

Notice of Decision and Reasons for Decision

Applicant:	'BZ4'
Agency:	Kingston City Council
Decision date:	27 August 2020
Exemptions considered:	Sections 33(1), 34(1)(b), 35(1)(b)
Citation:	'BZ4' and Kingston City Council (<i>Freedom of Information</i>) [2020] VICmr 242 (27 August 2020)

FREEDOM OF INFORMATION – council documents – email correspondence – complaint – business undertaking – commercial, business and financial information

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 in that I have decided to release additional information in the documents.

I am satisfied certain information in the documents is exempt under sections 33(1) and 35(1)(b).

Where I am satisfied it is practicable to delete exempt and irrelevant information from the documents in accordance with section 25, I have determined to grant access to those documents in part. However, where I am satisfied provision of an edited copy is not practicable, I have refused access to that document in full.

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
27 August 2020

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency for access to certain documents. Following consultation with the Agency, the Applicant clarified their initial request.
2. The clarified request seeks access to the following documents:
 - Emails between [A Councillor] and [a third party] that are related to any of the following subjects:
 - (a) [the Applicant]
 - (b) [the Applicant's business]
 - (c) [a site within the Municipality]
 - (d) [a site within the Municipality]
3. In its decision, the Agency identified 12 documents falling within the terms of the Applicant's request. It granted access to two documents in full, and refused access to ten documents in full and in part under sections 33(1), 34(1)(b) and 35(1)(b). The Agency's decision letter sets out the reasons for its decision.

Review

4. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
5. I have examined copies of the documents subject to review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. I have considered all communications and submissions received from the parties in relation to this matter.
8. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.
9. I note Parliament's intention the FOI Act must be interpreted so as to further the object of the Act and any discretions conferred by the Act must be exercised, as far as possible, so as to facilitate and promote the disclosure of information in a timely manner and at the lowest reasonable cost.

Review of exemptions

Section 33(1) – Documents affecting personal privacy

10. A document is exempt under section 33(1) if two conditions are satisfied:
 - (a) disclosure of the document under the FOI Act would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant;¹ and
 - (b) such disclosure would be 'unreasonable'.

¹ Sections 33(1) and (2).

Do the documents contain personal affairs information of individuals other than the Applicant?

11. Information relating to an individual's 'personal affairs' 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
12. 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.³
13. The documents subject to review are email chains between a third party and Agency officers concerning the Agency's management of a site within the municipality.
14. The documents include personal affairs information of third parties for the purposes of section 33(1) such as, names, email addresses, mobile telephone numbers and position titles.
15. The Agency submits the content of the emails concern the private interests of persons external to the Agency.
16. Having reviewed the documents, I am satisfied the content of the communications concern the affairs of a company and were communicated to the Agency in the third party's capacity as a member of the company.
17. Notwithstanding this, I am satisfied information in the emails is capable of identifying third parties who communicated with the Agency.
18. Accordingly, I am satisfied the documents contain personal affairs information of third parties for the purposes of section 33(1).

Would release of the personal affairs information be unreasonable?

19. 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 person's personal privacy in the circumstances.
20. In *Victoria Police v Marke*,⁴ 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'.
21. Even where an applicant claims to know the identity of a third party, disclosure of their personal affairs information may still be unreasonable in the circumstances.⁵
22. In determining whether disclosure of the personal affairs information in the documents would be unreasonable in the circumstances, I have considered the following factors:

² Section 33(9).

³ *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].

⁴ [2008] VSCA 218 at [76].

⁵ *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

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

The personal affairs information was obtained by the Agency due to its responsibility as the Committee of Management for the relevant site at the time the information was communicated. [Context redacted]

As outlined above, the documents concern the site, the relevant company and the Agency's management of the site.

I note personal affairs information of certain third parties is publicly available on the relevant company's website. Notwithstanding this, I must consider whether unconditional and unrestricted release of the information under the FOI Act would be unreasonable.

I accept there was an expectation by the persons who communicated with the Agency that their personal affairs information would be used and disclosed for the Agency's management responsibilities only.

Having reviewed the documents, I do not consider the information concerns the personal or private lives of the relevant third parties. In my view, the information was communicated to the Agency by the third parties on behalf of a company and concerns matters that concern the company.

Further, the content of the communication is not sensitive where it discusses administrative issues, such as meeting schedules and general matters concerning the management of the site, for example, mooring and general maintenance issues.

However, the tone and content of particular emails within the email chains differ in nature to other communications concerning the Agency's management of the site. In my view, these emails reflect the relevant third party's personal view concerning the Agency's service in response to their correspondence with the Agency. In such circumstances, I consider the communication by the relevant third party is private in nature.

The Applicant's interest in the information, and whether their purpose for seeking the information is likely to be achieved

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.⁶

In their application for review, the Applicant states they seek access to the documents to defend allegations made against them by a third party. Accordingly, the Applicant seeks to determine the content of communication between a third party and the Agency.

Having reviewed the documents, I consider they primarily concern the Agency's management of the site. Having considered the Applicant's interest in the information, I am not satisfied release of the personal affairs information in the documents would assist their purpose for seeking access to the documents.

⁶ *Victoria Police v Marke* [2008] VSCA 218 at [104].

(b) The likelihood of further disclosure of information, if released

The nature of disclosure under the FOI Act is unconditional and unrestricted, which means an applicant is free to disseminate widely or use a document as they choose once disclosed.⁷

I have considered the likelihood of personal affairs information in the documents being further disseminated, if disclosed, and the effects broader disclosure of such information would have on the privacy of the relevant third parties given the nature of the content of the communication.

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

On the information before me, I am not satisfied there is a broader public interest that would be promoted by disclosure of the personal affairs information. Rather, the Applicant's interest in the information would serve a personal interest only.

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

In its submission, the Agency states the Applicant's knowledge of a third party and the Agency's awareness of contention between the Applicant and other third parties supports its view disclosure of certain personal affairs information would be unreasonable in the circumstances.

In its submission, the Agency states it would not be unreasonable to disclose personal affairs information where it is publicly available or known to the Applicant. In my view, it would not be unreasonable to disclose the names, position titles and telephone numbers of the third parties where it is publicly available on the relevant company's website.

The Agency consulted with third parties to obtain their views as to the release of their personal affairs information in accordance with section 33(2B).

I note some third parties did not consent to the release of their personal affairs information despite those persons' personal affairs information being publicly available, as outlined above.

Multiple third parties, who are either current or previous employees of the Agency, consented to the release of their personal affairs information. The Agency did not exempt any of the personal affairs information of Agency officers under section 33(1) on the basis it does not consider the release of such information to be unreasonable. However, it did not release the information to the Applicant on the basis it would not be practicable to edit the documents in accordance with section 25. My decision on whether it is practicable to provide the Applicant with an edited copy of the documents under section 25 is considered at paragraph 66 below.

(e) Whether disclosure of information would, or would be reasonably likely to endanger the life or physical safety of any person⁸

There is no information before me to suggest this is a relevant factor in this case.

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

⁷ *Victoria Police v Marke* [2008] VSCA 218 at [68].

⁸ Section 33(2A).

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

24. Section 34 provides:

34 Documents relating to trade secrets etc.

- (1) A document is an exempt document if its disclosure under this Act would disclose information acquired by an agency or a Minister from a business, commercial or financial undertaking and the information relates to—
 - (a) trade secrets; or
 - (b) other matters of a business, commercial or financial nature and the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.
- (2) In deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of paragraph (b) of subsection (1), an agency or Minister may take account of any of the following considerations—
 - (a) whether the information is generally available to competitors of the 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 undertaking; and
 - (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 of any other consideration or considerations which in the opinion of the agency or Minister is or are relevant.

25. Accordingly, information is exempt under section 34(1)(b) if three requirements are satisfied:

- (a) the document or information was acquired from a business, commercial, or financial undertaking;
- (b) the information relates to matters of a business, commercial or financial nature; and
- (c) disclosure of the information is likely to expose the undertaking unreasonably to disadvantage (based on matters listed in section 34(2) and any other relevant considerations).

Was the information acquired from a business, commercial or financial undertaking?

- 26. The phrase 'information acquired' in section 34(1) signifies the need for some positive handing over of information in some precise form.⁹
- 27. The phrase 'business, commercial or financial undertaking' generally refers to an entity, such as a company or organisation, that is engaged in business, trade, or commerce for a financial profit or gain.

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

28. I am satisfied the information was communicated by a company to the Agency in the form of an attachment to an email.
29. The relevant undertaking is a [description of the undertaking and its operating model]. For the purposes of section 34(1)(b), I am satisfied the relevant company is a 'business undertaking'.
30. Accordingly, I am satisfied the information was acquired by the Agency from a business undertaking for the purpose of section 34(1)(b).

Do the documents contain information acquired from a business undertaking related to matters of a business, commercial or financial nature?

31. The phrase 'information of a business, commercial or financial nature' is not defined in the FOI Act. Therefore, the words 'business, commercial or financial nature' should be given their ordinary meaning.¹⁰
32. The Agency states the document contains commercial information as it 'describes factors that are essential for the [business undertaking] to operate successfully and safely' and 'the [business undertaking] would not be able to continue operate if it did not have access to key amenities and meet safety standards'.
33. Having read the document, I am not satisfied it contains commercial information concerning the business undertaking. Rather it concerns the assets and facilities of the relevant site, which is currently managed by the Victorian Government. Therefore, I do not consider the second limb of the exemption in section 34(1)(b) is met.
34. Nonetheless, for completeness, I will consider whether disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.

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

35. The Agency determined disclosure of the documents would be likely to expose the business undertaking unreasonably to disadvantage.
36. In deciding whether disclosure of the information would be likely to expose the business undertaking unreasonably to disadvantage, I have considered the factors listed in section 34(2).
37. I have also had regard to the decision in *Dalla-Riva v Department of Treasury and Finance*,¹¹ in which the Victorian Civil and Administrative Tribunal (**VCAT**) held documents are exempt under section 34(1)(b) if disclosure would:
 - (a) give competitors of a business undertaking a financial advantage;
 - (b) enable competitors to engage in destructive competition with the business undertaking; and
 - (c) would lead to the drawing of unwarranted conclusions as to the business undertaking's financial affairs and position with detrimental commercial and market consequences.
38. The Agency consulted with the business undertaking in accordance with section 34(3). The business undertaking objected to the disclosure of document on the grounds release of the information:

¹⁰ *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [25].

¹¹ [2007] VCAT 1301 at [33].

- (a) is likely affect its negotiations with the current authorities responsible with the management of the site; and
 - (b) would likely involve the business undertaking in subsequent legal challenges as a result of any decision made in relation to specific matters in the document.
39. In addition, the Agency submits the relationship between the Applicant and the business undertaking would expose the business undertaking unreasonably in negotiations with the current land managers.
40. Having carefully considered the purpose and content of the document, I am not satisfied its disclosure would expose the business undertaking that provided it to the Agency unreasonably to disadvantage for the following reasons:
- (a) the document does not contain commercially sensitive information of the [business] undertaking;
 - (b) the information in the document could be disclosed without causing substantial harm to the competitive position of the undertaking with respect to negotiations with relevant authorities; and
 - (c) I am not persuaded competing [business undertakings] would not be able to utilise the information in the document to the commercial detriment of the business undertaking.
41. My decision in relation to section 34(1) is set out in the Schedule of Documents in **Annexure 1**.

Other matters

42. In its submission concerning Document 4, the Agency indicated it did not claim exempt the attachment under section 35(1)(b) as, in its view, the document contains information of a commercial nature.
43. Section 35(1)(b) does not apply to information:¹²
- (a) acquired by an agency from a business, commercial or financial undertaking; and
 - (b) that relates to other matters of a business, commercial or financial nature.
44. As I am not satisfied the information relates to 'other matters of a business, commercial or financial nature', I will consider whether the document is exempt under section 35(1)(b).

Section 35(1)(b) - Documents containing material obtained in confidence

45. A document is exempt under section 35(1)(b) if two conditions are satisfied:
- (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
 - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.
46. The documents exempted by the Agency under section 35(1)(b) can be categorised as follows:
- (a) documents concerning the organisation of a meeting;

¹² See section 35(2).

- (b) discussion concerning the Agency's management of a site within the municipality;
- (c) a complaint; and
- (d) the attachment to Document 4.

Was the information or matter communicated in confidence?

- 47. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator, noting confidentiality can be expressed or implied from the circumstances of a matter.¹³
- 48. While there is nothing on the face of the documents to indicate the information was communicated to the Agency in confidence, a document need not be marked 'confidential' for the content to be considered information communicated in confidence.¹⁴
- 49. The Agency consulted with relevant third parties to obtain their view as to whether the information was communicated in confidence.
- 50. I have considered the views of the third parties, however, while their views are a relevant consideration, they are not determinative as to whether the first limb of section 35(1)(b) is satisfied.
- 51. In my view, I am not satisfied the information in the first two categories described above was communicated to the Agency in confidence given the nature of the information and the circumstances in which it was provided. Notwithstanding this, I will consider whether disclosure of the information would be contrary to the public interest.
- 52. With respect to the third category described above, I am satisfied the information was communicated to the Agency in circumstances in which confidentiality could reasonably be implied, based on the nature and context of the information.
- 53. Given the nature of the attachment in Document 4 and the business undertaking's views concerning the potential impact of its release, I am reasonably satisfied it was communicated to the Agency with an expectation of confidentiality.

Would disclosure be contrary to the public interest?

- 54. Section 35(1)(b) also requires consideration of whether the Agency would be impaired from obtaining similar information in the future if the documents were to be disclosed under the FOI Act.
- 55. This means I must be satisfied others in the position of the communicator would be reasonably likely not to provide similar information to the Agency in the future if the information were to be disclosed.
- 56. The exemption under section 35(1)(b) will not be made out if the evidence goes no further than the people involved would be somewhat less candid than they otherwise might be in providing information in the future.¹⁵
- 57. The public interest test in section 35(1)(b) is narrow, in that it is directed toward the impact release would have on an agency's ability to obtain the same type of information in the future. The exemption does not permit me to have regard to other matters, such as any public interest in favour

¹³ *XYZ v Victoria Police* [2010] VCAT 255 at [265].

¹⁴ *Williams v Victoria Police* [2007] VCAT 1194 at [75].

¹⁵ *Smeaton v Victorian WorkCover Authority* [2012] VCAT 1549 approving *Birnbauer v Inner and Eastern Health Care Network* (1999) 16 VAR 9.

of release, or the extent to which the Applicant's personal interest in the document would be served by granting access to the documents.

58. I have considered the view of one of the third parties who indicated they would be dissuaded from communicating with the Agency in the future should the information be disclosed in response to this FOI request.

59. In its submission dated [date], the Agency states:

The circumstances by which [the Agency] came to be in possession of the documents, along with the consultation responses weigh in favour of exempting the material. I could not find any public interest that would override the individuals' expectations that the issues and concerns they raised with [the Agency] would remain confidential. If [the Agency] discloses such information without a justification of public interest, [the Agency's] ability to obtain similar information in future is reasonably likely to be impaired.

60. The Agency's statutory functions require it to administer and ensure compliance with certain legislation and local laws. As such, it has statutory regulatory and enforcement functions, including in relation to the use of land within its municipality.

61. I accept the Agency relies on information provided by third parties on a voluntary or unsolicited basis, often in the form of a complaint, to carry out its regulatory and enforcement functions. Such information provided to the Agency will, by its very nature and context, generally be sensitive and confidential, particularly where it concerns a local matter within a small or particular sector of the community.

62. If details of complaints and complainants made to local government agencies were to be routinely released under FOI, community members would be deterred from making complaints to the Agency. This impairment goes beyond a trifling or minimal impairment¹⁶ as it would be reasonably likely to detrimentally impact upon the ability of the Agency to investigate complaints and effectively carry out its regulatory and law enforcement functions.

63. Accordingly, I am satisfied Document 12 (third category) is exempt under section 35(1)(b).

64. Given the nature of the communication in the first two categories described above and the attachments to Document 4, which also concerns assets and facilities within the site, I do not consider the disclosure of those documents would inhibit persons and organisations from contacting the Agency to discuss similar issues. Accordingly, I am satisfied such information is not exempt under section 35(1)(b).

65. My decision in relation to section 35(1)(b) is set out in the Schedule of Documents in **Annexure 1**.

Deletion of exempt and irrelevant information

66. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.

67. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁷ and the effectiveness of the deletions. Where

¹⁶ *Ryder v Booth* [1985] VR 869.

¹⁷ *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].

deletions would render a document meaningless, they are not 'practicable', and release of the document is not required under section 25.¹⁸

68. I have considered the effect of deleting exempt and irrelevant information from the documents in accordance with section 25. I am satisfied it is practicable to delete this information in most of the documents, as to do so would not require substantial time and effort and the documents would retain meaning. However, I do not consider it would be practicable to delete the exempt information in Document 12, as the document would be rendered meaningless.

Conclusion

69. On the information before me, I am satisfied certain information in the documents is exempt under sections 33(1) and 35(1)(b).
70. Where I am satisfied it is practicable to delete exempt and irrelevant information from the documents in accordance with section 25, I have determined to grant access to those documents in part. However, where I am satisfied provision of an edited copy is not practicable, I have refused access to that document in full.
71. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Review rights

72. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.¹⁹
73. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²⁰
74. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²¹
75. 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.
76. 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.²²

Third party review rights

77. If I determine to disclose a document claimed by an agency to be exempt under sections 33(1), 34(1) and 35(1), if practicable, I must notify any relevant third party person or company (as the case may be) of their right under section 50 to seek review by VCAT of my decision within 60 days of receiving notice of the decision.²³
78. In this case, I have decided to disclose documents that contain information the Agency claimed was exempt under sections 33(1), 34(1)(b) and 35(1)(b).

¹⁸ *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].

¹⁹ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²⁰ Section 52(5).

²¹ Section 52(9).

²² Sections 50(3F) and (3FA).

²³ Sections 49P(5) and 52(3).

79. In the circumstances, I am satisfied it is practicable to notify most of the third parties that did not consent to the release of their information in the documents, of my decision and their third party review rights.

When this decision takes effect

80. My decision does not take effect until the third party 60 day review period expires.
81. 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]	Email chain	2	Refused in full Sections 33(1), 35(1)(b), 25	Release in Part Sections 33(1), 25 This document is to be released except for the following information, which is to be deleted in accordance with section 25: (a) the email dated [date], which is irrelevant to the Applicant's request; and (b) the email address of the third party, who sent the email dated [date], which is exempt under section 33(1).	Section 33(1): I am not satisfied it would be unreasonable to release certain personal affairs information in the document for the reasons outlined in the Notice of Decision. I am satisfied it would be unreasonable to disclose the email address of a third party, as it is not publicly available. Section 35(1)(b): I am not satisfied the information is exempt under section 35(1)(b) for the reasons outlined in the Notice of Decision. Section 25: I am satisfied the email deleted by the Agency under section 25 is irrelevant to the Applicant's request as it concerns the Agency's records management. I am satisfied it would be practicable to edit the document to delete exempt and irrelevant information in accordance with section 25.
2.	[Date range]	Email Chain	3	Refused in full Sections 33(1),	Release in Part Sections 33(1), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				35(1)(b)	This document is to be released except for the email address of the third party who sent the email dated [date], which is exempt under section 33(1) and is to be deleted in accordance with section 25.	Document 1. Section 25: I am satisfied it would be practicable to edit the document to delete exempt information in accordance with section 25.
3.	[Date range]	Email Chain	5	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25: (a) the email address of the third party, who is the recipient of the following emails: <ul style="list-style-type: none"> • [date] • [date] • [date] • [date]; and (b) the email address of the third party copied into the following	Section 33(1): I am not satisfied it would be unreasonable to release the personal affairs information in the documents for reasons outlined above in the Notice of Decision. However, I am satisfied it would be unreasonable to disclose the email address of third parties as it is not publicly available with respect to the relevant company. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 2.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>emails:</p> <ul style="list-style-type: none"> • [date] • [date]. 	
4.	[Date]	Email chain and an attachment	3	<p>Refused in full</p> <p>Sections 33(1), 34(1)(b), 35(1)(b)</p>	<p>Release in Part</p> <p>Sections 33(1), 25</p> <p>This document is to be released, except for the email address of the third party who sent the email dated [date], which is exempt under section 33(1) and is to be deleted in accordance with section 25.</p>	<p>Section 33(1): See comments for Document 1.</p> <p>Section 35(1)(b): See comments for Document 1.</p> <p>Section 34(1)(b): I am not satisfied the attachment to the email is exempt under section 34(1)(b) for reasons outlined in the Notice of Decision.</p> <p>Section 25: See comments for Document 2.</p>
5.	[Date]	Email	4	Released in full	Not subject to review	Third parties did not lodge an application for review of the Agency's decision to disclose personal affairs information contained in the documents. Accordingly, this document has been released to the Applicant in full.
6.	[Date]	Email	1	Released in full	Not subject to review	See comments for Document 6.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
7.	[Date range]	Email chain	3	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released except for the email address of the third party who sent the email dated [date], which is exempt under section 33(1) and is to be deleted in accordance with section 25.	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 2.
8.	[Date range]	Email chain	3	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25: (a) the email dated [date]; and (b) email address of the third party who sent the email dated [date].	Section 33(1): I am satisfied certain emails are exempt under section 33(1) for reasons outlined above in the Notice of Decision. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 2.
9.	[Date range]	Email chain	7	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released	Section 33(1): See comments for Document 8. Section 35(1)(b): See comments for

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25:</p> <p>(a) the email dated [date];</p> <p>(b) the email address of the third party who is the recipient of the following emails:</p> <ul style="list-style-type: none"> • [date] • [date] <p>(c) the email address of the third party who sent the following emails:</p> <ul style="list-style-type: none"> • [date] • [date] • [date]; and <p>(d) the email address of the third party who is carbon copied into the following emails:</p> <ul style="list-style-type: none"> • [date] • [date] 	<p>Document 1.</p> <p>Section 25: See comments for Document 1.</p>

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					<ul style="list-style-type: none"> [date] 	
10.	[Date range]	Email chain	5	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25: (a) the email dated [date]; (b) the email dated [date]; and (c) the email address of third party who sent the email dated [date].	Section 33(1): See comments for Document 8. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
11.	[Date range]	Email chain	5	Refused in full Sections 33(1), 35(1)(b)	Release in Part Sections 33(1), 25 This document is to be released except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25: (a) the email dated [date];	Section 33(1): See comments for Document 8. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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					<p>(b) the email dated [date]; and</p> <p>(c) the email address of third party who sent the email dated [date].</p>	
12.	[Date]	Email chain	3	<p>Refused in full</p> <p>Sections 33(1), 35(1)(b)</p>	<p>Release in Part</p> <p>Sections 33(1), 35(1)(b), 25</p> <p>This document is to be released except for the following information, which is to be deleted in accordance with section 25:</p> <p>(a) the email dated [date] which is irrelevant to the scope of the FOI request;</p> <p>(b) the subject line of each email, which is exempt under section 35(1)(b);</p> <p>(c) the name of the third party carbon copied into the email dated [date], which is exempt under section 33(1);</p> <p>(d) the name of the third party in the second line of the email dated [date], which is exempt under section 33(1); and</p>	<p>Section 33(1): The personal affairs information deleted by the Agency identifies a complainant. In such circumstances, I consider it would be unreasonable to disclose the personal affairs information in the document. Accordingly, this information is exempt under section 33(1).</p> <p>Section 35(1)(b): I am satisfied the document is exempt under section 35(1)(b) for the reasons outlined in the Notice of Decision.</p> <p>Section 25: See comments for Document 1.</p>

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					(e) the email dated [date], which is exempt under section 35(1)(b).	