

Notice of Decision and Reasons for Decision

Applicant:	'FJ7'
Agency:	South East Water Corporation
Decision date:	14 November 2023
Exemptions considered:	Sections 34(1)(b), 34(4)(a)(ii)
Citation:	'FJ7' and South East Water (Freedom of Information) [2023] VICmr 93 (14 November 2023)

FREEDOM OF INFORMATION – water corporation – water authority – statutory authority – contractual negotiations – provision of sewerage services – third party businesses

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

Notice of Decision

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

My decision on the Applicant's request differs from the Agency's decision. While I am satisfied certain information is exempt from release under section 34(1)(b), I am not satisfied information in the documents is exempt from release under section 34(4)(a)(ii). Accordingly, I have decided to release further information to the Applicant.

Where I am satisfied it is practicable to provide the Applicant with an edited copy of a document with exempt and irrelevant information deleted, access is granted in part. Where it is not practicable to do so, access is refused in full.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document. A marked-up copy of the documents indicating exempt and irrelevant information in accordance with my decision has also been provided to the Agency.

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

14 November 2023

Reasons for Decision

Background to review

1. The background to this review involves the development of two adjacent estates. The Applicant is a developer for one of the estates and is seeking access to documents relating to the developer of the adjacent estate (the **second developer**), specifically relating to the responsibility for providing sewerage infrastructure and services.
2. The Applicant made a request to the Agency seeking access to the following documents:
 1. A copy of the offer [reference number] in respect to sewerage services made to South East Water dated [date] by the developer of [location] (the Offer).
 2. Copies of emails or letters between the developer and SEW for the period commencing on [date] until [date] relating to the Offer.
 3. Copies of internal emails between SEW land development officers, meeting notes and minutes recorded by them for the period commencing on [date] until [date] relating to the Offer.
3. The Applicant does not seek access to the personal affairs information of other persons in the documents.
4. The Agency identified 34 documents falling within the terms of the Applicant's request and granted access to two documents in full and refused access to nine documents in part and 23 documents in full under sections 34(1)(b) and 34(4)(a)(ii). The Agency's decision letter sets out the reasons for its decision.

Review application

5. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
6. I have examined a copy of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties.
9. 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 34(1)(b) – Business, commercial or financial information of an undertaking

11. A document or information will be exempt from release under section 34(1)(b) if three conditions 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) the disclosure of the information would be likely to expose the business undertaking unreasonably to disadvantage.

First requirement – was the information acquired from a business, commercial or financial undertaking?

12. Many of the documents comprise emails between the Agency and a consultant representing the second developer with respect to the development.
13. Accordingly, I am satisfied the documents include information that was acquired from a business undertaking for the purposes of section 34(1)(b).

Second requirement – does the information relate to matters of a business, commercial or financial nature?

14. The Victorian Civil and Administrative Tribunal (**VCAT**) has recognised the words ‘business, commercial or financial nature’ have their ordinary meaning.¹
15. I am satisfied the information acquired from the business undertaking relates to matters of a commercial and financial nature, as its concerns a development project involving two private commercial companies.

Third requirement – would disclosure of the information be likely to expose the business undertaking unreasonably to disadvantage?

16. Section 34(2) provides that in deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of section 34(1)(b), the following considerations may be taken into account:
 - (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

¹ *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

- (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.

17. I have also had regard to the decision in *Dalla Riva v Department of Treasury and Finance*,² in which VCAT held documents will be exempt from release under section 34(1)(b) if their disclosure would:
 - (a) give competitors of a business undertaking a financial advantage;
 - (b) enable competitors to engage in destructive competition with a business undertaking; and
 - (c) would lead to the drawing of unwarranted conclusions as to a business undertaking's financial affairs and position with detrimental commercial and market consequences.
18. The phrase 'expose the undertaking unreasonably to disadvantage' in section 34(1)(b) contemplates disclosure of documents under the FOI Act may expose a business undertaking to a certain measure of disadvantage. By the introduction of the word 'unreasonably' in section 34(1)(b), I consider Parliament determined this exemption applies where an undertaking would be exposed 'unreasonably' to disadvantage only.
19. This is a complex matter relating to two separate land development projects being undertaken on adjoining land by two developers, (the Applicant) and [a third-party developer].
20. The main issue in relation to the documents and background of this matter is the process regarding the provision of access from [the Applicant] to facilitate a sewer outlet being constructed for [the third-party developer's] development project.
21. The documents predominantly comprise email communications between the Agency and a consultant representing [the third-party developer].
22. The Applicant submits they seek access to the documents because they received an offer from the Agency that was conditional upon the undertaking constructing a sewer within a stage of the Applicant's development. The Applicant is seeking access to the documents to understand the reasoning for this, as they consider the Agency allowed another developer to undertake works on the Applicant's land without their authority, and the Applicant considers they have experienced losses due to the delay and costs resulting from the Agency's decision.
23. The Agency exempted documents under section 34(1)(b) for the following reasons:

Following consultation with the developer of [location] Estate, it has been determined that these documents contain specific, confidential details in relation to the development project, and if these were to be provided to other parties in competition with the developer, there is potential for commercial loss. The information contained within the documents is deemed to be commercially sensitive and would if released provide a strategic commercial advantage to other

² [2007] VCAT 1301 at [33].

parties, and may be used to expose not only the developer, but their 200 customers to disadvantage and financial loss through delayed allotments settlements, exposure to increased building costs, increases in interest rates and other financial institution charges.

24. As noted in this excerpt, the Agency consulted with the undertaking (the consultant representing [the third-party developer]) to obtain their views on disclosure of the information prior to making its decision to refuse access to documents under section 34(1)(b). In summary, the undertaking submits:
- (a) its correspondence with the Agency was confidential and contains specific details in relation to their client's development project;
 - (b) if such information were to be provided to a competing developer (ie. [the Applicant]), there would be potential for commercial loss and detriment to the business undertaking's client;
 - (c) there may be commercially sensitive information in their correspondence to the Agency that could provide a commercial advantage to other parties;
 - (d) disclosure of the documents may also expose their client's customers to disadvantage and financial loss through belated allotment settlements, exposure to increased building costs, increases in interest rates and other financial institution charges, and stress and disruption to their housing circumstances and lives;
 - (e) matters between the competing developers has been resolved via the Agency's involvement; and
 - (f) the business undertaking's dealings with the Agency, including its approach and content of emails, is based upon long term experience and relationships that affords it with business efficiencies and commercial benefits, to which its competitors may not have access.

25. The Applicant submits:

SEW claim exemption is granted on the basis that disclosure would be likely to expose the developer of [location] unreasonably to disadvantage to business, commercial or commercial matters. SEW specifically states that these losses are in "delayed allotments settlement, exposure to increased building costs, increases in interest rates and other institution charges".

....

[the Applicant] has now constructed the outfall sewer to the [location] estate. Therefore they have no risk of access to sewer services, nor any unusual costs. The price list of [location] stages and release dates are publicly available. [Additional contextual information redacted].

[The Applicant] has no capacity to influence any of the losses nominated. It cannot delay the [location] development regardless of any disclosure regarding sewer and SEW services. Allotment settlements are determined by the developer and subject to authority approval. Building costs are determined by [the third-party developer]. There appears no nexus between the information requested and interest rates.

SEW claim further exemption under 34(4) in that its offer contains confidential contractual information. SEW is a public sector, policy-based organisation and any offer should therefore be in accordance with publicly stated policy. Disclosure of sewer alignments or reimbursements will not disadvantage SEW or the developer unless it is outside policy, and if this is the case then it should be disclosed.

....

26. Following careful consideration, I accept disclosure of certain information in many of the documents subject to review would be likely to expose the business undertaking unreasonably to disadvantage having considered:
- (a) the nature of the documents, which I am satisfied are commercially sensitive given they relate to commercial matters involving two commercial competitors and business undertakings (the **developers**);
 - (b) the purpose of the communications and the direct and frank nature of their content, which reflects a dispute between the two developers and which the statutory authority was involved in;
 - (c) the business undertaking would not have expected their correspondence with the Agency in relation to the dispute between the two developers would be disclosed to one of the developers under the FOI Act;
 - (d) the history of the negotiations and communications between the two developers with respect to responsibility for the provision of sewerage services;
 - (e) the impact disclosure would have on the business undertaking's relationship with its client; and
 - (f) the documents are being sought by a competing developer and in the absence of an ongoing dispute.
27. As such, I consider that disclosure in the circumstances of this matter would be likely to expose the undertaking and their client unreasonably to disadvantage and cause commercial harm to both of these business undertakings.
28. During the review, the Agency sought to apply section 34(1)(b) to Document 23, which is a letter of offer in response to an application for a development agreement for [the third party developer] development. The nature of this document is distinguishable from the email communications between the Agency and the undertaking. In my view, it is not commercially sensitive. In any case, I am not satisfied information in this document was acquired by the Agency from a business undertaking, as required by the first limb of the exemption under section 34(1)(b).
29. The Agency also sought to rely on section 34(1)(b) to exempt the case notes (Documents 24 to 34) under section 34(1)(b). I am not satisfied disclosure of the case notes would be likely to expose the business undertaking unreasonably to disadvantage as they do not reveal the same level of detail in the email correspondence between the Agency and the business undertaking, which I am satisfied would reveal commercially sensitive information concerning the business undertaking and its client. On the information before me, I do not consider disclosure of the case notes would be likely to expose the business undertaking unreasonably to disadvantage.
30. Accordingly, I am satisfied information in many of the documents is exempt from release under section 34(1)(b) and the Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Section 34(4)(a)(ii) – Information that would expose the Agency unreasonably to disadvantage

31. Section 34(4)(a)(ii) provides a document is an exempt document if it contains, ‘in the case of an agency engaged in trade or commerce, information of a business, commercial or financial nature that would if disclosed under this Act be likely to expose the agency unreasonably to disadvantage’.
32. Accordingly, a document is exempt from release under section 34(4)(a)(ii) if the following requirements are met:
 - (a) the agency is engaged in trade or commerce;
 - (b) the document contains information of a business, commercial or financial nature; and
 - (c) disclosure of the document would be likely to expose the agency unreasonably to disadvantage.

First requirement – is the Agency engaged in trade and commerce?

33. Whether an agency is engaged in trade or commerce depends on the facts and circumstances of each case.³
34. VCAT has held ‘the terms ‘trade’ and ‘commerce’ are not words of art; rather they are expressions of fact and terms of common knowledge’.⁴ VCAT has adopted the view of the Federal Court of Australia that these terms are ‘of the widest import’.⁵
35. An agency may be regarded as being engaged in trade or commerce even if the amount of trade or commerce engaged in is insignificant and incidental to the agency’s other functions.⁶
36. Further, an agency may be engaged in trade or commerce even if profit is not one of its express statutory objectives.⁷
37. It has been held trade and commerce must ‘of their nature, bear a trading or commercial character’.⁸
38. The fact an agency’s predominant activities may be described as ‘governmental’ does not preclude it from relying on the exemption under section 34(4)(a)(ii).⁹
39. I take the view as described in *Pallas v Roads Corporation*,¹⁰ that a government agency engaged in meeting its public functions is not engaged in trade or commerce.

³ *Stewart v Department of Tourism, Sport and the Commonwealth Games* [2003] VCAT 45 at [41].

⁴ *Gibson v La Trobe City Council* (General) [2008] VCAT 1340 at [33], citing *Re Ku-Ring-Gai Co-operative Building Society* (No 12) Ltd [1978] FCA 50; (1978) 36 FLR 134 per Deane J, with whom Brennan J agreed.

⁵ *Ibid* at [34].

⁶ *Fyfe v Department of Primary Industries* [2010] VCAT 240 at [23].

⁷ *Thwaites v Metropolitan Ambulance Services* (1996) 9 VAR 427 at 473.

⁸ *Gibson v Latrobe City Council* [2008] VCAT 1340 at [35], citing *Concrete Constructions (NSW) Pty Ltd v Nelson* [1990] HCA 17; (1990) 169 CLR 594 at 604.

⁹ *Stewart v Department of Tourism, Sport and the Commonwealth Games* [2003] VCAT 45 at [41]; *Fyfe v Department of Primary Industries* [2010] VCAT 240 at [23].

¹⁰ *Pallas v Roads Corporation* (Review and Regulation) [2013] VCAT 1967 at [57]-[58].

40. In my view, whether information is governmental or relates to agency trade and commerce depends on the specific document and the purpose of that engagement.
41. In this case, the communications between the undertaking and the Agency concern a sewerage outlet.
42. The Agency's statutory functions include to manage and maintain water and sewerage networks. The Agency's approval is required for any land development, detailing all conditions for the provision of water supply, sewerage and/or recycled water.¹¹ A developer is required to enter into a contractual agreement with the Agency for the undertaking of works relevant to water assets.¹²
43. Where the Agency engages with or enters into a contractual relationship with a developer with respect to sewerage services for land development projects, it does not do so as an activity in the capacity of engaging in trade or commerce (for example, for a financial profit). Rather, it does so to fulfil its role in delivering its statutory functions in managing and maintaining the water and sewerage network.
44. For these reasons, I do not consider the Agency is engaged in trade and commerce within the intended meaning under section 34(4)(a)(ii).
45. For completeness, I will consider the remaining limbs of section 34(4)(a)(ii).

Second requirement – do the documents contain information of a business, commercial or financial nature?

46. 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.¹³
47. The documents exempted under section 34(4)(a)(ii) consist of internal case notes and an offer letter.
48. I accept the offer letter and certain case notes contain information of a financial and business nature, such as contractual terms, details of financial reimbursements, and remittance advice.

Would disclosure be likely to expose the Agency unreasonably to disadvantage?

49. Whether disclosure is likely to expose an agency unreasonably to disadvantage depends on the particular facts and circumstances of the matter, considering the consequences likely to follow from disclosure of the information.
50. The provision contemplates that disclosure of a document under the FOI Act may expose the agency to a certain measure of disadvantage, and that any such exposure must be unreasonable.

¹¹ See South East Water website at <https://southeastwater.com.au/building-and-development/developers/land-development-policies/>.

¹² Ibid.

¹³ *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [25].

51. The Agency submits disclosure of the documents would expose it unreasonably to disadvantage in the following ways:

Document 23 – Letter of Offer

Disclosure of document 23 would expose South East Water to a financial disadvantage as it would reduce its capacity to negotiate future agreements.

The confidential financial information is provided in response to a detailed negotiation process. South East Water does not publish this kind of information, including in particular the nature and breakdown of the financial contributions payable for particular developments.

Disclosure of this confidential information could cause significant disadvantage to SEW in future negotiations with developers. For example, others could use the information to their advantage and seek to reduce the amount paid to South East Water. This, in turn, would disadvantage South East Water customers.

Documents 24-34 – Case Notes

Disclosure of Documents 24-34 would expose South East Water to commercial disadvantage as it would undermine its ability to obtain similar information in the future from developers and others, which is needed in order for South East Water to properly assess the requirements that it needs to impose, including their financial implications.

52. In relation to the offer letter for a development agreement, I consider the Agency, being a government organisation that provides services associated with its governmental functions, would reasonably be likely to enter into contractual agreements with developers that are specific to the development project. I consider contractual terms and costs associated with another development would be negotiated based on the specific requirements for those projects. As such, I am not satisfied disclosure would reduce its capacity to negotiate future agreements or that it could be used to seek to reduce the amount paid to the Agency in future.
53. In relation to the case notes, even if I were to accept the Agency is engaged in trade or commerce, I do not consider it has demonstrated disclosure of the documents would expose it unreasonably to disadvantage. The documents are short form records of the Agency's engagement with the undertaking and do not reveal the level of detail that is in the email correspondence between the Agency and the undertaking which I was satisfied would reveal commercially sensitive information concerning the undertaking and its client. On careful consideration, I am not convinced that disclosure of the case notes would undermine the Agency's ability to obtain similar information in the future from developers and others, which is needed for the Agency to properly assess the requirements that it needs to impose, including their financial implications.
54. Accordingly, I am not satisfied disclosure would be likely to expose the Agency unreasonably to disadvantage and the documents are, therefore, not exempt from release under section 34(4)(a)(ii).

Section 25 – Deletion of exempt or irrelevant information

55. 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.

56. 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
57. As the Applicant does not seek access to personal affairs information, such information is irrelevant for the purposes of my review.
58. I have considered the effect of deleting exempt and irrelevant information from the documents. Where I am satisfied it is practicable to delete such information, as to do so would not require substantial time and effort, and the edited documents would retain meaning, access is granted in part. However, where I am not satisfied it is practicable to edit a document, access is refused in full.

Conclusion

59. On the information before me, I am not satisfied information in the documents is exempt from release under section 34(4)(a)(ii). However, I am satisfied certain information is exempt from release under section 34(1)(b).
60. Where I am satisfied it is practicable to provide the Applicant with an edited copy of a documents with exempt and irrelevant information deleted, access is granted in part. Where it is not practicable, access is refused in full.
61. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.
62. A marked-up copy of the documents indicating exempt and irrelevant information in accordance with my decision has been provided to the Agency.

Timeframe to seek a review of my decision

63. 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.¹⁶
64. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁷
65. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁸
66. 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.

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].

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

¹⁷ Section 52(5).

¹⁸ Section 52(9).

67. 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

Timeframe for a third party to seek a review of my decision

68. As I have determined to release documents that contain information of a business, financial, commercial nature relating to business undertakings, if practicable, I am required to notify those persons of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.²⁰
69. In this case, I am satisfied it is practicable to notify the relevant business undertakings of their review rights and confirm they will be notified of my decision.

When this decision takes effect

70. My decision does not take effect until the third parties' 60 day review period expires.
71. If a review application is made to VCAT, my decision will be subject to any VCAT determination.
72. If an application is not made to VCAT, the Agency is required to release a copy of the documents to the Applicant in accordance with the Schedule of Documents in **Annexure 1** upon expiry of the 60 day review rights period.

¹⁹ Sections 50(3F) and 50(3FA).

²⁰ Sections 49P(5), 50(3A) and 53(2).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
1.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): I am satisfied certain information in this document is exempt from release under section 34(1)(b) for the reasons outlined in the Notice of Decision above. Section 25: I am satisfied it is practicable to provide the Applicant with an edited copy of this document in accordance with section 25.
1(A).	[date]	Attachment to Document 1 – Letter	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
2.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					provided to the Agency with this decision.	
2(A)	[date]	Attachment for Document 1 – Email thread	9	Refused in full Section 34(1)(b)	Refused in full Section 34(1)(b)	Section 34(1)(b): See comments for Document 1. Section 25: I am satisfied it would not be practicable to edit this document to delete exempt information.
2(B)	[date]	Attachment for Document 1 – letter	1	Refused in full Section 34(1)(b)	Refused in full Section 34(1)(b)	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 2(A).
3.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1. Note: The attachment in this email thread is Document 1A.
4.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					with the marked-up copy provided to the Agency with this decision.	
5.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
6.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
7.	[date]	Email thread	8	Released in part Section 25	Not subject to review	
7(A).	[date]	Shared discussion file note (attachment to Document 7)	3	Released in part Section 25	Not subject to review	

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
8.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b) 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1. Note: The attachment in this email thread is Document 8A, below.
8(A).	[date]	Master Plan – (attachment to Document 8)	1	Refused in full Section 34(1)(b)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
9.	[date]	Email thread	2	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
10.	[date]	Email thread	4	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25	Section 34(1)(b): See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 25: See comments for Document 1.
11.	[date]	Email thread	3	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
12.	[date]	Email thread	11	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision. Note: The images and tables in the version of the document provided to OVIC are partially cut off. The Agency is to ensure that this information is included in	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1. Note: The attachment in this email thread is Document 12(A), below.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					the version of the document that is to be released to the Applicant.	
12(A).	[date]	Sewer Main Plan	5	Refused in full Section 34(1)(b)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): I am not satisfied disclosure of the sewer main plan will expose the undertaking unreasonably to disadvantage as it is unique to the estate to which it relates and, in my view, does not contain propriety information that could be used by a competitor to disadvantage of the undertaking. Section 25: See comments for Document 1.
13.	[date]	Email thread	5	Refused in full Section 34(1)(b)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision. Note: OVIC was provided with a version of this document with the table partially cut off. The Agency is to ensure that	Section 34(1)(b): I am not satisfied information in this document is exempt from release under section 34(1)(b) because, having carefully considered the nature of the information, I am satisfied it can be disclosed without causing substantial harm to the competitive position of the undertaking. Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					this information is included in the version of the document that is to be released to the Applicant.	Note: The attachment in this email thread is Document 12(A).
14.	[date]	Email thread	6	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
14(A).	[date]	Attachment to Document 14 - Letter	5	Refused in full Section 34(1)(b)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): I am not satisfied information in this document is exempt from release under section 34(1)(b). It does not contain commercially sensitive information. [Redacted description of documents]. Section 25: See comments for Document 1.
15.	[date]	Email thread	5	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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					with the marked-up copy provided to the Agency with this decision.	
16.	[date]	Email thread	7	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1. Note: The attachment in this email thread is Document 8(A).
17.	[date]	Email thread	4	Refused in full Section 34(1)(b)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision. Note: OVIC was provided with a version of this document with the table and a figure partially cut off. The Agency is to ensure that this information is included in the version of the	Section 34(1)(b): See comments for Document 13. Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					document that is to be released to the Applicant.	
18.	[date]	Email thread	10	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision. Note: OVIC was provided with a version of this document with the table and a figure partially cut off. The Agency is to ensure that this information is included in the version of the document that is to be released to the Applicant.	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1. Note: The attachments in this email thread is Document 12(A).
19.	[date]	Email thread	11	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 This document is to be released in accordance with the marked-up copy	Section 34(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					<p>provided to the Agency with this decision.</p> <p>Note: OVIC was provided with a version of this document with the table and a figure partially cut off. The Agency is to ensure that this information is included in the version of the document that is to be released to the Applicant.</p>	
20.	[date]	Email thread	7	Refused in full Section 34(1)(b)	<p>Release in part</p> <p>Sections 34(1)(b), 25</p> <p>This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.</p>	<p>Section 34(1)(b): See comments for Document 1.</p> <p>Section 25: See comments for Document 1.</p> <p>Note: The attachments in this email thread is Document 8(A).</p>
21.	[date]	Email thread	6	Refused in full Section 34(1)(b)	<p>Release in part</p> <p>Sections 34(1)(b), 25</p> <p>This document is to be released in accordance with the marked-up copy</p>	<p>Section 34(1)(b): See comments for Document 1.</p> <p>Section 25: See comments for Document 1.</p> <p>Note: The attachments in this email thread is Document 8(A).</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					provided to the Agency with this decision.	
22.	[date]	Email thread	11	Released in part Section 34(1)(b)	<p>Release in part Sections 34(1)(b), 25</p> <p>This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.</p> <p>Note: OVIC was provided with a version of this document with the table and a figure partially cut off. The Agency is to ensure that this information is included in the version of the document that is to be released to the Applicant.</p>	<p>Section 34(1)(b): See comments for Document 1.</p> <p>Section 25: See comments for Document 1.</p>
23.	[date]	Offer letter	14	Refused in full Section 34(4)(a)(ii)	<p>Release in part Section 25</p> <p>This document is to be released in accordance with the marked-up copy</p>	<p>Section 34(1)(b): During the review, the Agency also sought to rely on section 34(1)(b). I am not satisfied the document is exempt from release under section 34(1)(b) for the reasons provided in the Notice of Decision above.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					provided to the Agency with this decision.	Section 34(4)(a)(ii): I am not satisfied the document is exempt from release under section 34(4)(a)(ii) for the reasons provided in the Notice of Decision above. Section 25: See comments for Document 1.
24.	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
24(B).	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
24(C).	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25	Sections 34(1)(b): See comments for Document 23.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
24(D).	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
25.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
26.	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					provided to the Agency with this decision.	Section 25: See comments for Document 21.
26(B).	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
27.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
28.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
29.	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
29(B).	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
29(C).	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
29(D).	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25	Sections 34(1)(b): See comments for Document 23.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
30.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
31.	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
32.	[date]	Agency case note	1	Refused in full Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					provided to the Agency with this decision.	Section 25: See comments for Document 21.
33.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.
34.	[date]	Agency case note	1	Released in part Section 34(4)(a)(ii)	Release in part Section 25 This document is to be released in accordance with the marked-up copy provided to the Agency with this decision.	Sections 34(1)(b): See comments for Document 23. Section 34(4)(a)(ii): See comments for Document 23. Section 25: See comments for Document 21.