

## Notice of Decision and Reasons for Decision

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Applicant:	'FZ3'
Agency:	City of Darebin
Decision date:	30 April 2025
Provision considered:	Section 25
Citation:	'FZ3' and City of Darebin (Freedom of Information) [2025] VICmr 57 (30 April 2025)

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FREEDOM OF INFORMATION – Planning Application documents – documents refused in full under section 30(1) – Agency intention to make a fresh decision – Personal affairs information not sought

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.

The Agency applied the exemption under section 30(1) in its original decision, but during the review it advised that it no longer sought to apply this exemption to any of the documents.

The Applicant confirmed during the review that they did not require any personal affairs information. The names, signatures and contact details of third parties as contained in the documents are therefore irrelevant to the scope of the Applicant's request.

My decision on review is that the documents are to be released to the Applicant with any irrelevant personal affairs information removed under section 25.

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

Please refer to the end of the decision for information about review rights through the Victorian Civil and Administrative Tribunal (**VCAT**). My reasons for decision follow.

Penny Eastman  
**Public Access Deputy Commissioner**

30 April 2025

## Reasons for Decision

### Background to review

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

I request access to the Town Planning Department file for Application Number [number], [address]. The documents requested would include but not limited to internal referrals from the Town Planning Department to Engineering Department, Strategic Planner City Development, Transport Management Planning Referral, Sustainable Design Assessment Referral and Arborist Referral.

I require both the referrals from the Town Planning Department and all replies/comments/emails/reports/drafts from the aforementioned departments/individuals.
2. The Applicant agreed to the removal of personal affairs information of Agency officers.
3. The Agency identified 25 documents falling within the terms of the Applicant's request and granted access to eight documents in full, and 17 documents in part under section 30(1). The Agency's decision letter sets out the reasons for its decision.

### Review application

4. The Applicant sought a review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access to documents.
5. During the review, the Agency notified OVIC of its intention to reconsider its original decision and make a fresh decision in accordance with section 49M(1).
6. The Agency requested an extension of two weeks to make its fresh decision, which I approved. However, a fresh decision was not made within the agreed timeframe, and I proceeded with my review based on the Agency's original decision, as required under section 49MA(3).
7. The Agency provided OVIC with a copy of the fresh decision it intended to make, along with reconsidered copies of the documents, which I considered as a submission.
8. The intended fresh decision was to no longer rely on section 30(1) to refuse access to documents. Accordingly, I have not considered this exemption in my review.
9. In the reconsidered copies of the documents, the Agency only applied section 25 to remove certain irrelevant personal affairs information of third parties from the documents.
10. As the Applicant confirmed to OVIC staff that they do not require any personal affairs information of Agency officers or any other individuals, I have only considered the application of section 25 to the reconsidered copies of the documents provided by the Agency during the review.
11. 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.

12. 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 25 – Deletion of exempt or irrelevant information*

13. 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.
14. 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 view;<sup>1</sup> and
  - (b) the effectiveness of those deletions – that is, whether the edited document still has meaning.<sup>2</sup>
15. Irrelevant information is information which is clearly outside the scope, or beyond the terms of the applicant's request.
16. As stated above, the Applicant advised they do not seek access to personal affairs information about any third party. Therefore, such information is irrelevant information for the purpose of my review.
17. I am satisfied the documents contain irrelevant personal affairs information.
18. I have considered the effect of deleting irrelevant information from the documents. In my view, it is practicable for the Agency to delete the irrelevant information, because it would not require substantial time and effort, and the edited documents would retain meaning.

### **Conclusion**

19. On the information before me, I am satisfied the personal affairs information in the documents is irrelevant information to be deleted from the documents under section 25.
20. As I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with irrelevant information deleted in accordance with section 25, access is granted in part.
21. The Agency is to release the documents to the Applicant in accordance with the reconsidered versions of the documents it provided to OVIC in relation to its intended fresh decision.

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<sup>1</sup> *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].

<sup>2</sup> *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.

**Timeframe to seek a review of my decision**

22. 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>3</sup>
23. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>4</sup>
24. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>5</sup>
25. 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.
26. 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>6</sup>
27. My decision does not take effect until the Agency's 14 day review period expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

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

<sup>4</sup> Section 52(5).

<sup>5</sup> Section 52(9).

<sup>6</sup> Sections 50(3F) and 50(3FA).

## Annexure 1 – Schedule of Documents

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
1	[Date]	WSUD Report	17	Refused in full  Section 30(1)	Release in part  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
2	[Date]	Traffic	5	Released in full	Release in full
3	[Date]	Title search	8	Released in full	Release in full
4	[Date]	Title	8	Released in full	Release in full
5	[Date]	Report	21	Released in full	Release in full
6	[Date]	Pre application meeting advice	5	Refused in full  Section 30(1)	Release in part  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
7	[Date]	Plans	8	Refused in full  Section 30(1)	Release in full

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
8	[Date]	GIS Map	1	Refused in full Section 30(1)	Release in full
9	[Date]	Feature & level survey	1	Released in full	Release in full
10	[Date]	Arborist Report	21	Released in full	Release in full
11	[Date]	Online Application Form	2	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
12	[Date]	Online Acknowledgement Letter	1	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
13	[Date]	Application Allocation Letter	1	Refused in full Section 30(1)	Release in part Section 25

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
					The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
14	[Date]	Tree management referral	4	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
15	[Date]	Engineering Response to TP Referral	3	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
16	[Date]	Internal Referral	2	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
17	[Date]	Email to Engineering Internal Referral	1	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
18	[Date]	Email to Tree Management Internal Referral	1	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
19	[Date]	ESD Walkaround Referral Comments	1	Refused in full Section 30(1)	Release in part Section 25 The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
20	[Date]	Transport Walkaround Referral Comments	1	Refused in full Section 30(1)	Release in part Section 25



Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
					The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
21	[Date]	Further Information Request	6	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
22	[Date]	RFI	1	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
23	[Date]	Cover Letter	1	Refused in full Section 30(1)	<b>Release in part</b>  Section 25  The document is to be released in accordance with the reconsidered version of the document that the Agency provided to OVIC in relation to its intended fresh decision.
24	[Date]	Plans	11	Released in full	<b>Release in full</b>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
25	[Date]	SDA	44	Released in full	Release in full