

Notice of Decision and Reasons for Decision

Applicant:	'EG3'
Agency:	Moreland City Council
Decision date:	22 July 2022
Exemptions considered:	Sections 33(1), 34(1)(b), and 38 in conjunction with section 125(1) of the <i>Local Government Act 2020</i> (Vic)
Citation:	'EG3' and <i>Moreland City Council</i> (Freedom of Information) [2022] VICmr 85 (22 July 2022)

FREEDOM OF INFORMATION – council documents – bicycle lane trial – internal emails – personal affairs information – secrecy provision – *Local Government Act 2020* (Vic)

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

Notice of Decision

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

My decision on the Applicant's request differs from the Agency's decision.

While I am satisfied certain information in the documents is exempt from release under sections 33(1) and 38 in conjunction with section 125(1) of the *Local Government Act 2020* (Vic) (**LG Act**), I have determined to release further information where I am satisfied it is not exempt information and is relevant to the terms of the Applicant's request.

As I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with irrelevant and exempt information deleted in accordance with section 25, access to the document is granted in part.

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
22 July 2022

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency seeking access to certain documents about a trial for pop up separate bicycle lanes in their municipality as they have concerns for local pedestrians arising from the bicycle lanes.
2. Following consultation with the Agency, the Applicant clarified the terms of their FOI request to the following:

[Specified intersection in [location] suburban Melbourne] Trial separated bike lanes (Project)

1. All designs for the trial by internal Council officers or external contractors for the Project (approved and not approved) from [date] to [date].
2. Road Safety Audit and Risk Assessment Report prior to the installation of the trial separated lanes
3. Tender scope and Tender/s accepted
4. Crash data from both locations prior to the trial from [date] to [date].

That were part of the "Making Walking and Cycling safer in [named Council]" that arose from report [number provided] of [date] Council meeting

5. Correspondence (including emails) from Victoria Police the Acting Mayor mentioned during the debate on [date] Council meeting at approximately 2 hrs 10 minutes (he said "Victoria Police actually provided a report to us and they speak very strongly and in favour of this type of bike lane").
 6. The contract and/or request for tender for [named business] and especially the terms related to the privacy the PDP Act 2014.
 7. All comments for the [location] Bike Path Project on the Conversations [location] Project page on Council's website.
3. The Agency identified 16 documents falling within the terms of the Applicant's request and granted access to five documents in full and refused access to 11 documents in part under sections 33(1), 34(1)(b) and 38 in conjunction with section 125(1) of the LG Act. The Agency also determined certain information in the documents falls outside the terms of the Applicant's request and is irrelevant information for the purpose of section 25.
 4. The Agency's decision letter sets out the reasons for its decision.

Review application

5. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
6. I have examined a copy of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties.
9. Alongside their review application, the Applicant raised concerns regarding the adequacy of document searches conducted by the Agency in response to their FOI request. OVIC addressed these concerns as part of this review. As a result, further documents were identified by the Agency and released to the Applicant outside of the Act.

10. OVIC staff also identified a number of other relevant documents and were provided with a copy of these documents by the Agency for my review. While the Agency submits these documents fall outside the terms of the Applicant's request, it submits that if I determine otherwise, the documents would be exempt from release under section 34(1)(b).
11. Having reviewed the additional documents, which are attachments to emails relevant to the Applicant's request, I am satisfied these documents fall within the terms of the request and form part of my review. The documents are listed as Documents 16 to 38 in the Schedule of Documents in **Annexure 1**.
12. 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.
13. 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 relied on by Agency

14. As stated above, the Agency relies on the exemptions under sections 33(1), 34(1)(b) and 38 to refuse access to the documents. My review considers the exemptions in the following order: section 38, 33(1) and 34(1).

Section 38 – Secrecy provision

15. A document is exempt under section 38 if the following three requirements are met:
 - (a) there is an enactment in force;
 - (b) that applies specifically to the kind of information in the documents; 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.
16. 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?

17. Section 125 of the LG Act 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;
- (h) to a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry;
- (i) to the extent reasonably required by a law enforcement agency.

18. I am satisfied the LG Act is an enactment in force for the purpose of section 38. Accordingly, the first requirement of section 38 is met.

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

19. For section 38 to apply, the relevant enactment must be formulated with such precision that it specifies the actual information sought to be withheld.

20. 'Confidential Information' is defined in section 3(1) of the LG Act and includes at subsection 3(1)(f) 'personal information' and at subsection 3(1)(g) 'private commercial information':

- (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 that—
 - (i) relates to trade secrets; or
 - (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;

21. The above categories of 'confidential information' overlap with the exemptions under section 33(1) (personal affairs information) and section 34(1)(b) (business affairs information).

22. Therefore, in determining whether the documents contain 'personal information' or 'private commercial information' and comprise 'confidential information' for the purpose of section 125(1) of the LG Act, I have had regard to similar considerations that arise under sections 33(1) and 34(1)(b) of the FOI Act.

Do the documents contain 'personal information' for the purpose of section 125(1) of the LG Act?

23. 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 (**a third party**);¹ and
- (b) such disclosure would be 'unreasonable'.

¹ Sections 33(1) and 33(2).

24. 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.²
25. 'Personal information' may encompass a broad range of information concerning an individual. For example, their name, address, correspondence with a council or details about their property, family, employment or other personal details.
26. The documents subject to review contain individual's full names, signatures, mobile telephone numbers, postcodes, years of birth, gender, email addresses, IP addresses and usernames.
27. Accordingly, I am satisfied the documents contain 'personal information' that comprises 'confidential information' for the purpose of section 125(1) of the LG Act.

Would disclosure of the 'personal information' be unreasonable?

28. The concept of 'unreasonable disclosure' involves determining whether the public interest in the disclosure of official information is outweighed by the interest in protecting a third party's personal privacy in the particular circumstances.
29. In *Victoria Police v Marke*,³ the Victorian Court of Appeal held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others'. 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'.
30. In determining whether disclosure of the 'personal information' would be unreasonable in the circumstances, I have considered the following factors:

(a) The nature of the information and the circumstances in which it was obtained

The personal information relates directly to individuals and from which they can be identified.

The information was obtained by the Agency in relation to the Agency's installation and consultation on separate pop up bicycle lanes within the City of Moreland (**Bike Lane Project**).

Document 13 contains third parties' names, email addresses, IP addresses, usernames, their year of birth, gender and postcodes which was collected by the Agency in connection with a public consultation in relation to the Bike Lane Project.

I am satisfied the above information constitutes the 'personal information' of third parties.

(b) The Applicant's interest in the information

The FOI Act provides a general right of access that can be exercised by any person, regardless of their motive or purpose for seeking access to a document. However, the reasons why an applicant seeks access to a document is a relevant consideration in determining whether disclosure would be unreasonable.⁴

The Applicant provided background information in support of their review application in which they state, in part:

I submitted the FOI request as the Moreland City Council did not consult with residents prior to the installation of popup bike lanes on [Name] Road and residents are reporting how they are

² Section 33(9).

³ [2008] VSCA 218 at [76].

⁴ *Victoria Police v Marke* [2008] VSCA 218 at [104].

unsafe for pedestrians and the elderly trying to access a major medical centre but they insist that they are going to remain in place for at least 12 months. There has been a lack of information and the most recent external “consultation process” was biased and manipulated to support Council officers’ agenda despite the health and safety issues.

While I acknowledge the Applicant’s personal interest in obtaining access to the requested documents, this interest needs to be balanced with any public interest and the interest in protecting the personal affairs information of any third parties who information may be recorded in a document.

(c) Whether the individuals to whom the information relates object, or would be likely to object, to the release of the information

In determining whether the disclosure of a document would involve the unreasonable disclosure of a third party’s personal affairs information, the agency must consult with any relevant third party to obtain their views on disclosure of their personal affairs information, subject to limited circumstances including where it is not practicable to do so.⁵

I am satisfied the third parties, whose personal information directly identifies those individuals or could be used to identify them and discloses their contact details (including persons who participated in the consultation process), would be likely to object to its disclosure under the FOI Act.

While not a determinative factor, the views of a third party on disclosure of their personal information is a relevant consideration.

(d) The likelihood of further disclosure of the personal information, if disclosed under the FOI Act

The FOI Act does not place any restrictions on an applicant’s use or dissemination of documents obtained under FOI.⁶

Accordingly, I have considered the likelihood of the personal information in the documents being further disseminated and, if disclosed, the effects broader disclosure of the information would have on the personal privacy of the relevant third parties.

(e) Whether any public interest would be promoted by disclosure of the personal information

While I accept there is a public interest in transparency in decision making within local government, I do not consider the disclosure of the personal information of third parties to which the Agency refused access would assist the Applicant in further understanding the Agency’s decision-making processes.

Accordingly, I am not satisfied that any public interest would be promoted by disclosure of the personal information of third parties.

(f) Whether disclosure of the personal information would, or would be reasonably likely to endanger the life or physical safety of any person

In determining whether disclosure of personal affairs information would be unreasonable under section 33(1), I am required to consider whether disclosure of the relevant information would, or would be reasonably likely to, endanger the life or physical safety of any person.⁷ I do not consider this is a relevant factor in this matter.

⁵ Section 33(2B).

⁶ *Victoria Police v Marke* [2008] VSCA 218 at [68].

⁷ Section 33(2A).

31. In weighing up the above factors, on balance, I am satisfied disclosure of the personal information to which the Agency refused access would be unreasonable in the circumstances.

Conclusion on section 38

32. Accordingly, I am satisfied the 'personal information' to which the Agency refused access under section 38, is exempt from release under section 38 in conjunction with section 125(1) of the LG Act on grounds:

- (a) section 125 of the LG Act is an enactment in force;
- (b) the category of 'confidential information' under subsection 3(1)(f) of the LG Act refers specifically to the 'personal information' in the documents; and
- (c) section 125(1) of the LG Act prohibits Agency officers, specifically councillors and council staff, from disclosing 'confidential information'.

33. My decision in relation to section 38 is set out in the Schedule of Documents in **Annexure 1**.

Section 33(1) – Personal affairs information of a third party

34. For the same reasons as those discussed above in relation to section 38, I am satisfied the personal affairs information to which the Agency refused access under section 38, is also exempt from release under section 33(1).

Section 34(1)(b) – Business affairs information of a business undertaking

35. As discussed above, 'confidential Information' is defined in section 3(1) of the LG Act and includes at subsection 3(1)(g) 'private commercial information' which overlaps with the exemption under section 34(1)(b) (business affairs information). However, as the threshold for establishing section 34(1)(b) applies is lower than that under subsection 3(1)(g) of the LG Act, I will first consider the exemption of section 34(1)(b) in relation to the documents.

36. Section 34(1)(b) provides a document is an exempt document if:

- (a) its disclosure under the FOI Act would disclose information acquired by an agency from a business, commercial or financial undertaking (**business undertaking**);
- (b) the information relates to other matters of a business, commercial or financial nature; and
- (c) the disclosure of the information would be likely to expose a business undertaking unreasonably to disadvantage.

37. Section 34(2) provides that in deciding whether disclosure of information would expose a business undertaking unreasonably to disadvantage, it may be relevant to take into account:

- (a) whether the information is generally available to competitors of the business undertaking;
- (b) whether the information would be exempt matter if it were generated by an agency or a Minister;
- (c) whether the information could be disclosed without causing substantial harm to the competitive position of the business undertaking;

- (d) whether there are any considerations in the public interest in favour of disclosure which outweigh considerations of competitive disadvantage to the undertaking, for instance, the public interest in evaluating aspects of government regulation of corporate practices or environmental controls; and
- (e) any other relevant considerations.

38. I have also had regard to the decision in *Dalla Riva v Department of Treasury and Finance*,⁸ in which Victorian Civil and Administrative Tribunal (VCAT) held documents are exempt from release under section 34(1)(b) if their disclosure would:

- (a) give competitors of a business undertaking a financial advantage;
- (b) enable competitors to engage in destructive competition with a business undertaking; and
- (c) would lead to the drawing of unwarranted conclusions as to a business undertaking's financial affairs and position with detrimental commercial and market consequences.

Do the documents contain information acquired from a business undertaking?

39. The phrase 'information acquired' signifies the need for some positive handing over of information in some precise form.⁹
40. I am satisfied that certain documents were acquired by the Agency from two business undertakings that provided professional services to the Agency to assist it with the Project.

Do the documents contain information of a business, commercial or financial nature?

41. I accept information in the documents could be generally said to contain information of a business, commercial and financial nature as they involve planning for the Project and two business undertakings that assisted the Agency with the Project, including their provision of quotes for the Project, kerb layout design drawings and photographs of kerb locations that were prepared by the business undertakings.

Would disclosure of the information be likely to expose the business undertakings unreasonably to disadvantage?

42. In summary, the Agency submits disclosure of the documents would be likely to expose the business undertakings unreasonably to disadvantage on grounds:
- (a) The documents were provided to the Agency as part of 'a very competitive process' and on approach 'by Council officers to ascertain their (the business undertaking[s]) ability to provide a service/work'.
 - (b) The first business undertaking consulted under section 34(3) stated it objected to the release of information in Documents 2, 9 and 12 and Documents 16 to 38 on the basis 'we consider all of our correspondence, documents and images to be Commercial in Confidence', and 'projects are quoted on an individual basis with details only available to our staff. Releasing these details would provide an unfair advantage for competitors.'
 - (c) The second business undertaking consulted under section 34(3) also objected to release of information in Document 15 as 'all the documents of my firm represent my intellectual capital' and 'the proposal was not the basis of the final agreed scope of work, largely due to COVID.' Releasing the information 'will not account for the changes – agreed to by the Agency, as client

⁸ [2007] VCAT 1301 at [33].

⁹ *Thwaites v Department of Human Services* (1999) 15 VAR 1.

and myself and based on State government regulations – that happened between the proposal phase and the final billing phase’.

- (d) The Agency further noted ‘that the public interest in favour of disclosure did not outweigh the considerations of competitive disadvantage to (each of the business undertakings)... would likely experience if we released the information’.

43. I acknowledge the business undertakings object to the disclosure of the documents they prepared and provided to the Agency in relation to the Project.

44. Having considered the purpose and content of the documents, I am not satisfied disclosure of certain information in the documents would be likely to expose the business undertakings unreasonably to disadvantage, for the following reasons.

- (a) The phrase in section 34(1)(b) to ‘expose the undertaking unreasonably to disadvantage’, contemplates disclosure of documents under the FOI Act may expose a business undertaking to a certain measure of disadvantage. By the introduction of the word ‘unreasonably’ in section 34(1), it is my view, Parliament determined this exemption only apply where a business undertaking would be exposed ‘unreasonably’ to any disadvantage, rather than where disclosure would result in any exposure to disadvantage.

- (b) The Agency sought the views of the business undertakings in accordance with section 34(3). Although the business undertakings objected to disclosure of the documents, in my view, the response was general in nature and did not provide specific information as to how disclosure of the documents would expose the business undertakings ‘unreasonably’ to disadvantage.

- (c) While information in the documents may or may not be known to competitors of the business undertakings, it is unlikely the documents could be used for the purpose of other similar projects as the documents were prepared for a specific local project and location. While the nature of issues discussed and considered in the documents may be similar between Councils, I consider it is reasonably likely each bike lane location will have specific requirements or issues unique to the location and operation of the particular project. Therefore, on the information before me, I am not satisfied information in the documents is of a nature that it would give a competitor of the business undertakings a financial advantage or allow them to engage in destructive competition with the business undertakings.

- (d) The documents are not sought by a commercial competitor of the business undertaking. The Applicant [redacted background] appears to seek access to the documents in relation to concerns arising from the Project, rather than for the purpose of engaging in destructive competition with the business undertakings.

- (e) Business undertakings that engage with government agencies to advise on or provide for the development of projects should reasonably expect a greater degree of transparency and accountability given the use of public funds in relation to community projects.

- (f) Finally, there is public interest that weighs in favour of disclosure to promote transparency and accountability for the Agency’s use of public funds for the Project.

45. Accordingly, I am not satisfied the information in the documents is exempt from release under section 34(1)(b). As such, I do not consider it is necessary to also review the application of section 38 and ‘private commercial information’ for the purpose of section 125(1) of the LG Act given the lower threshold for section 34(1)(b) is not met.

46. My decision in relation to section 34(1)(b) is set out in the Schedule of Documents in **Annexure 1**.

Section 25 – Deletion of exempt or irrelevant information

47. 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.
48. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’¹⁰ 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 25.¹¹
49. I accept the file location in Documents 1 and 3, attachments and information about unrelated Project works by the Agency in Documents 4, 7, 10 and 39 fall outside the terms of the Applicant’s request and constitute irrelevant information for the purpose of section 25.
50. I am satisfied the remaining documents identified during the review, which are attachments to Document 9, are relevant to the Applicant’s request as they reflect examples of the scope of works and are specified in point one of the Applicant’s request. Therefore, Documents 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 are subject to review.
51. I have considered the effect of deleting irrelevant and exempt information from the documents in accordance with section 25. In most cases, I am satisfied it is practicable to do so, as it would not require substantial time and effort, and the edited documents would retain meaning.
52. My decision in relation to section 25 is set out in the Schedule of Documents in **Annexure 1**.

Conclusion

53. On the information before me, I am not satisfied the documents are exempt from release under section 34(1)(b).
54. While I am satisfied certain information in the documents is exempt from release under sections 33(1) and 38 in conjunction with section 125(1) of the *Local Government Act 2020* (Vic) (**LG Act**), I have determined to release additional information where I am satisfied it is not exempt information and is relevant to the terms of the Applicant’s request.
55. As I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with irrelevant and exempt information deleted in accordance with section 25, access to the document is granted in part.
56. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Review rights

57. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.¹²
58. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹³

¹⁰ *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].

¹¹ *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].

¹² The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹³ Section 52(5).

59. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁴
60. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
61. 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.¹⁵

Third party review rights

62. As I have determined to release documents that contain information obtained from two business undertakings, if practicable, I am required to notify those persons of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.¹⁶ Accordingly, I will notify the two businesses of my decision.

When this decision takes effect

63. My decision does not take effect until the third parties' 60 day review period expires.
64. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

¹⁴ Section 52(9).

¹⁵ Sections 50(3F) and 50(3FA).

¹⁶ Sections 49P(5), 50(3) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
1.	[date]	Email – Availability for Pop Up Trial	4	Released in part Sections 33(1), 38, 25	Release in part Sections 38, 33(1), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25.	<p>Sections 33(1) and 38: I am satisfied the information to which the Agency, refused access, being a third-party email address, is exempt from release under sections 33(1) and 38 for the reasons described in the Notice of Decision above.</p> <p>Section 25: I am satisfied the information identified by the Agency is irrelevant to the terms of the Applicant’s request.</p> <p>I am also satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt and irrelevant information deleted in accordance with section 25.</p>
2.	[date]	Email – [named location] revised quotes – with attachments	5	Released in part Sections 33(1), 38, 34(1)(b)	Release in part Sections 38, 33(1), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25.	<p>Sections 33(1) and 38: I am satisfied the information the information the Agency determined is exempt from release, being names, email addresses and telephone numbers of third parties, is exempt from release under sections 33(1) and 38 for the reasons described in the Notice of Decision above.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>Section 34(1)(b): The document contains business affairs information obtained by the Agency from a business undertaking. However, I am not satisfied disclosure of this information would expose the business undertaking unreasonably to disadvantage for the reasons detailed in the Notice of Decision above. Accordingly, I am not satisfied the document is exempt from release under section 34(1)(b).</p> <p>Section 25: See comments for Document 1.</p>
3.	[date]	Email – Pop Up Bike Lane – Updated Plan – with attachments [See Documents 16 and 17 below]	4	Released in part Section 25	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	<p>Section 25: See comments for Document 1.</p> <p>The attachments: The Agency does not consider all of the attachments to the email as falling within the terms of the Applicant’s request. I am satisfied the documents fall within the terms of the request and they are recorded as Documents 16 and 17 in this Schedule of Documents.</p>
4.	[date]	Email – Pop Up Bike Lane – Updated Plan –	4	Released in part	Release in part	Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		with attachments [See Documents 16 and 17 below]		Section 25	Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	The attachments: See comments for Document 3.
5.	[date]	Email – Pop Up Bike Lane – Updated Plan – with attachment	2	Released in full	Not subject to review	
6.	[date]	Email – Pop Up Bike Lane Cross Section – with attachments	3	Released in full	Not subject to review	
7.	[date]	Email – Protected Bike Lanes Draft Plans for Website – with attachments [See Documents 16 and 17 below]	5	Released in part Section 25	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	Section 25: See comments for Document 1. The attachments: See comments for Document 3.
8.	[date]	Email – Protected	2	Released in full	Not subject to review	

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		Lane Update with Diagram				
9.	[date]	Email – Quotes – Protected Bike Lanes – [named location] – with attachments [See Documents 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 in this Schedule of Documents]	7	Released in part Sections 33(1), 38, 34(1)(b)	Release in part Sections 38, 33(1), 25 The document is to be released with irrelevant information deleted in accordance with section 25.	Sections 38 and 33(1): See comments for Document 1. Section 34(1)(b): See comments for Document 2. Section 25: See comments for Document 1. The attachments: The Agency does not consider all of the attachments to the email as falling within the terms of the Applicant’s request. I am satisfied the documents fall within the terms of the request and they are recorded as Documents 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 in this Schedule of Documents.
10.	[date]	Email – Updated Pop-Up Lane Design	2	Released in part Section 25	Release in part Section 25 The document is to be released with irrelevant information deleted in	Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					accordance with section 25.	
11.	[date]	Plan – Protected Separated Bike Lanes – [named location]	1	Released in full	Not subject to review	
12.	[date]	Procurement Internal Approval Memo – [named location] Protected Bike Lane	7	Released in part Sections 33(1), 38, 34(1)(b)	Release in part Sections 33(1), 38, 25 The document is to be released with irrelevant information deleted in accordance with section 25.	Sections 33(1) and 38: I am satisfied the information to which the Agency refused access, being the signatures of three Agency officers, is exempt from release under sections 33(1) and 38 for the reasons described in the Notice of Decision above. Section 34(1)(b): See comments for Document 2. Section 25: See comments for Document 1.
13.	Undated	Making Walking and Cycling Safer in Moreland Comments from Council's Website report	498	Released in part Sections 33(1), 38	Release in part Sections 33(1), 38, 25 The document is to be released with irrelevant information deleted in	Sections 33(1) and 38: I am satisfied the information to which the Agency refused access, being email addresses and other personal affairs information of third parties, is exempt from release under sections 33(1) and 38 for the reasons described in the Notice of Decision above.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					accordance with section 25.	Section 25: See comments for Document 1.
14.	Undated	Plans – [named location] Separated Bike Lane	5	Released in full	Not subject to review	
15.	Undated	[company name] Consulting – [named location] Bike Lane Proposal	5	Released in part Section 34(1)(b)	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	Section 34(1)(b): See comments for Document 2. Section 25: See comments for Document 1.
16.	Undated	Kerb and traffic island layout for [named location]	2	Exempt in full Section 25	Refuse in full	During the review, this document was identified as an attachment to Documents 3, 4 and 7. Section 25: I am satisfied this document falls outside the terms of the Applicant's request as it concerns an unrelated location. Accordingly, access to the document is refused in full.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
17.	Undated	Kerb and traffic island layout for [named location]	2	Exempt in full Section 25	Refuse in full	<p>During the review this document was identified as an attachment to Documents 3, 4 and 7.</p> <p>Section 25: See comments for Document 16.</p> <p>Section 34(1)(b): See comments for Document 16.</p>
18.	[date]	Kerbs straight layout drawing	1	Exempt in full Section 25	Release in full	<p>This is an attachment to Document 9 that was located during the review.</p> <p>In its decision, the Agency determined this document falls outside the terms of the Applicant's request. During the review, the Agency submitted it maintains this view, however, if I do not agree, the document is exempt from release under section 34(1)(b)</p> <p>Section 25: I am satisfied the document falls within the terms of the Applicant's request.</p> <p>Section 34(1)(b): I am satisfied the document is not exempt from release under 34(1)(b) for the reasons detailed in the Notice of Decision above.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
19.	[date]	Kerbs curved layout drawing 1	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
20.	[date]	Kerbs curved Layout drawing 2	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
21.	[date]	Traffic island bullnose layout drawing	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
22.	Undated	Photograph of traffic island - [named location]	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
23.	Undated	Photograph of Boundary 9	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
24.	Undated	Photograph of bullnose – [named location]	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
25.	Undated	Photograph of	1	Exempt in full	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		bullnose 8 – [named location]		Section 25		
26.	Undated	Photograph of [named location] 3	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
27.	Undated	Photograph of [named location] 6	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
28.	Undated	Photograph of [named location] 2	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
29.	Undated	Photograph of [named location] 3	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
30.	Undated	Photograph of [named location] 4	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
31.	Undated	Photograph of [named location] 13	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
32.	Undated	Photograph of [named location] 16	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
33.	Undated	Photograph of [named location] 26	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
34.	Undated	Photograph of [named location] 3	1	Exempt in full Section 25	Release in full	This is an attachment to Document 9 Sections 34(1)(b) and 25: See comments for Document 18.
35.	Undated	Photograph of [named location] 1	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
36.	Undated	Photograph of [named location] 5	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
37.	Undated	Photograph of [named location] 3	1	Exempt in full Section 25	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.
38.	Undated	Photograph of [named location] A2	1	Exempt in full	Release in full	Sections 34(1)(b) and 25: See comments for Document 18.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Section 25		
39.	[date]	Email – Bike Lane Trials in Moreland	4	Released in part Section 25	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	During the review this document was identified as subject to review. In its decision, the Agency considered the document exempt in part under section 25. Section 25: I agree the information identified by the Agency is not relevant to the terms of the Applicant’s request. See comments for Document 1.