

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-4638

Appeals PA23-00149 and PA23-00150

Cabinet Office

April 10, 2025

Summary: An individual requested records from the Premier's Office relating to the proposed Greenbelt project from January 2021 to October 2022. Cabinet Office located one responsive record. The individual appealed that decision, claiming additional responsive records ought to exist.

During the inquiry, Cabinet Office conducted another search and located additional responsive records.

In this order, the adjudicator finds the appellant provided evidence that a former member of Premier's Office staff has government records in their personal account. She asks Cabinet Office to request copies of responsive records from this former employee and other former Premier's Office staff who may also have government records in their personal accounts. Otherwise, the adjudicator finds Cabinet Office's search to have been reasonable.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, section 24.

Orders Considered: Orders PO-3304, PO-4449-I, PO-4505-F, and PO-4611-I.

Reports Considered: *Special Report on Changes to the Greenbelt*, Office of the Auditor General, August 2023; *Report of the Integrity Commissioner re: Minister of Municipal Affairs and Housing*, August 2023.

OVERVIEW:

[1] The appellant submitted two identical requests under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to Cabinet Office for the following records:

All documents, reports, notes, emails or other records that discuss or refer to a proposed removal from the Greenbelt of any of the lands subsequently proposed for removal from the Greenbelt in a notice posted to the environmental registry on November 4, 2022.

[2] For the first request, the appellant identified the timeframe of January 1, 2021 to June 2, 2022. For the second request, the appellant identified the timeframe of June 3, 2022 to October 24, 2022.

[3] The appellant's request relates to the Ontario government's decision to remove and develop lands from the Greenbelt. The government announced this plan on November 4, 2022 and subsequently reversed it. The decision-making process for the selection of land for removal from the Greenbelt has been the subject of two reports by independent officers of the Legislative Assembly of Ontario: a report of the Auditor General of Ontario¹ and a report of the Office of the Integrity Commissioner of Ontario.²

[4] Cabinet Office clarified the requests with the appellant. The appellant limited the search to records in the Premier's Office and excluded records relating to media monitoring. The Premier's Office is the political centre of government. Cabinet Office is, in essence, the Premier's ministry, providing the Premier and Cabinet with advice and analysis to assist the government achieve its priorities.

[5] The appellant and Cabinet Office discussed the search terms to be used in the search for records.³

[6] Cabinet Office issued a decision to the appellant advising it did not locate any records responsive to the appellant's first request. For the appellant's second request, Cabinet Office located one responsive record, a mandate letter. I removed the mandate letter from the scope of Appeal PA23-00150 during the inquiry with the appellant's consent because the responsive portions of the letter were publicly disclosed in the

¹ *Special Report on Changes to the Greenbelt*, published in August 2023 following an audit pursuant to the *Auditor General Act*, R.S.O. 1990, c. A.35. (the Auditor General's Report)

² *Report of the Integrity Commissioner re: Ministry of Municipal Affairs and Housing*, published in August 2023 following an investigation pursuant to the *Members' Integrity Act*, 1994, S.O. 1994, c. 38. (the Integrity Commissioner's Report)

³ This is the Boolean search string of terms used by Cabinet Office in conducting the original searches: "greenbelt" OR "oak ridges moraine" OR "duffins rouge agricultural preserve" OR "cherrywood" OR "11011 pine valley" OR "11861 mccowan" OR "12045 mccowan" OR "5474 19th ave" OR "10235 Highway 48" OR "10378 highway 48" OR "10541 highway 48" OR "10379 kennedy" OR "765 kingston" OR "775 kingston" OR "book road west" OR "331 fifty" OR "339 fifty."

Integrity Commissioner's Report.

[7] The appellant appealed Cabinet Office's decisions to the Information and Privacy Commissioner of Ontario (the IPC) claiming Cabinet Office did not conduct a reasonable search.

[8] As a mediated resolution was not reached, the appeal was transferred to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry. I began my inquiry by inviting Cabinet Office to submit representations in response to two separate Notices of Inquiry, one for each appeal. I then invited the appellant to submit representations. Both Cabinet Office and the appellant submitted representations.

[9] In December 2023, Cabinet Office issued a revised access decision granting the appellant partial access to an email record. The appellant confirmed he does not pursue access to the redacted portions of the email record.

[10] In March 2024, Cabinet Office requested that I place the appeals on hold pending additional searches it planned to conduct. Cabinet Office advised the Boolean search string it used initially may have caused some technical issues and decided to shorten the string into several segments. I placed the appeal files on a short hold pending Cabinet Office's additional search with the appellant's consent.

[11] In response to the appellant's request,⁴ Cabinet Office conducted additional searches of 29 Premier's Office staff email accounts and located over 9,000 potentially responsive records.

[12] Over a series of decision letters,⁵ Cabinet Office identified a total of six responsive records. Cabinet Office granted the appellant complete access to three of these records,⁶ and denied the appellant access to the other three emails.⁷ None of these records are at issue in these appeals.⁸

[13] The only issue to be decided in this order is whether Cabinet Office conducted a reasonable search for records responsive to the appellant's requests. Cabinet Office's decision letters and subsequent representations reveal that it conducted a single, comprehensive search for records that captures both timelines identified by the appellant. Given these circumstances, I decided to join Appeal PA23-00149 and Appeal PA23-00150 and continued with a single inquiry. Both Cabinet Office and the appellant submitted

⁴ Cabinet Office conducted a single set of searches that captured both timelines identified in the appellant's requests.

⁵ Dated March 21, April 5, June 12, July 12, August 2, and September 26, 2024.

⁶ Identified as an email dated October 17, 2022, a "response" dated October 17, 2022, and an email chain dated November 22, 2021.

⁷ Identified as emails dated June 10, June 28 and July 15, 2022.

⁸ The appellant did not appeal Cabinet Office's decisions to deny access to the emails it located during these additional searches.

further representations.⁹

[14] In the discussion that follows, I uphold Cabinet Office's search for records in its record holdings to be reasonable. However, I order Cabinet Office to request former staff members of the Premier's Office to search their personal accounts for responsive records.

DISCUSSION:

[15] The sole issue to be decided is whether Cabinet Office conducted a reasonable search for records relating to the "proposed removal from the Greenbelt of any of the lands subsequently proposed for removal from the Greenbelt."

[16] If a requester claims additional records exist beyond those found by the institution, the issue is whether the institution conducted a reasonable search for records as required by section 24 of the *Act*.¹⁰ If the IPC is satisfied the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[17] Although a requester will rarely be able to indicate precisely which records the institution has not identified, they must still provide a reasonable basis for concluding that such records exist.¹¹

[18] The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide sufficient evidence to show it made a reasonable effort to identify and locate responsive records.¹² Responsive records are records that are "reasonably related" to the request.¹³

[19] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.¹⁴ The IPC will order a further search if the institution does not provide enough evidence to show it made a reasonable effort to identify and locate all of the responsive records within its custody or control.¹⁵

Parties' representations

Cabinet Office's representations

[20] I invited Cabinet Office to provide submissions on the searches it conducted after

⁹ Representations were shared between the parties in accordance with the IPC's *Code of Procedure*.

¹⁰ Orders P-85, P-221 and PO-1954-I.

¹¹ Order MO-2246.

¹² Orders P-624 and PO-2559.

¹³ Order PO-2554.

¹⁴ Orders M-909, PO-2469 and PO-2592.

¹⁵ Order MO-2185.

it confirmed its second round of searches were completed in May 2024. I specifically asked Cabinet Office to provide information about the following:

- The accounts searched
- The search terms used and the forms in which they were used (i.e. whether each term was searched individually or as a group)
- The files searched (e.g. individual email accounts, whether personal email accounts were searched, whether archived/deleted emails were searched, physical files, electronic files or archives, etc.)
- Whether records may have been deleted and/or whether archived or potentially deleted records were searched

[21] Cabinet Office submits that it conducted a search for all records relating to the proposed removal of land from the Greenbelt. Cabinet Office submits this includes various individual staff accounts at the Premier's Office, using the sixteen search terms (identified above in footnote 3). Cabinet Office submits the appellant asked Cabinet Office to combine these terms into a single search string to reduce potential search fees. As such, Cabinet Office submits it used the single Boolean search string as provided by the appellant to conduct its initial search.

[22] However, Cabinet Office submits it conducted a "due diligence review" of the search results to figure out how its original searches failed to locate a record identified by the appellant during the inquiry. As a result of this review, Cabinet Office submits it discovered the single Boolean search string resulted in too many search terms being employed at once, affecting the efficacy of the search function of the Outlook system.

[23] Cabinet Office conducted additional searches using shortened Boolean strings and located additional responsive records. Cabinet Office confirmed it was able to locate the record the appellant identified during the inquiry that it did not locate in its original search.¹⁶ In addition to its representations, Cabinet Office provided an affidavit sworn by the Senior Manager of its FOI and Issues Unit which summarizes the searches conducted.

[24] Cabinet Office submits that it used eight Boolean strings to conduct the searches in the inbox and sent folders of 29 staff members of the Premier's Office for the timeframe of January 1, 2021 to October 24, 2022. Cabinet Office notes it included additional search terms not previously identified by the appellant to reflect the records located by the Ministry of Municipal Affairs and Housing in respect of other access requests concerning similar subject matter. Specifically, Cabinet Office conducted searches using the following Boolean strings:

¹⁶ This record is an email dated October 17, 2022, with a draft mandate letter attached.

1. "greenbelt" OR "oak ridges moraine" OR "duffins rouge agricultural preserve" OR "cherrywood"
2. "11011 pine valley" OR "11861 mccowan" OR "12045 mccowan" OR "5474 19th ave"
3. "10235 Highway 48" OR "10378 highway 48" OR "10541 highway 48" OR "10379 kennedy"
4. "Kingston Road" AND ("765" OR "775")
5. "331 fifty" OR "339 fifty"
6. "special project" OR "SP – GB" OR "GB" OR "special project – GB"
7. "Green Belt"
8. "G*"

[25] Cabinet Office submits the search for "G*" could not be completed because the asterisk is generally used as a wildcard symbol that broadens a search by finding variations of keywords. In this case, Cabinet Office submits that when using "G*" as a search term, any word beginning with G contained throughout an email was captured. This resulted in tens of thousands of records returned with no way to isolate which contain "G*" as a term.

[26] Cabinet Office conducted additional searches with the shortened Boolean strings for 29 accounts in the Premier's Office belonging to the following senior staff who Cabinet Office submits were most likely to have responsive records.

- Current Chief of Staff
- Deputy Chief of Staff, Issues Management and Legislative Affairs
- Former Chief of Staff
- Former Special Assistant to the Premier
- Former Principal Secretary
- Deputy Chief of Staff, Media, Stakeholder Relations and Forward Planning
- Deputy Chief of Staff, Strategic Communications
- Former Deputy Chief of Staff and Head of Policy
- Former Manager Stakeholder Relations

- Deputy Chief of Staff, HR Administration & Tour
- Premier of Ontario
- Former Director of Housing
- Former Executive Assistant to the Premier, former Advisor, Stakeholder Relations
- Former Executive Director, Stakeholder Relations
- Former Deputy Chief of Staff
- Former Executive Assistant to the Premier, current Director of Priority Initiatives
- Head of Priority Initiatives
- Former Deputy Chief of Staff
- Executive Director Media & Stakeholder Relations
- Former Policy Advisor
- Communications Advisor
- Senior Communications Strategist
- Former Senior Issues Manager
- Former Director of Policy
- Former Communications Strategist
- Communication Strategist
- Former Issues Manager
- Director, Transportation & Infrastructure Policy
- Former Director of Policy

[27] Cabinet Office submits these individuals' Outlook accounts, including the inbox, deleted, sent, and calendar entry folders were searched. Cabinet Office also searched current staff's computer hard drive, network drive, and physical documents. Cabinet Office submits the Premier's Office keeps physical records on an infrequent, individual basis and does not store any documents off-site.

[28] Cabinet Office also confirmed the current Chief of Staff at the Premier's office searched their personal email account. The Chief of Staff located an email relating to the

Greenbelt matter and this record was disclosed, in part, on December 22, 2023.

[29] Where an account holder was no longer an employee of the Premier's Office, Cabinet Office states its information technology group provided proxy access to Cabinet Office staff to conduct the searches on the former employee's behalf.

Appellant's representations

[30] The appellant takes the position that Cabinet Office did not conduct a reasonable search for responsive records. In representations submitted prior to Cabinet Office's additional searches, the appellant asserts the search terms provided to Cabinet Office were "offered as an 'example,' for illustrative purposes" and Cabinet Office should not have based its search solely on these terms. The appellant claims Cabinet Office ought to have ensured the terms it used to conduct the searches "would result in a reasonable search" and locate records that had not been located.

[31] The appellant submits when he clarified his request and provided examples of search terms, he noted that he "had no idea how the government referred to the Greenbelt initiative or these properties in their internal discussions, or how they organized their records." The appellant submits it was "up to [Cabinet Office] to determine which terms would yield a reasonable search." The appellant claims Cabinet Office's search was inappropriately limited to the search terms he provided as examples.

[32] The appellant refers to section 24(1)(b) of the *Act* which requires a requester to provide "sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record." The appellant submits the *Act* does not require him to provide the exact terms to be used in a search or design a search methodology that is compatible with an institution's record keeping systems.

[33] The appellant refers to Order PO-3304 which affirms the IPC's position that institutions should adopt a liberal interpretation of a request to best serve the purpose and spirit of the *Act*. The IPC also found that ambiguity in the request should be resolved in the requester's favour. The appellant submits Cabinet Office likely had sufficient detail about his request without requiring him to provide specific search terms given the sensitive and high priority nature of the Greenbelt matter. Further, given the investigations conducted by the Auditor General and the Integrity Commissioner, the appellant submits an experienced employee of Cabinet Office would have been "well aware" of the Greenbelt project and would have known what records would be responsive to the request.

[34] The appellant submits Cabinet Office did not provide evidence to show it consulted experienced employees to verify that the updated search methodology could be expected to capture all responsive records.

[35] The appellant states he received a large package of records from the Ministry of Municipal Affairs and Housing (the ministry) in January 2024 in response to a similar

access to information request made to the ministry. In his review of those records, the appellant noticed that government officials used code terms such as "Special Project" or "SP" when referring to the Greenbelt matter. The appellant submits the ministry's disclosure also revealed instances where government officials used the term "Greenbelt" or "GB" or "G*" when referring to the Greenbelt matter.

[36] The appellant acknowledges Cabinet Office's submission that it cannot search for records using the term "G*" because the asterisk is a special operator that could return all records with words beginning with G. The appellant submits this suggests government officials altered records to avoid being captured by FOI searches.

[37] The appellant further submits there is substantial evidence to support his belief that additional responsive records ought to exist, such as:

- There were multiple meetings to discuss the Greenbelt project that involved the ministry's then-chief of staff and the Premier's Office's chief of staff who was identified as "the decision maker in the Premier's Office" for the Greenbelt project
- Ministry employees have testified before the Standing Committee on Public Accounts¹⁷ that they believed the ministry's chief of staff received direction from the Premier's Office regarding the Greenbelt removal project
- The ministry's disclosure package from January 2024 included records that referred to "PO [Premier's Office] Decision Points", which suggests the Premier's Office should have records concerning Greenbelt properties
- The ministry's disclosure package also includes records that state "MO [Ministry Office] to confirm with PO" or documents that refer to "decision points" after recorded discussions between ministry staff and Premier's Office staff
- The ministry's disclosure package includes text messages sent by the ministry's chief of staff during a meeting with the Premier's chief of staff, according to the Premier's chief of staff's calendar. The appellant submits this suggests the Premier's chief of staff provided some direction to the ministry's chief of staff and any records of this discussion would be responsive to the appellant's request

[38] In addition, the appellant claims there is evidence demonstrating that staff in the Premier's Office, including the Premier, regularly used their personal accounts and devices when conducting government business. The appellant refers to the Auditor General's Report which noted,

... political staff received emails from lobbyists and other external parties on their personal email accounts that they then forwarded to their government email. Conversely, there were occasions when government emails were

¹⁷ [Standing Committee on Public Accounts Transcript May 6, 2024.](#)

forwarded by political staff from their government accounts to their personal accounts.¹⁸

[39] The appellant also refers to media reports in which the Premier admitted to “frequent and regular use of non-government devices to conduct government business”¹⁹ and the chief of staff at the Premier’s Office was found to rely on their personal email address to facilitate government-related communications.²⁰ With regard to the Premier’s Chief of Staff, the appellant submits they used multiple personal accounts for government business.

[40] Given these and other reports, the appellant submits there are reasonable grounds to believe there may be additional responsive records located on the personal accounts and devices of current and former Premier’s Office officials. The appellant submits Cabinet Office provided insufficient evidence to demonstrate it made reasonable efforts to obtain these records.

[41] Finally, the appellant raises the issue of record deletion. The appellant refers to the Auditor General’s Report, which found that “email correspondence relating to the undertaking to make changes to the Greenbelt was not exempt from the *Archives and Recordkeeping Act, 2006*”²¹ and should not have been deleted.”²² The appellant refers to Order PO-4449-I, in which the adjudicator ordered the ministry to take steps to secure the preservation and recovery of responsive records within its custody or control. The appellant notes Order PO-4505-F described the way in which the ministry preserved responsive records. The appellant submits Cabinet Office did not provide evidence to demonstrate it took similar steps to preserve and recover responsive records that may have been unlawfully deleted.

Cabinet Office’s reply representations

[42] Cabinet Office submits the use of the shorter Boolean search resolved the issue experienced when it used the longer Boolean search string. In this regard, Cabinet Office submits the search located over 9,000 potentially responsive records. Cabinet Office also notes the shorter search string located an email record that was previously identified by the appellant as being responsive.

[43] In addition, Cabinet Office submits that employees knowledgeable about the Greenbelt matter were asked to conduct searches for records responsive to this request. Specifically, Cabinet Office submits long-serving Premier’s Office staff with an understanding of the Greenbelt matter selected the individuals who would be subject to the search. Accordingly, Cabinet Office submits that the individuals whose accounts were

¹⁸ Page 67 of the Auditor General’s Report.

¹⁹ The appellant refers to this [article](#).

²⁰ The appellant refers to this [article](#)

²¹ S.O. 2006, c. 34, Sched. A.

²² Auditor General’s Report at page 68.

searched were current or former staff of the Premier's Office during the timeline of the request who may have had or have records pertaining to the access request.

[44] Cabinet Office asserts it did not limit the search to the terms identified by the appellant. Cabinet Office submits it did not unilaterally define the scope of the request but contacted the appellant and proposed nine search terms. The appellant then proposed additional terms. In addition, Cabinet Office submits its FOI unit provided a standard set of search instructions to the Premier's Office, including the mutually agreed upon Boolean search string and requested timeframe. Cabinet Office submits "staff were encouraged to undertake a liberal interpretation [of the access request], not just using the terms provided by the appellant."

[45] Furthermore, Cabinet Office submits it identified additional search terms based on records located by the ministry, which included "special project", "SP", "GB", and "Green Belt."²³

[46] With regard to personal accounts, Cabinet Office noted the Integrity Commissioner found that the Premier's Office was not involved in the process for the selection of the properties to be removed from the Greenbelt. Specifically, Cabinet Office refers to paragraph 546 of the Integrity Commissioner's Report which states,

[Public servants at the ministry] actually believed that [the ministry's former Chief of Staff] was filling a proxy role from the Premier's Office or, in one case, from Premier Ford himself. I find that [the ministry's former Chief of Staff] succeeded in this deception by dropping frequent references to meeting with staff of the Premier's Office as the selections were being put forward to ministry officials for consideration. The Premier's Office was kept in the dark by [the ministry's Chief of Staff] as to the process he drove for the selection of properties to be removed from the Greenbelt until very near the end before the briefing of the minister.

[47] Cabinet Office also refers to paragraph 563 of the Integrity Commissioner's Report, which states that, "[the ministry's former Chief of Staff] had a leading and almost exclusive role in selecting the properties to be removed."

[48] Cabinet Office advises that the government developed an attestation process regarding the use of personal email accounts for government business as part of the government's response to the recommendations of the Auditor General's report. Cabinet Office states this attestation process requires staff in Ministers' offices and the Premier's Office to attest to using only government systems and accounts for government business and to ensure any government records that may have been inadvertently received on a personal email account are transferred into the government system. This attestation also requires all political staff to transfer any government records that may be on personal

²³ Refer to paragraph 24 for the shortened search strings used; Cabinet Office is referring to search strings 6, 7, and 8, specifically.

accounts into government systems. Cabinet Office submits all staff in the Premier's office signed the attestation in March 2024. In addition, Cabinet Office submits that all Premier's Office staff are required to sign an annual attestation confirming that all public records will be saved into an appropriate shared repository, and all political staff will conduct government business on government accounts.

[49] Cabinet Office also notes the Premier's Office records were requested by and provided to the Auditor General in June 2023 as part of the Auditor General's investigation. Cabinet Office submits that a copy of the records sent to the Auditor General were securely preserved by the Information Technology Services (ITS) group in the Ministry of Public and Business Service Delivery and Procurement. Cabinet Office confirms its staff conducted a search of the records that were sent to the Auditor General in response to this request.

[50] Finally, Cabinet Office submits it is not aware of any evidence of deleted records, including inadvertent deletion. Cabinet Office confirmed it searched the deleted folders of the relevant email accounts during its searches. Cabinet Office also submits the Premier's Office follows record retention schedules developed in accordance with the requirements found in the *Archives and Recordkeeping Act, 2006*.

[51] Given the above, Cabinet Office submits it has taken appropriate steps relating to the preservation of records.

Appellant's sur-reply representations

[52] The appellant submits it is "simply impossible to believe that the Premier's Office did not discuss the Greenbelt project." As such, the appellant submits there should be records of these discussions.

[53] The appellant submits there is proof of additional records responsive to his request that were not located in Cabinet Office's original search, including email threads from November 2021 and October 2022. The appellant submits Cabinet Office issued several revised access decisions during this inquiry, but the only additional records he received are those he obtained through other means.

[54] The appellant also submits Premier's Office staff may not have adhered to Cabinet Office's policy requiring staff to transfer all records that may be on a personal account to their government accounts. For example, the appellant refers to a Teams meeting invitation from July 2022 that was sent to the personal account of the former Executive Director, Stakeholder Relations (the former Executive Director). The appellant states he obtained access to this record through another access request, but this record was not located by Cabinet Office. The appellant also refers to an entry from the Executive Director, Stakeholder Relations' government calendar from July 2022 that may be responsive to his request but was not located by Cabinet Office in response to this request. The appellant provided copies of both the Teams meeting invitation and

government calendar screen shot with his representations for my review.

[55] In addition, the appellant submits Cabinet Office did not provide evidence that IT professionals confirmed that the use of the shorter Boolean string had fully resolved the earlier technical issues.

[56] The appellant also submits Cabinet Office did not provide evidence that it adequately consulted experienced employees when designing the search methodology to verify it was reasonably likely to capture all responsive records. The appellant reiterates the Greenbelt project was a priority for the Ontario government and submits information about the Greenbelt project was "tightly controlled." The appellant submits there is evidence to suggest some government officials took steps that could frustrate a record search, such as using code terms such as "special project" or "G*" to refer to the Greenbelt project. The appellant claims there were experienced employees in the Premier's Office with direct knowledge of the Greenbelt discussions and how records of these discussions might have been kept and would have known what search methodology would capture all records responsive to his request. However, the appellant claims Cabinet Office did not provide evidence that such employees were adequately consulted when designing the search methodology, including which search terms to use and which accounts, devices and drives to search.

[57] The appellant submits he provided evidence that showed the Premier discussed the removal of the Greenbelt lands.²⁴ However, the appellant submits Cabinet Office did not provide evidence that it searched the Premier's government or personal accounts or devices.

[58] The appellant raises concerns regarding Cabinet Office's position that it does not need to search personal accounts due to the Integrity Commissioner's finding that the Premier's Office was not involved in the process of property selection. The appellant refers to paragraphs 546 and 563 of the Integrity Commissioner's Report, which were relied upon by Cabinet Office. The appellant submits these portions of the Integrity Commissioner's Report do not conclude that staff in the Premier's Office were not a part of discussions relating to the selection of lands to be removed from the Greenbelt.

[59] The appellant acknowledges Cabinet Office created an attestation process requiring political staff to transfer any government records that may be on personal accounts into government systems. However, the appellant submits there is no evidence that this policy was followed by Premier's Office staff. The appellant specifically refers to the Teams meeting invitation that was sent to the former Executive Director's personal account but was not located by Cabinet Office, thereby suggesting that records that were sent to personal accounts were not properly transferred to government accounts.

[60] The appellant reiterates a reasonable search should include the personal accounts

²⁴ See paragraph 37.

and devices of all relevant officials in the Premier's Office, including the Premier himself.

[61] Finally, the appellant acknowledges Cabinet Office took steps to preserve and recover responsive records that may have been deleted. However, the appellant submits Cabinet Office did not appear to take these steps with personal accounts or devices of Premier Office officials.

Further representations from Cabinet Office

[62] In September 2024, Cabinet Office issued a revised access decision. After reviewing over 9,000 records identified as potentially responsive, Cabinet Office only identified six records as responsive to the appellant's request. I asked Cabinet Office to explain how of over 9,000 records located, only six were found to be responsive.

[63] Cabinet Office submits there is no discrepancy with respect to the over 9,000 potentially responsive records it located, and the six records ultimately found to be responsive. Cabinet Office submits it used broad search terms to capture the wording of the appellant's request to the best of its ability.

[64] Cabinet Office submits it searched 29 staff accounts using broad search terms. In addition, Cabinet Office searched the records provided to the Auditor General. Cabinet Office submits that because the search was conducted on many "record holdings" (i.e. email accounts, physical documents, electronic documents) and the copy of records sent to the Auditor General using broad search terms, many records were found to be potentially responsive. Cabinet Office explains that if one of the search terms matched a term found in a record, it was deemed "potentially responsive." As such, the resulting potentially responsive records indicated there were records containing at least one of the search terms, not that the record was actually responsive to the appellant's request.

[65] Once the potentially responsive records were identified, Cabinet Office states they were "closely reviewed" by staff to determine their responsiveness to the request. However, Cabinet Office submits a record was only deemed to be responsive if it related to the subject matter of the request, which was the proposed removal of the Greenbelt lands. Cabinet Office submits it attempted to capture as many potentially responsive records as possible prior to reviewing and assessing which were truly relevant or responsive. Cabinet Office submits that upon review of all the records identified as potentially responsive, it determined only six records were truly responsive and issued the appropriate access decisions to the appellant.

Appellant's response

[66] I shared Cabinet Office's explanation with the appellant seeking his comments. In response, the appellant submits it "seems implausible" that Cabinet Office found only six responsive records out of the 9,000 potentially responsive records.

[67] The appellant reiterates his concern that Cabinet Office did not appear to attempt

to search the personal accounts or devices of staffers in the Premier's Office, including the Premier and his chief of staff, both of whom the appellant submits used their personal accounts or devices for conducting government business.

[68] The appellant maintains Cabinet Office did not conduct a reasonable search for responsive records.

Analysis and findings

[69] For the reasons that follow, I find Cabinet Office provided sufficient evidence to demonstrate it has conducted a reasonable search of its record holdings for records responsive to the appellant's two requests as required by section 24 of the *Act*. However, I order Cabinet Office to request the former Executive Director in the Premier's Office to search their personal account for responsive records due to evidence provided to me by the appellant. I also order Cabinet Office to request former Premier's Office staff who did not participate in the attestation process implemented by Cabinet Office in March 2024 to search their personal accounts for records responsive to the appellant's request.

[70] I note that in his representations, the appellant identified specific records he claims Cabinet Office failed to identify in its searches. Specifically, the appellant identified an email thread from November 2021 and October 2022, and a Teams meeting invitation sent on July 13, 2022. The November 2021 email thread was located by Cabinet Office and, according to the "List of Responsive Records Located and Access Decisions Issued/Records Released,"²⁵ disclosed in full to the appellant. The October 2022 email was also located and disclosed in full to the appellant. I will address the Teams meeting invitation under "Personal Accounts" below.

Search methodology

[71] Throughout this inquiry, the appellant takes issue with Cabinet Office allegedly narrowing or limiting the scope of his requests to only the search terms agreed upon during the request stage. Specifically, the appellant submits Cabinet Office did not "design a search methodology" that would locate all responsive records.

[72] I accept the appellant's claim that Cabinet Office was required to adopt a broad and liberal interpretation of his request. I also agree the appellant should not be required to provide the full breadth of search terms or "design the search methodology" for Cabinet Office. However, upon review of the parties' representations, and the evidence before me, I find that Cabinet Office designed its search methodology to conduct a reasonably broad search.

[73] Previous orders of the IPC have established that a reasonable search under the *Act* is one in which an employee knowledgeable in the subject matter makes a *reasonable*

²⁵ This document was sent to me on October 22, 2024. I sent the appellant this document when I sought additional representations from him on October 30, 2024.

effort to locate responsive records. I have reviewed the combination of search terms used by Cabinet Office (set out in paragraph 24 above) and its representations regarding the guidance it provided to staff conducting the searches.

[74] Based on that review, I find Cabinet Office did not limit the searches to the search terms discussed with the appellant and created Boolean strings that would reasonably capture records responsive to the appellant's request.

[75] Specifically, I note Cabinet Office did not restrict its searches to only the terms provided by the appellant but included additional terms such as "GB" and "SP" as terms that could capture records responsive to the appellant's request. In addition, I accept Cabinet Office's submission that a search for records containing the term "G*" is unreasonable given the number of records that would be generated with this term. While the appellant accepts Cabinet Office's evidence here, he maintains his allegation that political staff used special terms such as "G*" or "SP" to evade or frustrate access requests made under the *Act*. I make no finding about staff's motivation for using the special terms. However, based on Cabinet Office's inability to search using the term "G*", it is evident that the use of the term would clearly frustrate Cabinet Office's ability to search for records that may relate to the Greenbelt.

[76] The IPC has generally required an institution take a broad and liberal interpretation of a request to ensure responsive records are located. The *Act* requires that an employee knowledgeable in the subject matter of the request conduct a reasonable search for responsive records. I find the appellant's request was clear and unambiguous and it was Cabinet Office's duty to adopt a broad and liberal interpretation of the appellant's request when conducting the search. Based on my review, I find Cabinet Office took a broad and liberal approach in responding to the appellant's request. I accept Cabinet Office's submission that it encouraged staff to undertake a liberal interpretation and not restrict their search and review to the terms provided by the appellant.

[77] I note Cabinet Office's searches resulted in over 9,000 potentially responsive records. Clearly, Cabinet Office used broad search terms if it produced such a high number of search results. Given these circumstances, I find Cabinet Office adopted a broad interpretation of the appellant's request when conducting the search for records. However, I also accept Cabinet Office's explanation that, despite its broad interpretation of the appellant's request, very few responsive records were found.

[78] In addition, I accept Cabinet Office engaged employees knowledgeable in the subject matter of the request to conduct the searches. Specifically, Cabinet Office provided evidence that long-serving Premier's Office staff who were informed about the Greenbelt matter selected the staff accounts that would be subject to the search. Further, Cabinet Office asked employees knowledgeable in the Greenbelt matter to conduct the searches and review the potentially responsive records. At paragraph 26 above, I included a list of the individuals in the Premier's Office whose accounts were searched, including the Premier himself. This list includes current and former senior staff and other staff who

one would reasonably expect to have had direct knowledge of the Greenbelt matter. I also find the staff who conducted the searches, including the Senior Manager of the FOI and Issues Unit, and the Premier's Office staff, are employees knowledgeable in the subject matter of the request.

[79] Furthermore, I accept Cabinet Office's evidence that the employees conducted extensive searches using the terms provided by the appellant with a consideration of the type of information he seeks, i.e. information relating to the removal of Greenbelt property. I accept Cabinet Office's evidence that it did not limit its search to the email accounts of the Premier's Office staff (past and current). In addition to searching email accounts and folders, Cabinet Office searched its current staffers' hard drives, network drive, and physical documents. Other than the personal accounts which I discuss below, I am satisfied that Cabinet Office developed a search methodology that would have located the records responsive to the appellant's request.

Records of discussions

[80] Throughout his representations, the appellant takes the position that Premier's Office staff conducted or participated in discussions regarding the Greenbelt matter and given these discussions, there must be records of those discussions. I acknowledge staff at the Premier's Office likely participated in discussions about the Greenbelt matter generally.

[81] However, the appellant's request relates to the proposed removal of lands from the Greenbelt, not the Greenbelt matter as a whole. I have reviewed the portions of the Integrity Commissioner's Report that were relied on by Cabinet Office and am satisfied these portions confirm that the Premier's Office did not participate in discussions relating to the selection and proposed removal of lands from the Greenbelt. Paragraphs 546 and 563 of the Integrity Commissioner's Report find that the former chief of staff of the ministry had a "leading and almost exclusive role in selecting the properties to be removed" and the "Premier's Office was kept in the dark" as to the selection process for the properties to be removed "until very near the end before the briefing of the minister." Upon review of the evidence, I am not satisfied that Premier's Office staff either participated in discussions relating to the proposed removal of lands from the Greenbelt or, if they did, created records relating to those discussions.

[82] The circumstances before me are distinguishable from those in Interim Order PO-4611-I, in which the appellant submitted a request to the ministry for records of any directives given to ministry officials from the Premier's Office regarding the proposed removal of lands from the Greenbelt. In that decision, the adjudicator found the appellant had provided a reasonable basis for his belief that additional responsive records ought to exist, namely in the form of contemporaneous meeting notes taken by ministry staff. The adjudicator made this finding based on the multiple references throughout the Integrity

Commissioner's Report²⁶ to meeting notes made by ministry staff that were not located by the ministry in its searches. Even though the Integrity Commissioner's Report found that the "so-called" directives referred to in those notes did not necessarily emanate from the Premier's Office, but rather from the minister's then chief of staff, this did not negate the existence of staff notes referencing directives that may have been misrepresented or mistakenly understood at the time as having been relayed by the Premier. The adjudicator ordered the ministry to conduct a further search of responsive records in the form of any contemporaneous notes that may have been taken by ministry staff during these meetings with the former minister's chief of staff.

[83] Interim Order PO-4611-I stands in contrast with the present request for responsive records of the Premier's Office staff. It appears from the evidence referred to by the appellant in the Integrity Commissioner's Report and the Auditor General's Report that Premier's Office staff may have participated in meetings or discussions. However, there is no similar mention or other evidence of "meeting notes" or "contemporaneous notes" taken by Premier's Office staff during these meetings as was before the adjudicator in Interim Order PO-4611-I.

[84] Further, unlike the ministry's flawed search methodology identified in Order PO-4611-I, the evidence before me indicates that Cabinet Office searched the records of the Premier's Office that were provided to the Auditor General, including physical and electronic records in which any such notes would likely have resided. As I stated above, I am satisfied Cabinet Office developed a search methodology that would have located responsive records, including any notes of discussions if they existed.

Personal accounts

[85] The appellant also takes the position Cabinet Office should be required to search the personal accounts of Premier's Office staff in response to his requests. To support his position, the appellant refers to the following passage from page 67 of the Auditor General's Report:

... political staff received emails from lobbyists and other external parties on their personal email accounts that they then forwarded to their government email. Conversely, there were occasions when government emails were forwarded by political staff from their government accounts to their personal accounts.

[86] I acknowledge it is not usual for the IPC to require government staff to search their personal accounts or records for government information. It is expected for government staff to conduct their government business using their government accounts or devices and to store all government related records on government property, accounts or servers. It is also expected that government records will be located on government

²⁶ See paragraph 38 of Interim Order PO-4611-I, which refers to paras 118, 119, 164, 170, 183, 199, 200, 208, 241, 460, and 522 of the Integrity Commissioner's Report.

property, or in government accounts and servers. Therefore, the IPC will generally not order searches of personal accounts or files unless there is clear evidence that personal accounts have been used for government purposes.

[87] In this case, it appears from the portion of the Auditor General's report above, that personal accounts of political staff were used as a conduit through which emails were forwarded to or from government accounts.

[88] In light of the Auditor General's findings, there is sufficient reason to be concerned about personal emails being used to conduct government business. I acknowledge Cabinet Office's submissions regarding the attestation process that was put in place in March 2024 as a response to the Auditor General's report. By virtue of this new process, current Premier Office staff, including political staff, must attest to using only government systems and accounts for government business and ensure any government records that may have been inadvertently received on a personal email account are transferred into the government system for proper record retention.

[89] The issue of whether Premier's Office staff properly adhere to the attestation and record retention policy is outside the scope of this decision. I have no reason to doubt that this new attestation process has not been complied with to remedy the situation going forward. The only issue before me is whether Cabinet Office conducted a reasonable search for records responsive to the appellant's request.

[90] In his representations, the appellant refers to a Teams meeting invitation from July 2022 that was sent to the former Executive Director. The appellant provided me with a redacted copy of this meeting invitation. While heavily redacted, this invitation includes the former Executive Director and the ministry's chief of staff. Further, the subject of the meeting is Greenbelt and identifies properties or pieces of land. While there is no other context contained in this record, I find this record is reasonably related to the subject matter of this request, i.e. the proposed removal of land from the Greenbelt. This record was not located by Cabinet Office in its searches, which included the government account of the former Executive Director. Accordingly, it is clear to me that the former Executive Director did not forward all of their government-related correspondence from their personal account to their government account.

[91] The Teams meeting invitation from July 2022 clearly demonstrates the former Executive Director has at least one record responsive to the appellant's request in their personal account. Given the specific evidence before me, I will order Cabinet Office to request the former Executive Director to conduct a search of their personal email account for any records created between January 2021 and October 2022 relating to the proposed removal of lands from the Greenbelt.

[92] In addition, I will order Cabinet Office to request any former staff who did not participate in the attestation process put in place in March 2024 to search their personal accounts for records responsive to the appellant's request. I have decided to take this

step because there is clear evidence from the appellant and the Auditor General's Report indicating that personal accounts were used to conduct government business or, at a minimum, as a conduit through which government records were transferred. These former employees would not have been subject to the new attestation process at the time it was implemented in March 2024. As such, they would not have necessarily ensured that any government records previously received on their personal email accounts were properly transferred back into the government system.

[93] I have reviewed the calendar entry belonging to the former Executive Director's government account that was provided by the appellant. I am not satisfied the appellant provided sufficient evidence to demonstrate that the redacted portion of this record relates to the subject matter of his request. The appellant's submission²⁷ does not constitute concrete evidence that this record is responsive to his request. As such, I will not order Cabinet Office to conduct a further search of the former Executive Director's government account on the basis of the appellant's claims in this regard.

[94] In light of the above, I will order Cabinet Office to request former Premier's Office staff who did not participate in the attestation process in March 2024, and the former Executive Director, to search their personal records for records relating to the proposed removal of lands from the Greenbelt.

Record retention

[95] The appellant raises concerns with whether records were properly preserved or recovered. The appellant refers to Order PO-4449-I, in which the adjudicator ordered the ministry to take steps to secure the preservation and recovery of responsive records within its custody or control and takes the position that Cabinet Office ought to have taken similar steps.

[96] I have reviewed Cabinet Office's representations and acknowledge that it searched the deleted folders of the relevant email accounts during its searches. I also accept Cabinet Office's submission that the Premier's Office generally follows record retention schedules that have been developed in accordance with the requirements found in the *Archives and Recordkeeping Act, 2006*. I have not inquired into and make no comment on whether each individual member of the Premier's Office properly adhered to the requirements of the *Archives and Recordkeeping Act, 2006*.

[97] In any event, Cabinet Office conducted a search of the deleted folders of the relevant email accounts and reviewed the records that were requested by and provided to the Auditor General in June 2023 as part of the Auditor General's investigation and have been preserved since. Based on my review, I am satisfied Cabinet Office conducted a reasonable search for records responsive to the appellant's request that are in its record

²⁷ "If the record of this meeting indicated that it was to discuss the removal of these lands from the Greenbelt, then this calendar entry should have been captured in a reasonable search."

holdings.

[98] I also acknowledge Cabinet Office's new attestation process that requires staff to attest to only using government-issued accounts and devices for government business addresses some of the issues raised by the appellant and endeavours to avoid similar issues in the future.

Conclusion

[99] Based on my review of the evidence, I find Cabinet Office made a reasonable effort to locate responsive records in its record holdings. I find Cabinet Office engaged employees knowledgeable in the subject matter of the request and they expended a reasonable effort to locate responsive records. I find Cabinet Office cast a wide net with respect to its search in response to the appellant's request, applying both the search terms agreed upon and adopting a broad interpretation of the request itself. I do not find Cabinet Office limited the search unreasonably; rather, I find that it expended a reasonable effort to locate records responsive to the appellant's request.

[100] Furthermore, in light of the circumstances in these appeals, it appears unlikely that ordering a further search of its record holdings would yield additional responsive records. Cabinet Office has already reviewed 9,000 potentially responsive records. It is unclear how many additional potentially responsive records could result from ordering a further search. While it is indeed surprising Cabinet Office's search yielded only six responsive records relating to the proposed removal of Greenbelt land in the Premier's Office, I am not satisfied the appellant provided me with sufficient evidence to demonstrate a further search is warranted. Upon review of the evidence before me, I find Cabinet Office conducted a comprehensive search of its record holdings for records responsive to the appellant's request and no useful purpose would be served by ordering a further search.

[101] However, for the reasons above, I will order Cabinet Office to request former Premier's Office staff who did not provide an attestation since the new process was instituted in March 2024 and the former Executive Director at the Premier's Office to search their personal accounts and provide Cabinet Office with any records responsive to the appellant's request.

ORDER:

1. I order Cabinet Office to contact the former Executive Director, Stakeholder Relations, and other former Premier's Office staff who did not sign the attestation in March 2024 and request that they search for and provide copies of any records relating to the removal of land from the Greenbelt created between January 2021 and October 2022.
2. In the case that the former Premier's Office staff provide Cabinet Office with copies of responsive records, I order Cabinet Office to issue an access decision with

respect to those records to the appellant, in accordance with the requirements of the *Act*, treating the date of this order as the date of the request for administrative purposes.

3. I otherwise uphold Cabinet Office's search for records.

Original Signed by: _____
Justine Wai
Adjudicator

April 10, 2025