigation.²² I invited the third party to explain the claimed prejudice and how they considered it would arise from disclosure of the Remaining Category B documents. In response, the third party reiterated their disclosure objection. The Department then provided the third party with a copy of the Remaining Category B documents (redacted to reflect the Department's disclosure position) and I invited the third party, after consideration of the document content, to confirm whether they maintained their disclosure objection.²³ In response, the third party confirmed that they maintained their disclosure objection, however, they provided no further details in support of that objection.

Findings

23. In assessing whether disclosure of the Remaining Category B documents *could reasonably be expected to* result in prejudice being caused to an ongoing investigation, I have carefully considered those documents and the objections raised by the third party. There is no detail before me about the precise nature of the ongoing investigation referenced in the objections, nor is there any detail about the nature of the claimed prejudice to such an investigation. As I have noted above, there is also nothing before me which explains a link between disclosure of the Remaining Category B documents and the claimed prejudice.

¹⁸ Section 47(3)(a) and 48 of the RTI Act. Schedule 3 identifies what comprises exempt information for the purpose of the RTI Act.

¹⁹ The term '*could reasonably be expected to*' requires that the expectation is reasonably based, that it is neither irrational, absurd or ridiculous (*Attorney-General v Cockcroft* (1986) 64 ALR 97 (**Cockcroft**) at [106]) nor merely a possibility (*Murphy and Treasury Department* (1995) 2 QAR 744 at [44] citing *B and Brisbane North Regional Health Authority* (1994) 1 QAR 279, at [160]). Whether the expected consequence is reasonable requires an objective examination of the relevant evidence and it is not necessary for a decision-maker '*to be satisfied upon a balance of probabilities*' that disclosing the document will produce the anticipated prejudice (*Cockcroft* at [106]).

²⁰ Sections 47(3)(a) and 48 and schedule 3, section 10(1)(a) of the RTI Act. While not relevant to considerations in the present matter, it is noted that schedule 3, section 10(2) of the RTI Act identifies a number of circumstances in which information will not be exempt pursuant to schedule 3, section 10(1) of the RTI Act.

²¹ By letter dated 2 March 2026. 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 party. This is to explain the issues under consideration 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, informal resolution of external reviews.

²² Again, in this decision, I can provide no further detail of the disclosure objection made by this consulted third party.

²³ By email dated 23 April 2026.

24. In the circumstances of this matter, I am satisfied there is no reasonable basis to expect that disclosure of the Remaining Category B documents could result in prejudice being caused to any ongoing investigation. Accordingly, I find that the Remaining Category B documents do not comprise exempt information under schedule 3, section 10(1)(a) of the RTI Act and access to them cannot be refused on that basis.
25. Having carefully reviewed the third party's disclosure objection and the Remaining Category B documents, I do not consider any other exemption in schedule 3 of the RTI Act arises for consideration. I have, however, taken the received disclosure objection into consideration in weighing the public interest below.

Contrary to the public interest information

Relevant law

26. Access may also be refused under the RTI Act where disclosure of information would, on balance, be contrary to the public interest.²⁴ 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 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. However, there are some recognised public interest considerations that may apply for the benefit of an individual.
27. The RTI Act sets out the steps that a decision-maker must take in deciding the public interest.²⁵
28. Schedule 4 of the RTI Act contains lists of factors that may be relevant in determining where the balance of public interest lies in a particular case. I have considered these lists, together with all other relevant information, in reaching my decision. I have also kept in mind the RTI Act's pro-disclosure bias²⁶ and that access refusal grounds are to be interpreted narrowly.²⁷

Findings

29. I have not taken any irrelevant factors into account²⁸ in reaching my decision about the Remaining Category B documents.

²⁴ Sections 47(3)(b) and 49 of the RTI Act.

²⁵ Under section 49(3) of the RTI Act, those steps are to 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 disclosing the information in issue would, on balance, be contrary to the public interest.

²⁶ Section 44 of the RTI Act.

²⁷ Section 47(2) of the RTI Act.

²⁸ Including those set out in schedule 4, part 1 of the RTI Act.

Analysis of public interest factors favouring disclosure and nondisclosure

30. The RTI Act recognises that public interest factors favouring disclosure will arise where disclosing information could reasonably be expected to:
- promote open discussion of public affairs and enhance the Government's accountability²⁹
 - contribute to positive and informed debate on important issues or matters of serious interest³⁰
 - 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 community³¹
 - ensure effective oversight of expenditure of public funds;³² and
 - reveal the reason for a government decision and any background or contextual information that informed the decision.³³
31. Although I am unable to describe the content of the Remaining Category B documents in any detail in this decision, I can confirm that it relates to the Contract and information which was received, or obtained, by government before entering the Contract.
32. The Contract was a high value commercial arrangement and its entry, and subsequent termination, are of some community interest.³⁴ I am satisfied that disclosure of the Remaining Category B documents would advance the Government accountability and transparency factors identified in paragraph 30 above, by providing some background to the decision to award the Contract. As to the weight to be afforded to these factors, although I note there is some information within the public domain about the Contract, its termination and the liquidation of Cryptoloc, I consider these factors are deserving of significant weight in favour of disclosure.
33. Taking into account the nature of the Remaining Category B documents, I cannot identify any other public interest factors which would apply to favour disclosure.
34. In the decision under review, the Department referenced the public interest factors relating to business affairs information, which favour nondisclosure.³⁵ As I have mentioned above, the Contract was terminated some time ago and Cryptoloc is in liquidation. In these circumstances, there is nothing before me which raises any reasonable expectation that disclosure of the Remaining Category B documents could, in any notable way:
- destroy or diminish the commercial value of such information; or

²⁹ Schedule 4, part 2, item 1 of the RTI Act.

³⁰ Schedule 4, part 2, item 2 of the RTI Act.

³¹ Schedule 4, part 2, item 3 of the RTI Act.

³² Schedule 4, part 2, item 4 of the RTI Act.

³³ Schedule 4, part 2, item 11 of the RTI Act.

³⁴ As evidenced by media reporting.

³⁵ Being those in schedule 4, part 3, items 2 and 15 and schedule 4, part 4, section 7(1)(b) of the RTI Act. I have also given consideration to the nondisclosure factor in schedule 4, part 4, section 7(1)(c) of the RTI Act, which also generally concerns business, professional, commercial and financial affairs information.

- prejudice, or adversely affect, Cryptoloc’s business affairs, professional, commercial or financial affairs.
35. To the extent the Remaining Category B documents includes information provided during a tender process, I also consider there is no reasonable expectation that disclosure of such information could be expected to prejudice the future supply of similar information to government.
36. For these reasons, to the extent the public interest factors which generally relate to business affairs information may apply to favour nondisclosure, I afford them no weight.
37. During the review, the Department confirmed³⁶ that it no longer considered an additional factor favouring nondisclosure applied. That factor had concerned anticipated interference with an ongoing contract compliance assessment and, in the decision under review, and the Department had afforded it significant weight. Having considered the Department’s submissions in this regard and the other information before me, I do not consider that such a factor arises to favour nondisclosure of the Remaining Category B documents.
38. The list of public interest factors in the RTI Act is not exhaustive. As noted above, I consider that third party’s disclosure objection also raises a public interest factor favouring nondisclosure requiring consideration in the context of the public interest test—that is, whether disclosure could reasonably be expected to prejudice an ongoing investigation. In paragraph 23 above, I noted that the third party has not provided details about the precise nature of the ongoing investigation referenced in the disclosure objection or the nature of the claimed prejudice. Nor has the third party explained how disclosing the Remaining Category B documents (or any part/s of them) would give rise to the claimed prejudice. In all the circumstances, I consider that while a public interest consideration may arise in this regard (that is, concerning the reasonable expectation that disclosure could result in some level of prejudice to an investigation), I afford it limited weight.
39. Taking into account the nature of the Remaining Category B documents and the information which the applicant confirmed they do not seek to access within those documents, I cannot identify any other public interest factors which would apply to favour nondisclosure.

Conclusion

40. I have identified and considered the public interest factors which are relevant to the Remaining Category B documents.
41. For the reasons explained above, I have afforded significant weight to the public interest factors relating to government accountability and transparency. On the other hand, for the nondisclosure factors relating to business affairs information, I have afforded no weight, given the nature of the Remaining Category B documents

³⁶ Letter dated 3 December 2025.

and the circumstances of this matter. I have also afforded limited weight to a further nondisclosure consideration relating to the third party's objection.

42. On balance, I am satisfied that the public interest factors favouring disclosure of the Remaining Category B documents outweigh the factors favouring nondisclosure. Accordingly, I find that disclosure of the Remaining Category B documents would not, on balance, be contrary to the public interest, and access to them cannot be refused on that basis.

Summary

43. I find that disclosure of the Remaining Category B Information may not be refused on the ground it is exempt information or information which would, on balance, be contrary to the public interest to disclose. As no grounds of refusal apply, I find that the Remaining Category B Information may be released to the applicant.
44. The above are the reasons for my decision.