

Notice of Decision and Reasons for Decision

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| Applicant: | 'DR2' |
| Agency: | Victorian Building Authority |
| Decision date: | 6 December 2021 |
| Exemptions considered: | Sections 30(1), 31(1)(d), 32(1) |
| Citation: | 'DR2' and Victorian Building Authority (Freedom of Information) [2021] VICmr 282 (6 December 2021) |

FREEDOM OF INFORMATION – agenda – minutes – Agency board – regulatory functions – titles of attachments

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.

I am satisfied the exemptions in sections 30(1), 31(1)(d) and 32(1) apply to some of the documents.

As it is practicable to edit the documents to delete irrelevant and exempt information, I have determined to grant access to the documents in part.

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

6 December 2021

Reasons for Decision

Background to review

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

Copies of the agendas and minutes of each meeting of the board of the VBA since [date] up to and including the [date], including a list of the titles of all attachments to the agendas during that period and the date the board considered those attachments.
2. The Applicant excluded certain personal information from the request, being the names of junior Agency staff members, emails, telephone numbers and the names of third-party officials. This information was therefore considered irrelevant to the request.
3. The Agency identified 36 documents falling within the terms of the Applicant's request and granted access to some of those documents in part, and refused access to other documents in full. The Agency relied on sections 30(1), 31(1)(d) and 33(1) to refuse access to parts of the documents. The Agency's decision letter sets out the reasons for its decision.

Review application

4. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
5. During the review, the Applicant advised they are not seeking review of the Agency's decision to exempt certain information under section 33(1). This means that only the minutes identified by the Agency falling within the terms of the request are subject to review.
6. I have examined copies of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties.
9. 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.
10. 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 30(1) – Internal working documents

11. Section 30(1) has three requirements:
 - (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister; and

- (b) such matter must be made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government; and
- (c) disclosure of the matter would be contrary to the public interest.

12. The exemption does not apply to purely factual material in a document.¹

Do the documents disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister?

13. The documents are minutes of board meetings prepared by the Agency.

14. Whether minutes will satisfy section 30(1)(a) depends on their character. Where the minutes disclose deliberations, they would fall within the ambit of section 30(1)(a). However, where they merely disclose factual matters, or motions passed, they would not meet the requirements of section 30(1)(a).²

15. I also note the decision of the Victorian Civil and Administrative Tribunal (**VCAT**) in *Asher v Workcover*,³ which considered that the fact a meeting was held in-camera is not, by itself, sufficient to conclude the minutes contain deliberations of the Agency. Information must do more than mere 'informing' to constitute opinion, advice or recommendation.⁴

16. Having examined the documents, I am not satisfied that, in each instance, the information meets the first limb of the exemption, as I am not satisfied the information describes an option, or a series of alternatives provided to be considered, the thinking process or discussion leading to a decision. In such cases, I am not satisfied the information is exempt under section 30(1).

17. I also consider the documents contain factual information, for example the current status of various Agency projects or duties. I am satisfied this information is not exempt by virtue of section 30(3).

18. However, where the information discusses a series of options, or records advice and recommendation to be considered, and was prepared by officers of the Agency, I am satisfied in such instances this satisfies the requirements in section 30(1)(a).

Were the documents made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government?

19. I am satisfied the documents were prepared in the course of the Agency's deliberative processes involved in the functions of the Agency, namely its regulatory functions.

Would disclosure of the documents be contrary to the public interest?

20. In deciding if release is contrary to the public interest, I must consider all relevant facts and circumstances, remaining mindful that the object of the FOI Act is to facilitate and promote the disclosure of information.

21. In deciding whether the information exempted by the Agency would be contrary to the public interest, I have given weight to the following relevant factors:⁵

¹ Section 30(3).

² *Collins v Greyhound Racing Control Board* (1990) 4 VAR 65; *Birnbaauer v Inner & Eastern Health Care Network* (1999) 16 VAR 9.

³ (2002) 19 VAR 92.

⁴ *Porter v Police (Vic)* [2005] VCAT 962 at [23].

⁵ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

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

22. I have also considered the discussion of the public interest in *Graze v Commissioner of State Revenue*⁶ wherein Judge Macnamara VP referred to a passage from *Friends of Mallacoota Inc*⁷ and said:

It is important to note, however, that Parliament has not made documents exempt simply because they are internal working documents. Merely to demonstrate that documents are part of the deliberative processes of an agency, that is, its thought process, does not, without more, make out the exemption. The view that officers in the Public Sector will be able to give candid and fearless advice only if they can be confident that such advice will not be open to public scrutiny under the Freedom of Information Process would be served only if the exemption were made absolute in its terms and perhaps protected from being overridden under Section 50(4). We must assume that the failure to do either of these things was a deliberate decision by Parliament.

As I have frequently observed in Freedom of Information determinations over the years, the possibility of public scrutiny may improve the quality of advice that is given to administrative decision-makers. The provision of advice that is superficial or the result of insufficient analysis or might be thought to be slanted to a particular political view would be deterred by the prospect that such advice might come to light under the Freedom of Information system. The fact that Parliament has left the public interest issues relative to internal working documents at large indicates, to my mind, that it contemplates that the public interest may cut both ways.

One might multiply instances of public interest analyses in particular Tribunal determinations. In my respectful view, what is required in each case is a consideration of where the public interest lies relative to the particular document or documents in dispute. There is no universal answer as to where the public interest lies with respect to internal working documents.

23. In its decision, the Agency provided the following reasons for deciding disclosure of the minutes of meetings subject of this review would be contrary to the public interest:

⁶ [2013] VCAT 869

⁷ [2011] VCAT 1889 at [67]

- the need to protect the confidentiality of materials put to the VBA Board during the statutory process involving documents of this nature;
- the fact that a decision-maker such as the VBA should be judged on the final decision and their reasons for it, and not on what might have been considered or recommended by others in preliminary internal working documents;
- the sensitivity and confidential nature of the information in question;
 - information contained in reflected in the exempt documents are sensitive to the whole of the VBA Committee of the Board both current and previous. It is highly sensitive information discussed internally on a strictly confidential basis given it represents deliberations rather than decisions;
 - as a whole, would serve to discourage industry from sharing information with the VBA and reduce the trust that this information will be used appropriately and sensitively, which subsequently means that the VBA is less effective overall;
- it is contrary to the public interest to disclose documents where disclosure may undermine decisions already taken and not necessarily reflect accurately why a particular decision was taken;
- disclosure of material of a preliminary nature at an earlier stage of the consideration and decision-making continuum would in such circumstances merely serve to undermine the decision-making process – it would not be an accurate reflection of the reasons why a particular decision was taken by the VBA in relation to discussions undertaken;
- the documents have been prepared for the primary purpose of making recommendations, expressing opinions and advice between officers for decision-making purposes in how the VBA discharges its regulatory functions, the subject matter of which is sensitive in nature.

24. The Agency also provided a detailed submission regarding items from each document it considered particularly sensitive.

25. Having examined the documents and considered the public interest factors relied upon by the Agency, I am not satisfied disclosure of all the exempt information would be contrary to the public interest, for the following reasons:

- (a) The purpose of the documents was to record official decisions and motions passed. They are not a transcript of the meeting. While in some instances, the information refers to projects yet to be concluded, the information goes no further than providing a record the current status of those matters. In such instances, it is difficult to accept release could be confusing or misleading to a reader.
- (b) A significant amount of information in the documents is publicly available. This includes, for example, several publicly reported events and information about tenders that are subject to government publishing requirements.
- (c) In relation to the other financial matters in the documents, I note the Agency is subject, as all agencies, to annual reporting requirements. I do not consider the financial information in the documents to be any more sensitive than the information that is regularly published. I also note there is a significant public interest in disclosure regarding the expenditure of public funds.
- (d) Deliberations regarding documents that are subsequently finalised and published are not necessarily exempt under section 30(1) only because such discussions may be preliminary. Rather, disclosure can assist members of the community understand how decisions are made.

- (e) In most instances, I do not consider the exempted information contains sufficient detail to give rise to any concern about the integrity of the decision-making process of the Agency. Nor do I consider it would hinder the recording of such matters in the future.
 - (f) While I note the extensive information in the documents regarding the Agency's regulatory functions, in my view, such matters are discussed at a high level such that disclosure would not negatively affect the Agency's ability to undertake its legislative responsibilities. In my view disclosure provides added transparency and accountability to ensure the Agency is meeting its obligations.
 - (g) Much of the information in the documents does not appear to be contentious. In fact, most of the information that could be considered advice or opinion is expressed in broad terms. For this reason, I do not agree disclosure of this information would have a negative impact on any future government or Agency negotiations about the matter.
 - (h) If the Agency considers any of the information in the documents is inaccurate, it is open to the Agency to provide the Applicant with any corrections it considers necessary.
 - (i) Further, I consider the public interest in the community being informed about the way in which the Agency performs its statutory function weighs in favour of releasing the information, particularly where the information would contribute to greater public scrutiny of the Agency's important regulatory functions that directly affect community safety. In such instances, I consider the need for greater transparency outweighs any sensitivities in the disclosure of the documents.
26. A majority of the documents are therefore not exempt under section 30(1).
27. However, I have decided disclosure of certain information in the documents would be contrary to the public interest where it relates to unconfirmed or unresolved matters that relate to public safety. I have therefore determined it would be contrary to the public interest to release it and it is exempt under section 30(1).
28. My decision in relation to section 30(1) is set out in the Schedule of Documents at **Annexure 1**.

Section 31(1)(d) – Law enforcement documents

29. Section 31(1)(d) provides (subject to this section) a document is exempt if its disclosure would, or would be reasonably likely to, 'disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures'.
30. The exemptions in section 31(1) do not apply to widespread and well-known methods and procedures.⁸
31. 'Reasonably likely' means that there is a real chance of an event occurring; it is not fanciful or remote.⁹
32. 'Prejudice' means to hinder, impair or undermine and includes actual prejudice as well as impending prejudice.¹⁰
33. 'In a particular instance' does not require a single specific investigation. This phrase can encompass specific, identified aspects of law, administration of law or investigations of breaches or potential breaches of law.¹¹

⁸ *XYZ v Victoria Police* [2010] VCAT 255 at [177].

⁹ *Bergman v Department of Justice Freedom of Information Officer* [2012] VCAT 363 at [65], quoting *Binnie v Department of Agriculture and Rural Affairs* [1989] VR 836.

¹⁰ *Ibid*, Bergman at [66], referring to *Sobh v Police Force of Victoria* [1994] VicRp 2; [1994] 1 VR 41 (Nathan J) at [55].

¹¹ *Cichello v Department of Justice (Review and Regulation)* [2014] VCAT 340 at [24].

34. Section 31(2) provides for exceptions to the application of section 31(1)(d).
35. My decision in relation to section 31(1)(d) is set out below in the Schedule of Documents at **Annexure 1**.

Section 32(1) - Documents affecting legal proceedings

36. 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'.
37. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:¹²
- (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.
38. 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.¹³
39. My decision in relation to section 32(1) is set out in the Schedule of Documents at **Annexure 1**.

Section 34(1)(b) – Documents relating to trade secrets etc

40. Section 34(1)(b) provides a document is an exempt document if its disclosure under the FOI Act would disclose information acquired by an agency (or a Minister) from a business, commercial or financial undertaking and:
- (a) the information relates to other matters of a business, commercial or financial nature; and
 - (b) the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.
41. In *Thwaites v Department of Human Services*,¹⁴ the Victorian Civil and Administrative Tribunal (VCAT) observed the phrase 'information acquired' in section 34(1) signifies the need for some positive handing over of information in some precise form.
42. VCAT has also recognised the words 'business, commercial or financial nature' have their ordinary meaning.¹⁵

¹² *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.

¹³ 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).

¹⁴ (1999) 15 VAR 1.

¹⁵ *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

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

Section 25 – Deletion of exempt or irrelevant information

44. 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.

45. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’¹⁶ 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 25.¹⁷

46. As the Applicant is not seeking review of information exempted by the Agency under section 33(1), this information is irrelevant to the request.

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

Conclusion

48. On the information before me, I am satisfied the exemptions in sections 30(1), 31(1)(d) and 32(1) apply to parts of some of the documents.

49. As it is practicable to edit the documents to delete irrelevant and exempt information, I have determined to grant access to the documents in part.

Review rights

50. If either party to this review is not satisfied with my decision, they are entitled to apply to the VCAT for it to be reviewed.¹⁸

51. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁹

52. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁰

53. 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.

54. 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.²¹

When this decision takes effect

¹⁶ *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].

¹⁷ *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].

¹⁸ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹⁹ Section 52(5).

²⁰ Section 52(9).

²¹ Sections 50(3F) and (3FA).

55. 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.

Annexure 1 - Schedule of Documents

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|---------------------|-------------------------|---|------------------------|-----------------------------------|-----------------------|----------------------|
| 1 | [date] | VBA Board Meeting No 65 - [date]- Agenda | 3 | Released in part Section 33(1) | Not subject to review | |
| 2 | [date] | VBA Board Meeting papers No 66 -[date] -Board Agenda | 3 | Released in part Section 33(1) | Not subject to review | |
| 3 | [date] | VBA Board Meeting No. 67- [date] - Item 00-Board Agenda | 3 | Released in part Section 33(1) | Not subject to review | |
| 4 | [date] | Board Meeting No.68-Item 00- Board Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 5 | [date] | Agenda Board of the Victorian Building Authority Meeting No. 69 | 2 | Released in part Section 33(1) | Not subject to review | |
| 6 | [date] | Board Meeting No. 70-Agenda | 1 | Released in part Section 33(1) | Not subject to review | |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|--|-----------------|--|--|--|
| 7 | [date] | Board Meeting No. 71-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 8 | [date] | Board Meeting No. 72-Item 00- Board Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 9 | [date] | Board Meeting No. 73-Item 00- Agenda | 3 | Released in part Section 33(1) | Not subject to review | |
| 10 | [date] | Confidential Minutes of Meeting number 65 | 10 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Sections 31(1)(d), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25. | Section 30(1): I am not satisfied the document is exempt under section 30(1) for the reasons described above in the Notice of Decision. Section 31(1)(d): I am satisfied the document discloses a method for preventing, detecting or investigating, breaches or evasions of the law, the disclosure of which would be reasonably likely to prejudice the effectiveness of those methods or |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|--|-----------------|--|--|---|
| | | | | | | <p>procedures. The following information is therefore exempt under section 31(1)(d):</p> <ul style="list-style-type: none"> on page 4, under 'other matters', second dot point, the 13th to the 16th word. <p>Section 25: The Applicant is not seeking information exempted by the Agency under section 33(1). This information is therefore irrelevant to the request.</p> |
| 11 | [date] | Confidential Minutes of Meeting No. 66 | 8 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1), 34(1)(b)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): I am not satisfied the document discloses methods undertaken by the Agency in its regulatory functions, such that disclosure would prejudice its ability to carry out those functions. The document is therefore</p> |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|--|-----------------|--|--|--|
| | | | | | | <p>not exempt under section 31(1)(d).</p> <p>Section 34(1)(b): I note the Agency marked up the document to exempt a small amount of information exempt under section 34(1). In my view this is not information received from a business undertaking and is therefore not exempt under section 34(1)(b).</p> <p>Section 25: See comments for Document 10.</p> |
| 12 | [date] | Confidential Minutes of Meeting No. 67 | 10 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 13 | [date] | Confidential Minutes | 12 | Refused in full | Release in part | Section 30(1): See |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|--|-----------------|---|--|--|
| | | of Meeting No. 68 | | Sections 30(1), 31(1)(d), 33(1) | Sections 32(1), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25. | <p>comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 32(1): I am satisfied the document discloses legal advice sought by the Agency. The following information is therefore exempt under section 32(1):</p> <ul style="list-style-type: none"> on page 5, under the heading [redacted], from the first word of the second line of text to the end of that sentence. <p>Section 25: See comments for Document 10.</p> |
| 14 | [date] | Confidential Minutes of Meeting No. 69 | 8 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Sections 30(1), 32(1), 25 The document is to be | Section 30(1): I am satisfied certain information in the documents would be contrary to the public |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|----------------------|-----------------|-------------------|---|---|
| | | | | | <p>released with exempt and irrelevant information deleted in accordance with section 25.</p> | <p>interest to disclose. The following information is therefore exempt under section 30(1):</p> <ul style="list-style-type: none"> • on page 5, in the paragraph immediately underneath the dot points, the first sentence. <p>I am not satisfied the remainder of the document is exempt under section 30(1). See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 32(1): I am satisfied the document discloses legal advice sought by the Agency. The following information is therefore exempt under section 32(1):</p> <ul style="list-style-type: none"> • on page 3, the |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|--|-----------------|---|---|--|
| | | | | | | fourth paragraph. Section 25: See comments for Document 10. |
| 15 | [date] | Confidential Minutes of Meeting No. 70 | 4 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25. | Section 30(1): See comments for Document 10. Section 31(1)(d): See comments for Document 11. Section 25: See comments for Document 10. |
| 16 | [date] | Confidential Minutes of Meeting number 69 (71) error in document title | 7 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Section 30(1), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25. | Section 30(1): I am satisfied certain information in the document would be contrary to the public interest to disclose. The following information is therefore exempt under section 30(1): <ul style="list-style-type: none"> on page 3, in the second paragraph, the first two words. |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|------------------------------|-----------------|--|--|--|
| | | | | | | <p>I am not satisfied the remainder of the document is exempt under section 30(1). See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 17 | [date] | Minutes Board Meeting No. 72 | 14 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 18 | [date] | Minutes Board Meeting No. 73 | 20 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Sections 30(1), 25</p> <p>The document is to be released with exempt</p> | <p>Section 30(1): I am satisfied certain information in the document would be contrary to the public</p> |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|--------------|------------------|-----------------------------|-----------------|-----------------------------------|---|---|
| | | | | | and irrelevant information deleted in accordance with section 25. | <p>interest to disclose. The following information is therefore exempt under section 30(1):</p> <ul style="list-style-type: none"> • on page 2, the fifth dot point; and • on page 3, the sentence beginning 'Noted' and ending in 'matter'. <p>I am not satisfied the remainder of the document is exempt under section 30(1). See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 19 | [date] | Board Meeting No. 74-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
|---------------------|-------------------------|-----------------------------|------------------------|-----------------------------------|-----------------------|----------------------|
| 20 | [date] | Board Meeting No. 75-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 21 | [date] | Board Meeting No. 76-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 22 | [date] | Board Meeting No. 77-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 23 | [date] | Board Meeting No. 78-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 24 | [date] | Board Meeting No. 79-Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 25 | [date] | Board Meeting No. 80-Agenda | 1 | Released in part Section 33(1) | Not subject to review | |
| 26 | [date] | Board Meeting No. 81-Agenda | 2 | Released in par | Not subject to review | |

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| | | | | Section 33(1) | | |
| 27 | [date] | Minutes for Board Meeting No. 74 | 6 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1), 34(1)(b)</p> | <p>Release in part</p> <p>Sections 32(1), 25</p> <p>The document is to be released with exempt and irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 32(1): I am satisfied the document discloses legal advice sought by the Agency. The following information is therefore exempt under section 32(1):</p> <ul style="list-style-type: none"> on page 2, in the 'key points for discussion' column, text under 3.1.2. <p>Section 34(1)(b): See comments for Document 11.</p> <p>Section 25: See comments for Document</p> |

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| | | | | | | 10. |
| 28 | [date] | Minutes for Board Meeting No. 75 | 9 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25. | Section 30(1): See comments for Document 10. Section 31(1)(d): See comments for Document 11. Section 25: See comments for Document 10. |
| 29 | [date] | Minutes for Board Meeting No. 76 | 6 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Sections 30(1), 25 The document is to be released with exempt and irrelevant information deleted in accordance with section 25. | Section 30(1): I am satisfied certain information in the documents would be contrary to the public interest to disclose. The following information is therefore exempt under section 30(1): <ul style="list-style-type: none"> on page 5, in the third paragraph the street addresses. I am not satisfied the |

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| | | | | | | <p>remainder of the document is exempt under section 30(1). See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 30 | [date] | Minutes for Board Meeting No. 78 | 9 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Sections 32(1), 25</p> <p>The document is to be released with exempt and irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 32(1): I am satisfied the document contains a confidential communication between the Agency and its professional legal advisers, that was made for the dominant purpose of obtaining or providing</p> |

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| | | | | | | <p>legal advice. This information is therefore exempt under section 32(1):</p> <ul style="list-style-type: none"> on page 5, under 4.1.4, in the third dot point, the second sentence. <p>Section 25: See comments for Document 10.</p> |
| 31 | [date] | Minutes for Board Meeting No. 79 | 9 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 32 | [date] | Minutes for Board Meeting No. 80 | 4 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be</p> | <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See</p> |

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| | | | | | released with irrelevant information deleted in accordance with section 25. | comments for Document 11. Section 25: See comments for Document 10. |
| 33 | [date] | Minutes for Board Meeting No. 81 | 13 | Refused in full Sections 30(1), 31(1)(d), 33(1) | Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25. | Section 30(1): See comments for Document 10. Section 31(1)(d): See comments for Document 11. Section 25: See comments for Document 10. |
| 34 | [date] | Board Meeting No. 82 - Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 35 | [date] | Board Meeting No. 83 - Agenda | 2 | Released in part Section 33(1) | Not subject to review | |
| 36 | Various | List of Attachments | 21 | Refused in full | Release in part | Section 30(1): I am satisfied certain |

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|--------------|------------------|----------------------|-----------------|---------------------------------|---|--|
| | | | | Sections 30(1), 31(1)(d), 33(1) | <p>Sections 30(1), 25</p> <p>The document is to be released with exempt and irrelevant information deleted in accordance with section 25.</p> | <p>information in the documents would be contrary to the public interest to disclose. The following information is therefore exempt under section 30(1):</p> <ul style="list-style-type: none"> • for [date], on page 13, the street addresses that appear in the dot points below item 20; • for [date], page 13, the street addresses that appear in the dot points under item 13; • for [date], page 15, the street addresses that appear under point 6; • for [date], page 17, the street addresses that appear in the dot |

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|--------------|------------------|----------------------------------|-----------------|--|--|--|
| | | | | | | <p>points under item 5.</p> <p>I am not satisfied the remainder of the document is exempt under section 30(1). See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |
| 37 | 09/02/2021 | Minutes for Board Meeting No. 82 | 8 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>I note this is an additional document identified by the Agency during the review.</p> <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments</p> |

| Document No. | Date of Document | Document Description | Number Of Pages | Agency's Decision | OVIC decision | OVIC comments |
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| | | | | | | for Document 10. |
| 38 | 23/03/2021 | Minutes for Board Meeting No. 83 | 8 | <p>Refused in full</p> <p>Sections 30(1), 31(1)(d), 33(1)</p> | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released with irrelevant information deleted in accordance with section 25.</p> | <p>I note this is an additional document identified by the Agency during the review.</p> <p>Section 30(1): See comments for Document 10.</p> <p>Section 31(1)(d): See comments for Document 11.</p> <p>Section 25: See comments for Document 10.</p> |