

Ref: LX FOI 125

The Hon. David Davis MLC
1/670 Chapel St
SOUTH YARRA VIC 3141

By email: [REDACTED]

Dear Mr Davis

YOUR FREEDOM OF INFORMATION REQUEST - DECISION

I refer to your request made under the *Freedom of Information Act 1982 (Vic)* (**FOI Act**) dated 5 February 2020. Your request was the following:

- “1) A copy of the following documents relating to the Toorak Road, Kooyong Level Crossing Removal Project up to 21 February 2019;
 - a) Planning studies relating to the Toorak Road and nearby Toorong Road and Glenferrie Road level crossings;
 - b) LXRPs report for the assessment of ecology;
 - c) LXRPs arborist assessment report;
 - d) LXRPs report on the assessment of overshadowing impacts to the neighbouring properties;
 - e) Documents relating to any water table assessment conducted;
 - f) Documents relating to any sound or vibration assessment conducted; and

- 2) A copy of the Toorak Roads Consultation outcomes and Submissions response Report dated April 2019”.

Document search

On the basis of your request, the relevant program conducted a thorough and diligent search and identified six documents relevant to the terms of your request. I have decided to grant access to two documents in full, two documents in part and deny access to two documents in full.

NO.	DOCUMENT DESCRIPTION	NO. OF PAGES	DECISION / REASONS
1.	Draft arborist report	148	Denied in full under section 30(1) of the FOI Act
2.	Consultation and Submissions Response Report dated April 2019	80	Released in full

NO.	DOCUMENT DESCRIPTION	NO. OF PAGES	DECISION / REASONS
3.	Consultation and Submissions Response Report Appendices	23	Released in full
4.	Geotechnical and Environmental Report	782	Released in part under section 33(1) of the FOI Act
5.	Ecology Assessment	57	Released in part under section 33(1) of the FOI Act
6.	Planning Study – Individual Site Report	95	Denied in full under section 30(1) of the FOI Act

Reasons for Decision

Section 30(1) – Internal working documents

Section 30(1) of the FOI Act exempts from disclosure documents that would disclose matter in the nature of opinion, advice, recommendation, consultation or deliberation, prepared in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government, and disclosure would be contrary to the public interest.

Document 1 is a draft, for which a final was produced in June 2019. Where the draft represents preliminary thinking in relation to the contents of the report, release has the potential to confuse compared to the final version. This would be contrary to the public interest.

Document 6 is a document prepared at an early part of the preliminary decision-making process. A final was not produced and its contents were not considered. As a result, release has the potential to cause confusion and inappropriate debate around the decisions eventually made by the Level Crossing Removal Project (**LXRP**) in relation to crossing removals.

Section 33(1) – Documents affecting personal privacy

Section 33(1) of the FOI Act provides that a document is exempt from release if its disclosure would unreasonably disclose information relating to the personal affairs of any person. Section 33(9) of the Act defines personal affairs information as information which identifies a person or their address, or information from which a person's identity or address can reasonably be determined.

The names of non-executive level LXRP employees and third parties have been exempted from release under this section as the individuals involved would not reasonably expect their personal information to be made available under the FOI Act.

Review rights

You have the right to seek a review of my decision by the Victorian Information Commissioner.

You must apply within 28 days of receiving this decision, identifying the agency concerned and the decision to be reviewed. You should also provide an explanation as to why you disagree with the decision. You may lodge your application by:

email: enquiries@ovic.vic.gov.au
post: Office of the Victorian Information Commissioner
PO Box 24274
Melbourne VIC 3001

Complaint rights

If you are dissatisfied with the LXP's decision, or another aspect of the processing of your request, you may lodge a complaint with the Information Commissioner pursuant to section 61A(1)(a) of the FOI Act.

Any complaint must be lodged with the Commissioner within 60 days of receipt of this decision. More information about making a complaint is available at www.ovic.vic.gov.au.

Contact

If you have any questions, please contact me on [REDACTED] or via email at [REDACTED].

Yours sincerely

[REDACTED]

FOI Officer

14 / 4 / 20