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Notice of Decision and Reasons for Decision

Applicant:	The Star Proprietary Limited
Agency:	Victorian Commission for Gambling and Liquor Regulation
Decision Date:	31 January 2020
Exemption and provisions considered:	Sections 25A(5) and 38 of the <i>Freedom of Information Act 1982</i> (Vic) in conjunction with section 10.1.30 of the <i>Gambling Regulation Act 2003</i> (Vic)
Citation:	<i>The Star Proprietary Limited and Victorian Commission for Gambling and Liquor Regulation (Freedom of Information)</i> [2020] VICmr 16 (31 January 2020)

FREEDOM OF INFORMATION – regulatory documents – secrecy provisions – documents relating to concurrent gaming on semi-automated table games

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.

I am satisfied the requirements for the application of section 25A(5) are met. Accordingly, I have decided to refuse to grant access to the requested documents in accordance with the Applicant's FOI request under section 25A(5).

My reasons for decision follow.

Joanne Kummrow

Public Access Deputy Commissioner

31 January 2020

Reasons for Decision

Background to review

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

Any:

- a) document submitted by Crown Melbourne Limited ACN 006 973 262 (Crown) to the [Agency] setting out the scope or proposed scope of the trial conducted by Crown of concurrent gaming on semi-automated table games, for which the Agency withdrew approval on 1 August 2017 (the Trial)
 - b) document issued by the [Agency] to Crown approving the Trial
 - c) other document setting out the conditions applicable to, or the scope of, the Trial
 - d) documents reporting on the progress or results of, or data associated with, the Trial
 - e) document submitted by Crown to the [Agency] at the conclusion of the Trial or at any interim stage of the Trial, and relating to the Trial
 - f) document analysing or discussing the results or interim results of the Trial or otherwise assessing the Trial
 - g) document setting out the [Agency's] withdrawal of approval of the Trial or the reasons for the withdrawal of approval
 - h) other document recording communications or discussions between Crown and [the Agency] in relation to the Trial or in relation to concurrent gaming on semi-automated table games
 - i) document setting out communications or discussions between the [Agency] and the Independent Liquor and Gaming Authority (NSW) or Liquor and Gaming NSW in relation to the Trial or its results or in relation to any potential trial of concurrent gaming on semi-automated table games at The Star Sydney
 - j) other document created by the [Agency] in relation to concurrent gaming.
2. By letter dated 2 July 2019, the Agency refused to grant access to the documents in accordance with the Applicant's FOI request under section 25A(5).
3. In refusing access under section 25A(5), the Agency determined the documents would be exempt under section 38 of the FOI Act in conjunction with section 10.1.30 of the *Gambling Regulation Act 2003* (Vic) (**Gambling Regulation Act**).

Concurrent gaming and the Casino Control Act

4. Since 19 November 1993, Crown Melbourne Limited (**Crown**) has held a casino licence granted under Part 2 of the *Casino Control Act 1991* (Vic) (**Casino Control Act**).¹ Crown holds the only casino licence granted under the Casino Control Act.²
5. The Agency is the appointed statutory regulator to monitor Crown's compliance with the Casino Control Act, the *Casino (Managements Agreement) Act 1993* (Vic), and various regulations and commercial agreements.³

¹ 'Sixth Casino Review', *Victorian Commission for Gambling and Liquor Regulation* at <https://www.vcglr.vic.gov.au/casino-review>.

² *Ibid.*

6. The Casino Agreement between the Agency and Crown is an agreement entered into under section 142 of the Casino Control Act. The agreement sets out detailed licence conditions, including the approval of games and operating practices.⁴ The Casino Control Act also establishes various approval processes regarding the operations of Crown.⁵
7. Concurrent gaming is a semi-automated table game feature that allows a player to play multiple games simultaneously on one gaming terminal.⁶ Semi-automated table games are table games conducted by a dealer, with winnings paid via a terminal.⁷
8. In its *Sixth Review of the Casino Operator Licence*, the Agency determined, after a trial period, it could not be satisfied concurrent gaming was consistent with the Casino Control Act and withdrew its approval for concurrent gaming to be conducted by Crown.⁸

Review

9. The Applicant seeks review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
10. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
11. I have considered all communications and submissions received from the parties, including:
 - (a) the Agency's decision on the FOI request;
 - (b) the Applicant's submission, dated 29 July 2019; and
 - (c) the Agency's submissions dated 20 August 2019 and 3 January 2020.
12. 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.

Section 25A(5)

13. The Agency determined any documents falling within the terms of the Applicant's request would be exempt from release under the FOI Act. Accordingly, the Agency refused to grant access to documents under section 25A(5). The Agency's reasons for decision are set out in its decision letter dated 2 July 2019.
14. Section 25A(5) provides an agency may refuse an FOI request if it is apparent from the terms of the request that all documents sought would be exempt under the FOI Act, and, if the applicant agrees to receive an edited copy of the documents with exempt information deleted, there is no obligation for the agency to provide the applicant with an edited copy of any document with exempt information deleted under section 25.

³ Victorian Commission for Gambling and Liquor Regulation, *Sixth Review of the Casino Operator and Licence* (June 2018), p 24.

⁴ 'Melbourne Casino', *Victorian Commission for Gambling and Liquor Regulation* at <https://www.vcglr.vic.gov.au/gambling/casino/understand-your-permit/melbourne-casino>.

⁵ Victorian Commission for Gambling and Liquor Regulation, *Sixth Review of the Casino Operator and Licence* (June 2018), p 146.

⁶ *Ibid*, p 148.

⁷ *Ibid*, p 4.

⁸ *Ibid*, p 148.

15. An agency is not required to identify any or all the documents to which the request relates and or to specify, in respect of each document, the relevant exemption under which a document is claimed to be exempt.
16. The refusal power under section 25A(5) is 'carefully circumscribed'.⁹
17. Therefore, to decide section 25A(5) applies to an FOI request, I must be satisfied of the following three requirements, which operate to limit its application:
 - (a) First, the exempt nature of the documents must be objectively apparent from the face of the request as described by the applicant. The 'nature' of a document refers to its inherent or essential quality or character. **(First limb)**
 - (b) Second, it must be apparent from the terms of the request that all documents relevant to the request would be exempt. **(Second limb)**
 - (c) Third, it must be apparent from:
 - (i) the nature of the documents, as described in the request, that no obligation would arise under section 25 for the agency to grant access to an edited copy of a document; or
 - (ii) the request or through consultation with the applicant that the person would not wish to have access to an edited copy of a document.¹⁰ **(Third limb)**

Agency's submission

18. In relation to the first limb, the Agency submits:

The request relates to [Crown] information submitted to the [Agency] under the [Casino Control Act]. It also relates to [the Agency's] documentation relating to this information and communications with [Crown] and the NSW regulator about this information, all in the [Agency's] carrying out of its functions under the [Casino Control Act]. Therefore, all the information sought by [the Applicant] is protected information, and all of it is exempt due to the secrecy provision in section 10.1.30 of the [Gambling Regulation Act].

...

...any document containing details of a request by [Crown], for approval of concurrent gaming on semi-automated table games under the [Casino Control Act], must inherently contain protected information that is exempt due to the operation of section 10.1.30 of the [Gambling Regulation Act]. The same can be said for all documents discussing or considering such a request for approval more broadly.

19. In relation to the second limb, the Agency submits:

Given the specificity of the request and that it pertains directly to the affairs of [Crown], and the [Agency's] functions under the [Casino Control Act] in relation to concurrent gaming, it is apparent that the secrecy provision [applies].

20. Further, it states:

To the extent that the [Applicant's request] captures any 'non-Crown material', concurrent gaming is a specific term that refers to gaming on semi-automated and fully automated table games and these games are only permitted to be operated at Crown Casino. Therefore any document relating to concurrent gaming must necessarily be in relation to the affairs of the Casino Operator which is [Crown].

⁹ *Knight v Corrections Victoria* [2010] VSC 338 at [37].

¹⁰ *Knight v Corrections Victoria* [2010] VSC 338.

21. In relation to the third limb, the Agency submits:

There is no possibility or ability for the [Agency] to perform redactions...as any subsequent attempt to release redacted documents would necessarily involve the disclosure of protected information...This is because the nature of the Applicant's request specifically pertains to one regulated entity, namely, [Crown].

The definition in section 10.1.29 of the [Gambling Regulation Act] states that protected information "means information... that is ... information with respect to the affairs of any person". This is also made clear by section 10.1.30(1) itself, which prohibits even the "indirect" disclosure of protected information.

Therefore, it is not possible to grant access to an edited copy with redactions as doing so would still involve disclosure of protected information of [Crown] (i.e. even providing an indication documents exist would be impermissible under the [Gambling Regulation Act] as it would contravene section 10.1.30(1)).

...

[G]iven the definitions under section 10.1.29 of the [Gambling Regulation Act] there is no scope or ability to provide edited copies of any documents because even the disclosure of the existence of a document, or confirmation that a document does not exist, would identify if a request for approval of concurrent gaming on semi-automated table games has been made.

Applicant's submission

22. In support of its application for review, the Applicant submits it is not apparent all of the documents would be exempt.

23. In particular, the Applicant submits:

- (a) We requested any "document issued by the [Agency] to Crown approving the Trial [of concurrent gaming on semi-automated table games]". It is possible that such a document may contain broad discussion by the [Agency] of its regulatory views about this type of gaming, which does not relate specifically to Crown's business.
- (b) We requested any "document setting out communications or discussions between the [Agency] and the Independent Liquor and Gaming Authority (NSW) or Liquor and Gaming NSW in relation to... any potential trial of concurrent gaming on semi-automated table games at [another Casino]", as well as any "other document created by the [Agency] in relation to concurrent gaming". These documents, if they exist, would not necessarily relate specifically to Crown's business. If they do exist and they refer to Crown's business, there may be potential for them to be edited to remove the Crown-specific material.

24. The Applicant also submits:

It is difficult to see how the [Agency] can justify its view that it is "not practicable for the Commission to...provide edited copies of the requested documents, as copies of those documents from which protected information had been deleted would be meaningless" when the [Agency] has, by its own admission, not identified any of the documents sought.

25. Further, the Applicant submits the Agency failed to consider the exceptions set out in the Gambling Regulation Act, in particular, sections 10.1.30(2), 10.1.32(1)(a), 10.1.32(c), 10.1.32(2) and 10.1.32(3). I have addressed each of these exceptions below.

Notice under section 49KA

26. On 5 December 2019, the Agency was notified of my preliminary view that it was not apparent from the nature of the documents, as described on the face of the Applicant's request, and following consideration of its submission dated 20 August 2019, that section 38 would apply to all of the

documents in full and the Agency would not be obliged to provide an edited copy of the documents with exempt information deleted in accordance with section 25.

27. I gave notice to the Agency under section 49KA(2)(a) requiring it to identify a sample of 10 documents, comprising two documents that relate to each of the following parts of the Applicant's request: (c), (g), (h), (i) and (j).
28. Section 49KA(7)(a) provides, in the case of a notice under subsection (2)(a), the agency must notify the Commissioner of the following:
 - (i) that the agency or Minister has processed or identified a reasonable sample of the documents; and
 - (ii) the nature of the documents processed or identified; and
 - (iii) whether the decision to refuse to grant access under section... 25A(5) is likely to be upheld...
29. On 3 January 2020, the Agency provided a submission to OVIC under section 49KA(7)(a), stating:

The sample of documents...all relate to a request for approval submitted by [Crown]...to the [Agency] to approve a game under the [Casino Control Act] (a "gaming Act"). The sample of documents has been reviewed and the [Agency] can confirm that they all consist of protected information acquired by the [Agency] in the performance of functions under a gaming Act. Accordingly, the secrecy provision in 10.1.30(1) of the [Gambling Regulation Act] applies to the information contained in the sample of documents and prohibits the [Agency] from disclosing that information...
30. In addition to the above, I also requested copies of, or inspection of, the sample documents.
31. In response, the Agency submitted it:

... considers that OVIC may meet the definition of "court" [referred to in section 10.1.31(1)]...and that the review by OVIC could amount to "legal proceedings" as referred to in the heading of section 10.1.31 of the [Gambling Regulation Act]. Accordingly, the [Agency] considers it may not be permitted to provide copies of the sample of documents to OVIC.
32. Section 10.1.31(1) of the Gambling Regulation Act provides:
 - (1) Subject to subsection (2), a regulated person is not, except for the purposes of a gaming Act or gaming regulations, permitted or required-
 - (a) to produce in a court a document that has come into the person's possession or under the person's control; or
 - (b) to disclose to a court any protected information that has come to the person's notice-
in the performance of functions under a gaming Act or gaming regulations.
33. I have considered whether the Information Commissioner can compel the Agency to provide a copy of the sample of documents.
34. A 'court' is defined broadly under section 10.1.29(1) of the Gambling Regulation Act to include 'any tribunal, authority or person having power to require the production of documents or the answering of questions'. Further, section 10.1.29(1) defines 'produce' to include 'permit access to'.
35. The Information Commissioner has power to require documents under section 49KB and 49I of the FOI Act. Accordingly, I am satisfied the broad definition of 'court' in the Gambling Regulation Act

includes the Information Commissioner as it is defined to include a person having power to require the production to a person, such as the Information Commissioner.

36. I accept sections 10.1.30, 10.1.31 and 10.1.29 of the Gambling Regulation Act specifically prevent the Agency from disclosing or producing protected information to the Information Commissioner.
37. Therefore, I am satisfied I cannot compel the Agency to provide the sample of documents identified pursuant to section 49KA(2)(a) given the provisions in the Gambling Regulation Act prohibiting disclosure.
38. Given the additional information provided to me by the Agency in response to my notice under section 49KA, I have conducted a further assessment of section 25A(5) as set out below.

What is the essential character of the documents requested?

39. On the information before me, I am satisfied the essential nature or character of the documents, as described by the Applicant, is apparent from the terms of its request.
40. The Applicant seeks access to documents regarding a proposed trial of concurrent gaming on semi-automated table games at Crown and information communicated between the Agency and NSW regulators about concurrent gaming.
41. Therefore, I am satisfied the first limb of section 25A(5) is met.

Would the requested documents, as described by the Applicant, be exempt?

42. In refusing to grant access to the documents under section 25A(5), the Agency determined all documents in scope of the Applicant's request would be exempt under section 38 of the FOI Act in conjunction with section 10.1.30 of the Gambling Regulation Act.
43. A document is exempt under section 38 if:
 - (a) there is an enactment in force;
 - (b) that applies specifically to the kind of information contained in the documents; and
 - (c) the enactment must prohibit persons, referred to in the enactment, from disclosing that specific kind of information (either absolutely or subject to exceptions or qualifications).
44. For section 38 to apply to an enactment, the enactment must be formulated with such precision that it specifies the actual information sought to be withheld.
45. As stated above, the Agency relies on section 38 of the FOI Act in conjunction with section 10.1.30(1) of the Gambling Regulation Act to exempt the documents from disclosure.
46. Section 10.1.30 of the Gambling Regulation Act provides:

10.1.30 General duty of confidentiality

- (1) A regulated person must not, directly or indirectly, make record of, or disclose to someone else, any protected information acquired by the person in the performance of functions under a gaming Act or gaming regulations.

Penalty: 60 penalty units

- (2) Subsection (1) does not apply to—

- (a) a record or disclosure made in the performance of functions under a gaming Act or gaming regulations; or
- (b) a record or disclosure permitted or required to be made by or under another provision of this Division.

47. 'Protected information' is defined in section 10.1.29 of the Gambling Regulation Act to mean:

... information, other than pre-commitment information within the meaning of section 3.8A.24, that is—

- (a) information with respect to the affairs of any person; or
- (b) information with respect to the establishment or development of a casino;

48. 'Person' is defined in section 1.3 of the Gambling Regulation Act and 'includes a body (whether or not incorporated), a partnership and the Trustees'.

49. I am satisfied the Agency, including its staff and commissioners, are 'regulated persons' for the purpose section 10.1.30(1) of the Gambling Regulation Act.

50. I am also satisfied Crown is a 'person' for the purposes of section 10.1.30(1) of the Gambling Regulation Act.

51. I am satisfied sections 10.1.30, 10.1.31 and 10.1.29 of the Gambling Regulation Act specifically prohibits the Agency from disclosing or producing the 'protected information'.

52. Accordingly, I must decide whether information the Applicant seeks is 'protected information' within the meaning of the Gambling Regulation Act, based on the information before me and without the ability to view a sample of the documents concerned.

53. Having considered the Agency's submission, I am satisfied:

- (a) Information regarding the concurrent gaming trial conducted by Crown constitutes the affairs of Crown and falls within the definition of 'protected information' under the Gambling Regulation Act.
- (b) The 'protected information' was acquired by the Agency in relation to the concurrent gaming trial in the performance of its functions under the Casino Control Act which is 'a gaming act', as defined in the section 1.3(1) of the Gambling Regulation Act.
- (c) I am satisfied any information held by the Agency in relation to a concurrent gaming trial would relate to Crown. In particular, I accept the Agency's submission, outlined above, any documents relating to concurrent gaming would necessarily relate to the affairs of Crown.

54. I note the Applicant's submission that certain requested information relating to concurrent gaming would not necessarily relate to Crown. Therefore, not all documents subject to the request would fall within the definition of 'protected information' under the Gambling Regulation Act.

55. Having carefully considered this point, I am satisfied, given the definition of 'protected information' under the Gambling Regulation Act relates to 'the affairs of' a person (in this case, Crown) is to be broadly read, such that all information to which the request relates would amount to 'protected information'.

Do any exceptions apply?

56. Sections 10.1.30(2), 10.1.31, 10.1.32 and 10.1.34 of the Gambling Regulation Act set out circumstances where 'protected information' may be disclosed.

57. Section 10.1.30(2) provides the general duty of confidentiality under section 10.1.30(1) does not apply to:

(a) a record or disclosure made in the performance of, or for the purpose of performing or enabling someone else to perform, a function under-

(i) a gaming Act or gaming regulations ...

58. In relation to section 10.1.30(2), the Applicant submits:

We presume that the [Agency] made disclosures in the performance of its functions under a gaming Act or gaming regulations when it provided relevant information to the NSW regulator. The [Agency] is established by the [Gambling Regulation Act] and presumably, only ever performs functions consistent with its role as established under legislation. As a result, such disclosures are not covered by the general duty of confidentiality and are not exempt.

59. I am not satisfied disclosure of the documents under the FOI Act in accordance with the Applicant's request constitutes a disclosure made in the performance of, or for the purpose of the Agency performing its functions under a gaming Act or regulations. Nor am I satisfied the Agency's fulfilment of its obligations under the FOI Act is a function under the Gambling Regulation Act and other related legislation and regulations.

60. In addition, I am not satisfied disclosure of the documents under the FOI Act amounts to disclosure for the purpose of enabling someone else, in this instance, the Applicant, to perform a function under a gaming Act or gaming regulations.

61. Finally, I do not accept disclosure of the documents to another gambling regulator allows subsequent disclosure to other persons without considering the application of section 10.1.30(1) in each instance. While the Agency may have disclosed 'protected information' to other persons, it does not alter the 'protected' nature of the information in the documents.

62. Section 10.1.32(1) provides:

(1) A regulated person may disclose protected information -

(a) with consent (express or implied) of the person to whose affairs the information relates;
or

...

(c) to a gambling regulator for regulatory or law enforcement purposes

63. In its application for review, the Applicant submits:

To the extent that the requested documents concern the affairs of Crown, we submit that Crown should be notified of the request, and able to provide its view on the disclosure of the information relating to it. If it consents to disclosure of information to [the Applicant], that information is not exempt, by virtue of s.10.1.32(1)(a).

64. There is no information before me regarding Crown's view as to disclosure of the information, nor is there any express obligation under the Gambling Regulation Act or the FOI Act under which the

Agency is required to seek Crown's consent in these circumstances. Accordingly, I am not satisfied the exception under section 10.1.32(1)(a) of the Gambling Regulation Act applies.

65. The Applicant also submitted:

To the extent that the requested documents were provided to the NSW regulator they were presumably provided to a gambling regulator for regulatory or law enforcement purposes. The information in those documents is not exempt, by virtue of s.10.1.32(1)(c).

66. I am not satisfied the permitted disclosure under section 10.1.32(1)(c) applies in this circumstance, as the Applicant is not a gambling regulator.

67. Section 10.1.32(2) and (3) provide:

(2) In addition to any disclosure permitted under subsections (1), the Minister or the Commission may disclose protected information (except to a court) if the Minister or the Commission (as the case requires) considers that-

(a) disclosure of the information is in the public interest; or

(b) in the circumstances, disclosure of the information is not unreasonable.

(3) The Minister or the Commission may authorise the disclosure of protected information, or protected information of a specified class, if the Minister or the Commission (as the case requires) considers that –

(a) disclosure of the information, or information of the class, is in the public interest; or

(b) in the circumstances, disclosure of the information, or information of the class, is not unreasonable.

68. In relation to the above, the Applicant submits:

... we have requested the documents on behalf of our client... due to a decision made by the NSW regulator. In light of this decision, the disclosure of the documents is not unreasonable, particularly in circumstances where [the Applicant] is well-equipped to understand such information, and is therefore permitted under this section. We further submit that it is in the public interest to enable access by [the Applicant] to the documents, since we understand that the documents discuss issues relating to gambling harm minimisation which is a matter of public interest. We therefore submit that the [Agency] should have considered whether it was appropriate to make disclosure under s. 10.1.32(2) or (3), in which case the relevant information would not be exempt.

69. In my view, sections 10.1.32(2) and (3) of the Gambling Regulation Act permits protected information to be disclosed at the Agency's own discretion, subject to various considerations. As this is at the Agency's discretion, I am not satisfied this section is impacted by the FOI Act such that it provides for disclosure of the 'protected information' in accordance with the FOI Act.

70. Therefore, as no exceptions under the Gambling Regulation Act apply, if the Agency were to disclose the documents sought by the Applicant, it would be in breach of section 10.1.30(1) of the Gambling Regulation Act.

71. Accordingly, on the information before me, I am satisfied:

(a) the Gambling Regulation Act is an enactment in force for the purposes of section 38;

(b) all documents sought by the Applicant would constitute or contain 'protected information' within the meaning of section 10.1.29 of the Gambling Regulation Act specifies;

- (c) the Gambling Regulation Act prohibits persons (in this case Agency officers and Commissioners) from disclosing the 'protection information'; and
- (d) the prohibition on disclosure is not subject to any of the exceptions under section 10.1.32 of the Gambling Regulation Act.

72. Therefore, I am satisfied all documents sought by the Applicant would be exempt under section 38 of the FOI Act in conjunction with section 10.1.30 of the Gambling Regulation Act.
73. Returning to the test set out in paragraph 17 above, I am satisfied it is apparent from the terms of the Applicant's request that all documents sought would be exempt. Therefore, the second limb of section 25A(5) has been met.

Is there scope to provide an edited copy of the documents requested?

74. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
75. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹¹ and the effectiveness of the deletions. Where deletions would render the document meaningless, they are not 'practicable', and release of an edited copy of a document is not required under section 25.¹²
76. During the review, the Applicant indicated they would accept an edited copy of the requested documents. However, on the information before me, I accept the Agency's submission it cannot provide an edited copy of the requested documents as all of the information to which the request relates is exempt from release. I am therefore satisfied the third limb of section 25A(5) has been met.

Conclusion

77. On the information before me, I am satisfied the following requirements for the application of section 25A(5) are met:
- (a) the exempt nature of the documents are apparent from the Applicant's FOI request, that is, the documents sought by the Applicant would be exempt from release under section 38 of the FOI Act in conjunction with section 10.1.30 of the Gambling Regulation Act;
 - (b) all documents sought by the Applicant would exempt for that reason; and
 - (c) there is no capacity for the Agency to edit any documents in accordance with section 25 such that the Agency would be obliged to grant partial access to a document or documents relevant to the Applicant's request in accordance with section 25.
78. Accordingly, I have decided to refuse to grant access to the requested documents in accordance with the Applicant's FOI request under section 25A(5).

¹¹ *Mickelborough 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].

¹² *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] and [155].

Review rights

79. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.¹³
80. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁴
81. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁵
82. 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.
83. 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.¹⁶

When this decision takes effect

84. My decision does not take effect until the relevant review period (stated above) expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

¹³ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹⁴ Section 52(5).

¹⁵ Section 52(9).

¹⁶ Sections 50(3F) and (3FA).