



Decision and Reasons for Decision

Application Number: 100102

Applicant: Nine Network Australia Pty Ltd

Respondent: Queensland Police Service

Third Parties: Venue One—5B6XLZ
Venue Two—W08BGF
Venue Three—N31ZEO

Decision Date: 5 December 2013

Catchwords: ADMINISTRATIVE LAW – RIGHT TO INFORMATION – EXEMPT INFORMATION – applicant sought access to information about ‘glassing’ incidents at licensed premises in Queensland – objections to disclosure raised by operators of licensed premises on the basis that information is exempt under schedule 3 of the *Right to Information Act 2009* (Qld) – whether access to information may be refused under sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW – RIGHT TO INFORMATION – CONTRARY TO PUBLIC INTEREST – accountability of regulatory and law enforcement agencies in relation to licensed venues – disclosure is prohibited by *Liquor Act 1992* (Qld) – impact of disclosure on the business affairs of licensed premises – whether disclosure of the information would, on balance, be contrary to the public interest – whether access to information may be refused under sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. Nine Network Australia Pty Ltd (**Applicant**) applied to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to information about ‘glassing’ incidents which occurred on licensed premises in Queensland between 2008 and 2010.
2. QPS granted partial access to a nine page document¹ containing information including:

¹ Pages 1 and 9 (table and notes) were released in full while pages 2 to 8 (which comprise a spreadsheet) were partially released.

- a table detailing the reported number and rate of offences against the person where glass was used as a weapon in Queensland for the years 2008 to 2010
 - notes relating to the table; and
 - a spreadsheet detailing incidents involving glass (**Spreadsheet**).²
3. The Applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS' decision to refuse access to information identifying the licensed premises named in the Spreadsheet.³ The Applicant agreed to narrow the scope to information relating to licensed premises where four or more glassing incidents occurred in at least one of the years between 2008 and 2010.
 4. OIC identified six licensed premises falling within the reduced scope of the access application and consulted with these venues in relation to identifying information contained within the Spreadsheet. Three of the venues (**Venue One**, **Venue Two** and **Venue Three**, or collectively the **Venues**) applied to participate in the external review⁴ and provided submissions in support of their objection to disclosing information which would identify their venues.⁵
 5. OIC decided⁶ to set aside QPS' decision and substituted a decision that the information in issue was neither exempt, nor contrary to the public interest to disclose. Venue Three appealed OIC's decision to the Queensland Civil and Administrative Tribunal (**QCAT**). By decision dated 4 June 2013,⁷ QCAT ordered that OIC's decision be set aside and the matter be remitted to OIC to be dealt with by another Commissioner in accordance with the terms of QCAT's decision. OIC reopened the external review and has considered the matter afresh in accordance with QCAT's decision.
 6. I am not satisfied that the exemptions raised by Venue One and Venue Two apply in the circumstances of this review. Factors favouring non-disclosure such as prejudice to the Venues' business affairs and provisions of another Act regarding disclosure of information were also considered. However, for the reasons set out below, these factors favouring nondisclosure are outweighed by the significant public interest factors favouring disclosure, particularly with respect to enhancing the government's accountability by enabling scrutiny of the need for, and the effectiveness of, reforms designed to target glassing offences.
 7. Accordingly, for the reasons set out below, I set aside QPS' decision to refuse access to information identifying the Venues and substitute a decision that the information is neither exempt, nor contrary to the public interest to disclose.

Background

8. Significant procedural steps relating to the application and external review are set out in the appendix.

² The Spreadsheet comprises ten columns with the following headings: Financial year; Offence; Offence description; Where occurred; Street number; Street name; Street type; Suburb; Place name; and Count.

³ That is, information contained under the following headings, where included: Street number; Street name; Street type; and Place name.

⁴ Section 89 of the RTI Act.

⁵ The remaining three venues consulted did not apply to participate in the external review and have not objected to their identifying information being released. QPS agreed to release information identifying these venues.

⁶ By decision dated 8 November 2012.

⁷ *ASD v Queensland Police Service; Office of the Information Commissioner and Nine Network Australia Pty Ltd* [2013] QCATA 181 per Justice Cullinane.

Reviewable decision

9. The decision under review is QPS' decision dated 29 July 2011.

Evidence considered

10. Evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and appendix).

Information in issue

11. The information in issue in this external review (**Information in Issue**) comprises the address and name⁸ of the Venues, as it appears under the headings 'Street number', 'Street name', 'Street type' and 'Place name' in the Spreadsheet.
12. The Information in Issue does not include the names of any individuals involved in the alleged glassing incidents detailed in the Spreadsheet.

Participants' submissions

13. On reopening the external review, OIC invited the Applicant, QPS and the Venues to make any further submissions on the issues in the external review.⁹ OIC advised the Venues that, unless OIC heard from them by 15 July 2013, OIC would assume the Venues did not wish to make any further submissions and wished for OIC to take into account their previous submissions of particular dates.
14. Venue One advised¹⁰ OIC that it did not wish to make further submissions and wished for OIC to take into account its submissions dated 10 January 2012 and 22 August 2012. Venue Two advised¹¹ OIC that it wished for OIC to take into account its previous submissions dated 10 January 2012 and 22 August 2012 and also wished to make further submissions. Venue Two made further submissions by letter dated 19 July 2013. As Venue Three did not respond to OIC's correspondence, I have taken its previous submissions of 15 December 2011 and 15 June 2012 into account.
15. The Venues and QPS were also invited to make submissions in response to OIC's preliminary view.¹² Venue One contested the preliminary view but declined to make further submissions.¹³ Venue Two made a further submission.¹⁴ Venue Three did not respond to the preliminary view. QPS declined to make further submissions and confirmed it relies on its decision dated 29 July 2011.¹⁵
16. In making my decision, I have carefully considered all of the submissions referred to above. However, in these reasons for decision, I have not referred to any issues raised in the submissions which are unrelated to the issues for determination.

⁸ Where included in the Spreadsheet.

⁹ OIC correspondence dated 1 July 2013.

¹⁰ In an email to OIC dated 15 July 2013.

¹¹ In an email to OIC dated 15 July 2013.

¹² Conveyed to QPS and each of the Venues by letters dated 19 September 2013.

¹³ In an email to OIC dated 3 October 2013.

¹⁴ Letter to OIC dated 18 October 2013.

¹⁵ Letter to OIC dated 4 October 2013.

Issues for determination

17. As QPS decided to refuse access to the Information in Issue, it bears the onus of establishing that its decision is justified.¹⁶ QPS decided to refuse access on the basis that disclosure of the Information in Issue would, on balance, be contrary to the public interest. As noted at paragraph 15, QPS has advised OIC that it does not wish to make further submissions in support of its decision on external review.
18. The Venues applied to participate in the external review and made submissions in support of their view that access should be refused to the Information in Issue. They submit that:
 - the RTI Act does not apply to the Information in Issue
 - the Information in Issue is exempt information;¹⁷ and
 - access should be refused to the Information in Issue as its disclosure would, on balance, be contrary to the public interest.¹⁸
19. Accordingly, these are the issues for determination in this review.

Findings

Does the RTI Act apply to the Information in Issue?

20. Yes, for the reasons that follow.
21. The Venues submit¹⁹ that:
 - I have not given due regard to the purpose and objectives of the RTI Act, as set out in the Preamble to the RTI Act
 - *'when the [RTI] Act states, in Section 3(1), its primary object (not its only object) is to give a right of access to information in the Government's possession, it intends to confirm that right to further the more fundamental matter with which the Preamble deals'*
 - the Preamble makes clear that Parliament did not intend that all information within the government's possession be made publicly available through right to information processes; and
 - *'no nexus exists between the information sought and either holding the Government to account or advancing discussion of public affairs'.*
22. I have carefully considered these submissions and reviewed the Preamble to the RTI Act. The Preamble explains, in general terms, the purpose and objectives of the RTI Act, which are then given effect through the express provisions of the RTI Act. Both the Preamble and the express provisions of the RTI Act make clear Parliament's intention that access should be given to information in government's possession, unless to do so would be contrary to the public interest. I have carefully considered below whether disclosing the Information in Issue would be, on balance, contrary to the public interest.

¹⁶ Section 87(1) of the RTI Act.

¹⁷ Under sections 47(3)(a) and 48 and schedule 3 of the RTI Act.

¹⁸ Under sections 47(3)(b) and 49 of the RTI Act.

¹⁹ Venue One's submissions dated 10 January 2012 and 22 August 2012; Venue Two's submissions dated 10 January 2012, 22 August 2012, 19 July 2013 and 18 October 2013; and Venue Three's submission dated 15 December 2011.

23. Venue Three further submits²⁰ that:

- the Information in Issue is not genuinely of a kind which is within the scope of the RTI Act as it *'is of a private nature, concerning a single business operation'*; and
- only the factual matter in the Information in Issue comprises *'information'* and, accordingly, the balance of the document is beyond the scope of the RTI Act.

24. Section 23 of the RTI Act creates a legally enforceable right for any person to access *'documents of an agency'*. The term *'document'* is defined broadly in the *Acts Interpretation Act 1954 (Qld) (Acts Interpretation Act)*²¹ to include *'any paper or other material on which there is writing'* and *'any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced ...'*. I am satisfied that the Information in Issue comprises a document pursuant to this definition.

25. Section 12 of the RTI Act relevantly defines *'document of an agency'* as follows:

*In this Act, **document, of an agency**, means a document, other than a document to which this Act does not apply, in the possession, or under the control, of the agency whether brought into existence or received in the agency...*

26. The Information in Issue is clearly in the physical possession of QPS, which is an agency for the purposes of the RTI Act,²² and it is not a document to which the RTI Act does not apply.²³

27. Accordingly, I am satisfied that the Information in Issue comprises a document of an agency and is therefore subject to the operation of the RTI Act.

Does the Information in Issue comprise exempt information?

28. No, for the reasons that follow.

Relevant law

29. As noted above, the RTI Act provides that a person has a right to be given access to documents of an agency.²⁴ Access should be given to a document unless giving access would, on balance, be contrary to the public interest.²⁵ Schedule 3 of the RTI Act sets out the types of information the disclosure of which Parliament has deemed to be contrary to the public interest, and therefore exempt from disclosure.²⁶ An agency may refuse access to a document to the extent that the document comprises exempt information.²⁷

²⁰ Submission dated 15 June 2012.

²¹ Section 36 and schedule 1 of the Acts Interpretation Act.

²² Section 14 of the RTI Act.

²³ As it is not a document mentioned in schedule 1 of the RTI Act: see section 11 of the RTI Act.

²⁴ Section 23 of the RTI Act.

²⁵ Section 44(1) of the RTI Act. This is referred to as the pro-disclosure bias in deciding access to documents.

²⁶ Section 48(2) of the RTI Act.

²⁷ Under sections 47(3)(a) and 48 of the RTI Act.

Can any individuals be identified through disclosure of the Information in Issue?

30. For a number of the exemptions claimed by Venue One and Venue Two to apply to the Information in Issue, it must first be possible for individuals involved in the incidents referred to in the Spreadsheet to be identifiable through disclosure. The Information in Issue comprises the addresses, and in some cases, the names of particular venues where QPS has recorded that a glassing incident has occurred. No individuals are named in the Spreadsheet.
31. I have also considered whether the identity of any of the individuals involved in the incidents in the Spreadsheet can reasonably be ascertained. Due to the very limited nature of the Information in Issue—which includes only a year, rather than the actual date of each incident—I am satisfied that it is not possible to definitively link any publicly available information about glassing incidents to the incidents in the Information in Issue. At best, disclosure may enable people to *speculate* that individuals named in, for example, media reports and court documents, may have been involved in the incidents referred to within the Information in Issue.
32. On that basis, I do not consider disclosing the Information in Issue itself enables individuals to be identified.

Contempt of court, contrary to an order or direction (schedule 3, section 6 of the RTI Act)

33. The RTI Act provides that information is exempt if its public disclosure would²⁸ be in contempt of court, or contrary to an order made or direction given by a royal commission or commission of inquiry.²⁹
34. Venue One and Venue Two submit³⁰ that public disclosure of the Information in Issue would be in contempt of court, as it may jeopardise a fair trial for alleged offenders identified within the Information in Issue. Venue One and Venue Two further contend³¹ ‘*it is a real possibility*’ that public disclosure of the Information in Issue would be contrary to an order made or direction given by a royal commission or a commission of inquiry.
35. Venue One and Venue Two have not provided any evidence to support these contentions. Nor have they identified a particular court proceeding, royal commission or commission of inquiry to which the Information in Issue may relate. I also note my comments above at paragraph 31 regarding the difficulty in accurately linking the Information in Issue with any publicly available information about glassing incidents or alleged offenders.
36. Accordingly, for this reason and in the absence of any evidence to support these claims, I am satisfied that the Information in Issue is not exempt under schedule 3, section 6(a) or (b) of the RTI Act.

Schedule 3, section 10 exemptions—general comments

37. Venue One and Venue Two submit³² that the Information in Issue comprises exempt information within a number of the exemptions in schedule 3, section 10 of the RTI Act

²⁸ Apart from the RTI Act and any immunity of the Crown.

²⁹ Schedule 3, section 6(a) and (b) of the RTI Act.

³⁰ In submissions dated 10 January 2012.

³¹ In submissions dated 10 January 2012.

³² Submissions dated 10 January 2012 and 22 August 2012.

concerning law enforcement and public safety. However, their submissions contain no evidence to support the claims that the exemptions apply. Rather, it is merely asserted that exemptions may apply. The submissions suggest OIC is therefore required to make inquiries to positively determine that these exemptions do not apply.

38. In order to satisfy several of the exemptions relied on in schedule 3, section 10(1) of the RTI Act, the RTI Act requires that disclosure *could reasonably be expected to* cause the relevant harm. The term '*could reasonably be expected to*' requires that the expectation be reasonably based—that it is neither irrational, absurd or ridiculous, nor merely a possibility. Whether the expected consequence is reasonable requires an objective examination of the relevant evidence. 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. The expectation must arise as a result of disclosure, rather than from other circumstances.³³

Prejudice the investigation of a contravention or possible contravention of the law in a particular case (schedule 3, section 10(1)(a) of the RTI Act)

39. The RTI Act provides that information is exempt if its disclosure could reasonably be expected to prejudice the investigation of a contravention or possible contravention of the law in a particular case.³⁴
40. Venue One and Venue Two submit³⁵ that:
- the Information in Issue relates to contraventions and possible contraventions of law, some or all of which are likely to be subject to investigation
 - disclosure would enable alleged offenders and victims to be identified; and
 - disclosure could therefore reasonably be expected to '*impact adversely upon the ability of [QPS] to discharge its duties*'.
41. In order for this exemption to apply there must be an ongoing investigation which would be adversely impacted by disclosure. Venue One and Venue Two have not identified:
- the particular investigation they claim would be prejudiced; or
 - the nature of the prejudice they consider would arise as a result of disclosing the location of alleged glassing incidents.
42. I have already noted the difficulty in accurately linking the Information in Issue with any publicly available material about the alleged incidents. QPS did not rely on this exemption as a basis for refusing access, nor has it raised any concerns about prejudice to ongoing investigations in submissions to OIC.
43. Accordingly, I am satisfied that the Information in Issue is not exempt under schedule 3, section 10(1)(a) of the RTI Act as there is no reasonable basis to expect disclosing the Information in Issue would prejudice the investigation of a contravention or possible contravention of the law in a particular case.

³³ See *Nine Network Australia Pty Ltd and Department of Justice and Attorney-General* (Unreported, Queensland Information Commissioner, 14 February 2012) at [31] citing *Attorney-General v Cockcroft* (1986) 64 ALR 97 at 106; *Murphy and Treasury Department* (1995) 2 QAR 744 at [45]-[47], [54]; *Sheridan and South Burnett Regional Council (and Others)* (Unreported, Queensland Information Commissioner, 9 April 2009).

³⁴ Schedule 3, section 10(1)(a) of the RTI Act.

³⁵ Submissions dated 10 January 2012.

Enable the existence or identity of a confidential source of information to be ascertained (schedule 3, section 10(1)(b) of the RTI Act)

44. The RTI Act provides that information is exempt if its disclosure could reasonably be expected to enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained.³⁶

45. Venue One and Venue Two submit:³⁷

It is plain to see that the information could reasonably be expected to enable the existence of [confidential] sources of information to be ascertained. Additionally, the information could enable the identity of officers, victims, suspects, security personnel, employees of the Licensee and witnesses, likely in many cases being confidential sources of information to be ascertained.

46. As noted at paragraph 11, the Information in Issue comprises the name and address of the Venues—it does not identify the source of information provided to QPS about the alleged glassing incidents. Disclosing the Information in Issue does not in itself enable individuals to be identified. There is nothing before me to suggest that the Information in Issue was sourced from confidential sources.

47. As it is not reasonable to expect disclosing the Information in Issue would enable the existence or identity of a confidential source of information to be ascertained, I am satisfied that the Information in Issue is not exempt under schedule 3, section 10(1)(b) of the RTI Act.

Endanger a person's life or physical safety or result in a person being subjected to a serious act of harassment or intimidation (schedule 3, section 10(1)(c) and (d) of the RTI Act)

48. The RTI Act provides that information is exempt if its disclosure could reasonably be expected to:

- endanger a person's life or physical safety;³⁸ or
- result in a person being subjected to a serious act of harassment or intimidation.³⁹

49. Venue One and Venue Two submit⁴⁰ that:

It could ... reasonably be expected that a person who has divulged information or taken action against a person of interest, whose identity is reasonably determinable from this information, may reasonably fear their physical safety is in danger. Such a concern would be well founded.

50. Venue One and Venue Two further contend⁴¹ that, 'for the same reasons' disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation.

51. For these exemptions to apply, the harm to the person must arise as a result of disclosure of the relevant information. The Venues have not provided any evidence about how disclosing the Information in Issue—that is, the location of alleged glassing

³⁶ Schedule 3, section 10(1)(b) of the RTI Act.

³⁷ Submissions dated 10 January 2012.

³⁸ Schedule 3, section 10(1)(c) of the RTI Act.

³⁹ Schedule 3, section 10(1)(d) of the RTI Act.

⁴⁰ Submissions dated 10 January 2012.

⁴¹ Submissions dated 10 January 2012.

incidents—could reasonably be expected to result in the necessary harm to individuals. This seems particularly improbable given disclosure of the Information in Issue does not enable any individuals to be identified.

52. I am therefore satisfied that the Information in Issue is not exempt under schedule 3, section 10(1)(c) or (d) of the RTI Act as there is no reasonable basis to expect disclosing the information would endanger a person's life or physical safety or result in a person being subjected to a serious act of harassment or intimidation.

Prejudice a person's fair trial or the impartial adjudication of a case (schedule 3, section 10(1)(e) of the RTI Act)

53. The RTI Act provides that information is exempt if its disclosure could reasonably be expected to prejudice a person's fair trial or the impartial adjudication of a case.⁴²
54. Venue One and Venue Two submit⁴³ that:

- the Information in Issue '*discloses specific incidents of an allegedly criminal nature which have not been determined by a court*'
- the information arguably allows alleged offenders and witnesses to be identified; and
- disclosure could reasonably be expected to '*impact adversely on the impartiality of jurors and/or judicial officers*'.

55. The Venues have not identified a particular proceeding they consider would be impacted by disclosure, nor have they provided any evidence to suggest that the incidents referred to in the Information in Issue are the subject of ongoing legal proceedings. Disclosing the Information in Issue in itself cannot be said to allow alleged offenders and witnesses to be identified—the only way the Information in Issue can be tentatively linked with particular individuals is if those individuals have already been named in publicly available material.
56. In any event, it is not reasonable to expect that jurors or judicial officers in a legal proceeding would be swayed in their views by the disclosure of information which merely states that glassing incidents occurred at particular venues—the Information in Issue does not include any additional information about the incidents such as details about the victims or the alleged offenders.
57. Accordingly, there is no reasonable basis to expect disclosing the Information in Issue would prejudice a person's fair trial or the impartial adjudication of a case. I am satisfied that the Information in Issue is not exempt under schedule 3, section 10(1)(e) of the RTI Act.

Prejudice methods, systems or procedures (schedule 3, section 10(1)(f) and(i) of the RTI Act)

58. The RTI Act provides that information is exempt if its disclosure could reasonably be expected to prejudice:
- the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;⁴⁴
 - or

⁴² Schedule 3, section 10(1)(e) of the RTI Act.

⁴³ Submissions dated 10 January 2012.

⁴⁴ Schedule 3, section 10(1)(f) of the RTI Act.

- a system or procedure for the protection of persons, property or the environment.⁴⁵

59. Venue One and Venue Two submit⁴⁶ that disclosure will:

- negatively impact on the relationship between licensed venues (and their staff) and QPS, as licensees will be less likely to contact QPS when there are incidents if they know records of incidents may be released to third parties; and
- prejudice the effectiveness of the Liquor Enforcement and Proactive Strategy (LEAPS) program because voluntary participants would no longer cooperate to as full an extent, thereby decreasing the accuracy of the information obtained by LEAPS and the effectiveness of its efforts to address liquor-related issues or predict trends.

60. The LEAPS program is a process whereby QPS officers must report incidents involving alcohol-related violence to the QPS LEAPS Coordinator, who in turn conveys details of the incident to the Office of Liquor and Gaming Regulation (OLGR).⁴⁷ OLGR then assesses the information as part of its regulatory activities. The QPS Commissioner's Circular states⁴⁸ that:

The purpose of recording these incidents is to enable the OLGR to identify any trends at licensed premises that may require proactive negotiations with the licensee of the premises aimed at curtailing potential significant incidents.

61. The QPS Commissioner's Circular goes on to note⁴⁹ that:

... past occurrences have shown that a succession of minor 'one-off' incidents may be regarded as precursors to significant incidents such as brawls and other behaviour resulting in injury to members of the public and officers.

62. I accept that the attendance of QPS officers at licensed venues, either at the request of the venues, or through other intelligence sources, and the subsequent reporting of incidents to OLGR through the LEAPS program constitutes:

- a lawful method for preventing, detecting and dealing with contraventions or possible contraventions of the law; and/or
- a system for the protection of persons and property.

63. In order for these exemptions to apply, however, I must be satisfied that disclosing the Information in Issue could reasonably be expected to *prejudice*⁵⁰ the method or system. The *Liquor Act 1992* (Qld) (**Liquor Act**) places a number of obligations on licensed venues in relation to safety and security. For example licensees are required to maintain a safe environment for their patrons and staff.⁵¹ OLGR's website notes that licensed venues should not be reluctant to call the police to respond to disturbances in or near their premises, noting that '*... the [Liquor] Act imposes an obligation on*

⁴⁵ Schedule 3, section 10(1)(i) of the RTI Act.

⁴⁶ Submissions dated 10 January 2012 and 22 August 2012.

⁴⁷ See the QPS Commissioner's Circular No 27/2010, available at:

<http://www.police.qld.gov.au/Resources/Internet/rti/policies/documents/Circular%2027-2010.pdf> (QPS Commissioner's Circular). The QPS Commissioner's Circular sets out police officers' powers and obligations with respect to Drink Safe Precincts and Banning Orders.

⁴⁸ See page 2 of the QPS Commissioner's Circular.

⁴⁹ See page 2 of the QPS Commissioner's Circular.

⁵⁰ Adopting the ordinary meaning of the term '*prejudice*': see *Daw and Queensland Rail* (Unreported, Queensland Information Commissioner, 24 November 2010) at [16].

⁵¹ Section 148A(4) of the Liquor Act.

*licensees to provide a safe environment for staff and patrons, and the failure to call police may breach that responsibility’.*⁵²

64. Glassing incidents can result in serious injuries to the victim. It is not reasonable to expect that staff of licensed venues would fail to contact QPS in the event of such incidents, particularly in light of the obligation on licensed venues with respect to the safety of their patrons and staff.
65. Even if licensed venues were to adopt such an approach, it is not necessary for QPS to source the type of information in the Information in Issue from the venue itself—victims, other witnesses to the incident and ambulance staff would continue to report glassing incidents to QPS.
66. Venue One and Venue Two also submit that disclosure would discourage the use of ‘Police Specials’⁵³ and the use of QPS officers generally in and around licensed venues. I do not consider that the broad cooperative relationship between QPS, Police Specials and licensees constitutes a method or procedure used by QPS for preventing, detecting, investigating and dealing with contraventions or possible contraventions of the law or a system for the protection of persons and property. In any event, the Venues have not provided any explanation as to how disclosure would prejudice this relationship. For the reasons set out at paragraphs 63 to 65, it is not reasonable to expect that disclosing the Information in Issue would prejudice the cooperative relationship between QPS, Police Specials and licensed venues.
67. Accordingly, I am satisfied the Information in Issue is not exempt under schedule 3, section 10(1)(f) or (i) of the RTI Act as there is no reasonable basis to expect disclosing the Information in Issue would prejudice the effectiveness of:
 - a lawful method for preventing, detecting and dealing with contraventions or possible contraventions of the law; or
 - a system for the protection of persons and property.

Information obtained, used or prepared for an investigation (schedule 3, section 10(4) and (5) of the RTI Act)

68. The RTI Act provides that information is exempt if it consists of information obtained, used or prepared:
 - for an investigation by a prescribed crime body or another agency, in the performance of the prescribed functions of the prescribed crime body;⁵⁴
 - for an investigation by the State Intelligence Group or the State Security Operations Group;⁵⁵ or
 - by Crime Stoppers Queensland Limited.⁵⁶
69. Venue One and Venue Two submit⁵⁷ that ‘*this is a real possibility*’ and OIC is compelled to check and ensure all or part of the Information in Issue has not been obtained, used or prepared by one of these bodies.

⁵² <http://www.olgr.qld.gov.au/resources/liquorDocs/glass-ban.shtml>.

⁵³ Venue One and Venue Two state that *Police Specials* are ‘off duty [QPS] officers engaged by the venue at its cost, and provide a very important service over and above security personnel’: submissions dated 10 January 2012.

⁵⁴ Schedule 3, section 10(4) of the RTI Act.

⁵⁵ Schedule 3, section 10(5)(a) and (b) of the RTI Act.

⁵⁶ Schedule 3, section 10(5)(c) of the RTI Act.

⁵⁷ Submissions dated 10 January 2012.

70. Venue One and Venue Two have not provided any evidence to support their contention that this exemption applies. QPS has not submitted that the Information in Issue is subject to either of these exemptions. There is nothing in the material before me to support the claims by Venue One and Venue Two.
71. Accordingly, I am satisfied that the Information in Issue is not exempt under schedule 3, section 10(4) or (5) of the RTI Act.

Would disclosure of the Information in Issue be, on balance, contrary to the public interest?

72. No, for the reasons that follow.

Relevant law

73. Another ground for refusing access is where disclosure would, on balance, be contrary to the public interest.⁵⁸
74. The RTI Act identifies many factors that may be relevant to deciding the balance of the public interest⁵⁹ and explains the steps that a decision-maker must take⁶⁰ in deciding the public interest as follows:
- 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.

Irrelevant factors

75. The Venues submit that:
- the Information in Issue might be misinterpreted if disclosed⁶¹
 - taken out of context, the Information in Issue may lead to a person assuming that the Venues have not complied with liquor laws⁶²
 - disclosing the Information in Issue would *'permit the Applicant seeking information for its own purposes (foreseeable in this case being to create an occasion of publicity), inquiring, unnecessarily, into the affairs of private citizens and organisations'*;⁶³ and
 - as the Applicant is a media organisation, it is reasonable to expect it will publish the Information in Issue.⁶⁴
76. Under section 49(3)(d) of the RTI Act, I must disregard whether disclosing the information could reasonably be expected to result in the applicant misunderstanding

⁵⁸ Sections 47(3)(b) and 49 of the RTI Act. 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.

⁵⁹ Schedule 4 of the RTI Act sets out the factors for deciding whether disclosing information would, on balance, be contrary to the public interest. This list of factors is not exhaustive, in other words, factors that are not listed may also be relevant.

⁶⁰ Section 49(3) of the RTI Act.

⁶¹ Venue Three's submission dated 15 June 2012 and Venue Two's submission dated 18 October 2013.

⁶² Venue Three's submission dated 15 June 2012.

⁶³ Venue One and Venue Two's submissions dated 22 August 2012.

⁶⁴ Venue Three's submission dated 15 June 2012.

or misinterpreting the document as the RTI Act states that this is an irrelevant factor.⁶⁵ An applicant is not required to provide reasons for requesting information under the RTI Act nor indicate what they intend to do with the information.⁶⁶ The RTI Act also provides that it is irrelevant to consider whether disclosing the information could reasonably be expected to result in mischievous conduct by the applicant.⁶⁷

77. To the extent any of the Venues' submissions relate to irrelevant factors, I have not taken them into account in balancing the public interest in disclosure. However, when considering the possible harm or prejudice that may result from disclosing the Information in Issue, I have assessed it as though the Information in Issue would be made publicly available.

Factors favouring disclosure

78. I consider it is necessary to outline the context in which the Information in Issue was gathered to properly balance the public interest.
79. In 2009, the Queensland Government announced the establishment of a Parliamentary inquiry into alcohol-related violence. The then Premier stated that the *'Government will crack down on the use of glass in high risk, problem venues across the state'*.⁶⁸ Amendments to the Liquor Act came into force in late 2009. These amendments enabled the banning of glass in licensed premises designated as *'high risk'*.⁶⁹ The relevant provisions of the Liquor Act provide that:
- a venue may be classified as high risk if the Commissioner of OLGR is satisfied that one or more glassings have happened at the premises in the year prior to the notice designating the venue as high risk;⁷⁰ and
 - the OLGR Commissioner may ask the QPS Commissioner for the information OLGR requires to decide whether to classify a venue as high risk and the QPS Commissioner must provide such information.⁷¹
80. OLGR's website lists those venues currently designated as high risk.⁷²

Promote open discussion of public affairs and enhance government's accountability

81. If disclosing information could reasonably be expected to promote open discussion of public affairs and enhance the government's accountability, a factor favouring disclosure will arise for consideration.⁷³
82. The Information in Issue comprises a high level summary of glassing incidents at particular licensed venues between 2008 and 2010. The Information in Issue therefore covers the period immediately before and after the glassing reforms to the Liquor Act came into force. I consider disclosing the Information in Issue would enhance government's accountability by providing information about the number of glassing

⁶⁵ Schedule 4, part 1, item 2 of the RTI Act.

⁶⁶ *CH32GI and Department of Justice and Attorney-General; Third Parties* (Unreported, Queensland Information Commissioner, 22 November 2012) at [44].

⁶⁷ Schedule 4, part 1, item 3 of the RTI Act.

⁶⁸ *'Glassing and bans on glassware under Queensland's Liquor Act 1992'*, Queensland Parliamentary Library, at page 1: available at

<http://www.parliament.qld.gov.au/documents/explore/ResearchPublications/ResearchBriefs/2010/eRBR201007.PDF>.

⁶⁹ See part 4, division 9 of the Liquor Act.

⁷⁰ Sections 96 and 97 of the Liquor Act.

⁷¹ Section 99G of the Liquor Act.

⁷² <http://www.olgr.qld.gov.au/resources/liquorDocs/highriskvenuessection97.shtml>

⁷³ Schedule 4, part 2, item 1 of the RTI Act.

incidents reported to have occurred at particular licensed venues. Furthermore, disclosure would enable the public to examine historical data about the reported number of glassing incidents against, for example, the list of current high risk venues to assess the effectiveness of the reforms. Accordingly, I consider this factor favouring disclosure is relevant.

83. I consider the occurrence of glassing incidents at licensed premises, and the response by the Queensland Government to this issue, is a matter of significant public interest. I consider this factor favouring disclosure warrants significant weight.

Contribute to positive and informed debate on important issues or matters of serious interest

84. The significant impact of alcohol-related violence, and glassing incidents more specifically, is well documented.⁷⁴ I consider the reforms implemented by the Queensland Government in response to this issue are matters of serious interest to the public.
85. Disclosing the Information in Issue could reasonably be expected to contribute to positive and informed debate on these issues⁷⁵ by enabling the public to examine the nature and frequency of glassing incidents reported to QPS immediately before and after the legislative reforms came into force. I consider this public interest factor favouring disclosure warrants significant weight.

Safe, informed and competitive markets

86. I have previously found a public interest in having safe, informed and competitive markets.⁷⁶ As noted at paragraph 63, licensed venues must comply with the conditions, responsibilities and obligations of their respective licences, including the obligation to provide a safe environment for patrons and staff.
87. Venue One and Venue Two submit⁷⁷ disclosing the Information in Issue would not assist the public to make more informed choices about the safety of particular venues as it is not provided in any context—for example, a comparison between all licensed venues in the area. They also submit that the Information in Issue is no longer current. The Applicant sought access to information about those venues where a certain number of glassing incidents had been reported over a particular time period. Six venues fell within this range over the particular time period, three of which have agreed to disclosure of their information. Disclosing information within this scope would enable the public to identify those venues that, at relevant times, had experienced a higher incidence of glassing attacks.
88. The Information in Issue was created by QPS officers who responded to reports of glassing incidents at licensed venues. Disclosing this information will enable patrons to make a more informed decision about their choice of venue by providing some

⁷⁴ See, for example, the report from the Law, Justice and Safety Committee, 'Inquiry into Alcohol-Related Violence – Final Report', Report No 74, March 2010 (available at <http://www.parliament.qld.gov.au/documents/TableOffice/TabledPapers/2010/5310T1903.pdf>), as well as 'Man blinded in Queensland pub glassing attack', Herald Sun, available at <http://www.heraldsun.com.au/news/breaking-news/man-blinded-in-queensland-pub-glassing-attack/story-e6frf7jx-1226078605862>; 'Glassing victim fought for life', Sunshine Coast Daily, available at <http://www.sunshinecoastdaily.com.au/news/fight-of-his-life-spurs-crusade-to-cut-glass/459780/>.

⁷⁵ Giving rise to the public interest factor favouring disclosure in schedule 4, part 2, item 2 of the RTI Act.

⁷⁶ *Seven Network (Operations) Limited and Redland City Council; Third Party* (Unreported, Queensland Information Commissioner, 30 June 2011) at [33]-[45].

⁷⁷ Submissions dated 22 August 2012.

information about the safety of particular venues. Accordingly, I consider this factor favouring disclosure is relevant.

89. However, I acknowledge that the age of the information significantly reduces the public interest with respect to informing the public about safety risks. In addition, the safety of a venue is only one of many factors that a person is likely to consider in determining which venue to attend. Accordingly, I afford this factor only minimal weight.

Other considerations

90. Venue One and Venue Two submit⁷⁸ that the incidents referred to within the Information in Issue are '*alleged and unsubstantiated, untested*'. Venue Three submits⁷⁹ that the public interest favouring disclosure is '*eroded fundamentally when the disclosure in question is of information which is incorrect or unsubstantiated*'.
91. The Venues have not provided any evidence to support this claim about the integrity of the Information in Issue and there is nothing before me to suggest that the Spreadsheet is an inaccurate record of the glassing incidents reported to or observed by QPS. I acknowledge the Information in Issue represents QPS' recording of incidents reported to it, rather than a definitive account of all glassing incidents. I also acknowledge that the Information in Issue does not disclose, for example, the Venues' response to the incidents or whether any further action was taken by QPS in relation to these incidents. However, the public interest in disclosing the Information in Issue arises not from it comprising a definitive account of the incidents but rather, by demonstrating the number of glassing incidents recorded by QPS over the relevant period.
92. Venue One and Venue Two submit⁸⁰ that the Information in Issue represents an insignificant incident rate as against total patronage and accordingly, is not in the public interest to disclose. As noted at paragraphs 87 and 88, there is a public interest in enabling the public to identify those venues that had experienced a higher incidence of glassing attacks, and to examine the nature and frequency of glassing incidents reported to QPS. I do not consider the public interest is reduced simply because the Information in Issue does not include other information such as patron attendance rates.
93. I have taken into account the age of the Information in Issue with respect to the public interest in safe, informed and competitive markets at paragraph 89. I have also considered whether the age of the Information in Issue reduces the weight to be afforded to the other public interest factors favouring disclosure identified above. The time period covered by the Information in Issue coincides with the period immediately prior to and following implementation of the Queensland Government's reforms to the Liquor Act. I am satisfied there remains a significant public interest in disclosing information from this time period as it will enable the public to assess the need for, and the effectiveness of, the Queensland Government's reforms on this issue.

⁷⁸ Submissions dated 22 August 2012.

⁷⁹ Submission dated 15 June 2012.

⁸⁰ Submissions dated 10 January 2012.

Factors favouring nondisclosure

Disclosure is prohibited by an Act

94. A factor favouring nondisclosure will arise where an Act prohibits disclosure of the information.⁸¹ Section 48 of the Liquor Act provides:

48 Preservation of confidentiality

- (1) *Subject to subsection (2), a person who is engaged, or has been engaged, in giving effect to this Act must not make a record of, or directly or indirectly disclose, information about the affairs of another person gathered in the course of administration of this Act.*

Maximum penalty—35 penalty units.

- (2) *Subsection (1) does not apply to—*
- (a) disclosing information in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or*
 - (b) disclosing information in the register; or*
 - (c) disclosing information about the status of an application required to be advertised under section 118(1); or*
 - (d) disclosing information about the status of an application to the tribunal for a review and the names of the parties to the review; or*
 - (e) doing anything for the purposes of this Act.*

95. While I consider it likely that the primary purpose for QPS to gather the Information in Issue was to investigate alleged criminal offences, I also note that the QPS Commissioner is required to convey information about glassing incidents to OLGR at OLGR's request for the purpose of OLGR determining high risk venues.⁸² Accordingly, I consider the Information in Issue may have been gathered by QPS officers for the purpose of giving effect to the Liquor Act. I am therefore satisfied that section 48 of the Liquor Act would generally prohibit disclosure of the Information in Issue and this factor favouring nondisclosure arises for consideration.

96. It is then necessary to consider the weight to be afforded to this public interest factor. Venue Two submits⁸³ that this factor should be given significant weight as:

In drafting the Liquor Act parliament has turned its mind to the issue of disclosure of such information and consciously deemed it was necessary to include an express provision in the Liquor Act prohibiting the disclosure of such information.

97. Officers of the agency administering the Liquor Act have access to a wide range of information, some of which is particularly sensitive—for example, individuals' criminal history checks. Section 48 of the Liquor Act is, in my view, a standard confidentiality provision included in legislation to prevent the indiscriminate disclosure of information which an agency officer may have access to in the course of their duties. It is not, however, a blanket prohibition on disclosure. The Liquor Act still authorises disclosure of information in a range of specific circumstances including, for example, doing anything for the purposes of the Liquor Act or producing documents in compliance with a lawful process requiring production of documents.

⁸¹ Schedule 4, part 3, item 22 of the RTI Act.

⁸² Section 99G of the Liquor Act.

⁸³ Submission dated 19 July 2013.

98. This provision must be balanced against the express intention of the RTI Act—a later Act—to override provisions in other Acts prohibiting the disclosure of information.⁸⁴ Parliament did not include information gathered under the Liquor Act in schedule 3, section 12 of the RTI Act, which specifically exempts information the disclosure of which is prohibited under several listed Acts. Accordingly, while I consider this factor is relevant, it warrants only moderate weight.

Prejudice the business affairs of entities

99. The RTI Act provides that a factor favouring nondisclosure will arise if disclosing information could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of entities.⁸⁵ In most instances, the question of whether disclosure of information could reasonably be expected to prejudice business affairs will turn on whether the information is capable of causing competitive harm to an entity.⁸⁶
100. Venue One and Venue Two submit⁸⁷ that disclosing the Information in Issue could lead to decreased patronage and have financial implications for their venues. QPS also contends⁸⁸ that disclosing the Information in Issue could prejudice the Venues' business affairs.
101. Venue Three submits⁸⁹ that the prejudice to its business affairs would be serious as people reviewing the information may form the view that it has not complied with liquor laws, and notes that it disputes some of the incidents. I acknowledge that some of these incidents may have formed part of the material relied on for regulatory action against Venue Three. However, the Information in Issue does not disclose this—it merely comprises a record created by QPS of alleged glassing incidents.
102. Venue Two also submits⁹⁰ that this factor favouring nondisclosure warrants significant weight as disclosure would cause '*long-term adverse financial implications for* Venue Two.
103. I accept that disclosing the Information in Issue could reasonably be expected to prejudice the Venues' business affairs by damaging their reputations and deterring some existing or potential patrons from visiting these Venues.
104. However, I consider members of the public are generally aware that liquor-related incidents occur in many licensed venues and still choose to attend the venues. Glassing incidents generally attract significant publicity when they occur. OIC was able to readily locate media reports relating to glassing incidents at a number of Queensland licensed venues.⁹¹ As noted at paragraph 89, the perceived safety of a venue, based on its history of alcohol-related incidents of violence, is only one factor of many considered by persons when selecting a venue to attend.
105. The Information in Issue is also somewhat dated. This reduces the likely impact of disclosure on the Venues' business affairs as the public will recognise that there may

⁸⁴ Section 6 of the RTI Act.

⁸⁵ Schedule 4, part 3, item 2 of the RTI Act.

⁸⁶ *Kalinga Woolloowin Residents Association Inc and Brisbane City Council; City North Infrastructure Pty Ltd; Treasury Department* (Unreported, Queensland Information Commissioner, 9 May 2012) at [89].

⁸⁷ Venue Two's submissions dated 22 August 2012, 19 July 2013 and 18 October 2013; and Venue One's submission dated 22 August 2012.

⁸⁸ In its decision dated 29 July 2011.

⁸⁹ Submission dated 15 June 2012.

⁹⁰ Submission dated 18 October 2013.

⁹¹ In online searches conducted on 30 July 2013, 5 September 2013 and 25 November 2013.

have been significant changes to the Venues, their management and their practices since the time of the relevant incidents in 2008 to 2010. The public is already able to view the current list of high risk venues, as designated by OLGR, online.

106. Accordingly, having taken into account the above considerations, I consider this factor favouring nondisclosure warrants moderate weight.

Prejudice regulatory proceedings or impede the administration of justice

107. In June 2012, Venue Three submitted⁹² that some of the incidents outlined in the Information in Issue were the subject of proposed ‘disciplinary’ action by OLGR, and that disclosure may prejudice that action. Venue One and Venue Two also submit⁹³ that disclosure could reasonably be expected to impede the administration of justice generally or for a person⁹⁴ but provide no submissions in support of this claim.
108. I have therefore considered whether disclosing the Information in Issue could reasonably be expected to prejudice any regulatory action or have an adverse impact on the administration of justice.
109. The type of regulatory action referred to by Venue Three would be conducted by officers of OLGR or other regulatory bodies, and potentially considered on appeal or review by members of QCAT or judicial officers. It is not reasonable to expect that such officers would be swayed in their views by the disclosure of information which merely states that glassing incidents occurred at particular venues. I also note that the Venues would be given the opportunity through relevant regulatory processes or judicial proceedings to present their account of events, including any exculpatory material.
110. For these reasons, I am satisfied that disclosure could not reasonably be expected to impede the administration of justice, either generally or specifically for the Venues, or prejudice regulatory action taken by OLGR.

Prejudice a deliberative process of government

111. The RTI Act recognises that:
- disclosing information could reasonably be expected to cause a public interest harm through disclosure of an opinion, advice or recommendation that has been obtained, prepared or recorded or a consultation or deliberation that has taken place, in the course of, or for, the deliberative processes involved in the functions of government (**harm factor**);⁹⁵ and
 - a factor favouring nondisclosure will arise where disclosing information could reasonably be expected to prejudice a deliberative process of government (**prejudice factor**).⁹⁶
112. The Information in Issue does not comprise:
- an opinion, advice or recommendation; or
 - a consultation or deliberation that has taken place,

⁹² Submission dated 15 June 2012.

⁹³ Submissions dated 10 January 2012.

⁹⁴ Potentially giving rise to the factors favouring nondisclosure in schedule 4, part 3, items 8 and 9 of the RTI Act.

⁹⁵ Schedule 4, part 4, section 4 of the RTI Act.

⁹⁶ Schedule 4, part 3, item 20 of the RTI Act.

and accordingly the harm factor does not apply.

113. Venue Three submits⁹⁷ that disclosure would prejudice a deliberative process of government, namely *'the current proposed disciplinary action being imposed by'* OLGR. However, as I have noted above at paragraphs 109 to 110, I am not satisfied disclosure of the Information in Issue would prejudice such a regulatory process.
114. Venue Three further submits⁹⁸ that disclosure would cause:
- disruption to OLGR's objectives and functions as contained in the Liquor Act; and
 - *'premature and unnecessary debate, concern and confusion in the community to an extent that would be contrary to the public interest'*.
115. It is not enough for a party objecting to disclosure to simply assert that disclosure will result in some kind of adverse consequence. The prejudice factor requires a reasonable expectation of prejudice to the relevant deliberative process.⁹⁹
116. It is not clear how disclosure could reasonably be expected to disrupt OLGR's functions or objectives. There is no evidence before me to suggest that disclosing the Information in Issue could reasonably be expected to cause *'premature and unnecessary debate'*.
117. Accordingly, I am satisfied that the prejudice factor is also not relevant for consideration in this review.

Prejudice the fair treatment of individuals

118. The RTI Act provides that a factor favouring nondisclosure will arise where:
- disclosure of information could reasonably be expected to prejudice the fair treatment of individuals; and
 - the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.¹⁰⁰
119. Venue Three submits¹⁰¹ that the Information in Issue consists of unsubstantiated allegations of *'liquor incidents suggestively caused by non compliance misconduct and unlawful, negligent or improper conduct'* and that its publication is likely to *'negatively affect the attitude of numerous persons including other regulatory authorities in their dealings with [Venue Three] and its staff'*. Venue Three further contends¹⁰² that if it is *'unfairly and inaccurately'* portrayed as habitually non-compliant with liquor laws, compliance officers from various agencies may attend Venue Three's premises more frequently in the future, resulting in *'[o]verzealousness in compliance activity'*. Venue One and Venue Two also submit¹⁰³ this factor is relevant but provide no submissions to support this claim.
120. I accept that the Information in Issue comprises allegations about unlawful conduct (such as assault). There is no evidence before me to suggest that all of the allegations

⁹⁷ Submission dated 15 June 2012.

⁹⁸ Submission dated 15 June 2012.

⁹⁹ *Abbot and The University of Queensland* (Unreported, Queensland Information Commissioner, 16 October 2012) at [24].

¹⁰⁰ Schedule 4, part 3, item 6 of the RTI Act.

¹⁰¹ Submission dated 15 June 2012.

¹⁰² Submission dated 15 June 2012.

¹⁰³ Submissions dated 10 January 2012.

have been the subject of court proceedings. On that basis, I consider the allegations may remain unsubstantiated.

121. However, in order for this factor favouring nondisclosure to arise, I must also be satisfied that disclosure could reasonably be expected to prejudice the fair treatment of individuals. As already noted, no individuals are named in the Information in Issue. Venue Three submits the prejudice would arise through the impact of increased regulatory or compliance activity on its staff. The Venues, as licensed premises, are required to maintain a safe environment for patrons and staff, and it is legitimate for the Venues to be subject to oversight by regulatory agencies. Increased regulatory or compliance activity by government agencies, acting within the law, cannot be said to prejudice the *fair treatment* of a venue's staff.
122. Venue Three refers¹⁰⁴ to the Law, Justice and Safety Committee's inquiry into alcohol-related violence,¹⁰⁵ which it submits followed The Courier Mail's '*Punch Drunk*' series of articles. I do not consider a broad government inquiry into an issue of serious public interest, such as alcohol-related violence, can be said to *prejudice* an individual's *fair treatment*. There is nothing before me to suggest that the inquiry targeted particular individuals or businesses. Moreover, if the Parliamentary inquiry was prompted by media articles, this demonstrates that disclosing this type of information can advance the public interest by promoting scrutiny into serious issues of importance to the public.
123. Accordingly, I consider this factor favouring nondisclosure is not relevant in the circumstances of this review.

Prejudice security, law enforcement or public safety

124. Venue Three submits¹⁰⁶ that disclosure could reasonably be expected to prejudice security, law enforcement or public safety by creating the perception that its premises has poor security, thereby attracting patrons who may seek to take advantage of this situation and '*misbehave*'.¹⁰⁷
125. A risk to public safety could only arise through disclosure if the security arrangements at the Venues were in fact inadequate—there is no evidence before me to suggest that is the case. In any event, the Information in Issue does not include details of the security arrangements in place at the Venues or any information as to the circumstances of the alleged glassing incidents. Accordingly, I do not consider it reasonable to expect that disclosure would enable patrons to prejudice security or public safety.
126. As there is no evidence before me to suggest that disclosure would prejudice security, law enforcement or public safety, I am satisfied this factor favouring nondisclosure is not relevant.

¹⁰⁴ In its submissions dated 15 June 2012.

¹⁰⁵ <http://www.parliament.qld.gov.au/documents/TableOffice/TabledPapers/2010/5310T1903.pdf>.

¹⁰⁶ Submissions dated 15 December 2011.

¹⁰⁷ Potentially giving rise to the factor favouring nondisclosure in schedule 4, part 3, item 7 of the RTI Act. Venue One and Venue Two also submit this factor is relevant in submissions dated 10 January 2012 but provide no submissions to support this claim.

Disclosure could reasonably be expected to prejudice the flow of information to QPS or prejudice an agency's ability to obtain confidential information

127. Venue One and Venue Two submit¹⁰⁸ that *'licensees will not freely communicate with QPS if they know all records of incidents will be released to third parties'*. Accordingly, I have considered whether disclosure could reasonably be expected to prejudice the flow of information to QPS or prejudice QPS' ability to obtain confidential information in the future.¹⁰⁹
128. For the reasons set out at paragraphs 63 to 65 above, I do not consider it reasonable to expect that disclosing the Information in Issue would prejudice the flow of information to QPS in the future. Accordingly, I am satisfied the factor favouring nondisclosure in schedule 4, part 3, item 13 of the RTI Act does not arise for consideration in this review.
129. There is no evidence before me to suggest the Information in Issue was provided to QPS on a confidential basis. For this reason, and for the reasons set out at paragraphs 63 to 65 above, I do not consider it reasonable to expect that disclosure would prejudice QPS' ability to obtain confidential information in the future and therefore the factor favouring nondisclosure in schedule 4, part 3, item 16 is also not relevant in the circumstances of this review.

Public interest harm caused if disclosure would disclose personal information of another person

130. Venue One and Venue Two submit¹¹⁰ that the Information in Issue comprises the personal information of QPS officers, their venues, victims, alleged offenders, security personnel and the venues' staff. If disclosing the Information in Issue would disclose the personal information of a person, a public interest harm factor will arise.¹¹¹
131. Personal information, for the purposes of the RTI Act,¹¹² is *'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'*.¹¹³ The Information in Issue comprises the address, and in some instances, the name, of the Venues. The Acts Interpretation Act defines an *individual* as a natural person.¹¹⁴ As the Venues are not natural persons, I do not consider information about the Venues is 'personal information'. As I have noted at paragraphs 30 to 32, no individuals are identifiable through disclosure of the Information in Issue, nor do I consider individuals' identities can reasonably be ascertained from the Information in Issue.
132. As the Information in Issue does not comprise the personal information of any individual, this public interest harm factor is not relevant for consideration.

Balancing the relevant public interest factors

133. There are clear public interest factors in favour of disclosing the Information in Issue. Alcohol-related violence in and around licensed venues is a serious issue of significant

¹⁰⁸ Submissions dated 10 January 2012.

¹⁰⁹ Schedule 4, part 3, items 13 and 16 of the RTI Act.

¹¹⁰ Submissions dated 10 January 2012.

¹¹¹ Schedule 4, part 4, section 6 of the RTI Act.

¹¹² Section 10 and schedule 6 of the RTI Act.

¹¹³ Section 12 of the *Information Privacy Act 2009* (Qld).

¹¹⁴ Section 36 and schedule 1 of the Acts Interpretation Act.

public interest. The Queensland Government has implemented significant reforms to the Liquor Act to reduce the incidents of glassing at licensed venues. I consider disclosing the Information in Issue could reasonably be expected to enhance government's accountability by enabling the public to scrutinise the need for, and the effectiveness of, these reforms, thereby contributing to positive and informed debate about these issues. I consider these factors favouring disclosure warrant significant weight. I also consider there is a public interest in enabling patrons to make more informed decisions about the safety of particular venues, however, I consider this warrants only minimal weight in the circumstances of this review.

134. These factors must be weighed against the potential prejudice to the Venues' business affairs and the fact that disclosure of the Information in Issue is prohibited by the Liquor Act. However, for the reasons outlined above, I consider these factors warrant only moderate weight and, in the circumstances of this review, are outweighed by the significant public interest favouring disclosure.
135. Accordingly, for the reasons set out above, I am satisfied that disclosing the Information in Issue would not, on balance, be contrary to the public interest.

DECISION

136. I set aside QPS' decision to refuse access to the Information in Issue and find that:
- the Information in Issue does not comprise exempt information under sections 47(3)(a) and 48 of the RTI Act; and
 - disclosure of the Information in Issue would not, on balance, be contrary to the public interest under sections 47(3)(b) and 49 of the RTI Act.
137. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

J S Mead
Right to Information Commissioner

Date: 5 December 2013

APPENDIX

Significant procedural steps

Date	Event
24 May 2011	QPS received the Applicant's access application.
29 July 2011	QPS issued its decision to the Applicant, deciding to refuse access to some information on the basis that its disclosure would, on balance, be contrary to public interest.
8 August 2011	OIC received the Applicant's application for external review.
25 August 2011	OIC advised the Applicant and QPS that the application had been accepted for review.
5 September 2011	OIC received a copy of documents relevant to the review from QPS.
14 September 2011	The Applicant agreed to narrow the scope of the application.
5 October 2011	OIC received a submission from the Applicant.
2 November 2011	The Applicant agreed to further narrow the scope of the application to information identifying licensed premises where four or more glassing incidents had occurred in at least one of the years specified, that is, 2008, 2009 or 2010. OIC received a submission from the Applicant.
5 December 2011	OIC consulted with six licensed premises to obtain their views on disclosure. OIC invited the licensed premises to provide submissions setting out whether they wished to participate in this external review as third parties and, if so, to outline the reasons for objecting to disclosure by 19 December 2011. OIC advised that if no response was received, it would proceed on the basis that the licensed premises did not object to the information being disclosed.
15 December 2011	Venue One and Venue Two applied to participate in the external review and requested an extension of time to provide a submission in support of their objections to disclosure.
15 December 2011	Venue Three applied to participate in the external review and provided a submission in support of its objection to disclosure.
16 December 2011	OIC granted Venue One and Venue Two an extension of time to provide a submission in support of their objection to disclosure.
10 January 2012	OIC received submissions from Venue One and Venue Two.
23 January 2012	The Applicant provided a verbal submission to OIC.
22 May 2012	OIC conveyed a verbal preliminary view to QPS that disclosure of the Information in Issue would not, on balance, be contrary to the public interest.
23 May 2012	QPS advised OIC that it continued to object to the disclosure of the Information in Issue and did not wish to make further submissions in support of its case.
1 June 2012	OIC conveyed to Venue Three the preliminary view that disclosure of the Information in Issue relating to Venue Three would not, on balance, be contrary to public interest. OIC invited Venue Three to provide a submission by 15 June 2012 if it did not accept the preliminary view.
15 June 2012	OIC received a submission from Venue Three objecting to disclosure.
24 July 2012	OIC conveyed to Venue One and Venue Two the preliminary view that disclosure of the Information in Issue relating to their venues would not, on balance, be contrary to public interest. OIC invited Venue One and Venue Two to provide submissions by 7 August 2012 if they did not accept the preliminary view.

3 August 2012	Venue One and Venue Two requested an extension of time to provide submissions in response to the preliminary view.
6 August 2012	OIC granted Venue One and Venue Two the extension of time.
22 August 2012	OIC received submissions from Venue One and Venue Two.
4 September 2012	<p>OIC wrote to QPS seeking confirmation that QPS:</p> <ul style="list-style-type: none"> • did not object to disclosing information relating to those venues that had not objected to disclosure; and • continued to object to disclosure of the information relating to Venue One, Venue Two and Venue Three. <p>OIC asked QPS to provide a submission setting out the grounds for QPS' objection by 18 September 2012.</p>
13 September 2012	<p>QPS provided a submission confirming that it:</p> <ul style="list-style-type: none"> • did not object to disclosure of the information relating to those venues that had not objected to disclosure; and • did object to the disclosure of the information relating to the Venues.
8 November 2012	OIC made a written decision setting aside QPS' decision and substituting a different decision. OIC gave a copy of the decision to QPS, the Applicant, Venue One, Venue Two and Venue Three.
29 November 2012	OIC received a copy of an application to QCAT made by Venue Three.
30 November 2012	OIC notified QPS that OIC had received notice that Venue Three had filed a notice of appeal in relation to OIC's decision.
10 December 2012	OIC received a sealed copy of Venue Three's application to QCAT.
14 June 2013	OIC received a copy of QCAT's decision in the appeal.
1 July 2013	OIC notified QPS, the Applicant and the Venues that OIC had reopened the external review. OIC invited QPS, the Applicant and the Venues to make any further submissions on the issues in the external review by 15 July 2013.
8 July 2013	OIC asked QPS to provide a copy of the Information in Issue.
10 July 2013	QPS provided the requested documents to OIC.
15 July 2013	<p>Venue One advised OIC that it did not wish to make any further submissions in relation to the external review and confirmed that OIC should take into account its previously lodged submissions of 10 January 2012 and 22 August 2012.</p> <p>Venue Two requested an extension of time to provide further submissions and confirmed that OIC should take into account its previously lodged submissions of 10 January 2012 and 22 August 2012. OIC granted the extension.</p>
19 July 2013	OIC received a submission from Venue Two objecting to disclosure.
19 September 2013	OIC conveyed a preliminary view to QPS and the Venues, and invited QPS and the Venues to provide any final submissions by 4 October 2013 if they did not agree with the preliminary view. OIC advised Venue One and Venue Two that if OIC did not hear from them by 4 October 2013, OIC would take this to mean that they no longer wished to participate in the review. OIC advised QPS and Venue Three that if OIC did not hear from them by 4 October 2013, OIC would proceed to finalise this matter by issuing a decision.
3 October 2013	<p>Venue One advised OIC that it did not accept OIC's preliminary view but did not wish to lodge any further submissions.</p> <p>Venue Two advised OIC that it did not accept OIC's preliminary view and requested an extension of time to provide a submission in response to the preliminary view.</p>
4 October 2013	OIC granted Venue Two the extension of time.

	QPS advised OIC that it did not wish to provide any further submissions in relation to the external review and that it continued to rely upon the reasoning contained in its original decision dated 29 July 2011.
18 October 2013	OIC received a submission from Venue Two in response to OIC's preliminary view dated 19 September 2013.