

## Notice of Decision and Reasons for Decision

---

Applicant:	'EB6'
Agency:	Essential Services Commission
Decision date:	29 April 2022
Exemptions considered:	Sections 32(1), 33(1)
Citation:	'EB6' and Essential Services Commission (Freedom of Information) [2022] VICmr 41 (29 April 2022)

---

FREEDOM OF INFORMATION – stakeholder meetings – email correspondence between agency and third parties – legal advice – correspondence concerning legal proceedings – Essential Services Appeal Panel hearing

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 the information the Agency exempted from release under section 33(1) in Documents 1 to 11 is irrelevant personal affairs information, and Documents 12 to 53 contain information that is exempt from release under section 32(1). Therefore, although my reasons for decision differ to those of the Agency, the effect of my decision is no further information is to be released to the Applicant.

I am satisfied it is not practicable to provide the Applicant with an edited copy of Documents 12 to 53 as the effect of editing these documents to delete exempt information would render them meaningless.

The Agency has already released Documents 1 to 11 in part with exempt information deleted and my decision does not provide for the release of any further information in these documents.

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  
29 April 2022

## Reasons for Decision

### Background to review

1. [On date], Melbourne Water submitted a proposal to the Agency for a new bore flushing tariff to be levied on properties that border lakes in a particular area. [On date], the Agency issued a draft decision on Melbourne Water's proposal and received a number of submissions from stakeholders in response.<sup>1</sup>
2. The Agency made a final decision on the proposal which [was] appealed to the Essential Services Commission Appeal Panel (**ESCAP**) under section 55 of the *Essential Services Commission Act 2001* (Vic) (**ESC Act**). [On date], the ESCAP made orders and issued reasons for its decision.
3. The Applicant made a request to the Agency seeking access to certain documents and specified they do not seek access to the personal affairs information of any third parties.
4. Following consultation with the Agency, on [date], the Applicant clarified the terms of their request to the following:
  - (a) Material, being letters, emails, memos, minutes, and legal advice, that relate to the stakeholder meeting held on [date] with [specified persons] and others in relation to the [location] bore flushing tariff.
  - (b) The Commissioner's instructions to [their] barrister [named person].
  - (c) The Commissioner's submission to the Essential Services Commission Appeal Panel.
5. The Agency identified 15 documents falling within the terms of the Applicant's request and granted access to one document in full and refused access to 11 documents in part and 3 documents in full under sections 32(1) and 33(1). The Agency's decision letter sets out the reasons for its decision.

### Review application

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 a copy 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.

## **Additional relevant documents located during the review**

12. During the course of the review, the Agency located additional documents falling within the scope of the Applicant's request.
13. OVIC received copies of 44 additional documents from the Agency, some of which are attachments.
14. In its submission provided during the review, the Agency indicates it considers these additional documents are exempt in full under sections 33(1) and/or 32(1). I have also reviewed these additional documents.

## **Review of exemption**

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

15. 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'.
16. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:<sup>2</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;
  - (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.
17. The High Court of Australia has held the purpose of legal professional privilege or client legal privilege, ensures a client can openly and candidly discuss legal matters with their legal representative and seek legal advice:

The rationale of this head of privilege, according to traditional doctrine, is that it promotes the public interest because it assists and enhances the administration of justice by facilitating the representation of clients by legal advisers, the law being a complex and complicated discipline. This it does by keeping secret their communications, thereby inducing the client to retain the solicitor and seek his advice, and encouraging the client to make a full and frank disclosure of the relevant circumstances to the solicitor.<sup>3</sup>
18. Where a question of legal privilege arises, I must be satisfied the dominant purpose for which the document was prepared was either for legal advice, or alternatively for anticipated litigation.<sup>4</sup> These requirements are known as 'advice privilege' and 'litigation privilege' respectively.
19. The dominant purpose for which a confidential communication was made determines whether the exemption under section 32(1) applies.<sup>5</sup> The dominant purpose test applies to both communications for the purpose of obtaining or giving legal advice.

---

<sup>2</sup> *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also section 119 of the *Evidence Act 2008* (Vic).

<sup>3</sup> *Grant v Downs* (1976) HCA 63; 135 CLR 674 at [19].

<sup>4</sup> *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49.

<sup>5</sup> *Ibid.*

20. The question of whether litigation was reasonably contemplated or anticipated at the relevant time is a question of fact, determined by reference to objective criteria.<sup>6</sup>
21. Whether legal proceedings are anticipated requires consideration of whether, at the relevant time, there was a real prospect of litigation, as distinct from a mere possibility.<sup>7</sup>
22. In their amended request, the Applicant seeks access to instructions provided by the Agency to its barrister. The Agency submits the barrister was engaged to provide legal services in relation to the ESCAP proceeding and the documents contain instructions provided by the Agency to the barrister for the dominant purpose of their appearance in relation to the proceeding on behalf of the Agency.
23. At the time the documents were created, section 55 of the ESC Act provided the right of appeal to the ESCAP against a requirement, decision or determination by the Agency. The *Essential Services Commission Regulations 2011 (Vic) (ESC Regulations 2011)* established the Principal Registrar of the Victorian Civil and Administrative Tribunal (VCAT) as the appointed Registrar for the purposes of the ESC Act.<sup>8</sup> Section 55 of the ESC Act has since been amended to confer jurisdiction to VCAT to hear appeals.
24. The Agency submits an ESCAP proceeding constitutes an 'Australian proceeding' for the purpose of determining if legal professional privilege applies. It submits to qualify as an 'Australian proceeding', a body needs to be authorised under an Australian law to hear, receive and examine evidence.
25. Part 3 of the ESC Regulations 2011 regulates ESCAP proceedings and provides for procedures to be followed in the conduct of an appeal under the ESC Act. Regulation 16 sets out how the ESCAP can hear, receive and examine evidence.
26. I accept an ESCAP hearing constitutes an 'Australian proceeding' for the purpose of determining whether legal professional privilege applies to the documents subject to review.
27. Having reviewed the documents, I am satisfied they contain confidential communications between the Agency and its legal representative that were made for the dominant purpose of contemplated or pending litigation. I am also satisfied attachments to emails form part of those confidential communications.
28. Legal privilege exists to protect the confidentiality of communications between a lawyer and a client. It will be lost where a client acts 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>9</sup>
29. There is no information before me to indicate legal privilege in the documents has been waived.
30. Accordingly, I am satisfied certain documents are exempt from release under section 32(1) as they would be privileged from production in legal proceedings on grounds they are subject to legal professional privilege.
31. My decision in relation to section 32(1) is set out in the Schedule of Documents in **Annexure 1**.

---

<sup>6</sup> *Mitsubishi Electric Australia Pty Ltd v Victorian Workcover Authority* (2002) 4 VR 332; [2002] VSCA 59 at [20].

<sup>7</sup> *Ibid* at [19]; *In the matter of Southland Coal Pty Ltd* [2006] NSWSC 899 at [49].

<sup>8</sup> Regulation 11 of the *Essential Services Commission Regulations 2011 (Vic)*.

<sup>9</sup> *Mann v Carnell* (1999) 201 CLR 1 at [28].

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

32. 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.
33. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’<sup>10</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>11</sup>

### *Personal affairs information exempted under section 33(1)*

34. In their initial FOI request to the Agency, the Applicant specified they do not seek access to personal affairs information. Nevertheless, the Agency did not delete all personal affairs information in the documents, and exempted information under section 33(1) where it considers its disclosure would be unreasonable.
35. Information relating to a person’s ‘personal affairs’ includes information that identifies any person or discloses their address or location. It also includes any information from which this may be reasonably determined.<sup>12</sup>
36. A document will disclose a third party’s personal affairs information if it is capable, either directly or indirectly, of identifying that person. As the nature of disclosure under the FOI Act is unrestricted and unconditional, this is to be interpreted by reference to the capacity of any member of the public to identify a third party.<sup>13</sup>
37. In my view, the information exempted by the Agency under section 33(1) is personal affairs information of persons other than the Applicant.
38. The personal affairs information in the documents are the names, email addresses, telephone numbers, position titles and workplace address of third parties. Some of the third parties are Agency officers and others are members of the community.
39. In conducting a review under section 49F, section 49P requires that I make a new or ‘fresh decision’. Therefore, my review does not involve determining whether the Agency’s decision is correct, but rather requires my fresh decision to be the ‘correct or preferable decision’.<sup>14</sup> This involves ensuring my decision is correctly made under the FOI Act and any other applicable law in force at the time of my decision.
40. I am satisfied personal affairs information falls outside of the terms of the Applicant’s FOI request and is irrelevant information to be deleted in accordance with section 25. Accordingly, it is not necessary to consider the application of section 33(1) to information that the Agency exempted under that provision.

### *Practicability to delete exempt and irrelevant information*

41. I have considered the effect of deleting exempt information from the documents. In my view, it is not practicable for the Agency to delete exempt information in Documents 12 to 53, because the

---

<sup>10</sup> *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 at [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

<sup>11</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].

<sup>12</sup> Section 33(9).

<sup>13</sup> *O’Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

<sup>14</sup> *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at 591.

documents are exempt in full under section 32(1) and deleting exempt information would render the document meaningless. The Agency has already released Documents 1 to 11 in part with exempt information deleted, and my decision on those documents is the same as the Agency's decision.

### **Conclusion**

42. On the information before me, I am satisfied the information the Agency exempted from release under section 33(1) in Documents 1 to 11 is irrelevant personal affairs information, and Documents 12 to 53 contain information that is exempt from release under section 32(1).
43. I am satisfied it is not practicable to provide the Applicant with an edited copy of Documents 12 to 53 as the effect of deleting exempt information from these documents would render them meaningless.
44. The Agency has already released Documents 1 to 11 in part with exempt information deleted and my decision does not provide for the release of any further information in these documents.
45. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

### **Review rights**

46. 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>15</sup>
47. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>16</sup>
48. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>17</sup>
49. 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.
50. 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>18</sup>

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

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

---

<sup>15</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>16</sup> Section 52(5).

<sup>17</sup> Section 52(9).

<sup>18</sup> Sections 50(3F) and 50(3FA).

**Annexure 1 – Schedule of Documents**

<b>Document No.</b>	<b>Date of Document</b>	<b>Document Description</b>	<b>No. of pages</b>	<b>Agency Decision</b>	<b>OVIC Decision</b>	<b>OVIC Comments</b>
1.	[date]	Email thread	2	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Section 25: I am satisfied the information that the Agency exempted under section 33(1) is irrelevant personal affairs information.  The Agency has provided the Applicant with an edited copy of this document. Therefore, I consider it practicable to provide the Applicant with an edited copy of this document with exempt information deleted.
2.	[date]	Email thread	3	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
3.	[date]	Email thread	3	Released in part Section 33(1)	Release in part Sections 33(1), 25 No further information is to be released.	Sections 25: See comments for Document 1.

<b>Document No.</b>	<b>Date of Document</b>	<b>Document Description</b>	<b>No. of pages</b>	<b>Agency Decision</b>	<b>OVIC Decision</b>	<b>OVIC Comments</b>
4.	[date]	Email thread	3	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
5.	[date]	Email thread	4	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
6.	[date]	Email thread	6	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
7.	[date]	Email thread	3	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.



Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
8.	[date]	Email thread	8	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Section 25: See comments for Document 1.
9.	[date]	Email thread	4	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
10.	[date]	Email	1	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	Sections 25: See comments for Document 1.
11.	21/03/2017	Meeting minutes	3	Released in part Section 33(1)	Release in part Section 25 No further information is to be released.	This is an attachment to Document 10. Sections 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
12.	[date]	Email	1	Refused in full Section 32(1)	Refuse in full Section 32(1)	<p><b>Section 32(1):</b> I am satisfied the document is exempt under section 32(1) for the reasons provided in the Notice of Decision above.</p> <p><b>Section 25:</b> I am not satisfied it is practicable to provide the Applicant with an edited copy of this document with exempt information deleted because the information is exempt in full under section 32(1) and editing the document would render it meaningless. Accordingly, access to the document is refused in full.</p>
13.	[date]	Letter of engagement	2	Refuse in full Section 32(1)	Refuse in full Section 32(1)	<p><b>Section 32(1):</b> See comments for Document 12.</p> <p><b>Section 25:</b> See comments for Document 12.</p>
14.	[date]	Email thread	2	Refuse in full Section 32(1)	Refuse in full Section 32(1)	<p><b>Section 32(1):</b> See comments for Document 12.</p> <p><b>Section 25:</b> See comments for Document 12.</p>
15.	Undated	Submission to the Essential Services	42	Released in full	Not subject to review	

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		Commission Appeal Panel				
16.	[date]	Email thread and attachment	2	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12. During the review, the Agency located an attachment to this document which it also claims is exempt under section 32(1). I am satisfied the attachment is exempt under section 32(1).  Section 25: See comments for Document 12.
17.	[date]	Email thread and attachment	2	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 16.  Section 25: See comments for Document 12.
18.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12.  Section 25: See comments for Document 12.
19.	[date]	Email thread	4	Refused in full	Refused in full	Section 32(1): See comments for Document 12.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Sections 32(1), 33(1)	Section 32(1)	<b>Section 25:</b> See comments for Document 12.
20.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
21.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
22.	[date]	Attachment to Document 21 - submission	12	<b>Refused in full</b> Section 32(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).  <b>Section 25:</b> See comments for Document 12.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
23.	[date]	Email thread	5	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
24.	[date]	Attachment to Document 23	12	<b>Refused in full</b> Section 32(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).  <b>Section 25:</b> See comments for Document 12.
25.	[date]	Email thread	2	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
26.	Undated	Attachment to Document 25.	2	<b>Refused in full</b>	<b>Refused in full</b>	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Section 32(1)	Section 32(1)	the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).  <b>Section 25:</b> See comments for Document 12.
27.	[date]	Email and two attachments	33	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 16.  <b>Section 25:</b> See comments for Document 12.
28.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
29.	Undated	Attachment to Document 28	3	<b>Refused in full</b> Section 32(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>part of that communication. Accordingly, this document is also exempt under section 32(1).</p> <p><b>Section 25:</b> See comments for Document 12.</p>
30.	Undated	Attachment to Document 28	4	<p><b>Refused in full</b></p> <p>Section 32(1)</p>	<p><b>Refused in full</b></p> <p>Section 32(1)</p>	<p><b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).</p> <p><b>Section 25:</b> See comments for Document 12.</p>
31.	[date]	Email	1	<p><b>Refused in full</b></p> <p>Sections 32(1), 33(1)</p>	<p><b>Refused in full</b></p> <p>Section 32(1)</p>	<p><b>Section 32(1):</b> See comments for Document 12.</p> <p><b>Section 25:</b> See comments for Document 12.</p>
32.	undated	Attachment to Document 31	43	<p><b>Refused in full</b></p>	<p><b>Refused in full</b></p>	<p><b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Section 32(1)	Section 32(1)	the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).  <b>Section 25:</b> See comments for Document 12.
33.	[date]	Email thread	2	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
34.	[date]	Email and attachment	2	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 16.  <b>Section 25:</b> See comments for Document 12.
35.	[date]	Email thread and an attachment	8	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 16.  <b>Section 25:</b> See comments for Document 12.



Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
36.	[date]	Email thread	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
37.	[date]	Email thread	3	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
38.	[date]	Email thread	3	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
39.	undated	Attachment to Document 38	1	<b>Refused in full</b> Section 32(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						Section 25: See comments for Document 12.
40.	[date]	Email thread	4	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12. Section 25: See comments for Document 12.
41.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12. Section 25: See comments for Document 12.
42.	[date]	Email thread	1	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12. Section 25: See comments for Document 12.
43.	[date]	Email thread	2	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12. Section 25: See comments for Document 12.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
44.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
45.	[date]	Email thread	2	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
46.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12. <b>Section 25:</b> See comments for Document 12.
47.	undated	Attachment to Document 46	12	<b>Refused in full</b> Section 32(1)	<b>Refused in full</b>	<b>Section 32(1):</b> As the document is an attachment to a confidential communication that was made for the dominant purpose of obtaining and providing legal advice in relation to pending or contemplated litigation, I am satisfied the attachment forms part of that communication. Accordingly, this document is also exempt under section 32(1).

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						Section 25: See comments for Document 12.
48.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12.  Section 25: See comments for Document 12.
49.	[date]	Attachment to Document 48	2	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12.  Section 25: See comments for Document 12.
50.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12.  Section 25: See comments for Document 12.
51.	[date]	Email thread	1	Refused in full Sections 32(1), 33(1)	Refused in full Section 32(1)	Section 32(1): See comments for Document 12.  Section 25: See comments for Document 12.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
52.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.
53.	[date]	Email	1	<b>Refused in full</b> Sections 32(1), 33(1)	<b>Refused in full</b> Section 32(1)	<b>Section 32(1):</b> See comments for Document 12.  <b>Section 25:</b> See comments for Document 12.