

## Notice of Decision and Reasons for Decision

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<b>Applicant:</b>	'DY3'
<b>Agency:</b>	Department of Premier and Cabinet
<b>Decision date:</b>	25 February 2022
<b>Exemptions considered:</b>	Sections 28(1)(b), 28(1)(ba), 28(1)(d), 32(1)
<b>Citation:</b>	'DY3' and Department of Premier and Cabinet (Freedom of Information) [2022] VICmr 12 (25 February 2022)

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FREEDOM OF INFORMATION – COVID-19 – Service Victoria application – QR codes – check-in requirements – legal advice – Cabinet documents

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.

I am satisfied information in the documents is exempt under sections 28(1)(b), 28(1)(ba), 28(1)(d) and 32(1). However, I have decided to release further information to the Applicant where information is not exempt and where it is practicable to provide an edited copy of a document with exempt and irrelevant information deleted.

Accordingly, my decision on the Applicant's request differs from the Agency's decision.

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

My reasons for decision follow.

Sven Bluemmel  
**Information Commissioner**

25 February 2022

## Reasons for Decision

### Background to review

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

A copy of all advice provided to any Victorian Government Ministers, regarding making the Service Victoria app mandatory for QRcode check-ins across the State of Victoria, from [date range].
2. The Agency identified four documents falling within the terms of the Applicant's request and refused access to all documents in full. The Agency relied on the exemptions under sections 28(1)(b), 28(1)(ba), 28(1)(d), 32(1) and 33(1) to refuse access to the documents. The Agency's decision letter sets out the reasons for its decision.

### Review application

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. The Applicant indicated they do not seek review of information exempted by the Agency under section 33(1). Accordingly, the information exempted under section 33(1) is to remain deleted as it is irrelevant information for the purposes of this review.
5. I have examined copies of the documents subject to review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. I have considered all communications and submissions received from the parties.
8. 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.
9. 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.

### Review of exemptions

#### ***Section 28(1) – Cabinet documents***

10. Section on 28(1) provides:

##### **28 Cabinet documents**

(1) A document is an exempt document if it is—

- (a) the official record of any deliberation or decision of the Cabinet;
- (b) a document that has been prepared by a Minister or on his or her behalf or by an agency for the purpose of submission for consideration by the Cabinet;
- (ba) a document prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet;
- (c) a document that is a copy or draft of, or contains extracts from, a document referred to in paragraph (a), (b) or (ba); or

- (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.

11. Section 28(7)(a) defines 'Cabinet' as including a committee or sub-committee of Cabinet.
12. In *Ryan v Department of Infrastructure*,<sup>1</sup> the Victorian Civil and Administrative Tribunal (VCAT) observed:

It has been said that a document is not exempt merely because it has some connection with Cabinet, or is perceived by departmental officers or others as being of a character that they believe ought to be regarded as a Cabinet document or because it has some Cabinet "aroma" about it. Rather, for a document to come within the Cabinet document exemption, "it must fit squarely within one of the four exceptions [(now five)]" in section 28(1) of the Act.

13. Notwithstanding, where a document attracts the Cabinet exemption, the exemption in section 28(1) provides complete protection from release of the document.

*Do the documents contain purely statistical, technical or scientific material?*

14. In determining whether the exemptions in section 28(1) would apply, section 28(3) provides a document will not be exempt under subsection (1) to the extent the document contains purely statistical, technical or scientific material in a document unless, disclosure of the document would involve the disclosure of any deliberation or decision of the Cabinet.
15. From my review of the documents, I am satisfied they do not contain purely statistical, technical or scientific material.

*Section 28(1)(b) – Documents prepared for the purpose of submission for consideration by the Cabinet*

16. Section 28(1)(b) provides a document is an exempt document if it is a document that has been prepared by a Minister or on his or her behalf or by an agency for the purpose of submission for consideration by the Cabinet.
17. A document will only be exempt under section 28(1)(b) if the sole purpose, or one of the substantial purposes, for which it was prepared, was for submission to Cabinet for its consideration. In the absence of direct evidence, the sole or substantial purpose of a document may be determined by examining the use of the document, including whether it was submitted to Cabinet.<sup>2</sup>
18. VCAT has recognised section 28(1)(b) turns upon the purpose for which a document was created, and it is not necessary to show the document was submitted to Cabinet.<sup>3</sup> Nor is it necessary to prove Cabinet considered the document to satisfy the requirements of section 28(1)(b).<sup>4</sup>
19. As stated by Morris J in *Ryan v Department of Infrastructure*:<sup>5</sup>

It is important to observe that section 28(1)(b) of the Act does not extend to a document merely because the document has been prepared for the purpose of submission to the Cabinet. Rather the purpose of the preparation of the document must be for submission for consideration by the Cabinet. Hence documents will not fall within the exemption in section 28(1)(b) of the Act just because they were prepared with the intention of physically placing them before the Cabinet. Rather it is necessary to ask whether, at the time a

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<sup>1</sup> [2004] VCAT 2346 at [33].

<sup>2</sup> *Secretary to the Department of Treasury and Finance v Della Riva* [2007] VSCA 11 at [15].

<sup>3</sup> *Ryan v Department of Infrastructure* [2004] VCAT 2346 at [34], citing *Asher v Department of Premier and Cabinet* [2002] VCAT 499, at [9]; *Wilson v Department of Premier and Cabinet* [2001] VCAT 663; (2001) 16 VAR 455 at 459.

<sup>4</sup> *Ibid.*

<sup>5</sup> [2004] VCAT 2346 at [36].

document was prepared, the only purpose, or one of the substantial purposes, for the preparation of the document was for the purpose of submission for *consideration by* the Cabinet.

20. The Agency submits the attachment to Document 3 is exempt under section 28(1)(b) as it was prepared for the purpose of consideration by a Cabinet committee.
21. I am satisfied the Agency has provided sufficient evidence in its submission to support this document was prepared for the sole, or for the substantial purpose of submission for consideration by a Cabinet committee.
22. I am satisfied the Attachment 1 to Document 3 is exempt under section 28(1)(b).

Section 28(1)(ba) – Documents prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet

23. Section 28(1)(ba) provides a document is an exempt document if it is a document prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet.
24. A document will be exempt under section 28(1)(ba) if the sole purpose, or one of the substantial purposes, for which the document was prepared was to brief a Minister in relation to issues to be considered by Cabinet.<sup>6</sup> In the absence of direct evidence, the sole or substantial purpose of a document may be determined by examining the use of the document, including whether it was submitted to Cabinet.<sup>7</sup>
25. The Cabinet briefing purpose must be ‘immediately contemplated’ when the document is created. The exemption cannot apply merely because Cabinet ultimately considered the issue.<sup>8</sup>
26. The word ‘briefing’ means a ‘short accurate summary of the details of a plan or operation. The purpose...is to inform the person being briefed’.<sup>9</sup> Therefore, the document should have the character of a briefing material.<sup>10</sup> A document will be of such character if it contains ‘information or advice...prepared for the purpose of being read by, or explained to, a minister’. It requires more than having ‘placed a document before a minister’.<sup>11</sup>
27. The term ‘issues to be considered by Cabinet’ within the meaning of section 28(1)(ba), requires that it must be more than just ‘likely’ that Cabinet will consider it. There must be an intention or expectation the issues will be considered by Cabinet, even if not ultimately considered. Evidence that a matter was included in the Cabinet Agenda will meet this test.<sup>12</sup>
28. The Agency submits Documents 1 to 3 are exempt under section 28(1)(ba) on grounds the documents were prepared for the purpose of briefing a Minister on issues to be considered by a Cabinet committee. In support of this, the Agency submits the information within these documents are ‘closely related’ to an issue canvassed in the attachment to Document 3.

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<sup>6</sup> *Ryan v Department of Infrastructure* (2004) 22 VAR 226; [2004] VCAT 2346 at [34]. See also *Secretary to the Department of Treasury and Finance v Della-Riva* (2007) 26 VAR 96; [2007] VSCA 11 at [13].

<sup>7</sup> *Secretary to the Department of Treasury and Finance v Della Riva* [2007] VSCA 11 at [15].

<sup>8</sup> *Hennessy v Minister Responsible for the Establishment of an Anti-Corruption Commission* [2013] VCAT 822.

<sup>9</sup> *Ryan v Department of Infrastructure* (2004) 22 VAR 226; [2004] VCAT 2346 at [41].

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Mildenhall v Department of Treasury and Finance* (unreported, AAT of Vic, Macnamara DP, 18 March 1996). See also *Batchelor v Department of Premier and Cabinet* (unreported, AAT of Vic, Fagan P and Coghlan M, 29 January 1998); *Hulls v Department of Treasury and Finance (No 2)* (1994) 14 VAR 295 at [320–321]; reversed on other grounds by the Court of Appeal: *Department of Premier & Cabinet v Hulls* [1999] 3 VR 331; 15 VAR 360; [1999] VSCA 117.

29. As discussed above, I am satisfied the attachment to Document 3 is exempt under section 28(1)(b) as I am satisfied was prepared for the sole, or for the substantial purpose, of submission for consideration by a Cabinet committee.
30. In my view, Documents 1 and 2, which are communications between Agency officers and an adviser to a Minister, do not bear the character of a briefing or briefing material for the purpose of informing or instructing a Minister. Rather, having considered the content of the communications, I am satisfied the communications in this instance were a step before any relevant briefing process and such communications are not for the sole or substantial purpose of briefing a Minister on issues to be considered by Cabinet.
31. While Document 3 is similar, in that it is a communication between the Agency and an adviser to a Minister, I am satisfied the contents of the email relates to the attachment, as it contains further contextual information about matters raised in the attachment. Accordingly, although the document is not a direct briefing to a Minister, I am satisfied the document was prepared for sole, or substantial purpose, of briefing a Minister on issues to be considered by Cabinet.
32. In summary, I am not satisfied Documents 1 and 2 are exempt under section 28(1)(ba) and I am satisfied Document 3 is exempt under section 28(1)(ba). My decision in relation to section 28(1)(ba) to the documents is set out in **Annexure 1**.

Section 28(1)(d) – Document disclosing any deliberation or decision of the Cabinet

33. Section 28(1)(d) provides a document is an exempt document if it is a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.
34. In *Department of Infrastructure v Asher*,<sup>13</sup> ‘deliberations’ was given a narrow interpretation such that it means the actual debate that took place rather the subject matter of a debate itself. The Victoria Court of Appeal states at [8]:

It all depends upon the terms of the document. At one end of the spectrum, a document may reveal no more than that a statistic or description of an event was placed before Cabinet. At the other end, a document on its face may disclose that Cabinet required information of a particular type for the purpose of enabling Cabinet to determine whether a course of action was practicable or feasible or may advance an argument for a particular point of view.<sup>14</sup> The former would say nothing as to Cabinet’s deliberations; the latter might say a great deal.

35. A document will be exempt under section 28(1)(d) if there is evidence that the Cabinet discussed various options in the document and deliberated upon and/or adopted one or more of the options for its consideration.<sup>15</sup>
36. A ‘decision’ means any conclusion as to the course of action the Cabinet adopts whether that are conclusions as to final strategy on a matter or conclusions about how a matter should proceed.<sup>16</sup>
37. Where a decision or the recommendation of Cabinet has been made public, releasing information would not disclose the Cabinet decision or deliberation.<sup>17</sup>
38. With respect to Document 4 and its attachment, the documents were created for the dominant purpose of developing a submission to Cabinet and reveal matters deliberated on and decided on by Cabinet.

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<sup>13</sup> (2007) 19 VR 17; [2007] VSCA 272 at [6] and [58].

<sup>14</sup> *Smith v Department of Environment and Sustainability* [2006] VCAT 1228.

<sup>15</sup> *Smith v Department of Sustainability and Environment* (2006) 25 VAR 65; [2006] VCAT 1228 at [23].

<sup>16</sup> *Della-Riva v Department of Treasury and Finance* (2005) 23 VAR 396; [2005] VCAT 2083 at [30].

<sup>17</sup> *Honeywood v Department of Innovation, Industry and Regional Development* (2004) 21 VAR 1453; [2004] VCAT 1657 at [26].

39. I have considered the additional matters raised in the Agency's submission dated 25 January 2022 in support of its view Document 4 and its attachment are exempt under section 28(1)(d). I am limited in describing the Agency's submission in detail as it will reveal information that may otherwise be exempt. However, on the information before me, it is not sufficient that the matters discussed in these documents 'underpin' a subsequent submission to Cabinet. Although matters raised may have been deliberated on by Cabinet, there is insufficient evidence before me to be satisfied the matters discussed in these documents were in fact incorporated into the Cabinet submission and ultimately deliberated on by Cabinet.
40. My decision in relation to section 28(1)(d) and the documents is set out in **Annexure 1**.

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

41. 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'.
42. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:<sup>18</sup>
- (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; or
  - (b) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
  - (c) between the client (or the client's agent) and third parties that was made for the purpose of obtaining information to be submitted to the client's professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation.
43. A document will be subject to client legal privilege where it contains a 'confidential communication'<sup>19</sup> between:
- (a) the client (or the client's agent) and the client's professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice;<sup>20</sup> or
  - (b) the client and another person, which was made for the dominant purpose of the client being provided with professional legal services relating to a proceeding in which the client is or was a party.<sup>21</sup>
44. Legal privilege exists to protect the confidentiality of communications between a lawyer and a client. Privilege will be lost where the client has acted in a way that is inconsistent with the maintenance of that confidentiality – for instance where the substance of the information has been disclosed with the client's express or implied consent.<sup>22</sup>

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<sup>18</sup> *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also *Evidence Act 2008* (Vic), section 119.

<sup>19</sup> Defined in section 117 of the *Evidence Act 2008* (Vic) to mean communications made in circumstances where the Agency and its professional legal advisers were under an obligation not to disclose their contents.

<sup>20</sup> Section 118 of the *Evidence Act 2008* (Vic).

<sup>21</sup> Section 119 of the *Evidence Act 2008* (Vic).

<sup>22</sup> Sections 122(2) and (3) of the *Evidence Act 2008* (Vic) (for client legal privilege) or *Mann v Carnell* (1999) 201 CLR 1 at [28] (for legal professional privilege).

45. My decision in relation to section 32(1) is set out in the Schedule of Documents at **Annexure 1**.

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

46. Section 25 requires an agency to grant access to an edited copy of a document where it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
47. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’<sup>23</sup> and the effectiveness of the deletions. Where deletions would render the document meaningless, they are not ‘practicable’, and release of the document is not required under section 25.<sup>24</sup>
48. I have considered the information the Agency deleted from the documents as irrelevant. I am not satisfied all information the Agency deleted from the document as irrelevant is irrelevant information. This is addressed further in the comments for the relevant documents in the Schedule of Documents in **Annexure 1**.
49. As noted above, the Applicant does not seek review of the information that the Agency exempted under section 33(1). Accordingly, the information exempted under section 33(1) is to remain deleted, as it is irrelevant information for the purposes of this review.
50. I have considered the effect of deleting irrelevant and exempt information from the documents. I am satisfied it is practicable to edit certain documents, where it would not require substantial effort and the documents would retain meaning. However, for certain documents, I am not satisfied it is practicable to edit the documents as it would render the documents meaningless. My decision on the practicability of editing the documents is outlined in the Schedule of Documents in **Annexure 1**.

### **Conclusion**

51. I am satisfied information in the documents is exempt under sections 28(1)(b), 28(1)(ba), 28(1)(d) and 32(1). However, I have decided to release further information to the Applicant where information is not exempt and where it is practicable to provide an edited copy of the document with exempt and irrelevant information deleted.
52. Accordingly, my decision on the Applicant’s request differs from the Agency’s decision.

### **Review rights**

53. 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>25</sup>
54. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>26</sup>
55. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>27</sup>

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<sup>23</sup> *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

<sup>24</sup> *Honeywood v Department of Human Services* [2006] VCAT 2048 [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140], [155].

<sup>25</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>26</sup> Section 52(5).

<sup>27</sup> Section 52(9).

56. 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.
57. 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>28</sup>

***Third party review rights***

58. Section 49P(5) provides if the Information Commissioner makes a decision to disclose a document that is claimed exempt under section 33, the Commissioner must, if practicable notify the relevant third parties of their right to make an application for review of the decision to VCAT.
59. The documents subject to review contain personal affairs information of multiple third parties, however, the Agency only exempted some of the personal affairs information under section 33(1). The Applicant does not seek review of the information exempted under section 33(1).
60. Therefore, while I have determined to release documents in part containing personal affairs information, I am not required to notify the relevant third parties whose personal affairs information appears in the documents, as their personal affairs information was not claimed exempt under section 33(1).

***When this decision takes effect***

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

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<sup>28</sup> Sections 50(3F) and (3FA).



Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Email	1	<p>Refused in full</p> <p>Sections 28(1)(ba), 33(1), 25</p>	<p>Release in part</p> <p>Section 25</p> <p>This document is to be released to the Applicant, except for the following information:</p> <ul style="list-style-type: none"> <li>the names of third parties exempted by the Agency in its decision, which is irrelevant information;</li> <li>information the Agency claimed to be irrelevant information, with exception to the third and fourth line in the email dated [date].</li> </ul>	<p><b>Section 28(1)(ba):</b> I am not satisfied the document was created for the sole, substantial or dominant purpose of briefing a Minister about issues to be considered by Cabinet. Accordingly, I am not satisfied it is exempt under section 28(1)(ba).</p> <p><b>Section 25:</b> The information exempted by the Agency under section 33(1) is irrelevant information for the purposes of this review and is to remain deleted.</p> <p>I am not satisfied all of the information the Agency deleted as irrelevant information is irrelevant. Specifically, I consider the third and fourth lines of the email dated [date] as it has sufficient nexus to information in the immediately preceding email that falls within the scope of the request.</p> <p>I am satisfied it is practicable to edit this document to delete exempt and irrelevant information in accordance with section 25.</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						Accordingly, access is granted in part.
2.	[date]	Email	1	<p><b>Refused in full</b></p> <p>Sections 28(1)(ba), 28(1)(d), 33(1), 25</p>	<p><b>Release in part</b></p> <p>Sections 28(1)(d), 25</p> <p>This document is to be released to the Applicant, except for the following information:</p> <ul style="list-style-type: none"> <li>information that the Agency exempted under section 33(1), which is irrelevant information;</li> <li>the information that the Agency exempted under section 28(1)(d) in its decision; and</li> <li>the information the Agency claimed to be irrelevant information.</li> </ul>	<p><b>Section 28(1)(ba):</b> See comments for Document 1.</p> <p><b>Section 28(1)(d):</b> I am satisfied certain information in the document also discloses deliberation of Cabinet. Accordingly, I am satisfied section 28(1)(d) applies to the document in part.</p> <p><b>Section 25:</b> I am satisfied the information that the Agency redacted on grounds of irrelevance is irrelevant information, as it does not specifically relate to or contain advice on making the Service Victoria app mandatory.</p> <p>I am satisfied it is practicable to edit the document to delete exempt and irrelevant information in accordance with section 25. Accordingly, access is granted in part.</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
3.	[date]	Email	3	Refused in full Sections 28(1)(ba), 33(1), 25	Refused in full Sections 28(1)(ba), 25	<p><b>Section 28(1)(ba):</b> This document is similar to Document 1 and 2 in that it is sent to the same adviser. However, it has an attachment which I am satisfied is exempt under section 28(1)(b) (see comments below). The content of the email is closely related to attached document, in that it contains further contextual information about matters raised in the attachment. On the information before me, while the document was prepared for an adviser of the Minister, I am satisfied it was nevertheless prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet.</p> <p><b>Section 25:</b> The information exempted by the Agency under section 33(1) is irrelevant information for the purposes of this review and is to remain deleted.</p> <p>Having carefully considered the document, I am not satisfied it is practicable for the Agency to provide an edited copy of the</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						document with exempt information deleted as to do so would render the document devoid of meaning. Accordingly, I am satisfied the document is exempt in full.
	[date]	Attachment to Document 3	13	Refused in full Sections 28(1)(b)	Refused in full Sections 28(1)(b)	Section 28(1)(b): I am satisfied the document is exempt under section 28(1)(b) for the reasons provided in the Notice of Decision, above.  Section 25: Having carefully considered the document, I am not satisfied it is practicable for the Agency to provide an edited copy of the document with exempt information deleted as to do so would render the document devoid of meaning. Accordingly, I am satisfied the document is exempt in full.
4.	[date]	Email thread	3	Refused in full Sections 28(1)(d), 32(1), 33(1)	Release in part Sections 32(1), 25  This document is to be released to the Applicant, except for the following information which is to	Section 28(1)(d): For the reasons provided in the Notice of Decision above, I am not satisfied the document is exempt under section 28(1)(d).  Section 32(1): I am satisfied the document contains a confidential

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>be deleted in accordance with section 25:</p> <ul style="list-style-type: none"> <li>• information that the Agency exempted under section 33(1), which is irrelevant information; and</li> <li>• information that the Agency exempted under section 32(1) in its decision, which is exempt under section 32(1).</li> </ul>	<p>communication between the Agency and its internal legal advisor made for the dominant purpose of providing legal advice. Accordingly, I am satisfied information is exempt under section 32(1).</p> <p><b>Section 25:</b> The information exempted by the Agency under section 33(1) is irrelevant information for the purposes of this review and is to remain deleted.</p> <p>I am satisfied it is practicable to edit the document to delete exempt and irrelevant information in accordance with section 25. Accordingly, access is granted in part.</p> <p><b>Note on the attachments:</b> During the review, OVIC sought confirmation of whether all attachments to this email thread had been located. The Agency confirmed that the attachments to earlier emails in the email thread is the same as what is attached to the final email in the thread. The attachment is addressed in the comments below.</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
	[date]	Attachment to Document 4	3	<p><b>Refused in full</b></p> <p>Sections 28(1)(d), 32(1)</p>	<p><b>Release in part</b></p> <p>Sections 28(1)(d), 32(1), 25</p> <p>This document is to be released, except for the following information which is to be deleted in accordance with section 25:</p> <ul style="list-style-type: none"> <li>point 4, which is exempt under section 28(1)(d); and</li> <li>points 13 – 14, inclusive of the heading before these points, which are exempt under section 32(1).</li> </ul>	<p><b>Section 28(1)(d):</b> See comments for Document 4. However, I am also satisfied point 4 of this document contains a record of a decision by a Cabinet committee.</p> <p><b>Section 32(1):</b> I am satisfied the document contains legal advice that was provided in Document 4. Accordingly, the document contains information that is exempt under section 32(1).</p> <p><b>Section 25:</b> I am satisfied it is practicable to edit this document to delete exempt information in accordance with section 25. Accordingly, access is granted in part.</p>