

## Notice of Decision and Reasons for Decision

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Applicant:	'BA2'
Agency:	Frankston City Council
Decision date:	17 January 2020
Exemptions considered:	Sections 35(1)(b), 32
Citation:	'BA2' and Frankston City Council ( <i>Freedom of Information</i> ) [2020] VICmr 6 (17 January 2020)

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FREEDOM OF INFORMATION – documents containing material obtained in confidence – documents affecting legal proceedings – email correspondence – complaints

All references to legislation in this document are to the *Freedom of Information Act 1982* (Vic) (**FOI Act**) unless otherwise stated.

### Notice of Decision

I have conducted a review under section 49F of the Agency's decision to refuse access to documents requested by the Applicant under the FOI Act.

My decision on the Applicant's request is the same as the Agency's decision, in that I have decided to release certain documents to the Applicant in part.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

My reasons for decision follow.

**Sven Bluemmel**  
Information Commissioner  
17 January 2020

## Reasons for Decision

### Background to review

1. The Applicant made a request to the Agency for access to the following documents:

Location Address: [address]

Date Range: [date range]

Name: [Applicant]

1. All meeting minutes related to the above address and name:

- *Airbnb, short term rental and unregistered prescribed accommodation*
- *Allegation noise nuisance*
- *Search warrant*
- *Formal interview*
- *Spa with safety fence*
- *Emergency orders [named persons]*
- *Involving person: [named persons]*
- *Involving departments: Environmental Health Department, Building Department, prosecution department, CEO complaint department and the working group and planning department*
- *Magistrate court charges*
- *County court appeal*
- *Illegal Banner of [address] ([personal circumstances])*

2. All internal documents and correspondences in Frankston council related to the above address and name (not between the council and [Applicant])

- [see point 1]

3. All correspondences between Frankston council and internal ombudsman related to the above address and name

4. All correspondences between Frankston council and external ombudsman related to the above address and name

5. All correspondences between Frankston council and Frankston magistrate court/judges to the above address and name

**\*\*I do not need the following information:\*\***

1. *All correspondences including emails and letters between Frankston council and [Applicant]*
2. *All charge-sheets and summons from Magistrate court between Frankston council and [Applicant]*

2. Following consultation with the Agency, the Applicant clarified the initial request:

*Please change No. 5 to "All correspondence between Frankston council and Magistrate [name] of Frankston magistrate court related to the above address, name and Case number: [Case Number]"*

*I would like more details of the search warrant (Court Ref: [number], issued date: [date] which is one of my requests:*

1. *What evidences did the prosecutor [named person] provide in the court?*
2. *What is the judge's name in search warranty?*

*I just provide detail of information about the planning department regarding complaint illegal big banner of [address], it is one of my requests: Name: [named person]*

3. During consultation, the Applicant also requested the date range be extended.
4. In its decision, the Agency identified 147 documents falling within the terms of the Applicant's request.
5. The Agency decided to release 101 documents in full, release 35 documents in part, and refuse access to six documents in full. The remaining five documents were released to the Applicant administratively.

## **Review**

6. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
7. The Applicant advised they did not seeking access 'to any personal information at all', 'including name, address and contact information etc'.
8. I have examined copies of the documents subject to review.
9. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
10. I have considered all communications and submissions received from the parties, including:
  - (a) the Agency's decision on the FOI request;
  - (b) information provided with the Applicant's review application; and
  - (c) the Agency's submissions, dated 22 October and 16 December 2019.
11. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.

## **Review of exemptions**

12. The Agency relied on the exemptions under sections 33(1), 32 and 35(1)(b). The Agency's decision letter sets out the reasons for its decision.
13. In undertaking a review under section 49F, I am required by section 49P to make a fresh or new decision. This means my review does not involve determining whether the Agency's original decision is correct, but rather I am required to ensure my fresh decision is the 'correct or preferable decision'.<sup>1</sup> This involves ensuring my decision is correctly made under the FOI Act and any other relevant applicable law in force at the time of making my fresh decision.
14. While I note the Agency exempted information in Documents 1, 3, 5 – 8, 11, 14 – 25 and 27 - 30 under both section 33(1) and 35(1)(b) of the FOI Act, having reviewed these Documents, I have determined the correct and preferable exemption to apply to this information is section 33(1). As such, I will not consider section 35(1)(b) further in relation to these Documents.

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<sup>1</sup> *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at 591.

### ***Section 33(1) – Documents containing personal affairs information***

15. A document is exempt under section 33(1) if two conditions are satisfied:
  - (a) disclosure of the document under the FOI Act would ‘involve’ the disclosure of information relating to the ‘personal affairs’ of a person other than the Applicant;<sup>2</sup> and
  - (a) such disclosure would be ‘unreasonable’.
16. Information relates to the ‘personal affairs’ of a person if it is reasonably capable of identifying them, or of disclosing their address or location.<sup>3</sup>
17. It has also been held information relates to an individual’s personal affairs if it ‘concerns or affects that person as an individual’.<sup>4</sup>
18. As the nature of disclosure under the FOI Act is unrestricted and unconditional, this is to be interpreted by the capacity of any member of the public to identify a third party.<sup>5</sup>
19. I have reviewed the Documents to which the Agency applied section 33(1) in part. These Documents contain information such as names, addresses and contact details of individuals other than the Applicant, relationship descriptors and contextual information which is reasonably capable of identifying third parties.
20. Accordingly, I am satisfied the Documents contain the personal affairs information of individuals other than the Applicant.
21. As noted above, in the course of this review, the Applicant stated they do not seek access to the personal affairs information contained in the Documents. OVIC staff advised the Applicant that in light of this, any information considered to be personal affairs information under section 33(1) will not be subject to review. The Applicant confirmed they understood this.
22. As such, these Documents, as well as those to which the Agency applied section 33(1) only, are not subject to further consideration given the Applicant excluded personal affairs information from the scope of this review.
23. The Schedule of Documents provides details of my decision in relation to all documents.

### ***Section 35(1)(b) – Documents containing material obtained in confidence***

24. A document is exempt under section 35(1)(b) if two conditions are satisfied:
  - (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
  - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.

*Was the information or matter communicated in confidence?*

25. The Agency applied section 35(1)(b) to information received by the Agency from:

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<sup>2</sup> Sections 33(1) and (2).

<sup>3</sup> Section 33(9).

<sup>4</sup> *Hanson v Department of Education & Training* [2007] VCAT 123 at [9].

<sup>5</sup> *O’Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

(a) Victoria Police (Document 13); and

(b) complainants (Documents 26, 32, 33, and 34).

26. When determining whether the information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator, noting confidentiality can be expressed or implied from the circumstances of a matter.<sup>6</sup>
27. There is nothing on the face of the documents to indicate the information was communicated in confidence. However, a document need not be marked 'confidential' for the content to be considered information communicated in confidence.<sup>7</sup>
28. Having reviewed the Documents and the nature of the information provided, I am satisfied the third parties who communicated the information to the Agency did so in circumstances in which confidentiality can reasonably be implied, based on the nature and context of the information.
29. Disclosure of the information in the documents would therefore divulge information communicated in confidence.

*Would disclosure be contrary to the public interest?*

30. Section 35(1)(b) also requires consideration of whether the Agency would be impaired from obtaining similar information in the future if the documents were to be disclosed under the FOI Act.
31. This means I must be satisfied that, if the information were to be disclosed, others in the position of the communicator would be reasonably likely not to provide similar information to the Agency in the future.
32. The exemption under section 35(1)(b) will not be made out if the evidence goes no further than that the people involved would be somewhat less candid than they otherwise might be in providing information in the future.<sup>8</sup>
33. The Agency's statutory functions include administering and ensuring compliance with certain legislation and local laws.
34. With respect to Documents 26, 32, 33, and 34, I accept the Agency relies on information provided by members of the public – often in the form of complaints – to carry out its legislative functions, and that members of the public will generally make complaints to an agency with an expectation it will remain confidential.
35. In my view, disclosure of certain information provided to the Agency would render the Agency's complaints process would have a detrimental effect on its ability to obtain information connected to its legislative functions from third parties on a voluntary basis.
36. I am of the view that if details of complaints were to be routinely released under FOI, individuals would be deterred from contacting the Agency and providing complaint related information. I consider this to be a significant outcome which would be detrimental to the Agency's ability to fully investigate complaints and perform its legislative functions.
37. With respect to Document 13, I accept the Agency relies on a collaborative working relationship with Victoria Police to carry out its functions. The collaborative working relationship extends to Victoria

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<sup>6</sup> *XYZ v Victoria Police* [2010] VCAT 255 at [265].

<sup>7</sup> *Williams v Victoria Police* [2007] VCAT 1194 at [75].

<sup>8</sup> *Smeaton v Victorian WorkCover Authority* [2012] VCAT 1549 approving *Birnbauer v Inner and Eastern Health Care Network* (1999) 16 VAR 9.

Police sharing certain information contained in its internal database with the Agency. I am of the view that if this information was routinely shared beyond the Agency without agreement from Victoria Police, that this collaborative relationship may be negatively impacted which could hinder the Agency's ability to fully investigate complaints and perform its legislative functions.

38. Accordingly, I am satisfied certain information in Documents 13, 26, 32, 33 and 34 is exempt under section 35(1)(b). The Schedule of Documents contains a summary of my decision with respect to each document.

### ***Section 32 – Documents affecting legal proceedings***

39. Section 32 provides a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege.
40. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:<sup>9</sup>
- (a) between the client (or the client's agent) and the client's professional legal advisors, that was made for the dominant purpose of obtaining or providing legal advice or is referable to pending or contemplated litigation; or
  - (b) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
  - (c) between the client (or the client's agent) and third parties that was made for the purpose of obtaining information to be submitted to the client's professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation.
41. A document will be subject to client legal privilege where it contains a 'confidential communication'<sup>10</sup> between:
- (a) the client (or the client's agent) and the client's professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice;<sup>11</sup> or
  - (b) the client and another person, which was made for the dominant purpose of the client being provided with professional legal services relating to a proceeding in which the client is or was a party.<sup>12</sup>
42. The High Court of Australia has held the purpose of legal professional privilege, or client privilege ensures a client can openly and candidly discuss legal matters with their legal representative and seek legal advice:

The rationale of this head of privilege, according to traditional doctrine, is that it promotes the public interest because it assists and enhances the administration of justice by facilitating the representation of clients by legal advisers, the law being a complex and complicated discipline. This it does by keeping secret their communications, thereby inducing the client to retain the solicitor and seek his advice, and

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<sup>9</sup> *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also *Evidence Act 2008* (Vic), section 119.

<sup>10</sup> Defined in section 117 of the *Evidence Act 2008* (Vic) to mean communications made in circumstances where the Agency and its professional legal advisers were under an obligation not to disclose their contents.

<sup>11</sup> Section 118 of the *Evidence Act 2008* (Vic).

<sup>12</sup> Section 119 of the *Evidence Act 2008* (Vic).

encouraging the client to make a full and frank disclosure of the relevant circumstances to the solicitor.<sup>13</sup>

*Do the documents contain confidential communications?*

- 43. The Agency exempted Documents 36 to 42 in full under section 32(1).
- 44. Documents 36 to 42 are email correspondence (including attachments) between Agency officers and the Agency's external professional legal advisers.
- 45. Having reviewed the documents, I am satisfied the information contained in them constitute confidential communications between the Agency and a legal practitioner.

*What was the dominant purpose of the confidential communications?*

- 46. The dominant purpose for which the confidential communication was made determines whether the exemption applies.<sup>14</sup>
- 47. Having reviewed the documents, I am satisfied the dominant purpose of the confidential communications was to request legal advice and provide legal advice with respect to the proposed and eventual prosecution of offences under the *Building Act 1993* (Vic) and the *Public Health and Wellbeing Act 2008* (Vic).

*Has privilege been waived?*

- 48. As stated above, legal professional privilege exists to protect the confidentiality of communications between a client and their lawyer. Privilege will be lost where the client acts in a way that is inconsistent with the maintenance of that confidentiality. For instance, where the substance of the legal advice is disclosed by the client or with their express or implied consent.<sup>15</sup>
- 49. There is no evidence before me to establish legal professional privilege in the documents has been waived.

*Conclusion on the applicability of section 32(1)*

- 50. On the information before me, I am satisfied information contained in Documents 36 to 42 would be privileged from production in legal proceedings on the grounds they are confidential communications subject to legal professional privilege.

***Deletion of exempt or irrelevant information***

- 51. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency or Minister to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
- 52. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'<sup>16</sup> and the effectiveness of the deletions. Where

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<sup>13</sup> *Grant v Downs* (1976) 135 CLR 674 at [19].

<sup>14</sup> *Thwaites v DHS* [1998] VCAT 580 at [22]-[24].

<sup>15</sup> *Mann v Carnell* (1999) 201 CLR 1 at [28].

<sup>16</sup> *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 at [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

deletions would render the document meaningless, they are not 'practicable' and release of the document is not required under section 25.<sup>17</sup>

53. I have considered the effect of deleting exempt and irrelevant information from the documents. In my view, it is practicable for the Agency to delete most of the exempt and irrelevant information, because it would not require substantial time and effort, and the edited documents would retain meaning.
54. The Schedule of Documents contains a summary of my decision with respect to deletions under section 25.

### **Conclusion**

55. I note the Agency exempted information in Documents 1, 3, 5 – 8, 11, 14 – 25 and 27 - 30 under both section 33(1) and 35(1)(b) of the FOI Act. I subsequently determined the correct and preferable exemption to this information is section 33(1) only. As such, these Documents, as well as those to which the Agency applied section 33(1) only, are not subject to further consideration given the Applicant excluded personal affairs information from the scope of this review.
56. On the information available, I have determined the exemptions in sections 35(1)(b) and 32 apply to certain information in the documents subject to review. I am satisfied:
  - (a) information in Documents 13, 26, 32, 33 and 34 is exempt under section 35(1)(b), and
  - (b) information in Documents 36 to 42 is exempt under section 32.
57. As it is practicable to edit some of the documents to delete irrelevant and exempt information, I have determined to grant access to eight documents in part and refuse access to seven documents in full.

### **Review rights**

58. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.<sup>18</sup>
59. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>19</sup>
60. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>20</sup>
61. Information about how to apply to VCAT is available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au). Alternatively, VCAT may be contacted by email at [admin@vcat.vic.gov.au](mailto:admin@vcat.vic.gov.au) or by telephone on 1300 018 228.
62. The Agency is required to notify the Information Commissioner in writing as soon as practicable if either party applies to VCAT for a review of my decision.<sup>21</sup>

### **When this decision takes effect**

63. My decision does not take effect until the relevant review period (stated above) expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

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<sup>17</sup> *Honeywood v Department of Human Services* [2006] VCAT 2048 at [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140], [155].

<sup>18</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>19</sup> Section 52(5).

<sup>20</sup> Section 52(9).

<sup>21</sup> Sections 50(3F) and (3FA).



## Annexure 1 - Document Schedule

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Internal email	2	Release in part Sections 33(1), 35(1)(b)	Not subject to review based on Applicant's scope	Section 33: I am satisfied the information exempted by the Agency is information relating to the personal affairs of individuals other than the Applicant.  As the Applicant has advised they are not seeking personal affairs information, this document is not subject to review.
2.	[date]	Internal email	3	Release in part Section 33(1), 25	Release in part Sections 33(1), 25  The information deleted by the Agency is to remain deleted.	Section 33: I am satisfied the information exempted by the Agency is information relating to the personal affairs of individuals other than the Applicant.  As the Applicant has advised they are not seeking personal affairs information, this information is not subject to review.  Section 25: I have considered the information the Agency deleted as irrelevant. I agree it falls outside the scope of the Applicant's request because it relates to a matter or property other than those referred to in the Applicant's request.
3.	[date]	Internal email	2	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
4.	[date]	Internal email	4	Release in part Section 33(1), 25	Release in part Sections 33(1), 25  The information deleted by the Agency is to remain deleted.	See comments for Document 2.
5.	[date]	Internal email with draft statement	5	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
6.	[date]	Customer request	1	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
7.	[date]	Customer request as at [date]	8	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
8.	[date]	Letter to complainant	2	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
9.	[date]	Letter to residents in vicinity	1	Release in part Section 33(1)	Not subject to review	See comments for Document 1.
10.	[date]	Customer request	2	Release in part	Release in part	See comments for Document 2.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 33(1), 25	Sections 33(1), 25  The information deleted by the Agency is to remain deleted.	
11.	[date]	Email from complainant	5	Release in part  Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
12.	[date]	Letter to residents in vicinity	1	Release in part  Section 33(1)	Not subject to review	See comments for Document 1.
13.	Undated – [year]	Reports from Victoria Police	4	Release in part  Sections 33(1), 35(1)(b)	Release in part  Sections 35(1)(b), 25  The information deleted by the Agency is to remain deleted.	<p><b>Section 33(1):</b> I am satisfied the information exempted by the Agency is information relating to the personal affairs of individuals other than the Applicant.</p> <p>As the Applicant has advised they are not seeking personal affairs information, this information is not subject to review.</p> <p><b>Section 35(1)(b):</b> I am satisfied information contained in this document is exempt under section 35(1)(b), as disclosure would be reasonably likely to impair the ability of the Agency to obtain similar information in the future.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p><b>Section 25:</b> I am of the view it is practicable for the Agency to prepare an edited version to remove any exempt material.</p> <p>See comments in Document 2.</p>
14.	[date]	Email from complainant	2	<p><b>Release in part</b></p> <p>Sections 33(1), 35(1)(b)</p>	<b>Not subject to review</b>	See comments for Document 1.
15.	[date]	Email to complainant	1	<p><b>Release in part</b></p> <p>Sections 33(1), 35(1)(b)</p>	<b>Not subject to review</b>	See comments for Document 1.
16.	[date]	[Named ward] meeting enquiry	1	<p><b>Release in part</b></p> <p>Sections 33(1), 35(1)(b)</p>	<b>Not subject to review</b>	See comments for Document 1.
17.	[date]	Internal email	1	<p><b>Release in part</b></p> <p>Sections 33(1), 35(1)(b)</p>	<b>Not subject to review</b>	See comments for Document 1.
18.	[date]	Letter to complainant	1	<p><b>Release in part</b></p> <p>Sections 33(1), 35(1)(b)</p>	<b>Not subject to review</b>	See comments for Document 1.
19.	Last date is [date]	Summary of investigation	3	<b>Release in part</b>	<b>Not subject to review</b>	See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 33(1), 35(1)(b)		
20.	Undated - [year]	Draft statement	5	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
21.	Undated - [year]	Draft statement with annotation	5	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
22.	Undated - [year]	Draft statement	4	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
23.	Undated - [year]	Draft statement	5	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
24.	Undated - [year]	Draft statement with annotation	4	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
25.	[date]	Noise log from complainant with annotations	3	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
26.	[date]	Councillor Request	7	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b),	Section 33: I am satisfied certain information exempted by the Agency is information relating to the personal

# Annexure 1 - Document Schedule

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					25 The information deleted by the Agency is to remain deleted.	affairs of individuals other than the Applicant.  As the Applicant has advised they are not seeking personal affairs information, this information is not subject to review.  <b>Section 35(1)(b):</b> I am satisfied information contained in this document is exempt under section 35(1)(b), as disclosure would be reasonably likely to impair the ability of the Agency to obtain similar information in the future.  <b>Section 25:</b> See comments for Document 14.
27.	[date]	Handwritten officer notes of phone call	1	<b>Release in part</b> Sections 33(1), 35(1)(b)	<b>Not subject to review</b>	See comments for Document 1.
28.	[date]	Customer Request as at [date]	2	<b>Release in part</b> Sections 33(1), 35(1)(b)	<b>Not subject to review</b>	See comments for Document 1.
29.	[date]	Customer Request as at [date] with annotations	1	<b>Release in part</b> Sections 33(1), 35(1)(b)	<b>Not subject to review</b>	See comments for Document 1.
30.	[date]	Handwritten officer notes of	1	<b>Release in part</b>	<b>Not subject to review</b>	See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		phone call		Sections 33(1), 35(1)(b)		
31.	[date]	Letter to resident in vicinity – returned to sender	2	Release in part Section 33(1)	Not subject to review	See comments for Document 1.
32.	[date]	Email chain	19	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 35(1)(b), 25  The information deleted by the Agency is to remain deleted.	See comments for Document 26.
33.	[date]	Email chain	26	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25  The information deleted by the Agency is to remain deleted.	See comments for Document 26.
34.	[date]	Email chain	6	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25  The information deleted by the Agency is to	See comments for Document 26.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					remain deleted.	
35.	[date]	Email chain with handwritten notes	6	Release in part Sections 33(1), 35(1)(b)	Not subject to review	See comments for Document 1.
36.	[date]	Email chain between Agency Officers and professional legal advisors	4	Refused in full Section 32(1)	Refuse in full Sections 32(1), 25	Section 32(1): I am satisfied this document would be privileged from production in legal proceedings on the grounds they are confidential communications subject to legal professional privilege.  Section 25: I do not consider it practicable to delete the exempt information from this document, as doing so would render the document meaningless and devoid of context.
37.	[date]	Email and attachments, from Agency Officer to professional legal advisor	6	Refused in full Section 32(1)	Refuse in full Sections 32(1), 25	See comments for Document 36.
38.	[date]	Email from professional legal advisor to Agency officer	2	Refused in full Section 32(1)	Refuse in full Sections 32(1), 25	See comments for Document 36.
39.	[date]	Email chain between Agency officers and professional	6	Refused in full	Refuse in full	See comments for Document 36.



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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		legal advisors		Section 32(1)	Sections 32(1), 25	
40.	[date]	Email chain between Agency officers and professional legal advisors	5	Refused in full Section 32(1)	Refuse in full Sections 32(1), 25	See comments for Document 36.
41.	[date]	Email chain between Agency officers and professional legal advisors, including attachment	9	Refused in full Section 32(1)	Refuse in full Sections 32(1), 25	See comments for Document 36.
42.	[date]	Email chain between Agency officers and professional legal advisors, including attachment	3	Refused in full Section 32(1), 25	Refuse in full Sections 32(1), 25	<p><b>Section 32(1):</b> See comments for Document 36.</p> <p><b>Section 25:</b> Information contained in this document falls outside the scope of the Applicant's request because it relates to a matter or property other than that referred to in the Applicant's request.</p> <p>I do not consider it practicable to delete the exempt and irrelevant information from this document, as doing so would render the document meaningless and devoid of context.</p>