



Darebin City Council
ABN 75 815 980 522

15 February 2024

FOI Ref: FOI 23/24-23

Mr Simon Keys

By Email: foi+request-10627-d7c75d5a@righttoknow.org.au

To Mr Keys

FREEDOM OF INFORMATION: NOTICE OF DECISION

This letter is to give you the decision on the request you made for documents under the *Freedom of Information Act 1982* (the Act).

Terms of the Request:

Documents related to the road/Laneway behind 42 James Street and adjoining properties. These would include but not limited to:

Engineers' reports, studies, and assessments of the aforementioned area.

Quotations provided to repair the damage of the aforementioned area

Emails, internal and external concerning the aforementioned area.

Council documentation related to the aforementioned area.

Darebin City Council has identified 25 documents relevant to your request that comprises a total of 506 pages.

On 11 January 2024, via telephone, you removed all personal information except for Names and Position Title from the scope of your request. This information has been removed from the documents as 'out of scope'.

Decision

I have assessed all the documents held by the City of Darebin that fall within the scope of your request. Documents which fall within the category requested by you have been processed in response to the request received.

My decision on access is to:

- Grant access in full to 3 documents
- Grant access in part to 21 documents
- Deny access in full to 1 document



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Exemption

Section 32 Documents affecting legal proceedings relevantly provides.

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege.

A document is exempt if it contains communications made for the dominant purpose of obtaining legal advice or the provision of legal services (including representation in legal proceedings), or for the dominant purpose of use in actual or anticipated legal proceedings.

The documents contain confidential communications brought into existence under the authority of Darebin City Council and their professional legal advisers, that were made for the dominant purpose of obtaining legal advice.

I am satisfied that such documents that relate to obtaining legal advice are exempt from release in accordance with the provisions of section 32(1) of the Act.

Section 33 – Documents affecting personal privacy. relevantly provides.

Section 33 of the Act exempts from access documents which involve the unreasonable disclosure of the personal affairs of any persons. Specifically, section 33 of the Act states:

“(1) a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person);

In this section

- (9) *information relating to the personal affairs of any person includes information -*
 - (a) *that identifies any person or discloses their address or location; or*
 - (b) *from which any person’s identity, address or location can reasonably be determined.”*

It is apparent from the face of the documents that they contain information relating to the personal affairs of people, as defined in s 33(9) of the FOI Act. Under section 33(9), *“information relating to the personal affairs of any person”* includes information that identifies any person or discloses their address or location; or from which any person’s identity, address or location can reasonably be determined.

In deciding to exempt the documents, or the information in the documents I had described, I considered such factors as:

- the nature of the information
- consultations with third parties in which names are listed in the document (where practicable) currently work at Darebin City Council.



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- Views on disclosure of third parties who have been consulted.
- the current relevance of the information
- whether the disclosure of the information would, or would be reasonably likely to, endanger the life or physical safety of any person
- the circumstances in which the Darebin City Council came to possess the information
- the possible cause for stress, anxiety or harassment that disclosure may cause to a person
- whether disclosure would impair Darebin City Councils ability to obtain similar information in the future
- where known, the identity of the applicant and the purpose for seeking access.

I have redacted the personal affairs of persons who either no longer work at Darebin City Council or in which consent to disclose personal information has not been obtained.

The redacted information does not detract from your understanding of the pages and there is nothing which would suggest that disclosure of personal information would promote any public interest or benefit in all the circumstances. I have determined, in this instance, that disclosure is outweighed by the right to privacy of the individuals concerned. I am satisfied that the information provided is exempt under section 33(1).

I am therefore satisfied that disclosure of personal information would be unreasonable in the circumstances, pursuant to section 33(1) of the FOI Act.

Review rights

If you are not satisfied with my decision, you may seek review from the Office of the Victorian Information Commissioner. Requests for review must be made in writing within 28 days of receiving this decision letter.

You are able to submit a request for review in the following ways:

Information Commissioner
Office of the Victorian Information Commissioner
PO Box 24274
MELBOURNE VIC 3001 Ph 1300 842 364
Email: enquiries@ovic.vic.gov.au

If you have any queries, please feel free to contact me on



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Yours sincerely,

A handwritten signature in black ink, appearing to read "Mark Aylward". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mark Aylward
Freedom of Information Officer
City of Darebin



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Appendix A – Schedule of Documents

Doc #	# Pages	File title	Document description	Decision summary
1.	2	S44580_281686_Structural Sketches	Site plan and general notes	RELEASED IN FULL
2.	21	S44580_281686_Geotechnical Report#3	Preliminary geotechnical Investigation report	RELEASED IN PART S.33(1)
3.	5	S44580_281686_IFC - Total#6	Site plan and general notes	RELEASED IN FULL
4.	18	S44580_273632_FMG Letter	Costing estimates and correspondence	RELEASED IN PART S.33(1)
5.	2	RE_ ROW-James St	Email correspondence	RELEASED IN PART S.33(1)
6.	195	RE_ No. 42 James St Northcote	Email correspondence	RELEASED IN PART S.33(1)
7.	5	RE_ Letter of Notice(vA9658369)	Email correspondence	RELEASED IN PART S.33(1)
8.	8	RE_ Letter of Notice(vA9658358)	Email correspondence	RELEASED IN PART S.33(1)
9.	5	9. RE_ EST27411 - RE_ 281686 - RE_ PO James St	Email correspondence	RELEASED IN PART S.33(1)
10.	5	RE_ 273632 - 42 James Street - (vA9658544)	Email correspondence	RELEASED IN PART S.33(1)
11.	29	11. RE_ 42 James Street, Northcote, New Revision for Geotechnical Report (281686)	Email correspondence and Geotechnical reports	RELEASED IN PART S.33(1)
12.	26	RE_ 42 James Street(vA9658485)	Email correspondence	RELEASED IN PART S.33(1)
13.	5	RE_ 42 James Street(vA9658473)	Email correspondence	RELEASED IN PART S.33(1)
14.	6	RE_ 42 James Street(vA9658464)	Email correspondence	RELEASED IN PART S.33(1)



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Doc #	# Pages	File title	Document description	Decision summary
15.	3	RE_ Engineering and land survey update rear 42 James Street, Northcote(vA9658324)	Email correspondence	RELEASED IN PART S.33(1)
16.	56	Investigation Report 42 James Street, Northcote 21-03-22 re	Investigation report	RELEASED IN PART S.33(1)
17.	26	FW_ EST27253 - Letter regarding different retention options at the ROW behind 42 James Street, Northcote, VIC 3070	Email correspondence and Geotechnical reports	RELEASED IN PART S.33(1)
18.	5	FW_ 273632 - 42 James Street - (vA9658526)	Email correspondence	RELEASED IN PART S.33(1)
19.	28	FW_ 42 James Street, Northcote - Cost Estimate (281686)(vA9658331)	Email correspondence and Geotechnical reports	RELEASED IN PART S.33(1)
20.	22	FMG Engineering Report - 15 October 2021(vA9655249)	Engineering report	RELEASED IN PART S.33(1)
21.	9	EST27411 - Letter regarding different retention options at the ROW behind 42 James Street, Northcote, VIC 3070(vA9658487)	Email correspondence	RELEASED IN FULL
22.	12	EST27411 - Letter regarding different retention options at the ROW behind 42 James Street, Northcote, VIC 3070(vA9658486)	Email correspondence	RELEASED IN PART S.33(1)
23.	2	Capital Works and Discontinuance of the Right of Way at the rear of 42 - 26 James Street, Northcote(vA9658462)	Draft of Letter correspondence	RELEASED IN PART S.33(1)
24.	6	32. 42 James Street Cost Report for Stabilization Works - December 2022(vA9655248)	Cost report	RELEASED IN PART S.33(1)
25.	5	RE_ commence process investigations to discontinue road-1-3 Campbell Grove and 42 James Street, Northcote	Communications containing legal advice	DENIED IN FULL S.32(1) s.33(1)