Office of the Victorian Information Commissioner

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Notice of Decision and Reasons for Decision

Applicant:	'*FT4*'
Agency:	Melton City Council
Decision date:	12 November 2024
Exemptions considered:	Sections 30(1), 34(1)(b)
Citation:	*'FT4' and Melton City Council* (Freedom of Information) [2024] VICmr 56 (12 November 2024)

FREEDOM OF INFORMATION – Derrimut Fields Precinct Structure Plan – Precinct Structure Plans – Development projects – Melbourne Growth Areas

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 and more information is to be released.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Marked-up copies of certain documents have been provided to the Agency to assist it in putting my decision into effect.

Please refer to pages 7-8 for information about review rights through the Victorian Civil and Administrative Tribunal (**VCAT**).

My reasons for decision follow.

Penny Eastman
Public Access Deputy Commissioner

12 November 2024

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency, which was clarified to seek access to:

> The following documents able to be identified by electronic search of Council documents:
>
> - reports
> - briefing papers
> - meeting notes, or
> - record of communications to or from the Council (including internal communications), dated on or after [date range], that mention "Derrimut Fields", including any attachments to those documents.
>
> I do not seek personal affairs information as defined in s 33(9) of the FOI Act.

2. The Agency's decision letter states it located 87 documents falling within the scope of the Applicant's request, of which it:

   (a) released 25 documents outside of the FOI Act;

   (b) released 44 documents in full, inclusive of documents with irrelevant personal affairs information deleted;

   (c) refused two documents in full under section 34(1)(b); and

   (d) refused 16 documents in full under section 34(1)(b) and/or 30(1).

3. The Agency's decision letter sets out the reasons for its decision.

Review application

4. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.

5. I have examined a copy of the documents subject to review.

6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.

7. I have considered relevant communications and submissions received from the parties.

8. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.

9. I note Parliament's intention 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.

10. In conducting a review under section 49F, section 49P requires that I make a new or 'fresh decision'. Therefore, my review does not involve determining whether the Agency's decision is correct, but rather requires my fresh decision to be the 'correct or preferable decision'.[1] This involves ensuring my decision is correctly made under the FOI Act and any other applicable law in force at the time of my decision.

Background

11. The documents subject to review concern a Precinct Structure Plan (**PSP**) for Derrimut Fields.

12. The Victorian Planning Authority (**VPA**) describes a PSP as follows:

> A Precinct Structure Plan (PSP) is a land use and infrastructure plan to guide the development of an area over time. It provides certainty for community members and developers by providing a long-term vision for how an area will develop in the future.
>
> A PSP sets out the preferred locations of residential and employment land and infrastructure, and provides guidance for transport and parking, urban design, heritage and character, open spaces and integrated water management.
>
> Together with the broader planning framework, precinct structure planning is an important part of the Victorian Government's strategy to address population growth, housing and employment demands.[2]

13. The Agency's website states in relation to PSPs:

> The Victorian Planning Authority (VPA) is the statutory authority responsible for overseeing the preparation of all precinct structure plans in Melbourne's growth areas and advising the Minister for Planning on their approval. The VPA is working in partnership with growth area Councils which includes Melton City Council to complete the planning for Melbourne Growth Areas.[3]

14. The VPA has published a map of PSPs as of September 2022 which lists Derrimut Fields as 'unprogrammed'.[4]

15. The Agency's website also states that the VPA has not yet commenced works on the Derrimut Fields PSP.[5]

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[1] *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at [591].
[2] Victorian Planning Authority, *What is a Precinct Structure Plan (PSP)?,* 27 September 2022, available at https://vpa.vic.gov.au/faq/what-is-a-precinct-structure-plan-psp-5/.
[3] Melton City Council, *Precinct Structure Plans*, available at https://www.melton.vic.gov.au/Services/Building-Planning-Transport/Strategic-Planning/Precinct-Structure-Plans
[4] Victorian Planning Authority, Precinct Structure Plans – Status Map – September 2022, available at https://vpa-web.s3.amazonaws.com/wp-content/uploads/2022/09/Precinct-Structure-Plans-PSP-%E2%80%93-Status-Map-%E2%80%93-September-2022.pdf.
[5] Melton City Council, *Precinct Structure Plans*, available at https://www.melton.vic.gov.au/Services/Building-Planning-Transport/Strategic-Planning/Precinct-Structure-Plans

Review of exemptions

Section 30(1) – Internal working documents

16. To be exempt under section 30(1), three conditions must be satisfied:

    (a) the document or information is matter in the nature of:

        (i) opinion, advice or recommendation prepared by an agency officer or a Minister; or

        (ii) consultation or deliberation that has taken place between agency officers or Ministers; and

    (b) the matter was created during the deliberative process of an agency, Minister, or the government's functions; and

    (c) disclosure of the matter would be contrary to the public interest.

17. The exemption does not apply to purely factual material in a document.[6]

First requirement – opinion, advice, recommendation, or consultation or deliberation

18. The term 'officer of an Agency' is defined in section 5(1). It includes a member of the agency, a member of the agency's staff, and any person employed by or for the agency, regardless of whether they are subject to the *Public Administration Act 2004* (Vic) apply or not.

19. I am satisfied the documents disclose opinion, advice, recommendation, or consultation or deliberation. This includes documents prepared on behalf of the Agency.

Second requirement – deliberative process

20. Where a document contains deliberative information, an agency or Minister must also determine whether the deliberative information was created in a 'deliberative process' related to the functions of an agency, Minister, or the government.

21. 'Deliberative process' is widely interpreted to include most processes undertaken by an agency or Minister in relation to their functions.[7]

22. I am satisfied the information was created during the deliberative processes of the Agency, being the development and planning of PSPs.

Third requirement – would disclosure of the documents be contrary to the public interest?

23. I must consider all relevant facts and circumstances, remaining mindful that the intention of the FOI Act is to promote the disclosure of information.

[6] Section 30(3).
[7] *Re Waterford and Department of Treasury (No.2)* (1981) 1 AAR 1 referred to in *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201, 208.

24. There are many factors that may be relevant to determining whether it would be contrary to the public interest to disclose a document or information.[8] These are not a fixed or determinative set of criteria.[9]

25. My decision on whether disclosure would be contrary to the public interest is set out in the Schedule of Documents in Annexure 1.

Section 34(1)(b) – Business, commercial or financial information of an undertaking

26. A document or information is exempt from release under section 34(1)(b) if three conditions are satisfied:

    (a) disclose information acquired by an agency (or a Minister) from a business, commercial or financial undertaking; and

    (b) the information relates to other matters of a business, commercial or financial nature; and

    (c) the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.

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

27. The documents contain information that was acquired by several third party business undertakings.

28. However, Documents 4 and 30 do not contain information acquired from a business, commercial or financial undertaking.

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

29. VCAT has recognised the words 'business, commercial or financial nature' have their ordinary meaning.[10]

30. Document 3 is a tender response for the Melton Employment and Industrial Land Strategy, prepared by the successful tenderer. Documents 17, 37 and 42b are draft versions of the Melton Employment and Industrial Land Supply Review prepared by the successful tenderer and Document 29 is a presentation concerning the Melton Employment and Industrial Strategy. I am satisfied the documents relate to matters of a business and commercial nature.

31. Document 39 is an email thread between the Agency and a third-party financial undertaking, which includes several attachments prepared by other undertakings. I am satisfied these documents contain business and commercial information.

[8] For example, see *Coulson v Department of Premier and Cabinet* [2018] VCAT 229 at [25]; *Hulls v Victorian Casino and Gaming Authority* (1998) 12 VAR 483, 488; *Secretary to Department of Justice v Osland* (2007) 26 VAR 425 at [77].
[9] *Landes v Vic Roads* [2009] VCAT 2403 at [46].
[10] *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

32. Document 61 is a presentation that was prepared for the VPA in relation to the Derrimut Fields PSP. It was submitted to the Agency by a third party undertaking for the purpose of seeking confirmation of the Agency's support for the preparation of the PSP. I am satisfied these documents contain business and commercial information.

33. Document 67 is Part Two of the Employment Land Supply Review prepared for the Agency by a third-party business undertaking in [month, year]. I am satisfied these documents contain business information.

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

34. Section 34(2) provides:

> In deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of paragraph (b) of subsection (1), an agency or Minister may take account of any of the following considerations—
>
> (a) whether the information is generally available to competitors of the undertaking;
>
> (b) whether the information would be exempt matter if it were generated by an agency or a Minister; and
>
> (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.

35. I have also had regard to the decision in *Dalla Riva v Department of Treasury and Finance*,[11] in which VCAT held documents are 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.

36. I consider 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 introducing the word 'unreasonably' in section 34(1)(b), I consider Parliament determined this exemption applies where an undertaking would be

[11] [2007] VCAT 1301 at [33].

exposed 'unreasonably' to disadvantage only. The question is whether any such disclosure would expose the undertaking unreasonably to disadvantage.

37. My decision on whether disclosure would be likely to expose the undertakings unreasonably to disadvantage is set out in the Schedule of Documents in **Annexure 1**.

Section 25 – Deletion of exempt or irrelevant information

38. 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.

39. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'[12] 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.[13]

40. I am satisfied it is practicable to edit the documents to delete exempt and/or irrelevant information.

Conclusion

41. On the information before me, I am satisfied that certain information is exempt under sections 30(1) and 34(1)(b). However, I have decided to release further information in the documents where it is not exempt or irrelevant information.

42. I am also satisfied it is practicable to edit the documents to delete exempt and/or irrelevant information.

43. The Agency has been provided with marked-up copies of some of the documents with my decision.

Timeframe to seek a review of my decision

44. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.[14]

45. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.[15]

46. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.[16]

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[12] *Mickelburough 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].
[13] *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], [155].
[14] The Applicant in section 50(1)(b) and the Agency in section 50(3D).
[15] Section 52(5).
[16] Section 52(9).

47. 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.

48. 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.[17]

Third party review rights

49. 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 undertakings of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.[18]

50. In this case, I am satisfied it is practicable to notify the relevant third-party business undertakings of their review rights and confirm they will be notified as soon as practicable.

When this decision takes effect

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

[17] Sections 50(3F) and 50(3FA).
[18] Sections 49P(5), 50(3A) and 52(3).

Annexure 1 – Schedule of Documents

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
1.	[Month, year]	Planning table	4	Refused in full Section 30(1)	Release in full Section 30(1)	Section 30(1): This is an assessment of future PSPs, where work has not yet commenced by the VPA, using a scoring system based on several categories to determine an order of priority for the PSPs. While work on the PSPs has not yet commenced by the VPA, I consider the information is not sensitive or confidential in nature. In my view, the assessment of the PSPs by the Agency itself has progressed beyond this point, and most of the document includes observations about the location of the land and its proximity to certain things and is high level only. Accordingly, I am not satisfied that this document is exempt from release under section 30(1).
2.	[Year]	Campaign strategy	24	Refused in full Sections 30(1), 25	Release in part Section 25 The document is to be released in accordance with the marked-up copy provided to	Section 30(1): This is a campaign strategy to promote the Western Intermodal Freight Precinct. I am satisfied that disclosing this document would not be contrary to the public interest because the new intermodal freight precincts at Truganina in Melbourne's west and Beveridge in Melbourne's outer north have already been publicly announced[19] and funding has been allocated to the project from both the State[20] and Federal governments.[21]

[19] State Government of Victoria, *Victoria's new intermodal freight precincts*, 3 September 2024, https://www.vic.gov.au/victorias-new-intermodal-freight-precincts
[20] Premier of Victoria, *Moving more freight by rail in Melbourne's West*, 16 May 2022 (Media Release), available at https://www.premier.vic.gov.au/sites/default/files/2022-05/220516%20-%20Moving%20More%20Freight%20By%20Rail%20In%20Melbourne%E2%80%99s%20West.pdf.
[21] Government of Australia, Budget 2021-22 Overview, available at https://archive.budget.gov.au/2021-22/download/glossy_overview.pdf, page 20; and Government of Australia, Budget 2021-22 Overview, https://archive.budget.gov.au/2022-23/download/glossy_overview.pdf, page 37

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					the Agency with my decision.	The document reflects the state of affairs at the time in which it was created, and its disclosure will not cause confusion about the current status of the project. Section 25: It is practicable to release an edited copy of this document with irrelevant personal affairs information deleted.
3.	[Month, year]	[Tender response]	33	Refused in full Sections 30(1), 34(1)(b)	Release in part Sections 34(1)(b), 25 The document is to be released in accordance with the marked-up copy provided to the Agency with my decision.	Section 34(1)(b): This is a tender response for [a strategic planning matter]. I am not satisfied that disclosure of this document will likely expose the undertaking unreasonably to disadvantage for the following reasons: • the tender was awarded to the undertaking; • the proposed method to deliver the project is tailored to the specific project and there is no information before me to indicate that a competitor could utilise information in this document to gain a competitive advantage by understanding how the undertaking approached this project; • the finalised [document] is published on the Agency's website;[22] and • the [strategic planning matter] was adopted by Council on 24 June 2024 at Council's meeting.[23]

[22] [Footnote omitted].
[23] [Footnote omitted].

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						However, I am satisfied that disclosing the breakdown of costs would be likely to expose the undertaking unreasonably to disadvantage as it could allow competitors to undercut the undertaking's pricing for similar services. **Section 30(1)**: I am not satisfied that a tender from a third party meets the first limb of section 30(1) as it is not opinion, advice or recommendation of an agency officer, or consultation or deliberation between Agency officers. Further, as this is a tender response, the tender is not a document that was commissioned by the Agency, and as such, the tenderer is not taken to be an Agency officer for the purposes of section 30(1). **Section 25**: It is practicable to edit this document to delete exempt and irrelevant information.
4.	Undated	Information capture form	154	**Refused in full** Sections 30(1), 34(1)(b)	Release in full	**Section 30(1)**: This is a survey completed by the Agency for Connecting Victoria with respect to future growth plans. The document comprises purely factual information. Therefore section 30(1) does not apply due to section 30(3). **Section 34(1)(b)**: The document does not contain information that was acquired from a business undertaking. As such, section 34(1)(b) does not apply.
5.	[Date]	Email chain	2	**Released in part** Section 25	Release in part Section 25	**Section 25**: I am satisfied the information deleted by the Agency is personal affairs information that falls outside of the scope of the Applicant's FOI request.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					No further information is to be released.	**Note:** The Agency advised OVIC that the attachment to this document was released to the Applicant in full as it is publicly available.
6.	[Date]	Email chain	4	Released in part Section 25	Released in part Section 25 The document is to be released in accordance with the marked-up version provided to the Agency with my decision.	**Section 25:** I am not satisfied all information deleted by the Agency is irrelevant personal affairs information. Accordingly, further information is to be released.
7.	[Date]	Email chain	2	Released in part Section 25	Release in part Section 25 No further information is to be released	**Section 25:** See comments for Document 5.
8.	[Date]	Email chain	2	Released in part Section 25	Release in part Section 25 No further information is to be released	**Section 25:** See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
9.	[Date]	Email chain	3	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the version provided to the Agency with my decision.	Section 30(1): This document concerns planning for a meeting with another Government agency. I am not satisfied that disclosure of this document would be contrary to the public interest for the following reasons: • there is no sensitive information in this document about the Derrimut Fields PSP; • significant time has passed since the emails were sent and it reflects the state of affairs at the time; and • I do not consider disclosure would not inhibit similar communications like this in future. Therefore, it is not exempt under section 30(1). Section 25: In my view, the Agency narrowly interpreted the scope of the Applicant's request regarding this document, having only released a reference to 'Derrimut'. The terms of the Applicant's request are for specified categories of documents that mention 'Derrimut Fields', and therefore, the entire document falls within the scope of the Applicant's request.
9a.	[Date]	Letter – attachment to Document 9	2	Released in part Section 25	Release in part Section 25 The document is to be released in accordance with the version provided to the	This is an attachment to Document 9. Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					Agency with my decision.	
10.	[Date]	Email chain	4	Released in part Section 25	Release in part Section 25 No further information is to be released.	Section 25: See comments for Document 5.
10a.	[Date]	Email chain	N/A	N/A	Release in part Section 25 The email thread is to be released with irrelevant personal affairs information deleted.	OVIC requested this document during the review. It is part of the email thread in Document 10; however, it contains an unedited version of the email dated [date]. This document is to be released to the Applicant as it falls within the scope of their FOI request.
11.	[Date]	Email chain	3	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
11a.	Undated	Fact sheet	20	Refused in full Section 30(1)	Release in part Section 25 The document, including the comments, are to be released with names deleted.	This is an attachment to Document 11 which was located during OVIC's review. Section 30(1): This is an annotated factsheet. It concerns different issues relevant to the municipality. I am not satisfied disclosure would be contrary to the public interest for the following reasons: • it is clear on the face of the document that it is a draft, and it is also clear from Document 11 to which it is attached. Therefore, the Applicant will not be misled about the status of the document; • the document was created in [year]. Therefore, the Applicant will understand that the matters raised in this document may not reflect the current status of the issues; • Agency staff will continue creating these documents in future. I do not accept that disclosing this document will impact future communications between Agency officers; • it is unlikely that disclosure will lead to confusion or unnecessary debate; and • the tracked changed are minor only, and the comments do not contain substantive detail. Section 25: See comments for Document 2.
12.	[Date]	Email chain	2	Released in part	Release in part	Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
				Section 25	Section 25 No further information is to be released	
13.	[Date]	Email chain	2	Released in part Section 25	Release in part Section 25 No further information is to be released.	Section 25: See comments for Document 5.
13a.	[Date]	Briefing note	6	Refused in full Section 30(1)	Release in part Sections 30(1), 25 The document is to be released in accordance with the version provided to the Agency with my decision.	This document was located during this review and is similar to Document 14, which is also an attachment to Document 13. Section 30(1): This document is a briefing note for a planned meeting with a Minister in relation to WIFT. As stated above with respect to Document 2, information in this document reflects the state of affairs regarding WIFT at the point in time in which this document was created. Despite this, disclosure of much of the document's content in this instance would not cause confusion, given the government's position concerning WIFT has been publicised, or inhibit officers from recording information like this in future when preparing internal briefings notes for meetings with Ministers. However, there are two paragraphs within the document that is sensitive such that its disclosure would be contrary to the public interest. Section 25: See comments for Document 3.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
14.	[Date]	Briefing note	6	Refused in full Section 30(1)	Release in part Sections 30(1), 25 The document is to be released in accordance with the version provided to the Agency with my decision.	See comments for Document 13a.
15.	[Date]	Email chain	4	Released in part Section 25	Release in part Section 25 The Agency is to rerelease this document to the Applicant with visible images, including the table in the email dated [date].	The Agency provided the Applicant with a copy of this document with email signature images and an embedded table taken from an external report removed. The Agency is to rerelease a version of this document with that information included.
16.	[Date]	Letter	2	Released in part Section 25	Release in part Section 25	Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					No further information is to be released	
17.	[Month, year]	[Draft Report]	109	Refused in full Sections 30(1), 34(1)(b)	Release in part Section 25 The document is to be released with the personal affairs information, as marked-up by the Agency, on page 4 of the document deleted in accordance with section 25.	Section 30(1): This is a draft of [a report] dated [month, year] prepared for the Agency by a third-party business undertaking. I am satisfied that disclosure would not be contrary to the public interest for the following reasons: • a final version of this document dated [date] is publicly available on the Agency's website on a webpage relating to the [the strategic planning project];[24] • the draft version of the document is substantially similar to the published version; and • the document is watermarked with "draft" and is titled "Draft Report". As such, the Applicant will not be misled to believe that this the final recommendation of the undertaking. Section 34(1)(b): I am not satisfied that the undertaking will be likely exposed unreasonably to disadvantage given the similar of the document to the version that is publicly available. Section 25: See comments for Document 2.

[24] [Footnote omitted].

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
18.	[Date]	Connecting Victoria Mobile Program Administrator	1	Released in full	Not subject to review	
19.	[Date]	Site tour update and site tour itinerary map	3	Released in full	Not subject to review	
20.	[Date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
21.	[Date]	Email chain	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
22.	[Date]	Email thread	2	Released in part Section 25	Release in part Section 25	Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					No further information is to be released	
23.	[Date]	Email	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
24.	[Date]	Email thread	6	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
24a.	[Date]	Attachment to Document 24a – email thread	2	Released in part Section 25	Release in part Section 25 The document is to be released to the Applicant in accordance with the version the Agency provided	Note: This is an attachment to the email dated [date] in Document 24 and was located by the Agency during the review. A copy has not yet been provided to the Applicant. Section 25: See comments for Document 5.

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					to OVIC during the review.	
25.	[Date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
26.	Undated	Attachment to Document 25 – Western Highway	2	Released in full		
27.	Undated	Attachment to Document 25 –Melton Highway	2	Released in full		
28.	Undated	Attachment to Document 25 – Hopkins Road	2	Released in full		
29.	[Month, year]	[Presentation]	36	Refused in full Sections 30(1), 34(1)(b)	Release in full	Section 30(1): I am satisfied that releasing this document would not be contrary to the public interest for the following reasons: • it includes factual information that is also published in the [reports] on its website; and

Doc No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						• the presentation concerns the above two reports. Therefore, the document is not exempt under section 30(1). Section 34(1)(b): I am not satisfied that the release of this document would be likely to expose the undertaking unreasonably to disadvantage for the following reasons: • the final reports are publicly available; • the information in this presentation is closely aligned with the information that has been published; and • the document does not disclose the undertaking's intellectual property or proprietary information. Therefore, it is not exempt under section 34(1)(b).
30.	Undated	Information Capture Form	117	Refused in full Sections 30(1), 34(1)(b)	Release in part Section 25 The document is to be released, except for the address on page 4 of the document (page 424 of 945) under the 'example 2' column, which is irrelevant	Sections 30(1) and 34(1)(b): See comments for Document 4. Section 25: The document contains a residential address, which I am satisfied is irrelevant personal affairs information. See comments for Document 2.

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					information that is to be deleted.	
31.	[Date]	Briefing Note	6	Refused in full Section 30(1)	Release in part Sections 30(1), 25 The document is to be released in accordance with the version provided to the Agency with my decision.	Section 30: This document is similar to Document 13a, above. See comments for that document. Section 25: See comments for Document 3.
32.	[Date]	Briefing Note	6	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the version provided to the Agency with my decision.	Section 30(1): This document is similar to Document 13a, above. However, I am not satisfied that it contains the same sensitive information that I was satisfied is exempt in Documents 13a and 31. Section 25: See comments for Document 2.
33.	[Date]	Briefing Note	6	Refused in full Section 30(1)	See decision for Document 14, above.	This is a duplicate of Document 14. See comments for Document 14.

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34.	[Date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
35.	[Date]	Email	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
36.	[Date]	Attachment to Document 35 – Itinerary and map	3	Released in full		
37.	[Date]	[Draft Report]	111	Refused in full Sections 30(1), 34(1)(b)	Release in part Section 25 The document is to be released with the personal affairs information, as marked-up by the	Section 30(1): This is a draft of [a report] dated [date] prepared for the Agency by a third-party business undertaking. I am satisfied that disclosure would not be contrary to the public interest for the following reasons:

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					Agency, on page 4 of the document deleted in accordance with section 25.	• a final version of this document dated [date] is publicly available on the Agency's website on a webpage relating to the [strategic planning matter];[25] • the draft version of the document is substantially similar to the published version; and • the document is titled "Draft Report". As such, the Applicant will not be misled to believe that this the final recommendation of the undertaking. **Section 34(1)(b):** I am not satisfied that the undertaking will be likely exposed unreasonably to disadvantage given the similar of the document to the version that is publicly available. **Section 25:** See comments for Document 2.
38.	[Date]	Email thread	2	**Released in part** Section 25	**Release in part** Section 25 No further information is to be released	**Section 25:** See comments for Document 5.
39.	[Date]	Email thread	2	**Refused in full** Section 34(1)(b)	**Release in part** Section 25 The document is to be released in	**Section 34(1)(b):** This is an email thread between the Agency and a business undertaking. The purpose of the email was to provide attachments to the Agency following a meeting between these parties. Given the purpose of the email, and that it does not

[25] [Footnote omitted].

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					accordance with the version provided to the Agency with my decision.	contain any substantive information about the undertaking's proposals, I am satisfied disclosing the document would not be likely to expose the undertaking unreasonably to disadvantage. Section 25: See comments for Document 2. Note: The Agency confirmed that the embedded link in the email dated [date] is Document 40.
40.	[Month, year]	Report – attachment to Document 39	13	Refused in full Section 34(1)(b)	Release in part Sections 34(1)(b), 25 The document is to be released in accordance with the version provided to the Agency with my decision.	Section 34(1)(b): I am not satisfied the undertaking that prepared the report would be exposed unreasonably to disadvantage, as the document does not contain intellectual property that could be used by its competitors. However, I consider the estimated construction costs and projected economic impacts of the project could expose the project owner unreasonably to disadvantage, because it could undermine its business model and expose the undertaking to future competitors. Section 25: See comments for Document 3.
40a	[Month, year]	Report – attachment to Document 39	33	Refused in full Section 34(1)(b)	Release in part Section 25 The document is to be release with the names and position titles on page 32 of the	Note: This document was mislabelled 'Doc 40' in the version of the documents that the Agency provided to OVIC. It is on pages 690 to 721. Section 34(1)(b): I am not satisfied that the undertaking who prepared the report would be exposed unreasonably to disadvantage, as I do not consider the document contains intellectual property that could be used by its competitors.

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					document deleted.	Section 25: See comments for Document 2.
41.	[Month, year]	Report – attachment to Document 39	10	Refused in full Section 34(1)(b)	Release in part Section 25 The document is to be released in accordance with the version provided to the Agency with my decision.	Section 34(1)(b): This report is published on the undertaking's website. Therefore, disclosing this document will not expose the undertaking unreasonably to disadvantage. Section 25: See comments for Document 2.
42.	[Month, year]	Report – attachment to Document 39	19	Refused in full Section 34(1)(b)	Release in part Section 25 The document is to be release with the names and position titles on page 2 of the document deleted.	Note: This document commences on page 732 of 945 (or page 60 of the PDF provided to OVIC). Section 34(1)(b): I am not satisfied that the undertaking who prepared the report would be exposed unreasonably to disadvantage, as the document does not contain intellectual property that could be used by its competitors. Section 25: See comments for Document 2.
40b	[Month, year]	[Presentation]	36	Refused in full Section 30(1),	See comments for Document 29, above.	Note: This document was mislabelled 'Doc 41' in the version of the documents that the Agency provided to OVIC. It commences on page 751 of 945 (or page 79 of the PDF provided to OVIC).

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						This is a duplicate of Document 29. See comments for Document 29, above.
42	[Date]	Email thread	5	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
42a	[Date]	Excel spreadsheet	1	Refused in full Section 30(1)	Release in full	Note: This is the attachment to an embedded link to the email dated [date] on page 787 of 945 in Document 42, which OVIC requested from the Agency during the review. The Agency claims it is exempt in full under section 30(1). Section 30(1): This is a table of comments relating to the draft of the [report] dated [month, year] prepared for the Agency by a third-party business undertaking and is intended to be read in conjunction with Document 42b. As I am satisfied Document 42b would not be contrary to the public interest to disclose, I also consider it would not be contrary to the public interest to disclose this related document. See my comments in Document 42b below.
42b.	[Month, year]	[Draft report]	106	Refused in full Section 30(1)	Release in part Section 25 The document is to be released	Note: This is the second attachment to an embedded link to the email dated [date] on page 787 of 945 in Document 42, which OVIC requested from the Agency during the review.

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					with the personal affairs information deleted. This includes on page 4 and in the annotations made by an Agency officer throughout the document.	Section 30(1): This is a draft of the [report] dated [date] prepared for the Agency by a third-party business undertaking. I am satisfied that disclosure would not be contrary to the public interest for the following reasons: • a final version of this document dated [date] is publicly available on the Agency's website on a webpage relating to the [strategic planning matter].[26] • the draft version of the document is substantially similar to the published version. • where there are differences between the versions, in most instances, the comments added to the document by the reviewer adds context to why changes were made. • the document is titled "Draft Report" and is watermarked with the term "DRAFT" every odd numbered page. As such, the Applicant will not be misled to believe that this the final recommendation of the undertaking. Section 34(1)(b): See comments for Document 37. Section 25: See comments for Document 2.
43.	Undated	Map	1	Released in full	Not subject to review	

[26] [Footnote omitted].

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44.	[Date]	Email thread	3	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
44a.	[Date]	Email thread	N/A – document was not provided to OVIC in PDF format	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with Document 44, above. The attached image is to be released.	The Agency located this document during the review. It is a copy of the email dated [date]in Document 44 and includes an attached image. The Agency claims the document is exempt under section 30(1) in full. Section 30(1): The Agency has already released this document to the Applicant in part, as it is part of the email thread in Document 44. However, the attached image was not released. Given the document has been released with irrelevant personal affairs information deleted, I am not satisfied that section 30(1) applies. There is no information before me to be satisfied that disclosing the image would be contrary to the public interest, particularly where an updated version is included in Document 44. Section 25: See comments for Document 2.
45.	[Date]	Email thread	2	Released in part Section 25	Release in part Section 25	Section 25: See comments for Document 5.

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					No further information is to be released	
46.	[Date]	Email thread	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
47.	[Date]	Attachment to Document 46 – Briefing Note	6	Refused in full Section 30(1)	See directions for Document 32, above.	This is a duplicate of Document 32. See comments for Document 32, above.
48.	[Date]	Attachment to Document 46 – Letter	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
49.	[Date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.

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50.	[Date]	Attachment to Document 49 – plans	1	Released in part Section 25	Release in full	Section 25: I am not satisfied the property address is personal affairs information, as the property is owned by a company.
51.	[Date]	Email thread	2	Released in part Section 25	Release in part Section 25 The property address in the email dated [date] is to be released.	Section 25: See comments for Document 5. However, the property address in the email dated [date] is to be released.
52.	[Date]	Email thread	2	Released in part Section 25	Release in part Section 25 The Agency is to release a version of this document that includes images.	The Agency initially provided OVIC with a copy of this document with images deleted. A complete copy of this document was obtained by OVIC during the review. The Agency advised OVIC that the images are not exempt from release. Section 25: See comments for Document 5.
53.	[Date]	Buffer analysis	5	Released in full	Not subject to review	This is the attachment to Document 52.
54.	[Date]	Email	1	Released in part Section 25	Release in part Section 25	Section 25: See comments for Document 5.

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					No further information is to be released	
55.	[Date]	Melton City Council submissions planning for Melbourne's industrial and commercial land	10	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
56.	[Date]	Email chain	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
57.	[Date]	Letter	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5. The reference number includes an initial, and therefore, I am satisfied it is irrelevant information.
58.	[Date]	Letter	1	Released in part	Release in part Section 25	Section 25: See comments for Document 57.

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				Section 25	No further information is to be released	
59.	[Date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
60.	[Date]	Letter	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
61.	[Month, year]	Presentation	16	Refused in full Sections 30(1), 34(1)(b)	Release in full	Section 30(1): This is an attachment to Document 59. It is described in that document as a summary report that was submitted to the VPA by a business undertaking to support its proposal for the Derrimut Field PSP. The document was obtained by the Agency from an undertaking following a briefing from the undertaking on its proposal for the Derrimut Fields PSP. I am not satisfied that it meets the first limb of section 30(1) as it is not opinion, advice or recommendation of an agency officer, or consultation or deliberation between Agency officers. Further, it is not a document that was commissioned by the Agency, and as

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						such, the undertakings who prepared the document are not taken to be an Agency officer for the purposes of section 30(1). Section 34(1)(b): I am satisfied that disclosing this document would not expose the undertaking unreasonably to disadvantage for the following reasons: • it only contains high level information; • the information is likely outdated; • it is unclear how it could be used by competitors to gain an advantage over the undertaking; and • the information is tailored to the Derrimut Fields PSP.
62.	[Date]	Email	2	Released in part Section 25	Release in part Section 25 No further information is to be released	Section 25: See comments for Document 5.
63.	[Date]	Letter	1	Released in part Section 25	Release in part Section 25 The property address is to be released.	Section 25: I am not satisfied the property address is personal affairs information, as the property is owned by a company.

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64.	[Date]	Email chain	3	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the version provided to the Agency with my decision.	**Section 30(1):** This is an email thread between Agency officers containing draft correspondence relating to PSPs and WIFT. In my view, the document does not contain sensitive information, and it also only contains high-level information about PSPs and WIFT. For these reasons, I am satisfied that disclosure would not be contrary to the public interest. **Section 2:** See comments for Document 2.
65.	Undated	Urban growth map	1	Released in full	Not subject to review	
66.	[Month, year]	[Report]	59	Released in part Section 25	Release in part Section 25 No further information is to be released	**Section 25:** See comments for Document 5.
67.	[Month, year]	[Report]	28	Refused in full Sections 30(1), 34(1)(b)	Release in full	**Section 30(1):** Section 30(1) does not apply to a document when 10 years has passed since the last day of the year when the document was created – see section 30(6). As such, section 30(1) does not apply. **Section 34(1)(b):** The purpose of the report was to provide strategic advice to the Agency with respect to land use within the municipality. It is the second part of the [strategic planning

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						matter], linked to Document 66. In my view, the undertaking will not be exposed unreasonably to disadvantage by disclosing this document because: • it does not disclose their methodology or intellectual property; • the undertaking's strategic advice is high-level; and • given the aged and likely outdated nature of the document, I do not consider is could be utilised by competitors of the undertaking.