

Notice of Decision and Reasons for Decision

Applicant:	'AW6'
Agency:	City of Ballarat
Decision date:	18 December 2019
Exemptions considered:	Sections 33(1), 34(1)(b), 34(4)(a)(ii)
Citation:	'AW6' and City of Ballarat (<i>Freedom of Information</i>) [2019] VICmr 205 (18 December 2019)

FREEDOM OF INFORMATION – tenancy agreement – terms and conditions for use – sportsgrounds – stadiums – agreements with sporting clubs

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 differs from the Agency's decision.

On the information available, I am satisfied the exemptions in sections 33(1), 34(1)(b), 34(4)(a)(ii) do not apply to the documents. I have decided to grant access to the documents in part, with irrelevant information deleted in accordance with section 25.

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

18 December 2019

Reasons for Decision

Background to review

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

...all documents, including and not limited to, notes emails, reports, briefing notes and recordings relating to:

A) Tenancy/user agreements (however described) proposed and actual relating to the ovals described as the number one (1) oval ([named] Stadium) and the nearby number 2 oval – situated at [street address and city], from 1 January 2016 to present.

B) Tenancy/user agreements (however described) proposed and actual relating to the land and buildings formerly owned by [named sports] Club at [street address and city], and subsequently compulsorily acquired by the City of Ballarat from [date] to present.
2. In its decision, the Agency identified certain documents falling within the terms of the Applicant's request. It decided to grant access to the documents in part.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. Section 49M(1) permits an agency to make a fresh decision on an FOI request during a review. On 15 March 2019, the Agency made a fresh decision. This is within the required 28 days under section 49M(2). The Agency identified additional documents within the scope of the request and decided to release them to the Applicant in part.
5. The Applicant did not agree with the Agency's fresh decision and, as required by section 49MA(2), I proceeded with my review on the basis of the fresh decision.
6. I have examined copies of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties, including:
 - (a) the Agency's fresh decision on the FOI request;
 - (b) the Applicant's review application, submission dated 23 April 2019 and subsequent information they provided;
 - (c) the Agency's subsequent communications with OVIC.
9. I note the Agency and the Applicant discussed whether the Applicant is seeking personal affairs information in the documents during the processing of the request. The Agency's original decision advises that personal affairs information is excluded from the review as it was not sought by the Applicant and therefore irrelevant to the request. In its fresh decision, the Agency advised the Applicant is only seeking personal affairs information in three documents, being documents 50, 52 and 53.
10. Separate to this review application, this Office also accepted a complaint from the Applicant in relation to the processing of this request. Following discussions with the Agency, this office advised

the Applicant that we are proceeding on the basis that personal affairs was not excluded from the request.

11. During the review, OVIC discussed the scope of the review with the Applicant who advised [they are] only seeking the personal affairs information in Documents 50, 52, 53 and 86. The Applicant also advised they are not seeking the financial information in certain documents.
12. Accordingly, the following information is outside the scope of the review and irrelevant to the request:
 - (a) the financial affairs information in certain documents;
 - (b) the personal affairs information in the documents – except for Documents 50, 52, 53 and 86.
13. 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.

Preliminary view

14. This office provided the Agency with my preliminary view in relation to the agreements (that make up the majority of the documents sought by the Applicant) on 3 June 2019. My office advised that, even if I considered the Agency was engaged in trade or commerce, I considered that, given the Applicant is not seeking certain financial information, disclosure of the agreements with community groups would not be likely to expose the Agency unreasonably to disadvantage. I formed this view because the agreements all contained similar provisions and appeared to contain standard elements that would be expected in such agreements.
15. The Agency responded advising that while it maintained its concerns about the effect of disclosure, it was prepared to release such documents, excluding any financial information. The Agency also advised that it had located an additional document in scope of the review, being the final version of an agreement with a third party. The Agency advised that it considered this document exempt under section 34(4)(a)(ii). I consider this document falls within the scope of this review consistent with the specific information sought by the Applicant in relation to the remainder of the documents.

Review of exemptions

16. The Agency relied on sections 34(1)(b) and 34(4)(a)(ii) to refuse access to parts of the documents. The Agency's decision letter sets out the reasons for its decision.
17. I have also considered section 33(1) in relation to the information sought by the Applicant.

Section 33(1)

18. 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;¹ and
 - (b) such disclosure would be 'unreasonable'.

¹ Sections 33(1) and (2).

19. Information relating to a person's 'personal affairs' includes information that identifies any person, or discloses their address or location. It also includes any information from which this may be reasonably determined.²
20. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the personal interest in privacy in the particular circumstances of a matter.
21. Section 33(2A) requires that, in deciding whether the disclosure of a document would involve the unreasonable disclosure of information relating to the personal affairs of any person, I must take into account whether the disclosure of the information would, or would be reasonably likely to, endanger the life or physical safety of any person. However, I do not consider this to be a relevant factor in the circumstances.
22. In deciding whether disclosure of a document would involve the unreasonable disclosure of a third party's personal affairs information, an agency must notify that person (or their next of kin, if deceased) an FOI request has been received for documents containing their personal information and seek their view as to whether disclosure of the document should occur.³ However, this obligation does not arise if:
 - (a) the notification would be reasonably likely to endanger the life or physical safety of a person, or cause them undue distress, or is otherwise unreasonable in the circumstances;
 - (b) the notification would be reasonably likely to increase the risk to the safety of a person experiencing family violence; or
 - (c) it is not practicable to do so.⁴
23. The Agency advised it consulted with the third parties and I have taken their responses into consideration in my decision set out in the Schedule of Documents at **Annexure A**.

Section 34(1)(b)

24. Section 34(1)(b) provides a document is an exempt document if its disclosure under the FOI Act would disclose information acquired by an agency (or a Minister) from a business, commercial or financial undertaking and:
 - (a) the information relates to other matters of a business, commercial or financial nature; and
 - (b) the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.
25. In *Thwaites v Department of Human Services*,⁵ the Victorian Civil and Administrative Tribunal (VCAT) observed the phrase 'information acquired' in section 34(1) signifies the need for some positive handing over of information in some precise form.
26. VCAT has also recognised the words 'business, commercial or financial nature' have their ordinary meaning.⁶
27. Section 34(2) provides:

² Section 33(9).

³ Section 33(2B).

⁴ Section 33(2C).

⁵ (1999) 15 VAR 1.

⁶ *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

In deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of paragraph (b) of subsection (1), an agency or Minister may take account of any of the following considerations—

- (a) whether the information is generally available to competitors of the undertaking;
- (b) whether the information would be exempt matter if it were generated by an agency or a Minister;
- (c) whether the information could be disclosed without causing substantial harm to the competitive position of the undertaking; and
- (d) whether there are any considerations in the public interest in favour of disclosure which outweigh considerations of competitive disadvantage to the undertaking, for instance, the public interest in evaluating aspects of government regulation of corporate practices or environmental controls—

and of any other consideration or considerations which in the opinion of the agency or Minister is or are relevant.

28. The Agency advised it consulted with the third parties who provided information to it of a business and financial nature and I have taken their responses into consideration in my decision set out in the Schedule of Documents at **Annexure A**.

Section 34(4)(a)(ii)

29. Section 34(4)(a)(ii) provides a document is an exempt document if it contains, 'in the case of an agency engaged in trade or commerce, information of a business, commercial or financial nature that would if disclosed under this Act be likely to expose the agency unreasonably to disadvantage'.
30. VCAT has held 'the terms 'trade' and 'commerce' are not words of art; rather they are expressions of fact and terms of common knowledge'.⁷ VCAT has adopted the view of the Federal Court of Australia that these terms are 'of the widest import'.⁸
31. The provision contemplates that disclosure of a document under the FOI Act may expose the agency to a certain measure of disadvantage, and that any such exposure must be unreasonable.
32. My decision in relation to each document is set out in the Schedule of Documents at **Annexure A**.

Deletion of exempt or irrelevant information

33. 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.
34. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'⁹ and the effectiveness of the deletions. Where deletions would render the document meaningless they are not 'practicable' and release of the document is not required under section 25.¹⁰

⁷ *Pallas v Roads Corporation (Review and Regulation)* [2013] VCAT 1967 at [33].

⁸ *Pallas v Roads Corporation (Review and Regulation)* [2013] VCAT 1967 at [34]; *Re Ku-Ring-Gai Co-operative Building Society (No 12) Ltd* (1978) 22 ALR 621 at [649].

⁹ *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 [82].

¹⁰ *Honeywood v Department of Human Services* [2006] VCAT 2048 [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 [140], [155].

35. I have considered the effect of deleting irrelevant information from the documents. In my view, it is practicable for the Agency to delete the irrelevant information, because it would not require substantial time and effort, and the edited documents would retain meaning.

Conclusion

36. On the information available, I am satisfied the exemptions in sections 33(1), 34(1)(b), 34(4)(a)(ii) do not apply to the documents. I have decided to grant access to the documents in part, with irrelevant information deleted in accordance with section 25.

Review rights

37. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.¹¹
38. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹²
39. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹³
40. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
41. 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.¹⁴

When this decision takes effect

42. I have decided to release documents that contain information relating to the personal affairs and business affairs of two third parties.
43. The relevant third parties will be notified of my decision and are entitled to apply to VCAT for a review within 60 days from the date they are given notice.
44. 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.

¹¹ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹² Section 52(5).

¹³ Section 52(9).

¹⁴ Sections 50(3F) and (3FA).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Application for seasonal tenancy	4	Released in part Section 25	Not subject to review	N/A
2.	[date]	Application for seasonal tenancy	7	Released in part Section 25	Not subject to review	N/A
3.	[date]– [date]	Sportsground/Pavilion seasonal allocation application	8	Released in part Section 25	Not subject to review	N/A
4.	[date]	Email	1	Released in part Section 25	Not subject to review	N/A
5.	[date]– [date]	Sportsground/Pavilion seasonal allocation application	11	Released in part Section 25	Not subject to review	N/A
6.	[date]	Email	1	Released in part Section 25	Not subject to review	N/A
7.	[date]	Booking Request	1	Released in part Section 25	Not subject to review	N/A
8.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
9.	[date]	Booking request	1	Released in part	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 25		
10.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
11.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
12.	[date]– [date]	Sportsground/Pavilion seasonal allocation application	7	Released in part Section 25	Not subject to review	N/A
13.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
14.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
15.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
16.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
17.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
18.	[date]	Booking request	1	Released in part	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 25		
19.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
20.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
21.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
22.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
23.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
24.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
25.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
26.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
27.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
28.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
29.	[date]	Booking request	2	Released in part Section 25	Not subject to review	N/A
30.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
31.	[date]	Booking request	2	Released in part Section 25	Not subject to review	N/A
32.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
33.	[date]– [date]	Sportsground/Pavilion seasonal allocation application	9	Released in part Section 25	Not subject to review	N/A
34.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
35.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
36.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency’s Decision	OVIC Decision	OVIC Comments
37.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
38.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
39.	[date]	Booking request	2	Released in part Section 25	Not subject to review	N/A
40.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
41.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
42.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
43.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
44.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
45.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
46.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
47.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
48.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
49.	[date]– [date]	Email thread	2	Released in part Section 25	Not subject to review	N/A
50.	[date]	Terms and Conditions for use of [named] Stadium by a sporting organisation	7	Refused in full Sections 34(1)(b) and 34(4)(a)(ii)	Release in part Section 25 The document is to be released to the applicant, with the following information removed as it is irrelevant to the request: <ul style="list-style-type: none"> the dollar values on pages 2, 3 and 5; the signatures on the last page. 	<p>The Agency consulted with the relevant parties in relation to sections 33(1) and 34(1)(b) and advised OVIC no objections were lodged in relation to its release.</p> <p>Section 33(1): I note the Applicant is seeking the names of the 'decision makers' that appear in this document.</p> <p>The document contains the names and position titles of Agency staff and the name of a third party that amounts to personal affairs information. I have decided it would not be unreasonable to release this information because those parties did not object to the</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>release of their names.</p> <p>Section 34(1)(b) and 34(4)(a)(ii): Given the third party does not object to its release, I do not consider disclosure would be likely to expose it unreasonably to disadvantage. I note the Agency no longer claims section 34(4)(a)(ii) applies to the document. It is therefore not exempt from release under these sections.</p> <p>Section 25: The signatures and financial details in the document are not sought by the Applicant and are irrelevant to the request.</p>
51.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
52.	[date]	Terms and Conditions for use of [named] Stadium by a sporting organisation	7	Refused in full Sections 34(1)(b) and 34(4)(a)(ii)	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the dollar values on pages 2, 3 and 5; 	<p>Section 33(1): I note the Applicant is seeking the names of the 'decision makers' that appear in this document. I have decided it would not be unreasonable to release their names and position titles for the reasons set out in Document 50.</p> <p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<ul style="list-style-type: none"> the signatures on the last page. 	set out in Document 50.
53.	[date]	Terms and Conditions for use of [named] Stadium by a sporting organisation	7	<p>Refused in full</p> <p>Sections 34(1)(b) and 34(4)(a)(ii)</p>	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the dollar values on pages 2, 3 and 5; the signatures on the last page. 	<p>Section 33(1): I note the Applicant is seeking the names of the 'decision makers' that appear in this document. I note in relation to this document, the person named from the sporting club objected to the release of their name.</p> <p>In my view, it is not unreasonable to release the name in the document, where the information is not sensitive personal information, the name of the club is being released and the person's name and association with the club is publicly available information.</p> <p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p>
54.	[date]– [date]	Sportsground/Pavilion seasonal allocation application	14	<p>Released in part</p> <p>Section 25</p>	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency’s Decision	OVIC Decision	OVIC Comments
55.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
56.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
57.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
58.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
59.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
60.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
61.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
62.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
63.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
64.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
65.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
66.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
67.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
68.	[date]	Booking request	1	Released in part Section 25	Not subject to review	N/A
69.	[date]	Email thread	3	Released in part Section 25	Not subject to review	N/A
70.	[date]	Email thread and User Agreement	29	Released in part Sections 25, 34(4)(a)(ii)	Not subject to review	N/A
71.	[date]	Email thread & User Agreement	30	Released in part Sections 25, 34(4)(a)(ii)	Not subject to review	N/A
72.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency’s Decision	OVIC Decision	OVIC Comments
73.	[date]	Email	1	Released in part Section 25	Not subject to review	N/A
74.	[date]	Email	1	Released in part Section 25	Not subject to review	N/A
75.	[date]	Email & Tenancy Agreement	23	Released in part Section 25	Not subject to review	N/A
76.	[date]	Email & Tenancy Agreement	24	Released in part Section 25	Not subject to review	N/A
77.	[date]	Email & Tenancy Agreement	8	Released in part Section 25	Not subject to review	N/A
78.	[date]	Email	1	Released in part Section 25	Not subject to review	N/A
79.	[date]	Email thread	5	Released in part Section 25	Not subject to review	N/A
80.	[date]	Email thread	10	Released in part Section 25	Not subject to review	N/A
81.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
82.	[date]	Email, Lease template and User Agreement Discussion items	16	Released in part Sections 25, 34(4)(a)(ii)	Not subject to review	N/A
83.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A
84.	[date]	Email and attached event user agreement for use of [named] Stadium and a sporting organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone number on page 1 in the email; the dollar value on pages 2 and 5 of the user agreement; the name on page 8 of the agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
85.	[date]	Email and attached event user agreement for use of [named] Stadium and a sporting organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25 The document is to be released to the applicant, with the following information removed as it is irrelevant to the request: <ul style="list-style-type: none"> the names, email addresses and phone number on page 1 in the email; the dollar values on pages 2 and 5 of the user agreement; the name on page 8 of the agreement. 	Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50. Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.
86.	[date]	Email and attached tenancy conditions for use of [named] Stadium and a sporting organisation	8	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25 The document is to be released to the applicant, with the following information removed as it is irrelevant to the request: <ul style="list-style-type: none"> the phone number on 	Section 33(1): I note the Applicant is seeking the names of the 'decision makers' that appear in this document. I have decided it would not be unreasonable to release their names and position titles for the reasons set out in Document 50. Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>page 1 in the email;</p> <ul style="list-style-type: none"> the dollar value on pages 2 and 5 of the agreement. 	under these sections for the reasons set out in Document 50.
87.	[date]	Email thread	3	Released in part Section 25	Not subject to review	N/A
88.	[date]	Email thread	5	Released in part Section 25	Not subject to review	N/A
89.	[date]	Email thread	4	Released in part Section 25	Not subject to review	N/A
90.	[date]	Email and attached tenancy conditions for use of [named] Stadium and a sporting club	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names and email addresses on page 1 of the email; the dollar values on pages 2 and 5 of the 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>agreement;</p> <ul style="list-style-type: none"> the name on page 8 of the user agreement. 	
91.	[date]	Email and attached tenancy conditions for use of [named] Stadium and a sporting club	10	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on page 1 of the email; the dollar values on pages 2 and 5 of the user agreement; the name on page 8 of the agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
92.	[date]	Email and attached tenancy conditions for use of [named] Stadium and a sporting club	10	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released</p>	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 and 2 of the email; the dollar values on pages 2 and 5 of the agreement; the name on page 8 of the user agreement. 	<p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
93.	[date]	Email and attached tenancy conditions for use of [named] Stadium and a sporting club	9	<p>Released in part</p> <p>Sections 34(1)(b), 34(4)(a)(ii), 25</p>	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names and email addresses on page 1 of the email; the dollar values on pages 2 and 5 of the 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>agreement;</p> <ul style="list-style-type: none"> the name on page 8 of the user agreement. 	
94.	[date]	Email thread	12	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Not subject to review	N/A
95.	[date]	Email thread	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Not subject to review	N/A
96.	[date]	Email thread and attached event user agreement for use of [named] Stadium and a sporting organisation	11	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 through to 4 of the email; the dollar values on pages 2 and 5 of the 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>agreement;</p> <ul style="list-style-type: none"> the name on page 7 of the user agreement. 	
97.	[date]	Email and attached terms and conditions for use of [named] Stadium and a sporting organisation	8	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on page 1 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name on page 7 of the user agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
98.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A
99.	[date]	Email thread	2	Released in part	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 25		
100.	[date]	Email thread and attached terms and conditions for use of [named] Stadium and a sporting organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25 The document is to be released to the applicant, with the following information removed as it is irrelevant to the request: <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 and 2 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name and signature on page 7 of the agreement. 	Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50. Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.
101.	[date]	Email and attached terms and conditions for use of [named] Stadium and a sporting organisation containing three versions	22	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25 The document is to be released to the applicant, with the following information removed	Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50. Section 25: I note the applicant is not seeking the personal affairs

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on page 1 of the email; the dollar values on pages 2, 3 and 5 of each agreement; the name and signature on page 7 of each agreement. 	<p>information in this document. It is therefore irrelevant to the request.</p>
102.	[date]	Email and attached terms and conditions for use of [named] Stadium and a sporting organisation	8	<p>Released in part</p> <p>Sections 34(1)(b), 34(4)(a)(ii), 25</p>	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone number on page 1 of the email; the dollar values on pages 2, 3 and 5 of the 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>agreement;</p> <ul style="list-style-type: none"> the name on page 7 of the agreement. 	
103.	[date]	Email and attached terms and conditions for use of [named] Stadium and a sporting organisation	8	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone number on page 1 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name and signature on page 7 of the agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
104.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
105.	[date]	Email thread and attached terms and conditions for use of [named] Stadium and a sporting organisation	11	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25 The document is to be released to the applicant, with the following information removed as it is irrelevant to the request: <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 through to 4 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name and signature on page 7 of the agreement. 	Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50. Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.
106.	[date]	Email thread	3	Released in part Section 25	Not subject to review	N/A
107.	[date]	Email thread and attached terms and conditions for use of [named] Stadium and	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	Release in part Section 25	The email thread in this document partially duplicates the email thread in Document 105 above.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		a sporting organisation			<p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 and 2 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name on page 7 of the agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
108.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A
109.	[date]	Email thread	2	Released in part Section 25	Not subject to review	N/A
110.	[date]	Email thread	3	Released in part Section 25	Not subject to review	N/A
111.	[date]	Email thread and attached terms and conditions for use of [named] Stadium and	12	Released in part Sections 34(1)(b),	Release in part Section 25	Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		a sporting organisation		34(4)(a)(ii), 25	<p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 through to 5 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the names and signatures on page 7 of the agreement. 	<p>set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
112.	[date]	Email thread	4	Released in part Section 25	Not subject to review	N/A
113.	[date]	Email thread and attached terms and conditions for use of [named] Stadium and a sporting organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p>	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<ul style="list-style-type: none"> the names, email addresses and phone numbers on pages 1 and 2 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the names and signatures on page 7 of the agreement. 	therefore irrelevant to the request.
114.	[date]	Email and attached terms and conditions for use of [named] Stadium and a sporting organisation	8	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email addresses and phone number on page 1 of the email; the dollar values on pages 2, 3 and 5 of the agreement; 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<ul style="list-style-type: none"> the name and signature on page 7 of the agreement. 	
115.	[date]	Email and attached terms and conditions for use of [named] Stadium and an organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names, email address and phone numbers on page 1 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the name on page 8 of the agreement. 	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not seeking the personal affairs information in this document. It is therefore irrelevant to the request.</p>
116.	[date]	Email and attached terms and conditions for use of [named] Stadium and an organisation	9	Released in part Sections 34(1)(b), 34(4)(a)(ii), 25	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the</p>	<p>Section 34(1)(b) and 34(4)(a)(ii): I have decided the document is not exempt under these sections for the reasons set out in Document 50.</p> <p>Section 25: I note the applicant is not</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> the names and email address on page 1 of the email; the dollar values on pages 2, 3 and 5 of the agreement; the names and signature on page 8 of the agreement. 	seeking the personal affairs information in this document. It is therefore irrelevant to the request.
117.	[date]	Email thread	6	Released in part Section 25	Not subject to review	N/A
118.	Undated	User agreement	23	Refused in full Section 34(4)(a)(ii)	<p>Release in part Section 25</p> <p>The document is to be released to the applicant, with the following information removed as it is irrelevant to the request:</p> <ul style="list-style-type: none"> all of the information in section 11.1 (a); the dollar value in 	<p>Section 34(1)(b): The Agency consulted with the relevant third party in relation to section 34(1)(b) and advised OVIC that the third party objected to its release.</p> <p>I note the third party objects to its release on the basis that disclosure would adversely affect its ability to negotiate terms and conditions for the use of other stadiums. The third party argues that this may harm the third party's ability to achieve the best</p>

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					<p>section 22.1 (a);</p> <ul style="list-style-type: none"> • the dollar values in section 22.2(a) • the signatures on the last page; • the names of the two witnesses on the last page. 	<p>commercial outcomes for its shareholders.</p> <p>I agree the document contains information acquired by the Agency from a business, commercial or financial undertaking and that the information relates to matters of a business, commercial or financial nature.</p> <p>However, I do not agree the disclosure of the information would be likely to expose it unreasonably to disadvantage. I have reached this decision because:</p> <ul style="list-style-type: none"> • the terms are standard for such contracts, that is, they do not appear to have any special or unique features the disclosure of which would disadvantage the third party; • given the redaction of the financial information, the likelihood that disclosure would affect the third party is significantly reduced; • section 34(1)(b) requires that I consider whether disclosure of such information would be

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						<p>'unreasonable'. I consider the public interest in disclosure outweighs any disadvantage that may be experienced by the third party as a result of disclosure in this matter.</p> <p>Section 34(4)(a)(ii): I note the Agency no longer relies on this section.</p> <p>Section 33(1): I note the Applicant has not been able to express [their] view about whether they are seeking the personal affairs in the document. My view is that, consistent with other such agreements, they would be seeking such information.</p> <p>In my view, it is not unreasonable to release the names in the document, where the information is not sensitive personal information, the name appears in a professional context, and the person's name and association with the third party business undertaking is publicly available information.</p> <p>Section 25: The signatures, the name of the witness and financial details in the document are not sought by the Applicant and are irrelevant to the</p>

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						request.