

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4733-F

Appeal PA23-00199

Ministry of Municipal Affairs and Housing

September 29, 2025

Summary: The appellant made a request to the ministry under the *Freedom of Information and Protection of Privacy Act* for records of directives from the Premier's office to the ministry regarding the removal of lands from the Greenbelt. In Interim Order PO-4611-I, the adjudicator found that the ministry had applied a too narrow and literal interpretation of the appellant's request and that the appellant had established a reasonable basis for believing that the records he is seeking exist. The adjudicator ordered the ministry to conduct a further search.

Pursuant to Interim Order PO-4611-I, the ministry conducted further searches, located additional records, and issued access decisions to the appellant.

In this final order, the adjudicator finds that the ministry's further searches were reasonable as required by section 24 of the *Act* and ordered in Interim Order PO-4611-I and dismisses the appeal.

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

Orders Considered: Interim Orders PO-4611-I and PO-4639-I and Order PO-4638.

OVERVIEW:

[1] This final order disposes of the remaining issue from Interim Order PO-4611-I, namely whether the Ministry of Municipal Affairs and Housing (the ministry) conducted a reasonable search for records as required by section 24 of the *Freedom of Information*

and Protection of Privacy Act (the Act).

[2] The appellant made a request under the *Act* for records of directives sent by any official in the Premier's office to any ministry official concerning the removal of lands from the Greenbelt, including directives sent by email, memo, text message, hard copy, or other media.

[3] The ministry conducted searches and notified the appellant that it had not identified any responsive records. In this appeal, the appellant believes that the records he is seeking ought to exist. The appellant challenges the ministry's interpretation of the request and the reasonableness of its searches.

[4] In Interim Order PO-4611-I issued on February 20, 2025, I found that the ministry had applied a too narrow and literal interpretation of the request. I upheld the ministry's search in part, to the extent that it related to responsive emails. However, I ordered the ministry to conduct a further search, including a search for records documenting meetings at which verbal direction was communicated to ministry officials and staff by the former Minister's Chief of Staff and where there is reference to the Premier or his office. I determined that these records are responsive to the appellant's request.

[5] The ministry does not agree with my findings in Interim Order PO-4611-I.¹ Despite the ministry's disagreement with my finding that the meeting records described above are responsive to the appellant's request, it has conducted further searches to locate responsive records. In these further searches, the ministry identified additional responsive records and issued revised access decisions to the appellant.

[6] The ministry has provided me with representations and affidavits from the individuals who conducted the additional searches. I shared the ministry's representations and affidavits with the appellant. The appellant has also provided me with representations regarding the ministry's further searches, which he maintains are still not reasonable.

[7] In this final order, I find that the ministry has complied with Interim Order PO-4611-I and has conducted further searches for responsive records, in accordance with my findings. In addition, I find that the ministry's further searches were reasonable, as required by section 24 of the *Act*. I dismiss the appeal.

DISCUSSION:

[8] The sole remaining issue to be disposed of in this final order is whether the ministry

¹ As the ministry does not agree with my findings in Interim Order PO-4611-I, it refers to responsive records as records that are "deemed" responsive in its representations and affidavits. The ministry has not appealed Interim Order PO-4611-I. Accordingly, my finding that the records that are responsive to the appellant's request remains unchallenged in this appeal, notwithstanding the ministry's disagreement. For this reason, I do not adopt the ministry's wording.

conducted a reasonable search for responsive records pursuant to Interim Order PO-4611-I.

[9] When a requester claims that additional records ought to exist beyond those found by an institution, the issue is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.²

[10] The *Act* does not require an institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;³ that is, records that are “reasonably related” to the request.⁴

Interim Order PO-4611-I

[11] The appellant’s request is for records of directives from officials in the Premier’s office to ministry officials concerning the removal of land from the Greenbelt. 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.⁵ The Standing Committee has considered the recommendations in the Auditor General’s report. I considered the reports and the sworn testimony of ministry officials to the Standing Committee in reaching my findings in Interim Order PO-4611-I.

[12] In Interim Order PO-4611-I, I determined that the reports provided a reasonable basis for the appellant’s belief that additional records responsive to his request exist. These records included contemporaneous notes from meetings where the former Minister’s Chief of Staff provided verbal direction regarding the Greenbelt project to ministry officials that made reference to the Premier or his office.

[13] I determined that the ministry had applied a narrow literal interpretation of the request. Accordingly, I ordered the ministry to conduct a further search, in accordance with my findings.

Ministry’s response to Interim Order PO-4611-I

[14] As noted above, the ministry does not agree with my finding that contemporaneous notes of records of meetings that contain references to the Premier or his office are responsive to the appellant’s request. Notwithstanding that the ministry does not agree with my findings, it conducted further searches and located contemporaneous staff meeting notes.

² Orders P-85, P-221 and PO-1954-I.

³ Orders P-624 and PO-2559.

⁴ Order PO-2554.

⁵ A *Special Report on Changes to the Greenbelt* published by the Office of the Auditor General of Ontario in August 2023 (the Auditor General’s report) and the *Report of the Integrity Commissioner re: Minister of Municipal Affairs and Housing*, published in August 2023 (the Integrity Commissioner’s report).

[15] In compliance with my order in Interim Order PO-4611-I, the ministry provided me with representations and affidavit evidence of its further searches. The ministry maintains that no records responsive to the appellant's request exist.

[16] The ministry's position is that the meeting notes "do not capture direction from the Premier or his office but instead capture purported direction from the Premier or his office, or direction previously believed to have originated from the Premier or his office." The ministry states that "there are no records of direction from the Premier or his office."

Ministry's affidavits

[17] The ministry provided two affidavits from the individuals who conducted the further searches in February 2025. These individuals are the Assistant Deputy Minister in the ministry's Municipal and Housing Operations Division (the Assistant Deputy Minister) and the Director in the ministry's Corporate Services Branch (the Director).

Assistant Deputy Minister's affidavit

[18] The Assistant Deputy Minister states that in his previous role in the ministry's Planning and Growth Division, he oversaw the team of public servants involved with assessing land for redesignation within or removal from the Greenbelt in 2022. The Assistant Deputy Minister states that his involvement in the Greenbelt project is documented in the Auditor General's report and the Integrity Commissioner's report and demonstrates that he has direct knowledge of the subject matter of the appellant's request.

[19] The Assistant Deputy Minister explains his involvement in the ministry's initial searches in response to the appellant's request in February 2023. In February 2025, the Assistant Deputy Minister undertook further searches in accordance with the findings in Interim Order PO-4611-I. The Assistant Deputy Minister explains that he searched the Greenbelt records preserved on the ministry's internal SharePoint sites using keywords "Premier", "PO" or "P". He then undertook a detailed manual review of records created during the key decision-making period of the Greenbelt project, from October 8, 2022, to November 4, 2022.

[20] The Assistant Deputy Minister states that these searches located three responsive records of meeting notes. The Assistant Deputy Minister confirms that these meeting notes are those referenced in the Integrity Commissioner's report and in paragraph 36 of Interim Order PO-4611-I. The ministry issued an access decision to the appellant in respect of these meeting notes.

[21] The Assistant Deputy Minister states that his searches located other records, including charts and PowerPoint presentations containing the keyword "PO". He explains that the inclusion of "PO" in these records is because they were intended for sharing with the Minister's office and the Premier's office. The Assistant Deputy Minister states that he reviewed these records and determined they were not responsive to the appellant's

request because they did not relate to direction or purported direction from the Premier or his office and therefore did not contain responsive content.

[22] The Assistant Deputy Minister states that his searches located one additional record containing the keyword "PO". He states that the use of "PO" in this record is a reference to an anticipated briefing of the Premier's office in advance of seeking Cabinet direction for the Greenbelt project. The Assistant Deputy Minister states that as this record does not contain responsive content, namely direction from the Premier or his office, it was determined not to be a responsive to the appellant's request.

Director's affidavit

[23] The Director reiterates her relevant knowledge and experience and her involvement in the ministry's initial searches in response to the request.⁶ The Director states that on February 26, 2025, she conducted a new search for records, as directed in Interim Order PO-4611-I.

[24] The Director explains that in the new search, she reviewed all emails provided by the former Deputy Minister and their former Executive Assistant for the Auditor General and the Integrity Commissioner's processes. The Director states that these records were leveraged for conducting searches in response to various access requests related to the Greenbelt project.

[25] The Director states that although I found in Interim Order PO-4611-I that the ministry departed from its normal practices and procedures in the Greenbelt project, she understands that the former Deputy Minister and their Executive Assistant remained the main points of contact for the Minister's office. The Director also understood that these individuals attended all meetings with ministry staff. The Director states that her understanding is based on her review of the records. Accordingly, the Director searched the former Deputy Minister's and their Executive Assistant's emails for responsive records, including meeting notes containing references to the Premier and the Premier's office made by the former Minister's Chief of Staff.

[26] The Director states that she first identified the emails that fell within the time period of the appellant's request and then manually reviewed them to determine if they were responsive. The Director states that none of the emails contained responsive content.

[27] The Director explains that she also conducted a search of the ministry's internal SharePoint site containing records provided to the Integrity Commissioner. In this search, the Director reviewed the folder containing all emails provided by the Deputy Minister's office. The Director states that she first identified emails that fell within the time period

⁶ In Interim Order PO-4611-I, I accepted the Director's experience in land use planning matters and her knowledge of these aspects of the Greenbelt project. In addition, I found that the Director has had extensive involvement in responding to access requests made to the ministry under the *Act*.

of the appellant's request and then manually reviewed them to determine if they were responsive. The Director states that none of the emails contained responsive content.

[28] The Director states that she did not conduct a similar search of the ministry's internal SharePoint site containing records provided to the Auditor General because these emails overlap with those already searched.

[29] The Director states that in the new searches, she located no records of direction from officials in the Premier's office to ministry officials regarding the removal of lands from the Greenbelt, including no records of meetings where verbal direction was communicated to ministry officials by the former Minister's chief of staff that made reference to the Premier or his office.

[30] The Director states that she has expended her best efforts to locate records responsive to the appellant's request and that she is unable to comment on whether it is possible that responsive records that may have existed at one time are no longer available.

[31] The Director refers to the ministry's record retention schedules developed in accordance with the requirements of the *Archives and Recordkeeping Act, 2006*. In addition, the Director cites Order PO-4505-F where the adjudicator found that the ministry had taken steps to preserve records relating to the Greenbelt project.

Appellant's representations

[32] The appellant maintains that the ministry has not conducted a reasonable search for responsive records and that additional records exist. Specifically, the appellant refers to the list of additional responsive records set out in his initial representations and submits that the further disclosure from the ministry after Interim Order PO-4611-I does not include all the records on the list.

[33] The appellant challenges the reasonableness of the ministry's new searches on several grounds: that the ministry has not consulted the former Deputy Minister and their Executive Assistant, that it failed to search for responsive records that might exist on the personal accounts and devices of ministry staff, and that the ministry has not provided evidence regarding any deleted records.

Former Deputy Minister and Executive Assistant

[34] The appellant submits that the ministry's new searches are unreasonable because the ministry has not consulted with the two individuals whom the Director identified as the main points of contact for the Minister's office during the Greenbelt project: the former Deputy Minister and their Executive Assistant.

[35] The appellant submits that the former Deputy Minister's Executive Assistant is likely to have insight into the use of the code word "G*" to replace "Greenbelt." The

appellant cites representations made in other appeals involving the Cabinet Office regarding the difficulties of locating Greenbelt records where the code word "G*" was used. The appellant cites Order PO-4638 in which the adjudicator noted that the use of code word "G*" in particular would frustrate the Cabinet Office's ability to search for Greenbelt related records. The appellant submits that the former Deputy Minister's Executive Assistant would know the circumstances in which alterations were made to records, whether the alterations were made in an attempt to frustrate searches and whether there are additional records to be located.

Personal accounts

[36] The appellant states there is no evidence that the ministry has searched the personal accounts and devices of former ministry staffers, or requested that they search their accounts, for records responsive to his request. The appellant cites Order PO-4638 and submits that it is similar to the circumstances of this appeal. Accordingly, the appellant submits that the ministry should ask all current and former officials who have been involved in the Greenbelt project to search their personal accounts for responsive records.

Deleted records

[37] The appellant states that the ministry's affidavits do not address the possibility that responsive records existed but no longer exist, as required by provision 2(c) of Interim Order PO-4611-I.

[38] The appellant states that "it is reasonable to believe that it is possible that records responsive to [his] request were among records that may have been irretrievably lost."

[39] The appellant submits that the Director's affidavit does not provide an adequate response to the provisions of Interim Order PO-4611-I in light of the evidence that the ministry's record retention schedules were not followed in respect of Greenbelt records.

Existence of additional records

[40] The appellant's representations also address his reasons for believing that the further additional records he is seeking "should" exist, based on how the proposed Greenbelt amendments were to be achieved.

[41] The appellant states that some lands that were proposed for removal from the Greenbelt were opened up for development through proposed changes to municipal official plans. The appellant states that this process circumvented the ministry making formal amendments to the Greenbelt Plan. The appellant submits that the proposed amendments to the municipal official plans were overseen by the ministry's Municipal Services Division and that records of directives from the Premier's office to the ministry relating to these amendments would be responsive to his request.

[42] The appellant also states that the removal of some lands from the Greenbelt required the repeal of legislation administered by other ministries. The appellant submits that it is unlikely that the Assistant Deputy Minister and the former Minister's Chief of Staff would have been able to persuade officials in another ministry to repeal a statute without citing a directive from the Premier's office. The appellant submits that there "should" be records of such directives.

Appellant's additional representations

[43] The appellant provided me with additional representations and states that the circumstances of Order PO-4639-I, issued on April 15, 2025, are similar to those in this appeal. In that case, the adjudicator found that the ministry had *de jure* control over government records held in the personal email account of the former Minister's Chief of Staff. The adjudicator ordered the ministry to assert its control over those records and direct the former staff member to retrieve any responsive records that exist in their personal email account.

[44] The appellant submits that the ministry should make similar attempts to obtain records responsive to the request in this appeal that may exist in the personal email account of the former Minister's Chief of Staff.

Ministry's response

[45] The ministry states that while the only additional responsive records that it located in the new searches were meeting notes, the searches were not limited to these types of records. The ministry states that the Assistant Deputy Minister and the Director searched electronic documents prepared by ministry staff, including meeting notes, briefing notes, maps and working documents, screenshots of text messages, and Cabinet records.

[46] In response to the appellant's submission that the ministry's searches ought to have located the other records listed in the appellant's representations, the ministry states that the listed records relate to potential modifications to a Region Official Plan and not the removal of lands from the Greenbelt. The ministry's position is that these are different decisions overseen by the ministry and potential modifications to a Region's Official Plan are outside the scope of the appellant's request.

[47] Notwithstanding the ministry's position that these additional records do not relate to the removal of lands from the Greenbelt, to demonstrate its cooperation, it undertook a further search for records. This search included records relating to Greenbelt lands in the modifications and decisions concerning official plans by the ministry in late 2022. The ministry states that the Manager of Community Planning and Development in the Municipal Services Office for the Central West Region (the Manager) carried out these searches in June 2025.

[48] The ministry provided an affidavit from the Manager describing the June 2025 searches. The manager's searches located five additional records. The ministry submits

that these records “do not capture direction from the Premier or his office but instead capture purported direction from the Premier or his office, or direction previously believed to have originated from the Premier or his office.”

[49] Regarding Order PO-4638 and Interim Order PO-4639-I, the ministry submits that the issue of personal emails has already been addressed in this appeal. The ministry refers to paragraphs 133 to 139 of Interim Order PO-4611-I where I found that the ministry has expended reasonable efforts to locate responsive records contained in emails originating from or sent to personal email accounts of political staff. The ministry submits that Order PO-4638 and Interim Order PO-4639-I are distinguishable and the findings should have no bearing on the determination of the outstanding issue in this appeal.

Manager’s affidavit

[50] The Manager sets out her experience conducting searches in response to access requests as part of her work with the Ontario Public Service. The Manager also sets out her knowledge in the subject matter of the request, namely, the ministry’s role in decision making on official plans and official plan amendments under the *Planning Act, 2006*.

[51] The Manager’s evidence responds to the appellant’s submission that records released by the ministry in response to other access requests relating to the 2022 review of the official plan, ought to have been located in the ministry’s searches in response to his request.⁷

[52] The Manager states that during the six-week long review of the adopted York Region Official Plan in 2022, she worked with the lead Senior Planner and that they are both familiar with relevant ministry records. The Manager states that between May and June 2025, they oversaw a supplementary search for responsive records relating to the 2022 review of the official plan.

[53] The Manager states that the supplementary search was informed by the findings in Interim Order PO-4611-I. The Manager states that the supplementary search was also informed by the appellant’s submission that if there were directives concerning amendments to municipal official plans and these directives stemmed from a proposal to remove affected lands from the Greenbelt, then records of these directives would be responsive to the appellant’s request.

[54] The Manager states that the Senior Planner began the supplementary search by reviewing their Ontario.ca email account for emails within the timeframe of the request using search terms, including “Premier”, “PO”, and “P”. The Senior Planner also searched using the names of specified individuals, including the former Minister’s Chief of Staff, former Deputy Chief of Staff, former Assistant Deputy Minister of the ministry’s Municipal

⁷ The appellant’s submission is that the ministry’s approval and modification of the official plan was a means of opening up Greenbelt land for development and these records are therefore within the scope of their request.

Services Division, and the serving Assistant Deputy Minister of that division which undertook the review of the adopted official plan in 2022. The specified names also included individuals the appellant named in their representations.

[55] The Manager states that the supplementary search was focussed on these names based on the Senior Planner's experience that they were the ministry staff and officials through whom any direction from the Minister's office or the Premier's office would have flowed.

[56] The Manager states that the Senior Planner also conducted a manual review of records found on the ministry's shared drive. Specifically, records on the directory where the Municipal and Housing Operations Division stores files related to official plan matters. The Manager states that the Senior Planner conducted an additional search of records held on the ministry's SharePoint site established in 2022. The Manager states that this SharePoint site was created to facilitate the sharing, editing and preservation of records related to the 2022 official plan review of the six municipalities.

[57] The Manager states that when they reviewed the SharePoint site, the Senior Planner focussed on folders relating to the 2022 York Region Official Plan. In addition, the Senior Planner reviewed records that had been released by the ministry in response to other access requests relating to its official plan reviews. The Manager states that these records were reviewed because the appellant had referred to them in their representations and believed that those records should have been located in response to their request.

[58] The Manager states that the Senior Planner also reviewed records stored on the ministry's internal SharePoint sites that were provided to the Integrity Commissioner as part of their process. The Manager states that records relating to the ministry's review of the official plan in 2022 were kept separate from the Greenbelt project. However, the Manager states that the internal SharePoint site was reviewed for records relating to the official plan review "out of an abundance of caution."

[59] The Manager states that the Senior Planner located five additional records. The Manager describes these records, which comprise a chart of proposed changes to the York Region official plan, email chains, and a text message exchange.

[60] The Manager states that the Senior Planner used her best efforts to search for responsive records in all locations where responsive records could exist. The Manager acknowledges that she was not always engaged directly on the decision on the York Region Official Plan matter and cannot therefore guarantee that she was copied on all related correspondence.

Ministry's access decisions

[61] The ministry has issued revised access decisions in respect of the additional

responsive records located in its further searches. On March 24, 2025⁸, the ministry issued an access decision in respect of the three additional records located in February 2025, comprising contemporaneous notes from staff meetings.

[62] On June 19, 2025, the ministry issued an access decision in respect of the additional responsive records located in the searches carried out in May and June 2025 and overseen by the Manager. These records comprised modifications tables, email chains, and a text message exchange.⁹

Analysis and findings

[63] For the reasons that follow, I find that the ministry has conducted reasonable searches for responsive records in compliance with Interim Order PO-4611-I and its obligations under the *Act*. Notwithstanding that the ministry does not agree with my finding that records of verbal direction communicated to ministry staff by the former Minister's Chief of Staff that included reference to the Premier or his office are responsive to the request, I am satisfied that it has carried out reasonable searches to locate these records as required by section 24 of the *Act*.

[64] I find that the further searches have been carried out by experienced employees knowledgeable in the Greenbelt project and that the ministry has not limited its further searches to records of meeting notes. I am satisfied that the ministry has searched the locations where responsive records are likely to be found. These locations include the ministry's internal SharePoint sites where records provided to the Auditor General and Integrity Commissioner for their processes have been securely preserved for the ministry to meet its obligations under the *Act*.

Experienced employees knowledgeable in the Greenbelt project

[65] In Interim Order PO-4611-I, I determined that the Director has the requisite experience and knowledge to carry out the ministry's searches to locate records relating to the Greenbelt project. For the reasons that follow, I find that the Assistant Deputy Minister and the Manager are also individuals with the necessary knowledge and experience to carry out the further searches ordered in Interim Order PO-4611-I. This includes knowledge of how the Greenbelt project was undertaken and also the ministry's role in the 2022 approval of the official plan. In addition, I am satisfied that these individuals have knowledge of the scope of the appellant's request and the specific findings in Interim-Order PO-4611-I regarding records that I had found to be responsive to the request.

[66] I do not agree with the appellant's submission that the ministry has failed to consult with the former Deputy Minister and their former Executive Assistant as the individuals with the most knowledge of responsive records. In his initial representations,

⁸ This revised access decision is dated March 24, 2024, which I understand to be a typographical error.

⁹ The appellant has not appealed either of these access decisions to the IPC.

the appellant cited the former Deputy Minister's testimony to the Standing Committee on Public Accounts when it considered the Auditor General's report. The appellant's position is that the former Deputy Minister's testimony demonstrates their direct knowledge of the Greenbelt project and that they should have been consulted to "verify" the ministry's search methodology to locate responsive records.

[67] In Interim Order PO-4611-I, my findings were informed by the sworn testimony of the Assistant Deputy Minister and the former Deputy Minister.¹⁰ I ordered the ministry to conduct further searches in accordance with those findings. The Assistant Deputy Minister oversaw the team of public servants tasked with assessing lands for redesignation within or removal from the Greenbelt in 2022. I am satisfied that the ministry has demonstrated that the Assistant Deputy Minister has direct knowledge of the subject matter of the appellant's request and that it was reasonable for him to carry out the searches ordered in Interim Order PO-4611-I.

[68] Similarly, I find that the Manager has direct knowledge and experience of the ministry's review of official plans and proposed amendments as part of its obligations under the *Planning Act, 2006* and familiarity with records related to this work. I find it reasonable for the Manager to have conducted the further searches to locate the responsive records that the appellant believes exist because of the changes to Greenbelt lands that were to be achieved through the review of the official plan.

[69] I am not persuaded that it was unreasonable for the ministry not to consult with the former Deputy Minister or their Executive Assistant. I disagree with the appellant's submissions about the relevance of their knowledge of the circumstances in which records were altered in an attempt to thwart the search process. I acknowledge the appellant's submission and the information relied upon to demonstrate that references to "Greenbelt" were replaced with "G*". I also acknowledge the adjudicator's comments in Order PO-4638 that the use of code word "G*" in particular might frustrate a search for Greenbelt related records.

[70] However, in this appeal, I find that the ministry reasonably used keywords "P" and "PO" to locate the records that the appellant is seeking. The appellant's request relates more specifically to records of directives from the Premier or his office to the ministry. In light of my findings in Interim Order PO-4611-I, it was reasonable for the ministry to use these keywords "P" and "PO", as it was ordered to do.

Records searched in the ministry's further searches

[71] In February 2025, the Assistant Deputy Minister carried out searches of the records stored on the ministry's internal SharePoint sites. As set out in Order PO-4505-F, these sites have been maintained to preserve records relating to the Greenbelt project and for searches in response to access requests made under the *Act*. In Interim Order PO-4611-

¹⁰ Interim Order PO-4611-I, para 31.

I, I determined that these preserved records are likely to include any additional records that might exist that are responsive to the appellant's request.

[72] I find that it was reasonable for the Assistant Deputy Minister to carry out the further searches on the internal SharePoint sites. I accept the ministry's evidence that the records stored on these sites include electronic records prepared by ministry staff such as meeting notes, briefing notes, maps, and working documents; emails; copies of electronic and physical documents provided to ministry staff by staff in the Minister's Office; scans of hardcopy meeting notes; screenshots of text messages and Cabinet records. I also accept the Director's evidence that in her February 2025 searches, she searched the former Deputy Minister and their Executive Assistant's emails.

[73] In relation to responsive records relating to the ministry's review of the municipal official plan in 2022, I find it reasonable for the Manager to search the records in the Municipal and Housing Operations Division on the ministry's shared drive. I accept the Manager's evidence she also searched the records on the ministry's SharePoint site established in 2022 to facilitate the sharing, editing, and preservation of records related to the official plan reviews.

[74] I also accept the Manager's evidence that the further searches carried out in June 2025 included searches of the records released by the ministry in response to requests specifically relating to its 2022 official plan reviews. The Manager explains that these records are referenced by the appellant in their initial representations in this appeal. Finally, I find it was reasonable for the Manager to search the ministry's internal SharePoint site containing the records provided to the Integrity Commissioner as part of their inquiry.

[75] I am satisfied that the ministry has searched the places where additional records that are responsive to the appellant's request are likely to be located, in accordance with my findings. In addition, I find it reasonable that the Director "leveraged" records collected for the purposes of the Auditor General's and Integrity Commissioner's processes and searched them in response to the appellant's request.

[76] I find that the ministry has searched for all types of records as ordered in Interim Order PO-4611-I. I accept the ministry's evidence that the records located in the further searches included meeting notes, charts, PowerPoint presentations, a briefing note, emails, and screenshots of text messages. In my view, the fact that the searches located different types of records demonstrates that the ministry did not unreasonably limit its searches to records of meeting notes.

[77] I also accept the evidence of the Assistant Deputy Minister that in the further searches he initially searched all folders on the ministry's SharePoint sites, which contained emails and files provided by the Minister's office, emails and text messages provided by the Assistant Deputy Minister themselves and meeting materials relating to the Greenbelt project. I find it reasonable that in the second stage of these searches,

when conducting a manual review of the records, the Assistant Deputy Minister targeted records from the key decision-making period of the Greenbelt project. I find this approach to be reasonable.

Personal emails

[78] For the reasons that follow, I have decided not to revisit my findings in relation to the ministry's searches for records contained in personal emails.

[79] In Interim Order PO-4611-I, I found that the ministry had expended reasonable efforts to locate responsive records contained in emails originating from or sent to personal email accounts of political staff.¹¹ I also determined that there was no information before me indicating that non-political staff in the ministry used personal email to conduct government business.

[80] The appellant now repeats the submissions made in his initial representations about the Auditor General's observations that personal email accounts were used during the Greenbelt project. The appellant cites two recent orders¹² in which the IPC has relied upon the Auditor General's observations to order institutions to take steps in relation to records of government business that may exist in personal email accounts. The appellant's position is the circumstances in this appeal are similar and that I should make the same order.

[81] I disagree with the appellant's submission. I am not persuaded that the recently released orders are a reasonable basis for me to revisit my findings regarding the ministry's efforts to locate responsive records in personal email accounts in this appeal.

Order PO-4638

[82] Order PO-4638 involved a request to Cabinet Office for access to "all documents, reports, notes, emails or other records that discuss or refer to" the proposed removal of lands from the Greenbelt announced on November 4, 2022.

[83] The adjudicator considered Cabinet Office's searches in response to the request, which included an attestation process introduced following the Auditor General's observations regarding the use of personal email. The attestation process required staff to search their personal email accounts and provide Cabinet Office with any records of government business that had inadvertently been received on a personal email account. Some former staff members had not completed the attestation process. The adjudicator ordered the Cabinet Office to contact those specified former employees and request that they search for responsive records in their personal email accounts.

¹¹ Interim Order PO-4611-I, para 133.

¹² Order PO-4638 and Interim Order PO-4639-I

Interim Order PO-4639-I

[84] Interim Order PO-4639-I involves a request to the ministry for the personal emails of the former Minister's Chief of Staff containing the word "Greenbelt." The adjudicator found that any responsive emails that might exist in the former employee's personal email are within the ministry's control for the purposes of the *Act*. Accordingly, the adjudicator ordered the ministry to take steps in respect of those records to fulfil its obligations under the *Act* in its response to the request.

[85] In my view, the only similarity between these two orders and this appeal is the subject matter of the request, namely the Greenbelt project. I find that this fact alone does not create a corresponding duty for the institutions to expend the same efforts to locate responsive records. From my review of the two requests giving rise to the two orders cited by the appellant, I find that they are broader than the request before me in this appeal. Those requests concern *any* records relating to the Greenbelt amendment in the custody or control of Cabinet Office and *any* records containing the word "Greenbelt" that exist in a former employee's personal email. The request in this appeal specifically relates to records of "directives" from the Premier's office to the ministry regarding the removal of lands from the Greenbelt.

[86] As I find the circumstances of the appeals in Order PO-4638 and Interim Order PO-4639-I are distinguishable from this appeal, I am not persuaded that they provide a reasonable basis for revisiting my findings in respect of personal email.

Deleted records

[87] For the reasons that follow, I find that the ministry's affidavit evidence adequately addresses its further search efforts, as required by Interim Order PO-4611-I.

[88] I do not agree with the appellant's submission that the ministry's affidavits fail to comply with provision 2(c) of Interim Order PO-4611-I because they do not address the possibility that responsive records "have been destroyed." This is not what provision 2(c) requires.

[89] I acknowledge the Auditor General's observation that "emails were regularly being deleted by political staff"¹³ and that the Integrity Commissioner noted that records of text messages were lost when staff phones had been replaced.¹⁴ In Order PO-4505-F, the adjudicator stated that notwithstanding the steps taken by the ministry to retrieve personal emails from a former employee, "there remained a risk that [Greenbelt] records held in personal email accounts of former staff may be irretrievably lost."¹⁵

[90] Notwithstanding the risk that some Greenbelt records may have been irretrievably

¹³ Auditor General's report, page 67

¹⁴ Integrity Commissioner's report, para 16.

¹⁵ Order PO-4505-F, para 55.

lost, the *Act* does not require institutions to prove with certainty that records do not exist. By addressing the possibility that responsive records existed but no longer exist, an institution can demonstrate that it has reasonably responded to a request by having turned its mind to this possibility in circumstances where no responsive records are located.

[91] In all the circumstances of this appeal, the ministry has conducted multiple searches for responsive records, in locations where preserved Greenbelt records are stored and not limited to any specific type of record, having adopted the appellant's preferred definition of "directive" and in line with my findings in Interim Order PO-4611-I. Accordingly, I find the ministry's affidavit evidence to be reasonable. In the face of the ministry's searches and the risk that records may have been irretrievably lost, I find it reasonable that the ministry employees who conducted the searches acknowledge that they are unable to comment on the possibility that responsive records may have existed at one time and no longer exist. Accordingly, I make no finding about whether the records the appellant is seeking have been "destroyed" and it is not necessary for me to do so to dispose of this appeal.

Summary

[92] For all these reasons, I am satisfied that the ministry has employed reasonable efforts to locate records responsive to the appellant's request in accordance with my findings in Interim Order PO-4611-I and as required by section 24 of the *Act*.

ORDER:

Appeal dismissed.

Original Signed by: _____

Katherine Ball
Adjudicator

September 29, 2025