

## Notice of Decision and Reasons for Decision

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Applicant:	'FD3'
Agency:	Department of Education
Decision date:	3 May 2023
Exemptions and provisions considered:	Sections 14(1)(b), 33(1), 34(1)(b) and 35(1)(b)
Citation:	'FD3' and Department of Education (Freedom of Information) [2023] VICmr 38 (3 May 2023)

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FREEDOM OF INFORMATION – National Trust Victoria – kindergarten grant application – LANDATA documents – not-for-profit certificate – Victorian Heritage register – internal correspondence – personal affairs information – expose a business undertaking unreasonably to disadvantage – documents available for purchase

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 fresh decision to refuse access to documents requested by the Applicant under the FOI Act.

I am satisfied certain documents are not subject to release under section 14(1)(b).

I am satisfied certain information in the documents is exempt from release under sections 33(1) and 34(1)(b).

However, my decision on the Applicant's request differs from the Agency's decision in relation to Documents 10, 15 and 37 as I am not satisfied all information in these documents is exempt from release under sections 33(1) or 35(1)(b).

Where it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25, access is granted in part. However, where it is not practicable to provide an edited copy, the document is refused 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

3 May 2023

## Reasons for Decision

### Background to review

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

Grant applications (two) for VSBA grants to [named kindergarten] at [Trust building], [address]. I request the application forms as submitted for these two successful grants by [kindergarten], and any documents submitted by National Trust Victoria pertaining to these two grant applications, and any agreements submitted showing National Trust agreements to lease or sell this property.

In addition, any submission related to the Will of [name], previous owner of [Trust building], the Codicils related to this Will and any amendments to Codicils of this Will that were submitted by [kindergarten] or National Trust Victoria in these applications.

A copy of these documents as submitted by [kindergarten] or National Trust Victoria: ... a signed certified accountants confirmation of the applicants last two years financial statements as evidence of financial viability a letter of support for this project from the CEO of the local government area (or authorised delegate), dated within three months of your application closing date if an auspice arrangement is proposed, written confirmation from the auspicing party is required.'

And: All documents related to this required evidence: 'Required evidence The type of evidence required depends on who owns the land. Evidence of the following must be provided: building ownership authorisation to build on the site intention to operate a facility for at least 10 years after completing the project land ownership if you own the land, you can provide a copy of the land title, LANDATA documents or council rates notice showing your organisations name and the service address. if the local government or a third party own the land, you must provide a copy of the title with project address and owners name as well as the current lease with an end date at least 10 years after completing the project. If the current lease will end earlier than 10 years from the date that the Common Funding Agreement is signed, the applicant will need to provide a letter from the land owner stating they intend to allow the facility to operate as a kindergarten for at least 10 years after completing the project. signed, written approval (on letterhead of the organisation) from the land owner to undertake the works is also required.'

Any submissions to this grant application from Victorian Heritage Register regarding this property, [Trust building], Register number[number], or any reference by [kindergarten] or Nat Trust to the Heritage status of the property marked for the kinder site, [Trust building].

Within the grant applications, please provide any mention of artistic tenants (artists in residence), and of lifelong tenants of [Trust building] and any documents related to how the use of the building might contravene the stipulations of the Will of [name].

I also request any documentation regarding any agreed financial assistance between National Trust and the [kindergarten], any rental discounts, any rental agreement or any transfer of ownership of land, buildings, carpark area or gardens.

2. The Agency identified one document, totalling 51 pages, meeting the terms of the Applicant's request. The Agency refused access to certain information in the document under sections 33(1) and 34(1)(b). The Agency's decision letter sets out the reasons for its decision.

### Review application

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.

### Fresh Decision

5. Section 49M(1) permits an agency to make a fresh decision on an FOI request during a review.

6. On [date], the Agency made a fresh decision advising it had undertaken further document searches and identified 13 additional documents, totalling 51 pages, meeting the terms of the Applicant's request. The Agency granted access to two documents in full and refused access to 10 documents in part under sections 33(1) and 34(1)(b). The Agency also refused access to one document under section 14(1)(b) on the grounds that the document is not subject to access under the FOI Act.
7. The Applicant did not agree with the Agency's fresh decision and, as required by section 49MA(2), I proceeded with my review on the basis of the fresh decision.
8. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.

#### **Documents subject to review**

9. Following the making of its fresh decision, the Agency advised it had identified an additional 877 pages of documents. The Agency assessed these documents and determined to release certain documents in full and certain documents in part under sections 33(1), 34(1)(b) and 35(1)(b).
10. By email dated [date], the Agency advised OVIC that a third party business undertaking had sought review by the Victorian Civil and Administrative Tribunal (**VCAT**) concerning the Agency's decision to release documents regarding its business affairs.
11. It was confirmed that VCAT would review Documents 1a and 6a (duplicates of Documents 3, 25, 52 and 76) and the outstanding documents are to remain to be reviewed by OVIC.
12. The Schedule of Documents at **Annexure 1** set out the documents subject to my review.

#### **Applicant's concerns regarding missing documents**

13. During the review, the Applicant raised concerns about missing documents and information in relation to their FOI request.
14. In accordance with section 61B(3), these concerns were addressed under this review.
15. OVIC staff made further enquiries with the Agency to address the Applicant's concerns. The outcome of those enquiries was communicated to the Applicant.
16. Based on the Agency's responses, I am satisfied the Agency undertook a thorough and diligent search for the requested documents. Accordingly, I consider the Applicant's concerns has been fully pursued and there is no need to make further enquiries or take further action under the FOI Act in relation to those particular concerns.
17. I have examined a copy of the documents subject to review and I have considered all communications and submissions received from the parties.
18. 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.
19. 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.

## Section 14(1)(b) – FOI Act does not apply to certain documents

20. Section 14(1)(b) of the FOI Act provides a person is not entitled to obtain access under this Part to a document which contains information that is available for purchase by the public in accordance with arrangements made by an agency.
21. In relation to section 14(1), VCAT has held:<sup>1</sup>

The intention of this provision is to deny access under the FOI Act where a person is able to otherwise source documents from the public records. This is not a matter of the documents being exempt under the FOI Act. Rather they are simply not able to be disclosed under the FOI Act.<sup>2</sup>
22. The Agency applied section 14(1)(b) to Document 3a (duplicate Document 72), which is a Land Title Certificate extract.
23. LANDATA, is a trustee register that holds property information including title, survey, valuation information, property sales as well as property and planning certificates, which are available to the public for a relevant fee.<sup>3</sup>
24. I am satisfied information in Document 3a is available for purchase by the public in accordance with arrangements made by an agency and therefore, I am satisfied Document 3a is not of a kind to which the FOI Act applies by virtue of section 14(1)(b).
25. Accordingly, the Agency is not required to provide the Applicant with access to Document 3a and duplicate Document 72 under the FOI Act.

## Review of exemptions

### *Section 33(1) – Documents affecting personal privacy*

26. 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 (a **third party**);<sup>4</sup> and
  - (b) such disclosure would be ‘unreasonable’.
27. Information relating to a third party’s ‘personal affairs’ includes, but is not limited to, information that identifies any person, or discloses their address or location. It also includes any information from which such information may be reasonably determined.<sup>5</sup>
28. The Agency refused access to the names, emails, direct telephone numbers, signatures and job titles of third parties.
29. The Agency also refused access to statements provided by third parties in relation to the proposed building project.
30. I am satisfied this information is personal affairs information for the purposes of section 33(1).

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<sup>1</sup> *Smeaton v Transport Accident Commission* (Review and Regulation) [2017] VCAT 1486 at [42].

<sup>2</sup> *Ibid* at [42].

<sup>3</sup> See LANDATA website at [https://www.landata.vic.gov.au/tpc\\_aboutus.aspx](https://www.landata.vic.gov.au/tpc_aboutus.aspx).

<sup>4</sup> Sections 33(1) and 33(2).

<sup>5</sup> Section 33(9).

*Would disclosure of the personal affairs information in the documents be unreasonable?*

31. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the interest in protecting a third party's right to privacy in the particular circumstances.
32. This involves having regard to any matter that may 'relevantly, logically, and probatively' bear upon whether disclosure of personal affairs information of any person would be unreasonable in its own context.<sup>6</sup>
33. In determining whether disclosure of the personal information would be unreasonable, the Agency consulted with relevant third parties to obtain their views on disclosure of their personal information. Some individuals objected to the disclosure of their personal information and copies of these responses were provided for my consideration.
34. Having considered the information before me, I am satisfied certain personal affairs information to which the Agency exempted would be unreasonable to release, for the following reasons:
  - (a) Broadly, I accept there is nothing particularly sensitive about disclosing the identity of an individual where such information merely concerns or demonstrates them performing their ordinary professional duties. However, I am also mindful that the personal affairs information exempted by the Agency do not concern how these individuals carried out their duties.
  - (b) I note the Agency determined to release the majority of information in the documents, but for certain personal affairs information of third parties.
  - (c) I consider the Applicant is able to read and interpret the documents without the inclusion of this information as the personal information does not add any material value to the documents.
  - (d) The Applicant did not provide a reason as to why they seek access to the personal affairs information of third parties in the documents. Therefore, the purpose for which the Applicant seeks access to the personal affairs information in this case is not clear.
  - (e) I am satisfied certain personal affairs information in the documents is not available to the public or otherwise available to the Applicant.
35. However, where the Agency has exempted statements provided by third parties, which have been provided from a business or professional perspective as opposed to statements provided private accounts and experiences, I am satisfied it would not be unreasonable to release this particular information.
36. Further information regarding my decision in relation to section 33(1) and each document is set out in the Schedule of Documents at **Annexure 1**.

***Section 34(1)(b) – Document relating to trade secrets etc.***

37. Section 34(1)(b) provides a document is an exempt document if its disclosure under the FOI Act would disclose information acquired by an agency (or a Minister) from a business, commercial or financial undertaking and:
  - (a) the information relates to other matters of a business, commercial or financial nature; and
  - (b) the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.

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<sup>6</sup> *Victoria Police v Marke* [2008] VSCA 1653 at [42] at [98].

*Was the information acquired from a business, commercial or financial undertaking and is the information of a business, financial or commercial nature?*

38. The information acquired by the agency must be of a business, commercial or financial nature. These words have their ordinary meaning.
39. I am satisfied documents contain information of a business and financial nature regarding a proposal to build a kindergarten at a heritage listed site. Documents concern preliminary planning of the project including, costing estimates, funding agreement totals, banking information and financial assessments produced on behalf of the subject kindergarten. I am satisfied this information has been acquired by the Agency from the relevant business undertakings for the purposes of section 34(1)(b).

*Would disclosure of the review document be likely to expose the third-party business undertaking unreasonably to disadvantage?*

40. 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), 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.
41. I have also had regard to the decision in *Dalla Riva v Department of Treasury and Finance*,<sup>7</sup> in which VCAT held documents are exempt 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.
42. In accordance with section 34(3), the Agency sought the views of certain business undertakings regarding disclosure of their financial and business information. Copies of those consultations have been provided for my consideration.
43. On the information before me, I am satisfied disclosure of the business and financial information withheld by the Agency, for the most part, would be reasonably likely to expose the subject kindergarten to unreasonable disadvantage, for the following reasons:
  - (a) While I am satisfied disclosure would not expose the business undertakings who provided services to the kindergarten to unreasonable disadvantage, I am satisfied that the financial information produced on behalf of the kindergarten holds current and future financial relevance.

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<sup>7</sup> [2007] VCAT 1301 at [33].

- (b) I note the project in this case did not go ahead, however I consider the information is still relevant to any future projects, given the information is fairly current.
  - (c) Release of the financial information may allow perspective tenders or contractors, with which the kindergarten would have to deal, access to information which may strengthen their bargaining position to the detriment of the kindergarten.
44. Accordingly, I am satisfied in most cases the information redacted by the Agency is exempt under section 34(1)(b).
45. However, I am not satisfied the invoiced amount in Document 37 would be reasonably likely to expose the business undertaking or the subject kindergarten unreasonably to commercial disadvantage if disclosed. Therefore, I find this particular information is not exempt under section 34(1)(b).
46. The Schedule of Documents at **Annexure 1** contains my decision in relation to each document and section 34(1)(b).

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

47. 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.
48. In essence, section 35(1)(b) is concerned with protecting the public interest in the free flow of information provided in confidence between an individual and an agency.
49. Confidentiality can be expressed or implied from the circumstances of the matter.<sup>8</sup>

*Was the information communicated to the Agency in confidence?*

50. The Agency applied section 35(1)(b) to exempt communications from third parties who provided their views on the proposed project.
51. From my examination, there is nothing on the face of the documents to indicate the information was communicated to the Agency in confidence. However, a document does not need to be marked 'confidential' for its contents to have been communicated in confidence.<sup>9</sup>
52. For the purpose of this review, I am satisfied the third parties who communicated their views to the Agency did so under an assumption of confidence and disclosure limited to the consideration of the Agency in regard to the planning process.

*Would disclosure of the information be contrary to the public interest?*

53. For section 35(1)(b) to apply, I must be satisfied the information was communicated to the Agency in circumstances that would give rise to an expectation of confidentiality, and that its disclosure would be contrary to the public interest by reasons that it would impair the Agency's ability to receive similar information in the future, if disclosed.

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<sup>8</sup> XYZ v Victoria Police [2010] VCAT 255 at [265].

<sup>9</sup> Williams v Victoria Police [2007] VCAT 1194 at [75].

54. Evidence of the ability of an agency to obtain similar information in the future will not arise if the impairment goes no further than mere lack of candour or greater circumspection.<sup>10</sup>
55. While I generally accept the information has been communicated in confidence, however in the circumstances I am not satisfied disclosure would be contrary to the public interest, because:
- (a) I do not consider the content of the information being communicated to be sensitive, in that it does not raise contentious issues, points of conjecture or matters considered of private concern to that individual. The information merely provides general information in support of the project.
  - (b) Given the project is not going ahead, release at this time will not impact any relevant decisions or outcomes.
  - (c) From my review of the documents, I note similar information has been released to the Applicant.
  - (d) While release may result in those who communicate such information to the Agency being more prudent or less candid than they may have otherwise been however, I am not satisfied the degree of impairment would be enough to satisfy the exemption under section 35(1)(b).
56. Accordingly, I am satisfied section 35(1)(b) does not apply to the documents.

***Section 25 – Deletion of exempt or irrelevant information***

57. 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.
58. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’<sup>11</sup> 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.<sup>12</sup>
59. I have considered the effect of deleting exempt information from the documents. In my view, it is practicable for the Agency to delete the exempt information, because it would not require substantial time and effort, and the edited documents would retain meaning.
60. However, where the deletion of exempt material would render the document devoid of meaning, it is not practicable to edit, and the document is refused in full.

**Conclusion**

61. On the information before me, I am satisfied certain information in the documents is exempt from release under sections 33(1) and 34(1)(b). However, I am not satisfied certain information in Documents 10, 15 and 37 is exempt from release under sections 33(1) or 35(1)(b).
62. I am satisfied Documents 3a and 72 are not subject to access under section 14(1)(b).

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<sup>10</sup> *Corry v Police (Vic)* [2010] 282 [28]; *Ryder v Booth* [1985] VR 869.

<sup>11</sup> *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].

<sup>12</sup> *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].



63. Where it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25, access is granted in part. However, where it is not practicable to provide an edited copy, the document is refused in full.
64. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

#### **Review rights**

65. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.<sup>13</sup>
66. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>14</sup>
67. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>15</sup>
68. Information about how to apply to VCAT is available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au). Alternatively, VCAT may be contacted by email at [admin@vcat.vic.gov.au](mailto:admin@vcat.vic.gov.au) or by telephone on 1300 018 228.
69. 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.<sup>16</sup>

#### **Third party review rights**

70. As I have determined to release documents that contain information to which the Agency refused access under sections 34(1)(b) and 35(1)(b), if practicable, I am required to notify those individuals and business undertakings of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.<sup>17</sup>
71. In this case, I am satisfied it is practicable to notify the relevant third parties of their review rights and confirm they will be notified of my decision.

#### **When this decision takes effect**

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

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<sup>13</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>14</sup> Section 52(5).

<sup>15</sup> Section 52(9).

<sup>16</sup> Sections 50(3F) and 50(3FA).

<sup>17</sup> Sections 49P(5), 50(3AB) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
<b>Agency's Fresh Decision</b>						
1a.	[date]	Letter	1	Released in part Sections 33(1), 34(1)(b)	Not subject to OVIC's review	The document is the subject of a current VCAT proceeding.
2a.	[date]	Letter and attachment	5	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	<p><b>Section 33(1):</b> For the reasons set out in the Notice of Decision above, I am satisfied it is unreasonable to release the personal affairs information identified by the Agency in the document. Accordingly, my decision on the document is the same as the Agency's decision.</p> <p><b>Section 34(1)(b):</b> For the reasons set out in the Notice of Decision above, I am satisfied release of the financial information in the document would expose the subject kindergarten unreasonably to disadvantage. Accordingly, my decision on the document is the same as the Agency's decision.</p> <p><b>Section 25:</b> I am satisfied it was practicable for the Agency to provide an edited copy of the document</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						deleting exempt information, as the edited document retains meaning.
3a.	[date]	Land Title Certificate	1	Refused in full Section 14(1)(b)	<b>Not subject to release under the FOI Act</b>  Section 14(1)(b)	<b>Section 14(1)(b):</b> I am satisfied the information in the document is information available for public purchase and is not subject to release under the FOI Act. Accordingly, my decision on the document is the same as the Agency's decision.
4a.	[date]	Letter	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 2a.
5a.	[date]	Letter	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 2a.
6a.	[date]	Rate Valuation Notice	4	Released in part Section 34(1)(b)	<b>Not subject to OVIC's review</b>	<b>The document is the subject of a current VCAT proceeding.</b>
7a.	Undated	Rules of the Association	30	Released in full	<b>Not subject to review</b>	
8a.	[date]	Balance sheet	2	Released in part	<b>Release in part</b>	See comments for Document 2a.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Section 34(1)(b)	Sections 34(1)(b), 25	
9a.	[date]	Profit and Loss sheet	2	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
10a.	[date]	Statement of Changes	1	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
<b>11a.</b>	<b>Undated</b>	<b>Purpose financial report</b>	<b>1</b>	<b>Released in full</b>	<b>Not subject to review</b>	
12a.	[date]	Letter	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 2a.
13a.	[date]	Tax invoice	1	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
<b>Additional documents identified by Agency post Fresh Decision</b>						
1.	[date]	Email Page 1	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	<b>Section 33(1):</b> For the reasons set out in the Notice of Decision above, I am satisfied it is unreasonable to disclose the personal affairs information in the document. Accordingly, my decision

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>on the document is the same as the Agency's decision.</p> <p><b>Section 25:</b> I am satisfied it was practicable for the Agency to provide an edited copy of the document with exempt information deleted as the document retains meaning.</p>
2.	[date]	<p>Schematic Design Estimate</p> <p>Pages 2-36</p>	34	<p>Released in part</p> <p>Sections 33(1), 34(1)(b)</p>	<p><b>Release in part</b></p> <p>Sections 34(1)(b), 33(1), 25</p>	<p><b>Section 33(1):</b> See comments for Document 1.</p> <p><b>Section 34(1)(b):</b> For the reasons provided in the Notice of Decision above, I am satisfied disclosure of the budget and costing estimates in the document would expose the subject kindergarten unreasonably to disadvantage and is exempt under section 34(1)(b). Accordingly, my decision on the document is the same as the Agency's decision.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
3.	[date]	Duplicate of Document 1a	1	<p>Refused in part</p> <p>Sections 33(1), 34(1)(b)</p>	Not subject to OVIC's review	The document is the subject of a current VCAT proceeding.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
4.	[date]	Balance sheet/Profit and Loss  Pages 38-40	3	Released in part  Section 34(1)(b)	<b>Release in part</b>  Sections 34(1)(b), 25	<b>Section 34(1)(b):</b> For the reasons provided in the Notice of Decision above, I am satisfied disclosure of the financial information in the document would expose the subject kindergarten unreasonably to disadvantage. Accordingly, my decision on the document is the same as the Agency's decision.  <b>Section 25:</b> See comments for Document 1.
5.	[date]	Letter  Pages 41-42	2	Released in part  Section 33(1)	<b>Release in part</b>  Sections 33(1), 25	See comments for Document 1.
6.	[date]	Common Funding Agreement  Pages 43-52	10	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
7.	[date]	Co-contribution costs  Page 53	1	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
8-9	Undated	Population Research/Support for relocation  Pages 54-56	3	Released in full	Not subject to review	
10.	[date]	Email  Page 57	1	Refused in full  Section 33(1), 35(1)(b)	<b>Release in part</b>  Sections 33(1), 25  The document is to be released with the information the Agency identified as exempt under section 33(1) to remain deleted	<b>Section 33(1):</b> See comments for Document 1.  <b>Section 35(1)(b):</b> I am satisfied the information may have been communicated with a degree of confidentiality. However, for the reasons set out in the Notice of Decision above, I am not satisfied release of the information would be contrary to the public interest.  <b>Section 25:</b> See comments for Document 1.
11.	[date]	Victorian Common Funding Agreement  Pages 58-83	25	Released in full	Not subject to review	
12.	[date]	Letter	1	Released in part	<b>Release in part</b>	See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		Page 84		Section 33(1)	Sections 33(1), 25	
13-14	[date]	Infrastructure plan/MP Letter Pages 85-104	19	Released in full	Not subject to review	
15.	[date]	Letter Page 105	1	Refused in full Section 33(1), 35(1)(b)	<p><b>Release in part</b></p> <p>Sections 33(1), 25</p> <p>The document is to be released with the following personal affairs information exempted:</p> <ul style="list-style-type: none"> <li>• all letterhead content at top of page up until the content from Re:</li> <li>• all names in the document; and</li> <li>• signature.</li> </ul>	<p><b>Section 33(1):</b> The Agency has not provided me with clear direction as to what information in the document it considered exempt under section 33(1). While I am satisfied certain information in the document is personal affairs information and exempt, I am not satisfied the document is exempt in full, because:</p> <ul style="list-style-type: none"> <li>(a) I consider the information has been provided from a professional perspective as opposed to one of personal or private concern of the author.</li> <li>(b) The document does not raise particular contentious or sensitive issues.</li> <li>(c) Similar information has been released to the Applicant in other review documents.</li> </ul>



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						<p>Therefore, in the circumstances I am not satisfied it is unreasonable to release the documents content. However, for the reasons set out in the Notice of Decision I am satisfied it is unreasonable to release identifying information and contact information in the document.</p> <p><b>Section 35(1)(b):</b> See comments for Document 10.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
16.	[date]	Letter Page 106	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
17.	[date]	Common Funding Agreement Bank details Pages 107-108	2	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	<p><b>Section 33(1):</b> See comments for Document 1.</p> <p><b>Section 34(1)(b):</b> See comments for Document 4.</p> <p><b>Section 25:</b> See comments for Document 1.</p>

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18.	[date]	New Early Learning Facility Application  Pages 109-131	23	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	<b>Section 33(1):</b> See comments for Document 1.  <b>Section 34(1)(b):</b> See comments for Document 4.  <b>Section 25:</b> See comments for Document 1.
19.	[date]	Duplicate of Document 18  Pages 132-154	23	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Document 18.
20.	[date]	Draft Capacity Building Eligibility Check  Pages 155-161	7	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	<b>Section 33(1):</b> See comments for Document 1.  <b>Section 34(1)(b):</b> See comments for Document 4.  <b>Section 25:</b> See comments for Document 1.
21.	[date]	Draft Capacity Merit Assessment  Pages 162-176	15	Released in part  Section 33(1)	<b>Release in part</b>  Sections 33(1), 25	See comments for Document 1.

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22.	[date]	Draft Capacity Merit Assessment Pages 177-191	15	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
23.	[date]	Draft Capacity Merit Assessment Pages 192-206	15	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
24.	Various	File Notes Pages 207-210	4	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
<b>25.</b>	<b>[date]</b>	<b>Letter</b> <b>Page 211</b>	<b>1</b>	<b>Released in full</b>	<b>Not subject to review</b>	
26.	Undated	Table of projected costs Pages 212-213	2	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2.
27.	[date]	Letter Pages 214-215	2	Refused in full Section 33(1), 35(1)(b)	<b>Refuse in full</b> Sections 33(1), 25	<b>Section 33(1):</b> Having carefully considered the document, I am satisfied its contents is the personal affairs information of a third party, being statements depicting the personal accounts and experiences of

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						<p>the documents author. For the reasons, set out in the Notice of Decision above, I am satisfied it is unreasonable to release this information.</p> <p><b>Section 35(1)(b):</b> See comments for Document 10.</p> <p><b>Section 25:</b> I am not satisfied it is practicable to provide an edited copy with the personal affairs information deleted as to do so would render the document meaningless. Accordingly, the document is refused in full under section 33(1).</p>
28.	Undated	Letter Page 216	1	Released in full	Not subject to review	
29.	[date]	Design examples Pages 217-247	31	Released in part Section 33(1)	Release in part Sections 33(1), 25	See comments for Document 1.
30.	Undated	Rules of the Association Pages 248-277	30	Released in full	Not subject to review	

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31.	[date]	Financial Report Pages 278-291	14	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	<b>Section 33(1):</b> See comments for Document 1. <b>Section 34(1)(b):</b> See comments for Document 4. <b>Section 25:</b> See comments for Document 1.
32.	[date]	Balance Sheet Pages 292-293	2	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.
33.	[date]	Profit and Loss Pages 294-295	2	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.
34.	[date]	End of year statement Page 296	1	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.
35.	<b>Undated</b>	<b>Duplicate of Document 11a</b>  <b>Page 297</b>	<b>1</b>	<b>Released in full</b>	<b>Not subject to review</b>	
36.	[date]	Audit scope	1	Released in part	<b>Release in part</b>	See comments for Document 1.

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		Page 298		Section 33(1)	Sections 33(1), 25	
37.	[date]	Tax Invoice Page 299	1	Released in part Section 34(1)(b)	<b>Release in full</b>	<b>Section 34(1)(b):</b> The exempt information is an invoiced amount for services rendered. I am not satisfied the financial information in the document is of such a nature that it would expose the business undertaking or the subject kindergarten unreasonably to disadvantage. The financial information is therefore, not exempt under section 34(1)(b).
38.	[date]	Co-contribution budget Page 300	1	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
39.	[date]	Duplicate of Document 10 Page 301	1	Refused in full Section 33(1), 35(1)(b)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 10.
40.	Undated	Draft Adaptive Regeneration Master Plan Pages 302-385	84	Released in part Sections 33(1), 35(1)(b)	<b>Release in part</b> Sections 33(1), 25	<b>Section 33(1):</b> See comments for Documents 1 and 27. My decision on 33(1) is the same as the Agency's decision.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					No further information to be released from the document.	<p><b>Section 35(1)(b):</b> The document contains the individual responses to the project contained in other documents. For reasons provided in Document 10, I am satisfied section 35(1)(b) does not apply.</p> <p><b>Section 25:</b> See comments for Document 1.</p>
41.	[date]	Letter Page 386	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
42.	[date]	Soil Assessment Pages 387-392	6	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
43.	[date]	Environment Testing Pages 393-411	19	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
44.	Undated	Common Funding Agreement Unsigned Pages 412-421	10	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
45.	[date]	Letter Page 422	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
46.	[date]	Letter Page 423	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
47.	[date]	Letter Page 424	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
48.	[date]	Duplicate of Document 12 Page 425	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
49.	[date]	Asbestos Report Pages 426-446	21	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
50.	[date]	Stage1 Refurbishment Budget Pages 447-477	30	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.



Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
51.	[date]	Stage1 Refurbishment Budget Pages 474-508	31	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.
52.	[date]	Duplicate of Document 1a Page 509	1	Refused in part Sections 33(1), 34(1)(b)	Not subject to OVIC's review	The document is the subject of a current VCAT proceeding.
53.	[date]	Duplicate of Document 4 Pages 510-512	3	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 4.
54.	[date]	Duplicate of Document 5 Pages 513-514	2	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
55.	Undated	Duplicate of Document 44 515-524	10	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
56.	[date]	Letter	1	Released in full	Not subject to review	

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		<b>Page 525</b>				
57.	[date]	Duplicate of Document 44 Pages 526-535	10	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
58.	Undated	Duplicate of Document 8 Page 536	1	Released in full	Not subject to review	
59.	Undated	Duplicate of Document 9 Pages 537-538	2	Released in full	Not subject to review	
60.	[date]	Signed Agreement Pages 539-540	2	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	<b>Section 33(1):</b> See comments for Document 1. <b>Section 34(1)(b):</b> See comments for Document 4. <b>Section 25:</b> See comments for Document 1.
61.	Undated	Admin Form Minor Infrastructure	1	Released in full	Not subject to review	

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		<b>Page 541</b>				
62.	[date]	Upgrade Application Form (Version 1 of 5)  Pages 542-562	21	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
63.	[date]	Upgrade Application Form (Version 2 of 5)  Pages 563-583	21	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
64.	[date]	Upgrade Application Form (Version 3 of 5)  Pages 584-604	21	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
65.	[date]	Upgrade Application Form (Version 4 of 5)  Pages 605-625	21	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
66.	[date]	Upgrade Application Form (Version 5 of 5)  Pages 626-646	21	Released in part  Sections 33(1), 34(1)(b)	<b>Release in part</b>  Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
67.	Undated	Draft  Eligibility Form  Pages 647-656	10	Released in part  Section 34(1)(b)	<b>Release in part</b>  Sections 34(1)(b), 25	See comments for Document 2.
68.	[date]	Draft  Merit Assessment Form  Pages 657-673	17	Released in part  Section 33(1)	<b>Release in part</b>  Sections 33(1), 25	See comments for Document 1.
69.	[date]	Draft  Merit Assessment Form  Pages 674-690	17	Released in part  Section 33(1)	<b>Release in part</b>  Sections 33(1), 25	See comments for Document 1.
70.	Various	File Notes  Pages 691-698	8	Released in part  Section 33(1)	<b>Release in part</b>  Sections 33(1), 25	See comments for Document 1.

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71.	[date]	Duplicate of Document 10 Page 699	1	Refused in full Sections 33(1), 35(1)(b)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 10.
72.	[date]	Duplicate of Document 3a Page 700	1	Refused in full Section 14(1)(b)	<b>Not subject to release under the FOI Act</b> Section 14(1)(b)	See comments for Document 3a.
<b>73.</b>	<b>[date]</b>	<b>Relocation Information Pack</b> <b>Pages 701-716</b>	<b>16</b>	<b>Released in full</b>	<b>Not subject to review</b>	
74.	[date]	Budget Pricing Page 717	1	Released in part Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2.
<b>75.</b>	<b>Undated</b>	<b>Infrastructure and Services Plan</b> <b>Pages 718-735</b>	<b>18</b>	<b>Released in full</b>	<b>Not subject to review</b>	
76.	[date]	Duplicate of Document 4a Page 736	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
77.	[date]	Duplicate of Document 5a Page 737	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
78.	[date]	Quote Page 738-739	2	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
79.	[date]	Duplicate of Document 6a Pages 740-743	4	Released in part Section 34(1)(b)	<b>Not subject to OVIC's review</b>	<b>The document is the subject of a current VCAT proceeding.</b>
80.	Updated	Photos Pages 744-745	2	Released in full	<b>Not subject to review</b>	
81.	Undated	Duplicate of Document 7a Pages 746-775	30	Released in full	<b>Not subject to review</b>	
82.	[date]	Duplicate of Document 31 Pages 776-789	14	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	<b>Section 33(1):</b> See comments for Document 1. <b>Section 34(1)(b):</b> See comments for Document 4.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<b>Section 25:</b> See comments for Document 1.
83.	[date]	Duplicate of Document 8a Pages 790-791	2	<b>Released in part</b> Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
84.	[date]	Duplicate of Document 9a Pages 792-793	2	<b>Released in part</b> Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
85.	[date]	Duplicate of Document 10a Page 794	1	<b>Released in part</b> Section 34(1)(b)	<b>Release in part</b> Sections 34(1)(b), 25	See comments for Document 2a.
86.	<b>Undated</b>	<b>Duplicate of Document 11a</b> <b>Page 795</b>	<b>1</b>	<b>Released in full</b>	<b>Not subject to review</b>	
87.	[date]	Duplicate of Document 12a Page 796	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 2a.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
88.	[date]	Duplicate of Document 13a Page 797	1	Released in part Section 34(1)(b)	Release in part Sections 34(1)(b), 25	See comments for Document 2a.
89.	[date]	Budget and co-contribution Pages 798-799	2	Released in part Sections 33(1), 34(1)(b)	Release in part Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
90.	[date]	Budget and co-contribution Page 800	1	Released in part Sections 33(1), 34(1)(b)	Release in part Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
91.	[date]	Budget and co-contribution Page 801	1	Released in part Sections 33(1), 34(1)(b)	Release in part Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.
92.	[date]	Letter Page 802	1	Released in part Section 33(1)	Release in part Sections 33(1), 25	See comments for Document 1.
93.	[date]	Stage 01 Proposal Information Pack Pages 803-818	16	Released in full	Not subject to review	



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94.	[date]	Letter Page 819	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
95.	[date]	Letter Page 820	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
96.	[date]	<b>Architectural drawing</b> <b>Page 821</b>	1	<b>Released in full</b>	<b>Not subject to review</b>	
97.	[date]	Soil Contamination Assessment Pages 822-846	24	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
98.	[date]	Letter Page 847	1	Released in part Section 33(1)	<b>Release in part</b> Sections 33(1), 25	See comments for Document 1.
99.	[date]	<b>Duplicate of Document 11</b> <b>Pages 848-873</b>	25	<b>Released in full</b>	<b>Not subject to review</b>	
100.	[date]	Letter	2	Released in part	<b>Release in part</b>	See comments for Document 1.

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
		Pages 874-875		Section 33(1)	Sections 33(1), 25	
101.	[date]	Budget and co-contribution Page 876-877	2	Released in part Sections 33(1), 34(1)(b)	<b>Release in part</b> Sections 33(1), 34(1)(b), 25	See comments for Documents 1 and 2.