

Notice of Decision and Reasons for Decision

Applicant:	'GC7'
Agency:	City of Stonnington
Decision date:	8 September 2025
Exemptions and provisions considered:	Sections 31(1)(d), 33(1) and 25
Citation	'GC7' and <i>City of Stonnington</i> (Freedom of Information) [2025] VICmr 87 (8 September 2025)

FREEDOM OF INFORMATION – CCTV footage of a public space – personal affairs information – disclosure unreasonable – law enforcement documents

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 a document requested by the Applicant under the FOI Act.

My decision on the Applicant's request is the same as the Agency's decision and no further information is to be released.

Please refer to page 6 for information about review rights through the Victorian Civil and Administrative Tribunal (**VCAT**).

My reasons for decision follow.

Penny Eastman
Public Access Deputy Commissioner

8 September 2025

Reasons for Decision

Background to review

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

I request an opportunity to view all related CCTV footage at [venue] between the hours of [hours] on [date]. This footage must include the area and surrounding areas showing [part of venue] and anyone in the area at this time. I also ask to see footage of my going up to enquire with [venue] staff at the front desk between [hours] and five minutes either side of this...
2. The Applicant specified in their request that they do not seek access to personal affairs information and that it can be removed.
3. The Agency identified two documents falling within the terms of the Applicant's request and refused access in full under sections 33(1) and 31(1)(d). 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.

Initial view

10. During the review, OVIC provided the Applicant with an initial view that the Agency's decision would be upheld and explained why. The Applicant was invited to consider withdrawing their review application or to otherwise provide a submission in support of their review application. The Applicant was also provided with advice about alternate steps they could take if they were seeking information about a specific incident.
11. The Applicant asked for their review to continue to a formal decision. The Applicant did not provide any further information of assistance in relation to their review application.

Review of exemptions

Section 33(1) – Documents affecting personal privacy of third parties

12. Section 33(1) protects an individual's privacy where their right to privacy outweighs the public interest in disclosing their information.¹ This will only occur when disclosing the individual's personal affairs information is unreasonable.
13. A document or information is exempt under section 33(1) if two conditions are satisfied:
 - (a) the document or information relates to the 'personal affairs' of a natural person (living or deceased)
 - (b) disclosure of that personal affairs information is unreasonable in all the circumstances.
14. For more information about section 33(1), see the FOI Guidelines.²
15. I note the Applicant's request terms appear to seek access to footage depicting themselves and any other people in certain areas of the [venue] at specific timeframes. However, the Applicant's request also specifically advised that they do not seek access to personal affairs information. This means that if the documents contain information that identifies other people, it is irrelevant to scope of the Applicant's request.
16. As such, I will consider whether the documents contain personal affairs information of other people (**third parties**).

Do the documents contain personal affairs information of other individuals?

17. Section 33(9) defines personal affairs information to include:
 - (a) information that identifies any person
 - (b) information that discloses a person's address or location
 - (c) any information from which a person's identity, address or location can reasonably be determined.
18. A document will involve the disclosure of personal affairs information if the applicant or any member of the public could directly or indirectly identify an individual or their address or location from the information.³
19. The concept of personal affairs information is broad. Information will relate to the personal affairs of a person if it 'concerns or affects that person as an individual'.⁴ This includes

¹ *Victoria Police v Marke* [2008] VSCA 218.

² <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-33/>.

³ *O'Sullivan v Department of Health & Community Services (No 2)* (1995) 9 VAR 1, 14; *Beauchamp v Department of Education* [2006] VCAT 1653 [42]; *NKY v Department of Education and Training* [2022] VCAT 302 [67]-[68].

⁴ *Hanson v Department of Education & Training* [2007] VCAT 123.

information relating to health, private behaviour, home life, or personal or family relationships of individuals.⁵

20. The documents located contain 3 hours of CCTV footage which feature several individuals entering and exiting the [venue], using [the venue's services] and undertaking other everyday activities. This includes both [venue] staff and members of the public using the [venue].
21. The documents capture the faces of several individuals which if released, would be reasonably capable of identifying them. Further, those captured in the footage may also be identifiable by what they were wearing or if others had knowledge of their whereabouts on that particular day.
22. Using the terms of the Applicant's request, I have attempted to pinpoint what information in the documents may be of relevance. However, based on the limited information before me, I am unable to confirm for certain that the Applicant is amongst those captured in the footage.
23. Noting the volume of different individuals captured in the footage, I am satisfied the documents contain personal affairs information of persons other than the Applicant (**third parties**).
24. Accordingly, as the Applicant does not seek access to personal affairs information of third parties, it is unnecessary to consider whether disclosing the personal affairs information would be unreasonable in the circumstances. Instead, I will later consider if it is practicable to edit the documents to delete the personal affairs information of third parties.

Section 31(1)(d) – Disclosure of methods for preventing, detecting, investigating breaches of the law

25. A document or information is exempt under section 31(1)(d) if two conditions are satisfied:
 - (a) disclosure of the information would, or would be reasonably likely to disclose methods or procedures for preventing, detecting, investigating, or dealing with breaches of the law
 - (b) release of the information would, or would be reasonably likely to prejudice the effectiveness of those methods or procedures.
26. The Agency provided the following reasons in their decision letter in relation to their reliance on this section:

If Council were to release the footage, it would show vantage points and positions of the CCTV cameras located in the [venue]. These cameras have been installed for the purpose of surveillance and detecting wrongdoing. In *Parker v Court Services Victoria* [2021] VCAT 461, the VCAT found that viewing CCTV footage would disclose aspects of the operation of the cameras including the limits of their coverage and any blind spots.

In this instance, if the location or position of the cameras in the [venue] became known, it would be reasonably likely to prejudice the effectiveness of the cameras, as members of the public could evade detection of any wrongdoing by committing any wrongdoing out of view.

⁵ *Re F and Health Department* (1988) 2 VAR 458, quoted in *RFJ v Victoria Police FOI Division* [2013] VCAT 1267 [103], [109].

27. Similar to *Parker v Court Services Victoria*,⁶ I accept that the use of CCTV in public [venues] is well known. They are generally visible, and the public knows what they are used for. However, as stated in *Parker v Court Services Victoria*, I agree in this case that:

Viewing footage from particular cameras would, however, disclose aspects of the operation of the camera that would not otherwise be known, including:

- (a) The limits of the range of vision or the coverage of the cameras, including any blind spots; and
- (b) The timing of recordings.

I accept that this would be reasonably likely to undermine the effectiveness of the CCTV cameras, including as a deterrent measure, by potentially indicating how the cameras could be circumvented.

28. I accept the CCTV footage is used when detecting, investigating or dealing with matters arising out of breaches or evasions of the law.
29. Accordingly, I am satisfied that release of the documents would disclose methods or procedures that is released, would be reasonably likely to prejudice the effectiveness of the cameras.
30. Therefore, I am satisfied the documents are exempt from release under section 31(1)(d).

Section 25 – Deletion of exempt or irrelevant information

31. 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.
32. Deciding whether it is ‘practicable’ to delete exempt or irrelevant information requires an agency or Minister to consider:
- (a) the effort involved in making the deletions from a resources point of view⁷ and
 - (b) the effectiveness of those deletions – that is, whether the edited document still has meaning.⁸
33. I have considered the effect of deleting exempt and irrelevant personal affairs information from the documents. In my view, it is not practicable for the Agency to do this for several reasons, including that the intertwined nature of the personal affairs information would make editing out content depicting third parties time consuming and effectively make the footage devoid of any relevant content and moreover that I find section 31(1)(d) applies to the totality of the footage in this case.

⁶ (Review and Regulation) [2021] VCAT 461.

⁷ *Mickelburgh v Victoria Police* [2009] VCAT 2786, [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967, [82].

⁸ *Honeywood v Department of Human Services* [2006] VCAT 2048, [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267, [140], [155]; *Re Hutchinson and Department of Human Services* (1997) 12 VAR 422.

Conclusion

- 34. On the information before me, I am satisfied the documents are exempt from release section 31(1)(d) and contain irrelevant personal affairs information of third parties.
- 35. As I am satisfied it is not practicable to provide the Applicant with an edited copy of the documents with exempt and irrelevant information deleted in accordance with section 25, access is refused in full.

Timeframe to seek a review of my decision

- 36. If the Applicant to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.⁹
- 37. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁰
- 38. 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.
- 39. The Agency is required to notify the Information Commissioner in writing as soon as practicable if the Applicant applies to VCAT for a review of my decision.¹¹

⁹ Section 50(1)(b).

¹⁰ Section 52(5).

¹¹ Section 50(3FA).