

Notice of Decision and Reasons for Decision

Applicant:	'CH5'
Agency:	Office of the Road Safety Camera Commissioner
Decision date:	12 November 2020
Exemptions considered:	Sections 30(1), 31(1)(a), 31(1)(d), 33(1) and 38 in conjunction with section 20 of the <i>Road Safety Camera Commissioner Act 2011</i>
Citation:	'CH5' and <i>Office of the Road Safety Camera Commissioner (Freedom of Information)</i> [2020] VICmr 317 (12 November 2020)

FREEDOM OF INFORMATION – Reports of the Road Safety Camera Commissioner – meeting minutes – meeting agendas – law enforcement documents – prejudice the proper administration of the law

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 as I have decided to release additional information to the Applicant.

I am satisfied the documents are exempt under sections 30(1), 31(1)(a), 31(1)(d), 33(1) and 38 in conjunction with section 20 of the *Road Safety Camera Commissioner Act 2011* (Vic). However, I am not satisfied certain information in the documents is exempt under section 30(1).

Where I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25, I have determined to grant access to those documents in part. Where it would not be practicable to do so, I have determined to exempt those documents 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

12 November 2020

Reasons for Decision

Background to review

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

...for the period [relevant dates], in relation to the Road Safety Camera Commissioner and each individual within the 'Road Safety Reference Group' (past and present):

 - copies of all arrangements (contractual or otherwise) with the State of Victoria; (Category 1)
 - details of payment and allowances; (Category 2)
 - details of all meetings of the Road Safety Reference Groups including what was discussed and/or decided. (Category 3)
2. In its decision, the Agency identified 38 documents falling within the terms of the Applicant's request and granted access to 22 documents in full, refused access to nine documents in part and seven documents in full.
3. The Agency relied on the exemptions in sections 30(1), 31(1)(a), 31(1)(d), 33(1) and 38 in conjunction with section 20 of the *Road Safety Camera Commissioner Act 2011* (Vic) (**RSCC Act**) to refuse access to the documents. 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 a copy of the documents subject to review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. I have considered all communications and submissions received from the parties.
8. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.
9. I note Parliament's intention that 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 38 – Secrecy provision

10. A document is exempt under section 38 if the following conditions are satisfied:
 - (a) there is an enactment in force;
 - (b) the enactment applies specifically to information of a kind contained in the document; and

- (c) the enactment prohibits persons referred to in the enactment from disclosing such information.

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

Application of the RSCC Act

- 12. The Agency applied section 38 in conjunction with section 20 of the RSCC Act.
- 13. Section 20 of the RSCC Act provides:

Law enforcement documents

The Commissioner or a person who is or has been a member of the Reference Group must not disclose any document if its disclosure under this Act would, or would be reasonably likely to—

- (a) prejudice the investigation of a contravention or possible contravention of the law or prejudice the enforcement or proper administration of the law in a particular instance; or
 - (b) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
 - (c) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law; or
 - (d) disclose methods or procedures for preventing, detecting, investigating or dealing with matters arising out of, contraventions or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (e) endanger the lives or physical safety of persons engaged in or in connection with law enforcement or persons who have provided confidential information in relation to the enforcement or administration of the law.
- 14. The Agency requested its submission be kept confidential. However, to adequately explain my reasons for decision, as required by section 49P(3), it is appropriate to summarise the Agency's submission as follows.
 - 15. In its submissions, the Agency provided the following factual information:

...

The purpose of the RSCC Act is outlined in s 1, which is to establish the office of the Road Safety Camera Commissioner and to provide for the appointment, functions and powers of the RSCC.

...

The RSCC is given all powers necessary or convenient to perform its functions [4] and has the discretionary power under s 14 to establish a group of advisers known as the Reference Group.

The functions of the Reference Group is to provide advice and information in order to assist the RSCC in the performance of their functions under the RSCC Act. The RSCC chairs the Reference Group and sets terms of reference which cannot exceed their respective functions and powers under the RSCC Act. [5] The members of the Reference [g]roup are appointed by the Minister on recommendation of the Commissioner and have been described in the Second Reading Speech of the RSCC Act as '...experts from fields including road safety research, road safety engineering and road safety camera technology.'[16]

16. In relation to the application of section 38, the Agency submits:

Section 20 of the RSCC Act is expressed in very similar terms to the law enforcement exemption in section 31 of the FOI Act, and prohibits a person who is or has been a member of the reference Group from disclosure under the RSCC Act...

We note s 20 of the RSCC Act is an 'enactment' in force for the purposes of section 38 of the FOI Act...

Further, s 20 applies to disclosure of a document which would have any of the listed effects in paragraphs (a) to (e), such that it satisfies the specificity criterion [27] and is clearly expressed in terms of prohibiting the Reference Group from such disclosure. We also note clause 20 of the explanatory memorandum to the RSCC Act states that the effect of s 20 will be to limit the disclosure of documents by the Commissioner or a member of the Reference group. [28] We submit therefore that s 20 of the RSCC Act is a secrecy provision for the purposes of s 38 of the FOI Act.

17. Essentially, section 20 of the RSCC Act replicates the exemptions under section 31(1) of the FOI Act, which prohibits disclosure of documents that would prejudice an investigation of a breach or possible breach of the law, the proper enforcement of the law, the impartial adjudication of a particular case and the methods and procedures utilised in the detection and investigation of a breach or evasion of the law. Section 20 also prohibits disclosure of confidential sources of information, or information that would endanger the life or physical safety of an individual in connection with law enforcement.
18. The Agency submits where it relies on sections 31(1)(a) and 31(1)(d) to exempt the documents, the information will also be exempt under section 38 relying on the identical provision in sections 20(a) and 20(d) of the RSCC Act.

Application of sections 31(1)(a) and 31(1)(d)

19. Subject to section 31, section 31(1)(a) provides a document is an exempt document if its disclosure under the FOI Act would, or would be reasonably likely to, prejudice the investigation of a breach or possible breach of the law or prejudice the enforcement or proper administration of the law in a particular instance.
20. 'Reasonably likely' means there is a real chance of an event occurring; it is not fanciful or remote.¹
21. 'Prejudice' means to hinder, impair or undermine and includes actual prejudice as well as impending prejudice.²
22. The phrase, 'in a particular instance' does not require a single specific investigation, and can encompass specific, identified aspects of law, the administration of the law, or investigations of breaches or potential breaches of the law.³
23. Subject to section 31, section 31(1)(d) provides a document is an exempt document 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'.
24. The exemptions in section 31(1) do not apply to widespread and well known methods and procedures.⁴

¹ *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.

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

³ *Cichello v Department of Justice (Review and Regulation)* [2014] VCAT 340 at [24].

25. The Agency submits the following in relation to its application of sections 31(1)(a) and 31(1)(d) to the documents:

In *Cichello v Department of Justice (Cichello)*⁵, the Tribunal considered whether the road safety camera system constitutes law enforcement for the purposes of this exemption and held they are capable of falling within the 'proper administration of the law' on the basis that:

24.1 the phrase includes the collection of the information to monitor compliance; [17] and

24.2 the phrase 'particular instance' in s 31(1)(a) does not require a single specific investigation but can encompass specific and identified aspects of the law and its administration. [18]

...

Further, the Tribunal took the following factors into account in support of the application of the exemption and the prejudice required:

27.1 Evidence that speed cameras are regularly vandalised [32].

27.2 Evidence disclosing the location and mechanisms of road safety cameras that is not widely known, which would result in increased deliberate damage [37]-[40].

27.3 Evidence that camera operators and technicians suffer aggression from the public and disclosing of their attendance records would increase this risk [33], [42], [49].

27.4 Evidence that disclosure of camera sites would result in evasion [50] to [53].

We submit that the parts of Minutes [multiple reference numbers], one report attached to Minute [number] and one report attached to Minute [number] to which s 31(1)(a) and (d) have been applied, relate to the road safety camera system which constitutes law enforcement for the purposes of this exemption, as held in *Cichello*.

26. The Agency exempted the following information under sections 31(1)(a), 31(1)(d) and 38:

- (a) efficiency and analysis reports regarding road safety camera operations;
- (b) descriptions of investigations undertaken;
- (c) testing and infringement reports;
- (d) site analysis; and
- (e) recommendations.

27. The *Road Safety Act 1986* (Vic), the *Road Safety Road Rules 2009* (Vic) and the *Road Safety (General) Regulations 2009* (Vic) (**Road Safety Acts**) govern the detection and enforcement of driving offences in Victoria. The road safety camera system, which operates under Road Safety Acts, is designed to deter drivers from undertaking high risk behaviours and detect speeding and red light breaches on Victorian roads.

28. Having considered the information before me, I am satisfied the information exempted by the Agency under section 38 would reveal precise details regarding the operation of road safety camera systems, which is not generally known to the wider public.

⁴ *XYZ v Victoria Police* [2010] VCAT 255 at [177].

⁵ *Cichello v Department of Justice (Review and Regulation)* [2014] VCAT 340.

29. Further, I am satisfied disclosure of this information would prejudice the effectiveness of the Victorian road safety camera system. In particular, if information regarding camera testing, site analysis and investigation into infrastructure damage was to become widely known, noting release under the FOI Act is unrestricted and unconditional, there is a reasonable likelihood the information could be used by persons to avoid or subvert detection of breaches or possible breaches of the Road Safety Acts.
30. Accordingly, I am satisfied the documents are exempt under sections 31(1)(a) and 31(1)(d) and is therefore, information that falls within the scope of sections 20(a) and 20(d) of the RSCC Act.

Conclusion on section 38

31. Having carefully considered information and submissions provided by the Agency, I am satisfied section 20 of the RSCC Act is a secrecy provision to which section 38 of the FOI Act applies as:
- (a) the RSCC Act is an enactment in force;
 - (b) the documents contain specific information that, if disclosed, would prejudice the proper enforcement of the law and methods and procedures used in the prevention, detection and investigation of breaches or evasions of the law as contemplated in sections 20(a) and 20(d) of the RSCC Act and the equivalent sections 31(1)(a) and 31(1)(d) of the FOI Act; and
 - (c) section 20 of the RSCC Act prohibits the Commissioner, or members of the Reference Group, from disclosing the relevant information.
32. Accordingly, I am satisfied the information exempted by the Agency under section 38 in conjunction with sections 20(a) and 20(d) of the RSCC Act is exempt.

Section 30(1) – Internal Working Documents

33. 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;
 - (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.
34. The exemption does not apply to purely factual material in a document.⁶
35. The term ‘officer of an Agency’ is defined in section 5(1). It includes a member of an agency, a member of an agency’s staff, and any person employed by or on behalf of an agency, whether the person is one to whom the provisions of the *Public Administration Act 2004* (Vic) apply.
36. I am satisfied individuals, appointed under the RSCC Act and who provide advice and information to assist the functions of the Agency are ‘officers of the Agency’ for the purposes of section 30(1).

⁶ Section 30(3).

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

37. Whether meeting minutes satisfy section 30(1)(a) depends on their specific content. Where minutes disclose deliberations, they may fall within the scope of section 30(1)(a). However, where they merely disclose factual matters, motions passed or record decisions made, they are unlikely to satisfy the requirements of section 30(1)(a).⁷
38. Having examined the documents, I note they contain factual information, including legislative provisions, action dates and records of concluded events. I am satisfied this information is not exempt by virtue of section 30(3).
39. However, where the information discusses a series of options or records advice and recommendations prepared by Agency officers and are subject to consideration and deliberation, I am satisfied such information satisfies the requirements of 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 the Agency?

40. The term 'deliberative process' is interpreted widely and includes deliberation or consideration involved in the functions of an agency.⁸
41. I am satisfied the documents were created in the course of the deliberative processes involved in the Agency's functions, being the ongoing management and review of Victoria's road safety camera system.

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

42. I must also be satisfied disclosure of this information would not be contrary to the public interest. This requires a 'process of the weighing against each other conflicting merits and demerits'.⁹
43. The onus lies with the Agency to show that disclosure of a document would be contrary to the public interest in that it would cause the general public harm in some way.¹⁰
44. In determining whether the information exempted by the Agency would be contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of information. In this case, I have given weight to the following factors:
 - (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 of 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;

⁷ *Collins v Greyhound Racing Control Board* (1990) 4 VAR 65; *Birnbauer v Inner & Eastern Health Care Network* (1999) 16 VAR 9.

⁸ *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at [208].

⁹ *Sinclair v Maryborough Mining Warden* [1975] HCA 17; (1975) 132 CLR 473 at [485], adopted in *Department of Premier and Cabinet v Halls* [1999] VSCA 117 at [30].

¹⁰ *Simons v Department of Justice* [2006] VCAT 2053 at [17].

- (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 a document 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.

45. The Agency submits it would be contrary to the public interest to disclose the documents for the following reasons:

We submit the considerations of the frankness of the deliberation, the sensitivity of the content, the state of the policy development process and whether disclosure would merely give a part explanation rather than a complete explanation, and whether disclosure would cause unnecessary debate or lead to confusion apply to the relevant documents such that disclosure would be contrary to the public interest under section 30(1)(b) of the FOI Act.

Further, we note relevantly that the purpose of this exemption is to protect the deliberative processes of government and to ensure a measure of confidentiality which will enable decisions to be effected [sic] after a frank exchange of views and ideas between officers of the agency. [14] Also, meeting minutes are generally considered through the lens of publication having some kind of 'chilling' effect on the full and frank exchange of ideas.

Finally, we note that the reports attached to Minute [number], Minute [number], Minute [number](two) and Minute [number] (three) are drafts, and on that basis are more likely to fall within s 30(1). [15]

46. My decision in relation to section 30(1) is set out in the Schedule of Documents in **Annexure 1**.

Section 33(1) – Personal affairs information

47. 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;¹¹ and
- (b) such disclosure would be 'unreasonable'.

48. Information relates to the 'personal affairs' of a person if it is reasonably capable of identifying them, or of disclosing their address or location.¹²

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

49. The Agency exempted names, initials and position titles of certain Reference Group attendees.

50. I am satisfied this information is the personal affair information of third parties for the purposes of section 33(1).

¹¹ Sections 33(1) and (2).

¹² Section 33(9).

Would release of the personal affairs information be unreasonable in the circumstances?

51. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the interest in protecting an individual's personal privacy in the circumstances.
52. This involves consideration of 'all matters relevant, logical and probative to the existence of conditions upon which the section is made to depend'.¹³
53. In determining whether disclosure of a document would involve the unreasonable disclosure of a third party's personal affairs information, an agency must notify that person an FOI request has been received for documents containing their personal information and seek their view as to whether disclosure of their personal affairs information should occur. However, this obligation will generally not arise if consultation would cause the third party to suffer physical harm or undue distress, or is otherwise not reasonable or practicable in the circumstances.
54. The Agency advised it consulted with third parties, whose personal affairs information appears in the documents. Copies of these responses have been provided for my review.
55. I acknowledge the Applicant's interest in this information. However, I note the names, initials and position titles of third parties have been carefully assessed by the Agency, and in most cases, this information was released to the Applicant.
56. On the information before me, I am satisfied it would be unreasonable to release the personal affairs information of third parties who objected to its release. I consider the Applicant is able to read and interpret the documents without the inclusion of specific names, initials and position titles as the personal affairs information does not add any material value to the documents. Nor do I consider there is an overriding public interest in the release of the personal affairs information that outweighs the personal privacy of the relevant third parties in this instance.
57. I am also required to consider whether disclosure of the information would be reasonably likely to endanger the life or physical safety of any person. There is no information before me to suggest this arises in the circumstances of this matter.
58. Accordingly, I am satisfied section 33(1) applies to the documents and it is unreasonable to release the names, initials and position titles of third parties who have objected to release of their personal affairs information in the documents.

Deletion of exempt or irrelevant information

59. 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.
60. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁴ 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 25.¹⁵
61. I have considered whether it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25. I am satisfied it is

¹³ [2008] VSCA 218 at [104].

¹⁴ *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].

¹⁵ *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].

practicable to delete the exempt information, as to do so would not require substantial time and effort, and the edited documents would retain meaning.

62. However, with respect to documents I have determined to refuse in full, I have considered the effect of deleting exempt information from these documents would render those documents meaningless.

Conclusion

63. On the information before me, I am satisfied the documents are exempt under sections 30(1), 31(1)(a), 31(1)(d), 33(1) and 38 in conjunction with section 20 of the RSCC Act. However, I am not satisfied certain information in the documents is exempt under section 30(1).
64. Where I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25, I have determined to grant access to those documents in part. Where it would not be practicable to do so, I have determined to exempt those documents in full.
65. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Review rights

66. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.¹⁶
67. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁷
68. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁸
69. 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.
70. 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.¹⁹

When this decision takes effect

71. My decision does not take effect until the Agency's 14 day review period expires.

¹⁶ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹⁷ Section 52(5).

¹⁸ Section 52(9).

¹⁹ Sections 50(3F) and (3FA).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Agenda – Reference Group Meeting No. [number]	1	Released in part Sections 30(1), 33(1)	Release in part Sections 33(1), 25	<p>Section 30(1): I consider information in the document meets the requirements of the first two limbs of section 30(1). However, I do not consider the document contains information of a substantive nature, and therefore its disclosure would not be contrary to the public interest.</p> <p>Section 33(1): For the reasons set out in the Notice of Decision, I am satisfied it is unreasonable to release the names, initials and position titles of third parties who have objected to release of their personal affairs information in the document.</p> <p>Section 25: I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25.</p>
2.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	4	Released in part Sections 30(1), 33(1)	Release in part Sections 33(1), 25	<p>Section 30(1): I am satisfied the information exempted by the Agency is deliberative. However, I am not satisfied it would be contrary to the public interest to disclose, as:</p> <ul style="list-style-type: none"> • The document, which was created over [number of] years ago, discusses possible content for public campaigns, engagement with the community as well as increasing public knowledge of the Agency's functions. • While I acknowledge certain sensitivities surrounding the functions of the Agency, as discussed in the Notice of Decision under section 38, I consider the minutes lack substantive information as they do not

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>disclose information about the methods in which the Agency manages its contact with the public or specific operations relating to the road safety camera network. Therefore, I am not satisfied disclosure would have a detrimental impact on the Agency's deliberative processes.</p> <ul style="list-style-type: none"> • Nor do I consider any such sensitivity necessarily means the public interest would be better served by maintaining secrecy. Consistent with the object of the FOI Act in section 3, I consider there is a public interest in members of the community being able to better understand decisions made by government agencies and the rules and laws to which they are subject. • While the views discussed may be preliminary and, in some cases, were not ultimately adopted by the Agency, I consider this can be ascertained from the content of the documents. Further, it would be open to the Agency to provide an explanation as to its current position regarding the matter. • I also note the Agency's submission regarding the importance of its officers having the freedom to exchange advice, opinions and recommendations. However, I have also given weight to greater transparency improving the

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						provision of such advice and subsequently decisions taken. ²⁰ Sections 33(1) and 25: See comments for Document 1.
3.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	4	Released in part Sections 30(1), 31(1)(a), 31(1)(d), 33(1), 38	Release in part Sections 33(1), 38, 31(1)(a), 31(1)(d), 25	Section 30(1): See comments for Document 2. Sections 33(1) and 25: See comments for Document 1. Sections 38, 31(1)(a) and 31(1)(d): Section 20 of the RSCC Act prohibits disclosure of information that would prejudice the enforcement or proper administration of the law, or information that would prejudice the effectiveness of preventing, detecting, investigating or dealing with matters arising out of contraventions or evasions of the law. I am satisfied section 20 of the RSCC Act is a secrecy provision to which section 38 of the FOI Act applies. For the reasons set out in the Notice of Decision, I am satisfied information exempted by the Agency is exempt under sections 31(1)(a) and 31(1)(d) and consequently, section 38.
4.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	3	Released in part Sections 30(1), 31(1)(a), 31(1)(d), 33(1), 38	Release in part Sections 33(1), 38, 31(1)(a), 31(1)(d), 25	Sections 38, 31(1)(a) and 31(1)(d): See comments for Document 3. Section 30(1): See comments for Document 2. Sections 33(1) 25: See comments for Document 1.

²⁰ *Graze v Commissioner of State Revenue* [2013] VCAT 869.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
5.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	4	Released in part Sections 30(1), 31(1)(a), 31(1)(d), 33(1), 38	Release in part Sections 38, 31(1)(a), 31(1)(d), 30(1), 33(1), 25 On page 3, Item 5: <ul style="list-style-type: none"> the heading and first two dot points are not exempt; however, the remaining dot points are exempt under section 30(1). 	Sections 38, 31(1)(a) and 31(1)(d): See comments for Document 3. Sections 33(1) and 25: See comments for Document 1. Section 30(1): I am satisfied certain information in the document is not exempt for similar reasons in Document 2. However, I am also satisfied disclosure of certain information in the document would be contrary to the public interest as: <ul style="list-style-type: none"> it is preliminary advice; it relates to highly sensitive matters, being the Agency's law enforcement functions; and I accept there is a public interest in Agency officers being able to exchange views before providing an official response on such matters. Accordingly, I am satisfied certain information in the document is exempt under section 30(1).
6.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	5	Released in part Sections 30(1), 31(1)(a), 31(1)(d), 33(1), 38	Release in part Sections 33(1), 38, 31(1)(a), 31(1)(d), 25	Sections 38, 31(1)(a) and 31(1)(d): See comments for Document 3. Section 30(1): See comments for Document 2. Sections 33(1) and 25: See comments for Document 1.
7.	[date]	Report of the Road Safety Camera Commissioner	7	Refused in full Section 30(1)	Release in full	Section 30(1): Having considered the purpose of the document, and noting the document is available on the Agency's website, I am not satisfied it is exempt under section 30(1).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
8.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	4	Released in part Sections 30(1), 33(1)	<p>Release in part Sections 30(1), 33(1), 25</p> <p><u>On pages 2-3:</u></p> <ul style="list-style-type: none"> The heading and dot points under Item 5 are exempt under section 30(1). 	<p>Section 30(1): See comments for Document 5.</p> <p>Sections 33(1) and 25: See comments for Document 1.</p>
9.	[date]	Report to the Minister for Police on Road Safety Cameras	14	Refused in full Section 30(1)	Release in full	<p>Section 30(1): I consider the document discloses matter in the nature of advice and recommendation. I am also satisfied the documents contains information that is purely factual in nature, therefore, not exempt by virtue of section 30(3).</p> <p>Having considered the purpose of the document, I am not satisfied it would be contrary to the public interest to disclose as:</p> <ul style="list-style-type: none"> disclosure supports the role of the Agency to conduct independent reviews and report on the integrity and efficiency of the road safety camera network; this is also supported by the object and purpose of the FOI Act to ensure public accountability of agencies and government more broadly through the provision of public access to documents; the information appears to amount to the

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>measured and finalised views provided for the considerations of the Minister. I do not consider disclosure would disrupt the deliberative processes of the Agency; and</p> <ul style="list-style-type: none"> • similar reports detailing advice, opinion and recommendation are available on the Agency's website.
10.	[date]	Information Report	8	Refused in full Section 30(1)	<p>Release in part Sections 33(1), 25</p> <p><u>On pages 4-5:</u></p> <ul style="list-style-type: none"> • name and position title of the third party is exempt under section 33(1). 	<p>Section 30(1): See comments for Document 9.</p> <p>Section 33(1): I am not satisfied disclosure of certain personal affairs information of third parties in the document would be unreasonable. However, I am satisfied the name of the radio host and caller can be released, noting this information is in the public domain.</p> <p>Section 25: See comments for Document 1.</p>
11.	[date]	Meeting Minutes – Reference Group Meeting No. [number]	5	Released in part Sections 30(1), 31(1)(a), 31(1)(d), 33(1), 38	<p>Release in part Sections 38, 31(1)(a), 31(1)(d), 30(1), 33(1), 25</p>	<p>Sections 38, 31(1)(a) and 31(1)(d): See comments for Document 3.</p> <p>Sections 33(1) and 25: See comments for Document 1.</p> <p>Section 30(1): I consider the information in the document meets the requirements of the first two limbs of section 30(1). Given its sensitivity, and it concerns legal matters prepared by the Agency in draft form, I consider disclosure would be contrary to the public interest.</p>
12.	[date]	Meeting Minutes – Reference Group Meeting No.	4	Released in part Sections 30(1),	<p>Release in part Sections 33(1), 38,</p>	<p>Section 30(1): See comments for Document 2.</p> <p>Sections 38, 31(1)(a) and 31(1)(d): See comments</p>

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
		[number]		31(1)(a), 31(1)(d), 33(1), 38	31(1)(a), 31(1)(d), 25	for Document 3. Sections 33(1) and 25: See comments for Document 1.
13.	[date]	Annual Report	40	Refused in full Section 30(1)	Release in full	Section 30(1): The document is published on the Agency's website. Therefore, I am not satisfied it is exempt under section 30(1).
14.	[date]	Identification of [description of] report	9	Refused in full Section 30(1)	Refuse in full Section 30(1)	Section 30(1): I am satisfied disclosure of this document would be contrary to the public interest; see comments in Document 5.
15.	[date]	Deactivation Analysis report	12	Refused in full Sections 31(1)(a), 31(1)(d), 30(1)	Refuse in full Sections 38, 31(1)(a), 31(1)(d)	Sections 38, 31(1)(a) and 31(1)(d): See comments for Document 3.
16.	[date]	[Third party business undertaking] Efficiency report	23	Refused in full Sections 31(1)(a), 31(1)(d), 30(1)	Refuse in full Sections 38, 31(1)(a), 31(1)(d)	Sections 38, 31(1)(a) and 31(1)(d): See comments in Document 3.