

## Notice of Decision and Reasons for Decision

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Applicant:	'DD1'
Agency:	City of Boroondara
Decision date:	4 June 2021
Exemptions and provision considered:	Sections 25, 30(1), 31(1)(a), 31(1)(d), 32(1), 33(1), 34(1)(b), 35(1)(a), 35(1)(b) and 38 of the <i>Freedom of Information Act 1982</i> (Vic) in conjunction with section 125 of the <i>Local Government Act 2020</i> (Vic)
Citation:	'DD1' and <i>City of Boroondara</i> (Freedom of Information) [2021] VICmr 155 (4 June 2021)

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FREEDOM OF INFORMATION – emails – file notes – witness statements – communications between lawyer and client – prosecution file – legal privilege – confidential information – secrecy provision

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 differs from the Agency's decision in that I have determined to release additional information in the documents to the Applicant.

Specifically, I am satisfied:

- the information to which the Agency refused access under sections 32(1) and 34(1)(b) is exempt under section 38 in conjunction with section 125 of the *Local Government Act 2020* (Vic) (**LG Act 2020**);
- section 38 applies to certain personal information which, if released, would result in the unreasonable disclosure of information about any person or their personal affairs; and
- certain information is exempt under sections 30(1), 35(1)(a) and 35(1)(b).

However, in each instance, I am not satisfied the Agency's application of these exemptions is upheld. Nor am I satisfied the documents are exempt under sections 31(1)(a) or 31(1)(d).

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

My reasons for decision follow.

**Joanne Kummrow**

Public Access Deputy Commissioner

4 June 2021

## Reasons for Decision

### Background to review

1. The Applicant made a request to the Agency seeking access to the following documents:  
  
...all documents in the possession of Council dated/created between [date range] containing personal information relating to me (Applicant's name) and my[domestic animal/s]...
2. The Agency identified 250 documents totalling 1,258 pages falling within the terms of the Applicant's request and granted access to nine documents in full, 75 documents in part and refused access to 166 documents in full.
3. The Agency relied on the exemptions in sections 30(1), 31(1), 32(1), 33(1), 34(1)(b), 35(1)(a) and 35(1)(b) to refuse access to the documents.
4. As the Applicant indicated they do not seek access to personal affairs information of third parties, where the Agency released documents, it did so with names, signatures, emails and telephone numbers removed as irrelevant information under section 25.
5. The Agency's decision letters sets out the reasons for its decision.

### Review

6. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
7. I have examined copies of the documents subject to review.
8. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
9. I have considered all communications and submissions received from the parties.
10. 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.
11. I note Parliament's intention the FOI Act must be interpreted so as to further the object of the Act and any discretions conferred by the Act must be exercised, as far as possible, so as to facilitate and promote the disclosure of information in a timely manner and at the lowest reasonable cost.

### New Local Government Act

12. 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.

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

13. During this review, the LG Act 2020 commenced. The secrecy provision in section 125 of the LG Act 2020 replaces the secrecy provision in the former *Local Government Act 1989* (Vic).
14. Section 125 of the LG Act 2020 changes the way a council must process certain FOI requests as it prohibits the disclosure of 'confidential information', which includes personal affairs information in documents held by a council.
15. Therefore, it is appropriate for me to first consider whether the documents subject to review are exempt under section 38 of the FOI Act in conjunction with section 125 of the LG Act 2020.

## **Review of exemptions**

### ***Section 38 – Secrecy provision***

16. A document is exempt under section 38 if the following three requirements are met:
  - (a) there is an enactment in force;
  - (b) the enactment applies specifically to the kind of information in a document; and
  - (c) the enactment prohibits persons, referred to in the enactment, from disclosing that specific kind of information (either absolutely or subject to exceptions or qualifications).
17. For section 38 to apply to a document, an enactment must be formulated with such precision that it specifies the actual information sought to be withheld.

### ***Is there an enactment in force?***

18. Section 125 of the LG Act 2020 provides:

#### **125 Confidential information**

- (1) Unless subsection (2) or (3) applies, a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.  
Penalty: 120 penalty units.
- (2) Subsection (1) does not apply if the information that is disclosed is information that the Council has determined should be publicly available.
- (3) A person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, may disclose information that the person knows, or should reasonably know, is confidential information in the following circumstances—
  - (a) for the purposes of any legal proceedings arising out of this Act;
  - (b) to a court or tribunal in the course of legal proceedings;
  - (c) pursuant to an order of a court or tribunal;
  - (d) in the course of an internal arbitration and for the purposes of the internal arbitration process;
  - (e) in the course of a Councillor Conduct Panel hearing and for the purposes of the hearing;
  - (f) to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;
  - (g) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;

19. I am satisfied the LG Act 2020 is an enactment in force for the purpose of section 38.

***Does the enactment apply specifically to the kind of information in the documents?***

20. The term ‘confidential information’ is defined in section 3 of the LG Act 2020, which provides:

**3 Definitions**

...

- (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- (g) private commercial information, being information provided by a business, commercial or financial undertaking—
  - i. relates to trade secrets; or
  - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;

21. The definition of ‘confidential information’ in the LG Act 2020, as set out above, overlaps with the exemptions under sections 32(1), 33(1) and 34(1)(b) of the FOI Act.

***Section 32(1) – Documents affecting legal proceedings***

22. Section 32(1) 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.
23. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:
- (a) between 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 or is referable to pending or contemplated litigation;
  - (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.
24. The term ‘client professional privilege’ is a reference to Part 3.10, Division 1 of the *Evidence Act 2008* (Vic). There are minor differences between the scope of client legal privilege and professional legal privilege.
25. ‘Purpose’ in the phrase ‘dominant purpose’ means the purpose that led to the creation of the document or the making of the communication.<sup>2</sup>
26. In *Mostafa v Victorian WorkCover Authority*,<sup>3</sup> Victorian Civil and Administrative Tribunal (VCAT) cited with approval a quote from *Civil Procedure in Victoria*:<sup>4</sup>

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<sup>2</sup> *Carnell v Mann* (1998) 89 FCR 247 at 253.

<sup>3</sup> [2013] VCAT 782.

<sup>4</sup> Butterworths, 1987.

Legal professional privilege protects documents which, although not communications, were brought into existence or collected for the dominant purpose of being included in what may compendiously be called the 'lawyer's brief'.

27. Material gathered by the lawyer or the client in preparation for litigation is privileged as if it were a confidential communication between the lawyer and the client even if it is not such a communication.<sup>5</sup>
28. I am satisfied documents are 'legal privileged information' as they demonstrate either:
  - (a) members of the Agency seeking the advice of a legal officer in relation to the investigation and litigation of a matter;
  - (b) a legal officer providing their advice in their capacity as a legal adviser;
  - (c) communications between the Agency's legal adviser and counsel in relation to court proceedings;
  - (d) documents prepared by the Agency or counsel briefed by the Agency in connection with litigation; and
  - (e) documents forming part of the brief to advise counsel.
29. Accordingly, I am satisfied the information identified as exempt by the Agency under section 32(1) is information to which professional legal privilege or client legal privilege applies. Therefore, I am satisfied information in the documents is 'confidential information' for the purposes of the LG Act 2020.

*Section 34(1)(b) – Information acquired by the Agency from a business undertaking*

30. Section 34(1)(b) provides a document is exempt if its disclosure under the FOI Act would disclose information acquired by an agency 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.
31. The words 'business, commercial or financial nature' have their ordinary meaning.<sup>6</sup>
32. I note the exemption in section 34(1)(b) contemplates an undertaking may be exposed to a certain level of disadvantage. The question is whether the exposure to disadvantage would be unreasonable.
33. The Agency applied section 34(1)(b) to tax invoices. I accept information in the invoices was provided to the Agency by a private business undertaking. I also accept the information broadly relates to matters of a business and financial nature.
34. Having considered the information, I am satisfied release of the individual charge-out rate of legal counsel in the context of a highly competitive legal services market, would expose them unreasonably to disadvantage. However, where the invoice would not divulge such information it could not be seen to cause unreasonable detriment or financial disadvantage.

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<sup>5</sup> *Dingle v Commonwealth Development Bank of Aust* (1989) 23 FCR 63 at [66].

<sup>6</sup> *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

35. Accordingly, I am satisfied counsel charge out rates is 'private commercial information' and if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage. Therefore, I am satisfied this type of information in the documents is 'confidential information' for the purposes of the LG Act 2020.

*Section 33(1) – Personal affairs information of third parties*

36. Section 33(1) provides a document is an exempt document if its disclosure:
- (a) would 'involve' the disclosure of information relating to the personal affairs of a person other than the Applicant (**personal information**);<sup>7</sup> and
  - (b) such disclosure would be 'unreasonable'.
37. As noted above at paragraph 20, under the LG Act 2020, 'confidential information' is defined to include 'personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs'.
38. Information relating to the 'personal affairs' of a person includes information that identifies any person or discloses their address or location. It also includes any information from which such information may be reasonably determined.<sup>8</sup>
39. A third party's opinion or observations about another person's conduct can constitute information in relation to the personal affairs of a third party.<sup>9</sup>

Would disclosure involve disclosure of a third party's 'personal information'?

40. Having reviewed the documents, I am satisfied they contain personal information of third parties who are not the Applicant being, names, telephone numbers, signatures, email addresses and position titles. Certain documents also contain information supplied to the Agency by third parties, as well as statements and observations made by Agency staff.

Would release of the 'personal information' in the document be unreasonable?

41. In relation to section 33(1), the concept of 'unreasonable disclosure' involves determining whether the public interest in disclosure of an individual's 'personal affairs information' in an official document is outweighed by the interest in protecting the personal privacy of an individual in the circumstances.
42. The Victorian Court of Appeal has held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others'.<sup>10</sup> Further, the exemption under section 33(1) 'arises only in cases of unreasonable disclosure' and '[w]hat amounts to an unreasonable disclosure of someone's personal affairs will necessarily vary from case to case'.
43. The Agency advised it had consulted with certain third parties in relation to the disclosure of their information. Copies of the Agency's consultation and third party responses have been provided for my consideration.

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<sup>7</sup> Sections 33(1) and (2).

<sup>8</sup> Section 33(9).

<sup>9</sup> *Richardson v Business Licensing Authority* [2003] VCAT 1053, cited in *Davis v Victoria Police (General)* [2008] VCAT 1343 at [43], *Pritchard v Victoria Police (General)* [2008] VCAT 913 at [24], *Mrs R v Ballarat Health Services (General)* [2007] VCAT 2397 at [13].

<sup>10</sup> *Victoria Police v Marke* [2008] VSCA 218 at [76].

44. Broadly, I accept there is nothing particularly sensitive about disclosing the identity of Victorian public sector staff or other professionals where such information merely concerns or represents those individuals performing their ordinary professional duties.
45. However, having considered the information before me, I am satisfied it would be unreasonable to release certain information in the documents for the following reasons:
- (a) I consider the Applicant is able to read and interpret the documents without the inclusion of specific names, signatures, position titles and direct contact information of third parties. Further, the personal affairs information does not add any material value to the documents.
  - (b) I consider certain information provided to the Agency by third parties, which concerns their personal experiences, is highly sensitive and personal.
  - (c) I am satisfied the personal affairs information in the documents is not available to the public or otherwise available to the Applicant.
  - (d) The Applicant indicated in their original FOI request that personal affairs information of other individuals is information not particularly sought in their request.
46. Accordingly, I am satisfied it would be unreasonable to disclose the personal information of third parties, particularly where they do not wish to have their personal information disclosed.
47. Therefore, I am satisfied personal information in the documents is 'confidential information' for the purposes of the LG Act 2020.

#### Conclusion on section 38

48. I consider section 38 of the FOI Act applies to information in the documents as I am satisfied:
- (a) section 125 of the LG Act 2020 is an enactment in force;
  - (b) subsections 3(e), (f) and (g) of the LG Act 2020 refers specifically to information in the documents; and
  - (c) section 125 of the LG Act 2020 prohibits Agency officers, specifically councillors and council staff, from disclosing 'confidential information'.
49. Accordingly, I am satisfied certain information in the documents is 'legal privileged information', 'personal information' and 'private commercial information', which the Agency determined exempt under sections 32(1), 33(1) and 34(1)(b) is exempt under section 38 in conjunction with section 125 of the LG Act 2020.
50. As I am satisfied section 38 applies to this information it is not necessary for me to also consider the application of sections 32(1), 33(1) and 34(1)(b) to the same information.
51. My decision in relation to section 38 and the documents is set out in **Annexure 1**.

#### **Section 31(1) – Law enforcement documents**

52. The Agency's decision did not distinguish what exemptions under section 31(1) it seeks to rely on. Nonetheless, having reviewed the documents and information provided by the Agency during the review, I consider the Agency's seeks to rely on the exemption in sections 31(1)(a) and 31(1)(d).

### Section 31(1)(a)

53. Subject to this provision, section 31(1)(a) provides a document is an exempt document if its disclosure would, or would be reasonably likely to, 'prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law in a particular instance'.
54. 'Reasonably likely' means there is a real chance of an event occurring; it is not fanciful or remote.
55. 'Prejudice' means to hinder, impair or undermine and includes actual prejudice as well as impending prejudice.
56. 'In a particular instance' does not require a single specific investigation. It can encompass specific, identified aspects of law, administration of law or investigations of breaches or potential breaches of law.

### Section 31(1)(d)

57. Section 31(1)(d) provides (subject to this section) a document is exempt if its disclosure would, or would be reasonably likely to, 'disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures'.
58. The exemptions in section 31(1) do not apply to widespread and well-known methods and procedures.<sup>11</sup>
59. In its decision, the Agency provided information as to why it considered disclosure of the documents to be exempt under this provision.

Most of the documents to which this exemption has been applied include documents obtained by Council for the purpose of prosecutions against you [the Applicant] under the *Domestic Animals Act 1994* (Vic) (**DAA**). Various documents are exempt under section 31(1) of the Act as they formed part of the administration of the law for the purposes of s 31(1), in particular the administration of the DAA and *Local Government Act 1986* (Vic) (now replaces, in part, by the *Local Government Act 2020* (Vic) (**local government laws**)) [sic].

...Documents to which this exemption is claimed includes email correspondence, court documents (such as briefs of evidence) and enforcement action and prosecutions.

The documents reveal matters relevant to the administration of the DAA and local government laws...

In particular, Council considers that disclosure of these documents to you would be reasonably likely to:

- Prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law in a particular instance; and
- Prejudice the effectiveness of Council's procedures for preventing, detecting, investigating and dealing with future breaches or evasions of the law.

60. Relevantly, I also note the Agency's decision letter states, 'I understand the prosecution and investigation matters concerning you have recently concluded, however, as noted above, it is not readily apparent that they are finalised or may not resume in some form in the future'.
61. In relation to the application of section 31(1)(a), I accept the Agency has compliance and regulatory obligations and this is an important consideration when managing ongoing contact with the Applicant. Based on the information before me, I am not persuaded disclosure of specific documents

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<sup>11</sup> XYZ v Victoria Police [2010] VCAT 255 at [177].

identified by the Agency in this matter would prejudice any future investigations or impede the proper administration of its regulatory functions under the DAA and other local government laws.

62. I acknowledge the Agency's view disclosure of certain documents could prejudice the ability of the Agency to respond to any future investigations and legal action involving the Applicant. I agree, in certain circumstances, that may be a relevant consideration. However, I consider if the potential for further legal action was enough to satisfy the exemption in section 31(1)(a) then it would seriously impede the proper application of the FOI Act if this approach were to be generally accepted. Further, in relation to the specific documents, the subject to this request, I do not consider their disclosure would affect the ability of the Agency to respond to any such litigation or investigation in the future.
63. In relation to the application of section 31(1)(d), broadly speaking, I note a small number of documents would disclose the Agency's methods for its compliance activities. However, I do not consider the information in the documents rises to a level that would be reasonably likely to prejudice the effectiveness of those methods. Further, I consider the type of information in the documents relates to what would be reasonably expected by members of the public. For example, the conduct of interviews or assessment of relevant documentation or the written recording of telephone conversations and, in some instances, would be known by the Applicant as the subject of the Agency's investigations.
64. My decision in relation to sections 31(1)(a) and 31(1)(d) is set out in the Schedule of Documents at **Annexure 1**.

***Sections 35(1) and 30(1) – Documents containing material obtained in confidence and internal working documents***

65. Section 35(1) applies to documents that, if disclosed, would divulge any information or matter communicated in confidence by or on behalf of a person or a government to an agency. This provision contains two exemptions: sections 35(1)(a) and 35(1)(b).

**Section 35(1)(a)**

66. A document is exempt under section 35(1)(a) 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) the information would be exempt matter if it were generated by an agency or Minister.
67. The expression 'exempt matter' is defined in section 5(1) to mean 'matter the inclusion of which in a document causes the document to be an exempt document'. A document must be capable of being exempt under another section of the FOI Act, if it were generated by an agency before it can be exempt under section 35(1)(a).
68. I note the advice of the Agency, which consulted with third party agencies, that documents were communicated in confidence. Given the documents were provided in relation to the prosecution of offences, I am satisfied certain documents were provided to the Agency in confidence.
69. Section 30(1) concerns the internal working documents of an agency. However, section 35(1)(a) has the effect that if the information was communicated to an agency from an outside source, so long as the provisions of section 30(1) are met, those communicating the information in confidence are 'deemed' to be officers of the agency and the material will be assessed as if it were generated by the agency.
70. Therefore, I have considered whether the documents are exempt under section 30(1).

### Section 30(1)

71. Section 30(1) has three requirements:

- (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister; and
- (b) such matter must be made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government; and
- (c) disclosure of the matter would be contrary to the public interest.

72. The exemption does not apply to purely factual material in a document.<sup>12</sup>

73. I note documents containing discussions between different agencies will fall within the ambit of section 30(1)(a) where it would disclose consultation or deliberation between officers that relates to a deliberative process of one of those agencies.<sup>13</sup>

74. In deciding whether the information exempted by the Agency would be contrary to the public interest, I have given weight to the following relevant factors:<sup>14</sup>

- (a) the right of every person to gain access to documents under the FOI Act;
- (b) the degree of sensitivity of the issues discussed in the documents and the broader context giving rise to the creation of the documents;
- (c) the stage or a decision or status of policy development or a process being undertaken at the time the communications were made;
- (d) whether disclosure of the documents would be likely to inhibit communications between agency officers, essential for the agency to make an informed and well-considered decision or participate fully and properly in a process in accordance with the agency's functions and other statutory obligations;
- (e) whether disclosure of the documents would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a process, which the agency would not otherwise be able to explain upon disclosure of the documents;
- (f) the impact of disclosing documents in draft form, including disclosure not clearly or accurately representing a final position or decision reached by the agency at the conclusion of a decision or process; and
- (g) the public interest in the community being better informed about the way in which the agency carries out its functions, including its deliberative, consultative and decision-making processes and whether the underlying issues require greater public scrutiny.

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<sup>12</sup> Section 30(3).

<sup>13</sup> See *Brog v Department of Premier & Cabinet* (1989) 3 VAR 201; *Thwaites v Department of Health and Community Services* (1995) 8 VAR 361; *Moloney v Department of Health Services* (2001) 18 VAR 238.

<sup>14</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

75. In relation to the application of section 35(1)(a) and 30(1) to the documents, the Agency submit:

...section 35(1)(a) in conjunction with section 30(1) apply on the basis that disclosure of the information would:

- be exempt if it was generated by Council; and
- be contrary to the public interest on the grounds that disclosure would be reasonably likely to:
  - prejudice the effectiveness of Council's procedures for preventing, detecting, investigating and dealing with future breaches or evasions of the law;
  - endanger the physical safety of persons engaged in law enforcement and persons who have provided information in relation to the enforcement or administration of the law; and
  - impair the Council's ability to obtain similar information in the future should people know that information they provide was likely to be released.

76. I consider it would not be contrary to the public interest to disclose the documents where:

- (a) the correspondence has been communicated to the Applicant and does not reveal sensitive information regarding the Agency's investigation into complaints against the Applicant;
- (b) the information has been provided by the Applicant;
- (c) the correspondence between the Agency and other councils are templated letters that do not reveal sensitive information, methods or techniques;
- (d) the information would be in the public domain; and
- (e) there is a public interest in disclosure of information that demonstrates how the Agency meet its regulatory responsibilities under the *Domestic Animals Act 1994* (Vic) (**DA Act**); this includes their deliberative processes in determining disciplinary action.

77. I consider it would be contrary to the public interest to disclose documents where:

- (a) information is not publicly available;
- (b) documents that provide information specific to complaints made by third parties to the Agency and the Agency's deliberations in relation to investigating those complaints; I consider disclosure of these documents reveal certain information about the Agency's methods that should not be generally publicly available; and
- (c) in relation to such information, I consider disclosure would likely only give part explanation that, given the sensitivity of that information, may not accurately reflect the Agency's final position or action taken in relation to a matter.

78. My decision in relation to sections 35(1)(a) and 30(1) is set out in the Schedule of Documents at **Annexure 1**.

Section 35(1)(b)

79. 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
- (a) 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.

80. Confidentiality can be expressed or implied from the circumstances of the matter.<sup>15</sup>
81. I note the Applicant's advice to OVIC that they do not seek a review of information pertaining to complaints made to the Agency in relation to them.
82. My decision in relation to section 35(1)(b) is set out in the Schedule of Documents at **Annexure 1**.

### ***Section 25 – Deletion of exempt or irrelevant information***

83. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
84. 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 deletions would render a document meaningless, they are not 'practicable', and release of the document is not required under section 25.<sup>17</sup>
85. I have reviewed the Agency's deletions of irrelevant information, being personal affairs information of third parties to which the Applicant indicated in their original request was information they did not seek. Where a document has been released to the Applicant it has been with names, telephone numbers, emails, position titles and signatures of third parties removed.
86. I have considered the effect of deleting irrelevant and exempt information from the documents. In my view, it is practicable for the Agency to delete the irrelevant and exempt information, because it would not require substantial time and effort, and the edited documents would retain meaning.
87. However, where the deletion of exempt would result in the deletion of information to the point the document no longer retains meaning, I consider it would be not practicable to provide an edited copy to the Applicant.

### **Conclusion**

88. On the information before me, I am satisfied legally privileged information, personal information and certain private commercial information is exempt under section 38 in conjunction with section 125 of the LG Act 2020.
89. Further, I am satisfied certain information in the documents is exempt under sections 30(1), 35(1)(a) and 35(1)(b). However, I am not satisfied in each instance the Agency's application of these exemptions is upheld.
90. Finally, I am not satisfied the documents are exempt under sections 31(1)(a) or 31(1)(d).
91. Where I am satisfied it is practicable to provide the Applicant with an edited copy of a document with exempt and irrelevant information deleted in accordance with section 25, I have granted access to a document in part. However, where the editing of a document would result in it being rendered meaningless, I have refused access to the document in full.
92. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

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<sup>15</sup> XYZ v Victoria Police [2010] VCAT 255 at [265].

<sup>16</sup> Mickelburgh 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].

<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] and [155].

## **Review rights**

93. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.<sup>18</sup>
94. 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>
95. 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>
96. 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.
97. 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>

## ***Third party review rights***

98. As I have determined to disclose certain documents the Agency claimed to be exempt under section 35(1), if practicable, I must notify any person, who has a right to make an application to VCAT for review of my decision under section 50(3AB), of the existence of that right.<sup>22</sup>
99. Any application for review by a third party must be made to VCAT within 60 days from the day on which notice in writing of my decision to disclose the document is given to that person.<sup>23</sup>
100. I have considered the practicability of notifying the third parties about my decision to information considered to be provided in confidence. In the circumstances, I do not consider it is practicable to notify the third party agencies. However, I consider it is open to the Agency to share my decision with these third party agencies should it wish to do so.

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

101. My decision does not take effect until the Agency's 14 day review period expires.
102. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

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<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).

<sup>22</sup> Section 49P(5).

<sup>23</sup> Section 52(3).

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Notice of Appeal	1	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Names, address and signatures of third parties are exempt under section 38	<p><b>Sections 30(1) and 35(1)(a):</b> I note the Agency's view the document was provided to it in confidence. Nonetheless, having considered the information I am not satisfied the document would be exempt under section 30(1) if it had been generated by the Agency, because:</p> <ul style="list-style-type: none"> <li>the document is a court notice filed by the Applicant and therefore, the document and its contents would be known to the Applicant; and</li> <li>it is not deliberative, nor does it contain advice, opinion or recommendation or information of that nature.</li> </ul> <p>Therefore, I am satisfied it would not be contrary to the public interest to release.</p> <p><b>Sections 31(1)(a) and (d):</b> For the reasons set out in the Notice of Decision, I am not persuaded release of the document would prejudice the proper administration of the Agency's regulatory functions or impede its enforcement methods and procedures of future matters if released.</p> <p><b>Section 38:</b> Having considered the personal affairs information in the document and the matters raised by the Agency in its submission,</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>I am satisfied it would be unreasonable to release the names, address and signatures of third parties. Accordingly, I am satisfied this information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p><b>Section 25:</b> I am satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt material deleted as to do so would not take substantial time and effort and the document would retain meaning.</p>
2.	[date]	Letter	1	Refused in full Section 30(1), 31(1), 32(1), 35(1)(a)	Refuse in full Sections 38, 35(1)(b)	<p><b>Section 38:</b> I am satisfied the document is a confidential communication between a lawyer and their client made for the dominant purpose of providing advice about the provision of a legal service. I am satisfied this information is legally privileged. Accordingly, I am satisfied the document is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p><b>Section 35(1)(b):</b> The Agency has not applied section 35(1)(b) to the document. However, I am satisfied the document has been communicated to the Agency in confidence. Further, I consider disclosure would be</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>contrary to the public interest as the Agency relies on accurate and reliable information to appropriately undertake its regulatory functions. I consider release has the potential to dissuade others from sharing similar information with the Agency in the future, which would be detrimental to the Agency's regulatory function.</p> <p><b>Section 25:</b> I am satisfied it is not practicable for to provide the Applicant with an edited copy of the document as deleting the exempt material would render the document meaningless.</p>
3.	[date]	Application for rehearing	2	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 The name of the third party is exempt.	<p><b>Sections 31(1)(a) and (d), 35(1)(a) and 30(1):</b> See comments for Document 1.</p> <p><b>Section 38:</b> See comments for Document 1.</p>
4.	[date]	Email chain	6	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 The document is to be released with the following	<p><b>Sections 30(1) and 35(1)(a):</b> I note the Agency's view that the document was provided in confidence to the Agency. However, I am not satisfied the document would be exempt under section 30(1) if it had been generated by the Agency. I do not consider its disclosure</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>information deleted:</p> <ul style="list-style-type: none"> <li>names, telephone numbers and email addresses of third parties; and</li> <li>the second paragraph on page 1.</li> </ul>	<p>would be contrary to the public interest because:</p> <ul style="list-style-type: none"> <li>the information in the document is largely factual and therefore not exempt by way of section 30(3);</li> <li>I do not consider disclosure of the document would be likely to inhibit communications between the Agency and other government bodies in circumstances where such parties have a professional obligation to request and provide such information; and</li> <li>disclosure of the documents provides important public scrutiny of the way in which the Agency's regulatory functions are undertaken.</li> </ul> <p><b>Sections 31(1)(a) and (d):</b> I do not consider the information in the document is substantive enough to conclude that its release would prejudice the proper administration of the Agency's regulatory and investigative functions or impede its enforcement methods and procedures.</p> <p><b>Section 38:</b> I am satisfied the document contains personal affairs information of third parties, including information from which the identity of a third party could reasonably be</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>ascertained. On the information before me, I am satisfied it would be unreasonable to release the personal affairs information of third parties in the document. Accordingly, I am satisfied the information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p>Section 25: See comments for Document 1.</p>
5.	[date]	Email chain	7	<p>Refused in full</p> <p>Sections 30(1), 31(1), 35(1)(a)</p>	<p>Release in part</p> <p>Sections 30(1), 38, 25</p> <p>The document is to be released with the following information deleted:</p> <ul style="list-style-type: none"> <li>names, telephone numbers and email addresses of third parties;</li> <li>page 1;</li> </ul>	<p>Sections 31(1)(a) and (d): See comments for Document 4.</p> <p>Sections 35(1)(a) and 30(1): I am not satisfied information in the document was received in confidence by the Agency, where it was generated by the Agency. Nonetheless, I am satisfied the document contains consultation between officers at different agencies concerning the Agency's deliberative processes, that of meeting its regulatory obligations and therefore falls under the ambit of 30(1)(a).</p> <p>I consider disclosure of the document would be contrary to the public interest as:</p> <ul style="list-style-type: none"> <li>it is preliminary in nature as it gathers information and discusses next steps to be taken;</li> </ul>

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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"> <li>page 2, second paragraph of email; and</li> <li>the email on pages 6 and 7.</li> </ul>	<ul style="list-style-type: none"> <li>it relates to a sensitive matter, which involves an investigation of the Agency into complaints made against the Applicant and the evidence it decided to rely upon at that particular point in time (noting that this would be subject to change);</li> <li>it contains information provided by third parties that could be used to identify parties if disclosed; and</li> <li>the public interest in relation to this document therefore weighs against disclosure.</li> </ul> <p>Therefore, I am satisfied the document is exempt under section 30(1).</p> <p><b>Section 38:</b> See comments for Document 4.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
6.	[date]	Statement	3	Refused in full Section 33	<b>Refuse in full</b> Sections 35(1)(b), 38	<b>Section 35(1)(b):</b> The Agency did not apply section 35(1)(b) to the document; however, I believe it is relevant in the circumstances. I consider the information was communicated with the expectation it would only be used for the purpose of the Agency's investigation and any subsequent legal process. Further, it would be contrary to the public interest if third parties were not able to communicate openly and transparently with the Agency out of

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>concern information they provide would be disclosed under the FOI Act. Accordingly, I am satisfied the document is exempt under section 35(1)(b).</p> <p><b>Section 38:</b> I am satisfied the document contains personal information, which is confidential information within the meaning of section 3(g) of the LG Act 2020. I am satisfied this information is exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p><b>Section 25:</b> See comments for Document 2.</p>
7.	[date]	Letter	2	Refused in full  Sections 35(1)(a), 30(1), 31(1)	<p><b>Release in part</b> Sections 38, 25</p> <p>The document is to be released with the names and signatures of third parties deleted.</p>	<p><b>Sections 35(1)(a), 30(1), 31(1)(a) and (d):</b> See comments for Document 1.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
8.	[date]	Letter	2	Refused in full  Sections 35(1)(a), 30(1), 31(1)	<p><b>Release in part</b> Section 38, 25</p> <p>The document is to be released with the names,</p>	<p><b>Sections 35(1)(a), 30(1), 31(1)(a) and (d):</b> See comments for Document 1.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> See comments for Document 1.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					telephone numbers and signature of third parties deleted.	
9.	Various	Internal log	8	Refused in full Sections 35(1)(a), 30(1), 31(1)	<b>Release in part</b> Sections 30(1), 35(1)(b) and 38, 25  The document is exempt <b>except</b> for entry dated 14/12/2016 at 1:05pm contained on page 7, which is to be released but for third party names.	<b>Section 30(1):</b> I consider the document contains factual information and matter in the nature of advice or opinion prepared by an Agency officer as part of the Agency's deliberative processes in undertaking its regulatory functions. I consider it would be contrary to the public interest to disclose such information where it has been prepared at an early stage of a sensitive process.  <b>Section 35(1)(b):</b> I am satisfied the document records information provided by third parties to the Agency in confidence and its release would be contrary to the public interest in that it disclosure under the FOI Act would impair the Agency's ability to obtain similar information in the future.  <b>Section 38:</b> I am satisfied the document contains the personal affairs information of third parties being names, position titles, telephone numbers and emails as well as a record of a telephone conversation between the Applicant and an Agency officer. I am satisfied it would not be unreasonable to

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>release the record of conversation, which discusses a factual recount of matters. I consider there is nothing sensitive about the nature of this information or the way it was obtained.</p> <p>However, in all other circumstances, I am satisfied it would be unreasonable to release the personal information of third parties and this information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
10.	[date]	Statement	8	Refused in full Section 33(1)	Refuse in full Sections 38, 35(1)(b)	See comments for Document 6.
11.	[date]	Letter	1	Released in part Section 25	Release in part Section 25	The Agency released the document but for a name, signature and telephone number of a third party. Given the Applicant excluded this type of information from their request, I am satisfied it is not relevant and is to remain deleted under section 25.
12.	[date]	Draft letter	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
13.	[date]	Letter	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
14.	[date]	File note	2	Refused in full Sections 30(1), 31(1)	<p>Release in part Sections 38, 25</p> <p>The document is to be released with the following information deleted:</p> <ul style="list-style-type: none"> <li>names of third parties;</li> <li>on page 2, paragraph 4, the eighth word; and</li> <li>paragraph 5.</li> </ul>	<p><b>Section 30(1):</b> The document is a file note of a telephone conversation with the Applicant. I am satisfied the document contains both factual and matter in the nature of opinion and advice. I understand the Agency may consider it sensitive and that its disclosure may affect the faithful recording of such matters in the future.</p> <p>However, I am not satisfied disclosure will have this effect where Agency staff are required to record such conversations accurately and note that in fact disclosure can have the effect of improving the quality of such records.</p> <p><b>Sections 31(1)(a) and (d):</b> Having considered the document I am not satisfied it would prejudice the administration or enforcement of the DA Act or any other local government laws as it does not disclose unique investigation methodologies or processes that would, if revealed, render those methods or processes less effective in the future.</p> <p><b>Section 38:</b> I am satisfied the document contains personal affairs information, which</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>includes a third party's observations. For similar reasons provided in Document 9, I am satisfied it would not be unreasonable to release the file note made by an Agency officer.</p> <p>However, I am satisfied certain third party observations in the document would be unreasonable to release and is therefore, exempt under section 38 in conjunction with section 125 of the LG Act 2020.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
15.	[date]	Summary	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
16.	[date]	Court orders	5	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document to be released with names and signatures deleted.	See comments for Document 1.
17.	[date]	Ombudsman complaint	8	Released in full	Not subject to review	

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		handling policy				
18.	[date]	Email	1	Refused in full Sections 32(1), 30(1), 31(1)	Refuse in full Section 38	<b>Section 38:</b> The document is a confidential communication between officers of the Agency and the Agency's internal legal adviser that was made for the dominant purpose of obtaining or providing legal advice. I am satisfied the information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.  <b>Section 25:</b> See comments for Document 2.
19.	[date]	Email chain	2	Refused in full Sections 32(1), 30(1), 31(1)	Refuse in full Section 38	See comments for Document 18.
20.	[date]	Letter	1	Refused in full Sections 30(1), 35(1)(a), 31(1)	Release in part Sections 38, 25  Document is to be released with names, telephone numbers and	See comments for Document 4.

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					signatures deleted	
21.	02/03/2017	Email	1	Refused in full Sections 32(1), 30(1), 31(1)	<b>Refuse in full</b> Section 38	See comments for Document 18.
22.	[date]	Email chain	2	Refused in full Sections 32(1), 30(1), 31(1)	<b>Refuse in full</b> Section 38	See comments for Document 18.
23.	[date]	Email chain	1	Refused in full Sections 32(1), 30(1), 31(1)	<b>Refuse in full</b> Section 38	See comments for Document 18.
24.	[date]	Email chain	2	Refused in full Sections 32(1), 30(1), 31(1)	<b>Refuse in full</b> Section 38	See comments for Document 18.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
25.	[date]	Email with attachment	2	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document is to be released with names, email addresses, telephone numbers of third parties deleted.	Sections 30(1) and 35(1)(a): See comments for Document 4. Sections 31(1)(a) and (d): See comments for Document 4. Section 38: See comments for Document 1. Section 25: See comments for Document 1. <u>Attachment</u> Duplicate of Document 20.
26.	[date]	Email	1	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document is to be released with names, telephone numbers and any , email addresses of third parties deleted.	Duplicate of Document 25.
27.	[date]	Unsigned letter	1	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document is to be released with names,	Sections 30(1) and 35(1)(a): See comments for Document 4. Sections 31(1)(a) and (d): See comments for Document 4.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					signatures and telephone numbers of third parties deleted.	Section 38: See comments for Document 1. Section 25: See comments for Document 1.
28.	[date]	Emails with attachments	15	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 32(1), 35(1)(b), 25 The document is to be released with the following information deleted: <ul style="list-style-type: none"> <li>names, email addresses, telephone numbers and signatures of third parties; and</li> <li>page 8.</li> </ul>	Sections 30(1) and 35(1)(a): See comments for Document 4. Sections 31(1)(a) and (d): See comments for Document 4. Section 38: In relation to personal information of third parties, see comments for Document 1. In relation to legal privileged information, see comments in Document 2. Section 35(1)(b): See comments for Document 2. Section 25: See comments for Document 2.
29.	[date]	Email chain	3	Refused in full	Release in part Sections 38, 25	Sections 30(1) and 35(1)(a): See comments for Document 4.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 30(1), 31(1), 35(1)(a)	<p>The document is to be released with the following information deleted:</p> <ul style="list-style-type: none"> <li>names, telephone numbers, email addresses; and</li> <li>on page 1, the first email including sender, recipient and subject information.</li> </ul>	<p><b>Sections 31(1)(a) and (d):</b> See comments for Document 4.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> I consider the first email on page 1 to be outside the scope of the request. It is therefore irrelevant and to be deleted from the document.</p> <p>Further, I am satisfied it is practicable to provide an edited copy of the document, see comments for Document 1.</p>
30.	[date]	Email chain	3	Refused in full  Sections 30(1), 31(1), 35(1)(a)	<p><b>Release in part</b></p> <p>Sections 38, 25</p> <p>Document is to be released with names, email addresses and telephone numbers deleted.</p>	Duplicate of Document 29.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
31.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments in Document 11.
32.	Undated	Prosecution Brief	174	Refused in full Sections 32(1), 30(1), 34(1)(b)	Refuse in full Section 38	<b>Section 38:</b> I am satisfied the document was prepared by the Agency for the dominant purpose of commencing legal proceedings in which I am satisfied are legally privileged. Accordingly, I am satisfied the information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.  <b>Section 25:</b> See comments for Document 2.
33.	[date]	Email with attachments	4	Refused in full Section 31(1)	Refuse in full Sections 35(1)(b)	<b>Section 35(1)(b):</b> The Agency did not apply section 35(1)(b), however having examined the document I am of the view it should be considered. I am satisfied the information was communicated to the Agency in circumstances where confidentiality is reasonably implied. Further, in the context of the Agency's regulatory functions, I consider if details of complaints and disclosures were to be routinely released under the FOI Act, individuals would be deterred from providing similar information to the Agency in the future.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						Accordingly, I am satisfied the document is exempt in full. <b>Section 25:</b> See comments for Document 2.
34.	[date]	Statement	6	Refused in full Section 33(1), 25	<b>Refuse in full</b> Sections 35(1)(b), 38	See comments in Document 6.
35.	[date]	Unsigned brief	9	Refused in full Sections 32(1), 30(1)	<b>Refuse in full</b> Section 30(1)	<b>Section 30(1):</b> I consider the information in the document meets the requirements of the first two limbs of section 30(1). I consider it would be contrary to the public interest to disclose this information because: <ul style="list-style-type: none"> <li>• it is preliminary advice;</li> <li>• it relates to sensitive matters, being the Agency's law enforcement functions;</li> <li>• the Applicant would be aware of the Agency's final position in the matter.</li> </ul> <b>Section 25:</b> See comments for Document 2.
36.	[date]	Email chain	3	Refused in full Section 30(1), 31(1), 35(1)(a)	<b>Refuse in part</b> Sections 30(1), 35(1)(b), 38, 25 The document is to be released	<b>Sections 31(1)(a) and (d):</b> See comments for Document 4. <b>Sections 35(1)(a) and 30(1):</b> I am not satisfied information in the document was received in confidence by the Agency, where it was

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>with the following information deleted:</p> <ul style="list-style-type: none"> <li>names, email addresses and telephone numbers of third parties; and</li> <li>first email on page 1.</li> </ul>	<p>generated by the Agency. However, I am satisfied the document contains consultation between officers at different agencies concerning the Agency's deliberative processes, that of meeting its regulatory obligations and its release is contrary to the public interest. See comments for Document 35.</p> <p><b>Section 35(1)(b):</b> I am satisfied the document contains information received by the Agency in confidence and its release would be contrary to the public interest. See comments for Document 33.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> See comments for Document 2.</p>
37.	[date]	Email chain	6	Refused in full Sections 30(1), 35(1)(a), 31(1)	<p><b>Refuse in part</b></p> <p>Sections 30(1), 35(1)(b), 38, 25</p> <p>The document is to be released with the following information deleted:</p>	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
					<ul style="list-style-type: none"> <li>names, email addresses and telephone numbers of third parties;</li> <li>pages 1, 2 and 3; and</li> <li>page 4, email at top of page.</li> </ul>	
38.	[date]	Email chain	5	Refused in full Sections 30(1), 35(1)(a), 31(1)	<p><b>Refuse in part</b></p> <p>Sections 30(1), 35(1)(b), 38, 25</p> <p>The document is to be released with the following information deleted:</p> <ul style="list-style-type: none"> <li>names, email addresses and telephone numbers of third parties;</li> <li>pages 1 and 2.</li> </ul>	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
39.	[date]	Email chain	5	Refused in full Sections 30(1), 35(1)(a), 31(1)	<b>Refuse in part</b> Sections 30(1), 35(1)(b), 38, 25 The document is to be released with the following information deleted: <ul style="list-style-type: none"> <li>names, email addresses and telephone numbers of third parties;</li> <li>pages 1 and 2; and</li> <li>page 3, email at top of page.</li> </ul>	See comments for Document 36.
40.	[date]	Emails	2	Refused in full Sections 30(1), 35(1)(a), 31(1)	<b>Refuse in full</b> Sections 30(1), 35(1)(b)	<b>Sections 35(1)(a) and 30(1):</b> See comments for Document 35. <b>Section 35(1)(b):</b> I am satisfied the document contains information provided to the Agency in confidence and its disclosure would be

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						contrary to the public interest. See comments for Document 2. <b>Section 25:</b> See comments for Document 2.
41.	[date]	Emails	2	Refused in full Sections 30(1), 35(1)(a), 31(1)	<b>Refuse in full</b> Sections 30(1), 35(1)(b)	See comments for Document 40.
42.	Various	Certified court extract	5	Refused in full Sections 30(1), 35(1)(a), 31(1)	<b>Release in part</b> Sections 38, 25 Document to be released with names and signatures of third parties deleted.	<b>Sections 35(1)(a) and 30(1):</b> I note the view that the document was provided in confidence to the Agency. However, I am not satisfied the document would be exempt under section 30(1) if it had been generated by the Agency. This information is publicly available and would be known to the Applicant. Therefore, I am satisfied section 35(1)(a) does not apply. <b>Section 31(1)(a) and (d):</b> See comments for Document 4. <b>Section 38:</b> See comments for Document 1. <b>Section 25:</b> See comments for Document 1.
43.	[date]	Emails	2	Refused in full	<b>Refuse in full</b>	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
				Sections 32(1), 30(1), 31(1), 35(1)(a), 35(1)(b)	Sections 35(1)(a), 30(1)	
44.	[date]	Emails	3	Refused in full Sections 30(1), 31(1), 35(1)(a), 35(1)(b)	Refuse in full Sections 35(1)(a), 30(1)	See comments for Document 36.
45.	[date]	Email	2	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document to be released with names and signatures of third parties deleted	See comments for Document 4.
46.	[date]	Letter	1	Refused in full Sections 30(1), 31(1), 35(1)(a)	Release in part Sections 38, 25 Document to be released with names,	See comments for Document 4.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					telephone numbers and signatures deleted.	
47.	[date]	Gazette notice	1	Released in full	Not subject to review	
48.	Undated	Proposed charges	3	Refused in full Sections 30(1), 32(1), 33(1)	Refuse in full Section 38	See comments for Document 32.
49.	Various	Statements	16	Refused in full Section 33(1)	Refuse in full Sections 35(1)(b), 38	See comments for Document 6.
50.		Gazette notice	1	Released in full	Not subject to review	
51.	Undated	Proposed charges	3	Refused in full Sections 30(1), 32(1), 33(1)	Refuse in full Section 38	See comments for Document 32.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
52.	[date]	Email	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	Section 38: I am satisfied the document is a confidential communication between the Agency and its external legal advisers made of the dominant purpose of providing and receiving legal advice and services in connection with apprehended litigation. Accordingly, I am satisfied the information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.  Section 25: See comments for Document 2.
53.	Various	Statements	15	Refused in full Section 33(1)	Refuse in full Sections 35(1)(b), 38	See comments for Document 6.
54.	[date]	Email	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.
55.	[date]	Emails	2	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
56.	[date]	Email	5	Refused in full Sections 30(1), 31(1)	Refuse in full Sections 30(1), 35(1)(b)	See comments for Document 36.
57.	Undated	Proposed charges	3	Refused in full Sections 30(1), 32(1), 33(1)	Refuse in full Section 38	See comments for Document 32.
58.	[date]	Emails	2	Refused in full Sections 35(1)(a), 30(1), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
59.	[date]	Emails	2	Refused in full Sections 35(1)(a), 30(1), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
60.	[date]	Emails	3	Refused in full	Refuse in full Section 30(1)	See comments for Document 36.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 35(1)(a), 30(1), 31(1)		
61.	[date]	Email	1	Refused in full Sections 35(1)(a), 30(1), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
62.	[date]	Email	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.
63.	Various	Draft brief	85	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 32
64.	[date]	Emails	3	Refused in full Sections 35(1)(a), 30(1), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
65.	[date]	Emails	2	Refused in full Sections 35(1)(a), 30(1), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
66.	[date]	Email chain	7	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
67.	Various	Case notes	6	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Sections 30(1), 35(1)(b)	See comments for Documents 9 and 36.
68.	Various	Case notes	7	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Sections 30(1), 35(1)(b)	See comments for Documents 9 and 36.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
69.	Various	Case notes	2	Refused in full Sections 30(1), 35(1)(a), 31(1)	<b>Refuse in full</b> Sections 30(1), 35(1)(b)	See comments for Documents 9 and 36.
70.	[date]	Emails	6	Refused in full Sections 35(1)(a), 30(1), 31(1)	<b>Release in part</b> Section 38, 25 The document to be released with the following information deleted: <ul style="list-style-type: none"> <li>names, direct emails and telephone numbers of third parties;</li> <li>page 1, the second paragraph;</li> <li>email on pages 5 and 6.</li> </ul>	See comments for Document 4.

# Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
71.	Various	Statements	8	Refused in full Section 33(1)	Refuse in full Sections 35(1)(b), 38	See comments for Document 6.
72.	[date]	Email	1	Refused in full  Sections 30(1), 32(1), 35(1)(a)	Refuse in full  Section 38	See comments for Document 52.
73.	[date]	Email	1	Refused in full  Sections 30(1), 32(1), 35(1)(a), 31(1)	Refuse in full  Section 38	See comments for Document 52.
74.	[date]	Adjournment order	1	Released in part  Section 25	Release in part  Section 25	See comments for Document 11.
75.	[date]	Email	1	Refused in full  Sections 30(1), 32(1),	Release in part Sections 38, 25 Document to be released with names,	Sections 30(1), 35(1)(a), 31(1)(a) and (d): I am not satisfied the document contains information communicated in confidence, nor am I satisfied its release would prejudice the proper administration of the DA Act or other relevant laws. The email is administrative in

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				35(1)(a), 31(1)	telephone numbers and email addresses of third parties are exempt	<p>nature and does not contain sensitive information. I am of the view its release would not be contrary to the public interest.</p> <p><b>Sections 38 and 32(1):</b> I note the emails involve the Agency's legal adviser; however, I am not satisfied such communications were made for the dominant purpose for obtaining or providing legal advice. Therefore, I am not satisfied the communication is legal professional privilege or client legal privilege and consequently, not confidential information under section 125 of the LG Act 2020.</p> <p><b>Section 38:</b> In relation to personal information, see comments for Document 1.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
76.	[date]	Advice hearing date	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
77.	[date]	Emails	3	Refused in full  Sections 30(1), 32(1), 35(1)(a), 31(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
78.	[date]	Letter	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
79.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
80.	[date]	Advice hearing date	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
81.	[date]	Emails	2	Refused in full Sections 30(1), 35(1)(a), 31(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
82.	[date]	Emails	2	Refused in full Sections 30(1), 35(1)(a), 31(1), 32(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
83.	[date]	Emails	2	Refused in full Sections 30(1), 35(1)(a), 31(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
84.	[date]	Emails	3	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Document 36.
85.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	<b>Section 38:</b> I am satisfied the document concerns a communication between an officer of the Agency and its internal legal adviser made for the dominant purpose of providing legal services in connection with apprehended litigation. I am therefore satisfied the information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020. <b>Section 25:</b> See comments for Document 2.
86.	[date]	Emails	3	Refused in full	Refuse in full Section 38	See comments for Document 18.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 30(1), 32(1)		
87.	Undated	Internal document	1	Refused in full Section 30(1)	Refuse in full Section 38	See comments for Document 85.
88.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	See comments for Document 85.
89.	Undated	Internal document	2	Refused in full Section 30(1)	Refuse in full Section 38	See comments for Document 85.
90.	Undated	Internal document	2	Refused in full Section 30(1)	Refuse in full Section 38	See comments for Document 85.
91.	Undated	Internal document	2	Refused in full Section 30(1)	Refuse in full Section 38	See comments for Document 85.
92.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
93.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
94.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
95.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
96.	[date]	Advice of hearing	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
97.	[date]	Advice of hearing	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
98.	[date]	Emails	5	Refused in full Sections 35(1)(a), 30(1)	Refuse in full Section 30(1)	See comments for Document 36.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
99.	[date]	Emails	2	Refused in full Sections 35(1)(a), 30(1)	Release in part Section 38, 25 Document to be released with names, email addresses and phone numbers of third parties deleted.	Sections 35(1)(a) and 30(1): I am not satisfied the information has been received in confidence. Nor do I consider its release would be contrary to the public interest. Rather, I consider the information to be purely administrative in nature and does not divulge sensitive deliberations to be exempt under sections 35(1)(a) and 30(1).  Section 38: See comments for Document 1. Section 25: See comments for Document 1.
100.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 35.
101.	[date]	Email	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
102.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 35.
103.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains a confidential communication between the

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						Agency and its legal advisers. See comments for Document 18.
104.	[date]	Advice of hearing	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
105.	[date]	Email	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
106.	[date]	Email chain	11	Refused in full Sections 30(1), 25	Refuse in full Sections 30(1), 35(1)(b), 38, 25	<p><b>Section 30(1):</b> See comments for Document 35.</p> <p><b>Section 35(1)(b):</b> Having reviewed the document, I am satisfied it contains information received by the Agency in confidence. See comments for Document 33.</p> <p><b>Section 38:</b> I am satisfied the document also contains a record of legal advice. See comments for Document 18.</p> <p><b>Section 25:</b> I am satisfied the document contains information relating to other matters not relevant to the terms of the Applicant's request.</p> <p>Further, I am satisfied it would not be practicable to delete exempt and irrelevant</p>

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						information from the document as it would render the document meaningless. Therefore, the document is exempt in full.
107.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30	See comments for Document 35.
108.	[date]	Emails	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.
109.	[date]	Emails	2	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.
110.	[date]	Email	1	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.
111.	[date]	Emails	2	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
112.	[date]	Result of appeal	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
113.	[date]	Email chain	2	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Documents and 36.
114.	[date]	Email	2	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Documents 35 and 36.
115.	[date]	Email	1	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Documents 35 and 36.
116.	[date]	Emails	3	Refused in full	Refuse in full	See comments for Documents 35 and 36.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 30(1), 35(1)(a), 31(1)	Section 30(1)	
117.	[date]	Emails	3	Refused in full Sections 30(1), 35(1)(a), 31(1)	Refuse in full Section 30(1)	See comments for Documents 35 and 36.
118.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
119.	[date]	Copy of charges	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
120.	[date]	Charge and summons	9	Released in part Section 25	Release in part Section 25	See comments for Document 11.
121.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
122.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
123.	[date]	Email	1	Refused in full Section 30(1)	Release in part Sections 38, 25 Document is to be released with names, email addresses and telephone numbers deleted.	See comments for Document 99.
124.	[date]	Email chain	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
125.	[date]	Emails	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
126.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
127.	[date]	Email chain	4	Released in part Section 25	Release in part Section 25	See comments for Document 11.
128.	[date]	Email chain	4	Released in part Section 25	Release in part Section 25	See comments for Document 11.
129.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
130.	[date]	Form 1A	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
131.	[date]	Emails	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
132.	[date]	Emails	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
133.	[date]	Emails	2	Released in part	Release in part	See comments for Document 11.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 25	Section 25	
134.	[date]	Notice of appeal	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
135.	[date]	Court orders	6	Released in part Section 25	Release in part Section 25	See comments for Document 11.
136.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
137.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
138.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
139.	[date]	Emails	1	Refused in full Section 30(1)	Release in part Sections 38, 25 Document is to be released with	See comments for Document 99

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					names, email addresses and telephone numbers of third parties deleted.	
140.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
141.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
142.	[date]	Emails	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
143.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
144.	[date]	Email chain	4	Released in part Section 25	Release in part Section 25	See comments for Document 11.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
145.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
146.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
147	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
148	[date]	Email chain	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
149	[date]	Email chain	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
150.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
151.	[date]	Emails	3	Released in part	Release in part	See comments for Document 11.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 25	Section 25	
152.	[date]	Form 1 A	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
153.	[date]	Form 1A	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
154.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
155.	[date]	Email	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
156.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
157.	[date]	Emails	2	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
158.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
159.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
160.	[date]	Emails	3	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
161.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
162.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
163.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
164.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains legal advice provided to the Agency. See comments for Document 18.
165.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
166.	[date]	Email	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
167.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
168.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
169.	[date]	Email	1	Refused in full Section 30(1)	Release in part Sections 38, 25 Document is to be released with names, email addresses,	Section 30(1): Although I am satisfied the document contains deliberation and consultation between officers of the Agency, I am not satisfied that it is sensitive enough that its release would be contrary to the public interest in that I am not satisfied it would not

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					telephone numbers and qualifications of third parties deleted.	cause confusion or disrupt the future deliberative processes of the Agency. <b>Section 38:</b> See comments in Document 1. <b>Section 25:</b> See comments for Document 1.
170.	[date]	Email	1	Refused in full Section 30(1)	<b>Release in part</b> Sections 38, 25 Document is to be released with names, email addresses, telephone numbers and qualifications of third parties deleted.	Duplicate of Document 169.
171.	[date]	Email	1	Refused in full Section 30(1)	<b>Release in part</b> Sections 38, 25 Document is to be released with names and email addresses of third parties deleted.	<b>Section 30(1):</b> The document contains an email to an external party. I am not satisfied it is advice, opinion or recommendation or deliberation between Agency officers. Even if it were, I am not satisfied release would be contrary to the public interest. Accordingly, section 30(1) does not apply to the document. <b>Section 38:</b> See comments in Document 1. <b>Section 25:</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
172.	[date]	Emails	1	Refused in full Section 30(1)	Release in part Sections 38, 25 Document is to be released with names and email addresses of third parties deleted.	See comments in Document 171.
173.	[date]	Email chain	2	Refused in full Sections 30(1), 32(1)	Release in part Sections 30, 38, 25 The document is to be released with the following information removed: <ul style="list-style-type: none"> <li>the first email on page 1 is exempt under sections 30(1) and 33(1); and</li> <li>names and email addresses of</li> </ul>	<p><b>Section 30(1):</b> I am satisfied certain information in the document is advice, opinion and consultation between Agency officers and would be contrary to the public interest to release. In relation to the remainder, see comments for Document 171.</p> <p><b>Section 38:</b> I am satisfied the document contains personal affairs information of third parties including information that concerns an individual and is personal to them. For the reasons provided in Document 1, I am satisfied it would be unreasonable to release personal information and it is therefore exempt under section 38.</p> <p><b>Sections 38 and 32(1):</b> The document contains communications between an Agency staff member and a legal representative. However, I am not satisfied it was prepared for the dominant purpose of obtaining or providing</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					third parties are exempt.	legal advice, nor does it meet any other of the requirements of section 32(1). It is therefore not exempt under section 32(1) or 38.  Section 25: See comments for Document 1.
174.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
175.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
176.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
177.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
178.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
179.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 52.
180.	[date]	Emails	2	Refused in full Sections 30(1), 31(1), 35(1)(a)	Refuse in full Section 35(1)(a)	<b>Section 35(1)(a):</b> I am satisfied the document was provided to the Agency by an external party in confidence. I am also satisfied it contains consultation regarding sensitive aspects of an investigation. Having considered the information, I am satisfied its release would be contrary to the public interest. The information is therefore exempt matter under section 30(1) and consequently, exempt under section 35(1)(a).  <b>Section 25:</b> See comments for Document 2.
181.	[date]	Emails	2	Released in part Sections 30(1), 33(1), 25	<b>Release in part</b> Sections 38, 25 The document is to be released with the following information removed: <ul style="list-style-type: none"><li>the first email is irrelevant to</li></ul>	<b>Section 30(1):</b> The document contains a communication from the Agency's lawyer. I am not satisfied it constitutes deliberations between its officers to fall within the ambit of section 30(1)(a). even if it were, the exempt information is purely administrative and does not contain sufficient detail to be exempt under section 30(1).  <b>Section 38:</b> I am satisfied the document contains personal information of a third party

## Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>the terms of the request;</p> <ul style="list-style-type: none"> <li>in the third email on page 1, line 4 is exempt under section 33(1);</li> <li>names, email addresses and telephone numbers of third parties.</li> </ul>	<p>and it would be unreasonable to release this information. See comments in Document 4.</p> <p><b>Section 25:</b> I consider the first email on page 1 to be outside the scope of the request. It is therefore irrelevant and to be deleted from the document.</p> <p>Further, in relation to providing the Applicant with an edited copy of the document, see comments for Document 1.</p>
182.	[date]	Emails	2	Refused in full Section 30(1)	<p><b>Release in part</b> Sections 38, 25 Document is to be released with the following information removed:</p> <ul style="list-style-type: none"> <li>the first email on page one is irrelevant; and</li> <li>names, email addresses and telephone</li> </ul>	<p><b>Section 25:</b> I consider the first email on page 1 to be outside the scope of the request. It is therefore irrelevant and to be deleted from the document.</p> <p>Further, in relation to providing the Applicant with an edited copy of the document, see comments for Document 1.</p> <p><b>Section 30(1):</b> See comments for Document 181.</p> <p><b>Section 38:</b> See comments for Document 1.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					numbers of third parties.	
183.	[date]	Emails	2	Released in part Sections 30(1), 33(1), 25	<p><b>Release in part</b> Sections 38, 25 The document is to be released with the following information removed:</p> <ul style="list-style-type: none"> <li>• first email on page one, line 4; and</li> <li>• names, telephone numbers and email addresses of third parties.</li> </ul>	See comments for Document 181.
184.	[date]	Email with attachment	3	Released in part Sections 30(1), 33(1), 25	<p><b>Released in part</b> Sections 38, 25 The document is to be released with the</p>	<p><b>Section 30(1):</b> See comments in Document 181.</p> <p><b>Section 38:</b> I consider information in the document is legal privileged information. See comments for Document 52.</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:</p> <ul style="list-style-type: none"> <li>the second paragraph contained in the email is exempt under section 32(1); and</li> <li>names, email addresses and telephone numbers of third parties.</li> </ul>	<p><b>Section 38:</b> See comments for Document 1</p> <p><b>Section 25:</b> See comments for Document 11.</p>
185.	[date]	Emails with attachment	3	Released in part Sections 30(1), 33(1), 25	<p><b>Release in part</b></p> <p>Sections 38, 25</p> <p>The document is to be released with names, email addresses and telephone numbers of third parties deleted.</p>	See comments for Document 181.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
186.	[date]	Emails	3	Refused in full Sections 30(1), 31(1), 35(1)(a)	Refuse in full Sections 30(1)	See comments for Document 36.
187.	[date]	Emails	3	Refused in full Sections 30(1), 31(1), 35(1)(a)	Refuse in full Section 35(1)(a)	See comments for Document 180.
188.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
189.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
190.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	Section 30(1): I am satisfied the document contains consultation between officers. Given it relates to sensitive legal matters I am satisfied its release would be contrary to the public interest.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
191.	Undated	Back sheet	1	Refused in full Section 34(1)(b)	<p><b>Release in part</b> Sections 38, 25 The document is to be released with the following information removed:</p> <ul style="list-style-type: none"> <li>• fee amount;</li> <li>• names of third parties;</li> <li>• email addresses of third parties; and</li> <li>• direct telephone numbers of third parties.</li> </ul>	<p><b>Sections 38 and 34(1)(b):</b> For the purposes of this review, I am satisfied the document contains, in part, confidential commercial information regarding the barrister's charge-out rates. For the reasons set out in the Notice of Decision above, I am satisfied this information is confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020. However, I am not satisfied the exemption applies to refuse access to the document in full.</p> <p>In relation to personal information, I am satisfied the document contains personal affairs information of individuals. See comments for Document 1.</p> <p>The document also contains information relating to a business. I am not satisfied this information is personal information relating to an individual. Therefore, this information is not exempt under section 38 or 33(1).</p> <p><b>Section 25:</b> See comments for Document 1.</p>
192.	[date]	Emails	2	Refused in full Section 32(1)	<b>Refuse in full</b> Section 38	See comments for Document 18.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
193.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
194.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
195.	[date]	Emails	3	Refused in full Sections, 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
196.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
197.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 190.
198.	[date]	Email	1	Refused in full	Refuse in full Section 30(1)	See comments for Document 190.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 30(1), 34(1)(b)		
199.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 190.
200.	[date]	Emails	3	Refused in full Sections 30(1), 32(1), 34(1)(b)	Refuse in full Sections 30(1), 38	See comments for Documents 18 and 190.
201.	[date]	Emails	2	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
202.	[date]	Emails	3	Refused in full Sections 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
203.	[date]	Emails	3	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						Agency and its external legal advisers. See comments for Document 18.
204.	[date]	Government Gazette	59	Released in full	Not subject to review	
205.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comment for Document 11.
206.	[date]	Government Gazette	3	Released in full	Not subject to review	
207.	[date]	Government Gazette	71	Released in full	Not subject to review	
208.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comment for Document 11.
209.	[date]	Emails	4	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
210.	[date]	Government Gazette	3	Released in full	Not subject to review	

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
211.	[date]	Government Gazette	43	Released in full	Not subject to review	
212.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
213.	[date]	Emails	3	Refused in full Sections 30(1), 32(1)	Refuse in full Section 38	See comments for Document 18.
214.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
215.	[date]	Emails	3	Released in part Sections 32(1), 25	Release in part Sections 38, 25	Section 38: See comments for Document 18. Section 25: See comments for Document 11.
216.	[date]	Emails	3	Released in part Sections 32(1), 25	Release in part Sections 38, 25	Section 38: See comments for Document 18. Section 25: See comments for Document 11.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
217.	[date]	Emails	2	Released in part Sections 32(1), 25	Release in part Sections 38, 25	Section 38: See comments for Document 18. Section 25: See comments for Document 11.
218.	[date]	Email	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
219.	[date]	Email	5	Released in part Section 25	Release in part Section 25	See comments for Document 11.
220.	[date]	Email	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
221.	[date]	Emails	5	Released in part Sections 32(1), 25	Release in part Sections 38, 25	Section 38: See comments for Document 18. Section 25: See comments for Document 11.
222.	[date]	Emails	2	Released in part Sections 32(1), 25	Release in part Sections 38, 25	Section 38: See comments for Document 18. Section 25: See comments for Document 11.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
223.	[date]	Orders	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
224.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	<b>Section 38:</b> The document is a confidential communication between officers of the Agency and the Agency's internal legal adviser for the purposes of provided in legal services in connection with legal proceedings involving the Agency. The email is therefore confidential information and is exempt under section 38 in conjunction with section 125 of the LG Act 2020.
225.	[date]	Emails	2	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
226.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.
227.	[date]	Emails	3	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 18.

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228.	[date]	Emails	1	Refused in full Section 30(1)	<p><b>Release in part</b> Sections 38, 25 The document is to be released with the following information removed:</p> <ul style="list-style-type: none"> <li>names, email addresses and telephone numbers of third parties;</li> <li>position titles and academic qualifications.</li> </ul>	<p><b>Section 30(1):</b> I consider the information in the document meets the requirements of the first two limbs of section 30(1). I understand there is some sensitivity to this matter, however I do not consider it would be contrary to the public interest to disclose this information in this instance.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
229.	[date]	Email	1	Refused in full Section 30(1)	<p><b>Release in part</b> Sections 38, 25 The document is to be released with the following information removed:</p>	<p><b>Section 30(1):</b> See comments for Document 228.</p> <p><b>Section 38:</b> See comments for Document 1.</p> <p><b>Section 25:</b> I am satisfied the document contains information not relevant to the terms of the Applicant's request as it does not relate to the Applicant and their [domestic animal/s]. I am satisfied this information is capable of</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"> <li>names, email addresses and telephone numbers of third parties;</li> <li>position titles and academic qualifications; and</li> <li>paragraphs 3 and 4 contained in the email.</li> </ul>	<p>being treated as irrelevant and deleted from the document in accordance with section 25.</p> <p>Further, in relation to providing the Applicant with an edited copy of the document, see comments for Document 1.</p>
230.	[date]	Emails	2	Refused in full Section 30(1)	<p><b>Release in part</b> Sections 38, 25</p> <p>The document is to be released with the following information removed:</p> <ul style="list-style-type: none"> <li>names, email addresses and telephone</li> </ul>	See comments for Document 229.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>numbers of third parties;</p> <ul style="list-style-type: none"> <li>position titles and academic qualifications;</li> <li>paragraphs 3 and 4 contained in the second email on page 1; and</li> <li>on page 2, the first sentence.</li> </ul>	
231.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
232.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
233.	[date]	Court orders	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.

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234.	[date]	Emails	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 190.
235.	[date]	Receipt	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
236.	[date]	Court orders	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
237.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
238.	[date]	Emails	2	Refused in full Section 30(1)	Refuse in full Section 38	I am satisfied the document contains confidential communications between the Agency and its external legal advisers. See comments for Document 18.
239.	[date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 30(1)	See comments for Document 190.

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240.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
241.	[date]	Emails	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
242.	[date]	Emails	3	Released in part Section 25	Release in part Section 25	See comments for Document 11.
243.	[date]	Witness Statement	2	Refused in full Section 33(1)	Refuse in full Sections 35(1)(b), 38	See comments for Document 6.
244.	Undated	Brief	36	Refused in full Section 32(1)	Refuse in full Section 38	See comments for Document 32.
245.	Undated	Brief	173	Refused in full Sections 32(1), 34(1)(b)	Refuse in full Section 38	See comments for Document 32.

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246.	[date]	Letter	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
247.	[date]	Email	1	Released in part Section 25	Release in part Section 25	See comments for Document 11.
248.	[date]	Charge and Summons	2	Released in part Section 25	Release in part Section 25	See comments for Document 11.
249.	Undated	Continued charges	5	Released in part Section 25	Release in part Section 25	See comments for Document 11.
250.	[date]	Newspaper article	1	Released in full	Not subject to review	