

Notice of Decision and Reasons for Decision

Applicant:	'DZ4'
Agency:	Department of Treasury and Finance
Decision date:	2 May 2022
Exemptions considered:	Sections 28(1)(ba), 28(1)(d), 30(1), 32(1), 34(1)(b)
Citation:	'DZ4' and Department of Treasury and Finance (Freedom of Information) [2022] VICmr 22 (2 May 2022)

FREEDOM OF INFORMATION – ministerial briefs – recommendations made to a Minister – matters of a business, commercial or financial nature – disclosure would not expose undertaking unreasonably to disadvantage – legal professional privilege – not privileged information – matter in the nature of opinion, advice and recommendation – disclosure not contrary to the public interest

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.

My decision on the Applicant's request differs from the Agency's decision in that I have decided to release additional information in the documents.

I am satisfied certain information in the documents is exempt from release under sections 28(1)(ba) and 28(1)(d), and irrelevant to the terms of the Applicant's request.

However, I am not satisfied information in the documents is exempt from release under sections 30(1), 32(1) or 34(1)(b).

As I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with irrelevant and exempt information deleted in accordance with section 25, access to the documents is granted in part.

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

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

2 May 2022

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency seeking access to the following ministerial briefs to the Treasurer:
 - B20/1113 - [title]
 - B20/1167 - [tile]
 - B20/1369 – [title]
 - B20/1040 – [title]
 - B20/1194 – [title]
 - B20/1080 – [title]
 - B20/1081 – [title]
2. The Agency identified seven documents falling within the terms of the Applicant's request and granted access to two documents in full and refused access to the remaining five documents in part under sections 28(1)(d), 30(1), 32(1) and 34(1)(b). The Agency's decision letter sets out the reasons for its decision.

Review application

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. During the review, the Applicant indicated they do not seek access to the personal affairs information of Agency officers in the documents. Accordingly, this is irrelevant information for the purposes of section 25.
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 all 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.
10. In conducting a review under section 49F, section 49P requires that I make a new or 'fresh decision'. Therefore, my review does not involve determining whether the Agency's decision is correct, but rather requires my fresh decision is the 'correct or preferable decision'. This involves ensuring my decision is correctly made under the FOI Act and any other applicable law in force at the time of making my fresh decision.

Review of exemptions

Section 28(1)(ba) – Document prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet

11. A document will be exempt under section 28(1)(ba) if the sole purpose, or one of the substantial purposes, for which the document was prepared was to brief a Minister in relation to an issue to be considered by the Cabinet. In the absence of direct evidence, the sole or substantial purpose of a document may be determined by examining the use of the document, including whether it was submitted to Cabinet.
12. The purpose of a ministerial briefing must be ‘immediately contemplated’ when the document is created. The exemption will not apply merely because the Cabinet considered the relevant issue at some future point.
13. The word ‘briefing’ means a ‘short accurate summary of the details of a plan or operation. The ‘purpose...is to inform’. Therefore, the document should have the character of briefing material. A document will be of such character if it contains ‘information or advice ... prepared for the purpose of being read by, or explained to, a [m]inister’. However, the act of briefing a Minister requires more than having ‘placed a document before a Minister’.
14. The term ‘issues to be considered by the Cabinet’ requires the Cabinet’s consideration of an issue must be more than just likely or probable. There must be an actual intention or expectation the relevant issue will be considered by the Cabinet, even if the issue is not ultimately considered.
15. My decision in relation to section 28(1)(ba) is outlined in the Schedule of Documents in **Annexure 1**.

Section 28(1)(d) – Disclosure would involve disclosure of any deliberation or decision of the Cabinet

16. The Agency relies on section 28(1)(d) to exempt from release information in Documents 3 and 4.
17. Section 28(1)(d) provides a document is an exempt document if it disclosure would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.
18. A document will be exempt under section 28(1)(d) if there is evidence the Cabinet discussed various options in a document and deliberated upon and/or adopted one or more options submitted to the Cabinet for its consideration.¹
19. A ‘decision’ means any conclusion as to the course of action the Cabinet adopts whether it is a conclusion as to final strategy on a matter or about how a matter should proceed.²
20. Where a decision of the Cabinet is made public, an announcement about the issue decided will not disclose the Cabinet’s decision or deliberation.³
21. In *Asher v Department of Sustainability and Environment*,⁴ the Victorian Civil and Administrative Tribunal (**VCAT**) held that where a document, on its face, does not disclose a decision or deliberation of the Cabinet, or the extent of the Cabinet’s interaction with a document is unclear, section 28(1)(d) will not apply.

¹ *Smith v Department of Sustainability and Environment* (2006) 25 VAR 65; [2006] VCAT 1228 at [23].

² *Della-Riva v Department of Treasury and Finance* (2005) 23 VAR 396; [2005] VCAT 2083 at [30].

³ *Honeywood v Department of Innovation, Industry and Regional Development* (2004) 21 VAR 1453; [2004] VCAT 1657 at [26].

⁴ [2010] VCAT 601.

22. My decision in relation to section 28(1)(d) is outlined in the Schedule of Documents in **Annexure 1**.

Section 30(1) – Internal working documents

23. The Agency relies on section 30(1) to exempt from release information in Documents 2, 4 and 5.

24. Section 30(1) has three requirements:

- (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister;
- (b) such matter must be made 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
- (c) disclosure of the matter would be contrary to the public interest.

25. The exemption does not apply to purely factual material in a document.⁵

26. The term ‘officer of an agency’ is defined in section 5(1). It includes a member of an agency’s staff and any person employed or engaged by or on behalf of an agency, regardless of whether they are subject to the *Public Administration Act 2004* (Vic).

27. In *Sportsbet v Department of Justice*, VCAT held, ‘[m]inisterial briefs are not exempt as a class and must be considered case by case’.⁶

Do the documents disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister?

28. For the requirements of section 30(1) to be met, a document must contain matter in the nature of opinion, advice or recommendation prepared by an agency officer, or consultation or deliberation between agency officers.

29. It is not necessary for a document to be in the nature of opinion, advice or recommendation. Rather, the issue is whether release of the document would disclose matter of that nature.⁷

30. Documents 2 and 4 are ministerial briefs that contain recommendations made by Agency officers to the Treasurer concerning the merits of different funding proposals for infrastructure projects.

31. Document 5 concerns litigation in relation to an infrastructure project.

32. Having reviewed the documents I am satisfied the information exempted from release by the Agency under section 30(1) constitutes matter in the nature of opinion, advice or recommendation prepared by Agency officers.

⁵ Section 30(3).

⁶ (General) [2010] VCAT 8 at [46] (per Justice Bell, VCAT President).

⁷ *Mildenhall v Department of Education* (1998) 14 VAR 87.

Were the documents made 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?

33. The term ‘deliberative process’ is interpreted widely and includes any of the processes of deliberation or consideration involved in the functions of an agency, a Minister or government.⁸

34. In *Re Waterford and Department of Treasury (No.2)*,⁹ the former Victorian Administrative Appeals Tribunal held:

... “deliberative processes” [is] wide enough to include any of the processes of deliberation or consideration involved in the functions of an agency... In short, ...its thinking processes — the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

35. I am satisfied the opinion, advice and recommendations in the documents was provided in the course of, and for the purpose of, the deliberative processes of the Agency, namely, in briefing the Treasurer on proposed funding options and the conduct of legal proceedings.

Would disclosure of the documents be contrary to the public interest?

36. In determining if disclosure of a document would be contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of information.

37. The Agency’s decision lists the following factors to support its decision that disclosure of certain information in the documents would be contrary to the public interest:

- high sensitivities of the issues involved in the considerations and current state of policy development;
- likelihood disclosure would inhibit frankness and candour in the making of communications and independence of officers in providing more detailed commentary and advice; and
- likelihood disclosure of information may only provide part of an explanation rather than a full explanation, which may cause confusion and promote ill-informed debate.

38. In determining whether the information exempted from release by the Agency would be contrary to the public interest, I have given weight to the following relevant factors:¹⁰

- (a) the right of every person to gain access to documents under the FOI Act;
- (b) the degree of sensitivity of the issues discussed in the documents and the broader context giving rise to the creation of the documents;
- (c) the stage of a decision or status of policy development or a process being undertaken at the time the communications were made;
- (d) whether disclosure of the documents would be likely to inhibit communications between Agency officers, essential for the agency to make an informed and well-considered decision or participate fully and properly in a process in accordance with the Agency’s functions and other statutory obligations;

⁸ *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at 208.

⁹ [1984] AATA 67; (1984) 5 ALD 588; 1 AAR 1 at [58].

¹⁰ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

- (e) whether disclosure of the documents would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a process, which the Agency would not otherwise be able to explain upon disclosure of the documents;
 - (f) the impact of disclosing documents in draft form, including disclosure not clearly or accurately representing a final position or decision reached by the Agency at the conclusion of a decision or process; and
 - (g) the public interest in the community being better informed about the way in which the Agency carries out its functions, including its deliberative, consultative and decision-making processes and whether the underlying issues require greater public scrutiny.
39. As stated above, the documents contain Agency officers' recommendations in relation to the merits of funding proposals and the conduct of legal proceedings that concern matters within the Minister's portfolio.
40. Having regard to the content and context of the ministerial briefs, and noting the responsibility of public sector employees to provide responsive and impartial advice to government,¹¹ I am of the view disclosure of the document[s] to the Applicant would not inhibit the ability of Agency officers to provide briefings, advice and recommendations, nor affect the integrity of ministerial briefing or decision making process in the future.
41. I have had regard to the object of the FOI Act, which is to create a general right of access to government-held information, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs. There is a strong public interest in the community being informed about government decision making and related processes, and that such processes are as transparent as possible to ensure accountability and integrity in government. In balancing the above factors, I am satisfied the disclosure of the deliberative material in the documents would not be contrary to the public interest and is consistent with the purpose and object of the FOI Act.
42. Accordingly, I am satisfied Documents 2, 4 and 5 are not exempt under section 30(1).
43. My decision in relation to section 30(1) is outlined in the Schedule of Documents in **Annexure 1**.

Section 32(1) – Documents affecting legal proceedings

44. Section 32(1) provides 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'.
45. Section 32(1) provides a document will be subject to legal professional privilege where it contains a confidential communication:¹²
- (a) between the client (or the client's agent) and the client's professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice or is referable to pending or contemplated litigation;

¹¹ See the public sector values in section 7(1) of the *Public Administration Act 2004* (Vic) (including, Responsiveness, Integrity and Impartiality) and the Victorian Public Service Commission, *Code of Conduct for Victorian Public Sector Employees* at <https://vpssc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/>.

¹² *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also section 119 of the *Evidence Act 2008* (Vic).

- (b) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
- (c) between the client (or the client's agent) and third parties that was made for the purpose of obtaining information to be submitted to the client's professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation.

46. Where a question of legal professional privilege arises, the Agency must establish, with evidence or arguments, that the dominant purpose for which a document was prepared was either for legal advice and/or anticipated litigation.¹³ These are referred to as advice privilege and litigation privilege respectively.

47. The High Court of Australia has held legal privilege ensures a client can openly and candidly discuss legal matters with their legal representative and seek and obtain legal advice:

The rationale of this head of privilege, according to traditional doctrine, is that it promotes the public interest because it assists and enhances the administration of justice by facilitating the representation of clients by legal advisers, the law being a complex and complicated discipline. This it does by keeping secret their communications, thereby inducing the client to retain the solicitor and seek his advice, and encouraging the client to make a full and frank disclosure of the relevant circumstances to the solicitor.¹⁴

48. Legal privilege will apply to a document prepared by the recipient of legal advice or an employee of the recipient, if it contains a written record of confidential legal advice provided by the recipient's legal advisor. The dominant purpose test is to be applied to the original communication and extends to notes without having to apply the dominant purpose test to the separate document recording the advice.¹⁵ This means, if an agency creates an internal document that records or discloses legal advice received by the Agency, legal privilege also will extend to that document.

49. Document 5 is a briefing to a Minister prepared by the Agency which summarises the progress of litigation regarding approval for a development project.

50. Having reviewed the document, I am satisfied it does not contain or reveal a confidential communication between the client and its professional legal advisers that was made for the dominant purpose of obtaining or providing legal advice or obtaining information to be submitted to the client's professional legal advisers regarding litigation.

51. While the Agency may have obtained legal advice in relation to the brief, the brief does not contain details of what legal advice was received in relation to the development of the brief. That is, while the document contains information about legal proceedings, it does not contain, discuss or disclose legal advice.

52. Accordingly, I am not satisfied the content of Document 5 is exempt from release under section 32(1).

53. My decision in relation to section 32(1) is outlined in the Schedule of Documents in **Annexure 1**.

Section 34(1)(b) – Business, commercial or financial information of an undertaking

54. The Agency relies on section 34(1)(b) to refuse access to Documents 2, 4 and 7 in part.

¹³ *Grant v Downs* (1976) 135 CLR 674 at 689.

¹⁴ *Grant v Downs* [1976] HCA 63; (1976) 135 CLR 674 at [19].

¹⁵ *Standard Chartered Bank of Australia Ltd v Antico* (1995) 36 NSWLR 87 at [91]-[93].

55. Section 34(1)(b) provides a document is an exempt document if its disclosure under the FOI Act:
- (a) would disclose information acquired by an agency (or a Minister) from a business, commercial or financial undertaking;
 - (b) the information relates to other matters of a business, commercial or financial nature; and
 - (c) the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.

Was the information acquired from a business, commercial or financial undertaking?

56. In *Thwaites v Department of Human Services*,¹⁶ VCAT observed the phrase ‘information acquired’ in section 34(1) signifies the need for some positive handing over of information in some precise form.

Does the information relate to matters of a business, commercial or financial nature?

57. VCAT has also recognised the words ‘business, commercial or financial nature’ have their ordinary meaning.¹⁷
58. As discussed above, Documents 2 and 4 are ministerial briefings that concern the merits of funding proposals for infrastructure projects. Document 7 is a brief concerning the regulation of non-government funding for healthcare infrastructure. Each document describes financial information related to non-government third party enterprises.
59. Accordingly, I am satisfied the documents contain information obtained by the Agency from third party undertakings of a commercial and financial nature.

Would disclosure of the information be likely to expose the undertakings unreasonably to disadvantage?

60. In determining whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of section 34(1)(b), an agency or Minister may take account of any of the following considerations under section 34(2):
- (a) whether the information is generally available to competitors of the undertaking;
 - (b) whether the information would be exempt matter if it were generated by an agency or a Minister;
 - (c) whether the information could be disclosed without causing substantial harm to the competitive position of the undertaking; and
 - (d) whether there are any considerations in the public interest in favour of disclosure which outweigh considerations of competitive disadvantage to the undertaking, for instance, the public interest in evaluating aspects of government regulation of corporate practices or environmental controls—
- and of any other consideration or considerations which in the opinion of the agency or Minister is or are relevant.
61. I have also had regard to *Dalla Riva v Department of Treasury and Finance*,¹⁸ in which VCAT held documents are exempt from release under section 34(1)(b) if their disclosure would:
- (a) give a competitor of a business undertaking a financial advantage;

¹⁶ (1999) 15 VAR 1.

¹⁷ *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

¹⁸ [2007] VCAT 1301 at [33].

- (b) enable a competitor of a business undertaking to engage in destructive competition with the business undertaking; and
 - (c) would lead to the drawing of unwarranted conclusions as to a business undertaking's financial affairs and position with detrimental commercial and market consequences.
62. In determining whether disclosure of commercially sensitive information in a document would expose an undertaking unreasonably to disadvantage, if practicable, an agency must notify the undertaking and seek its views on disclosure of the undertaking's business, commercial or financial information.¹⁹
63. The Agency advised it consulted with two of the four business undertakings in relation to Documents 2 and 7, which objected to disclosure of the financial information. There are, however, no submissions before me concerning the likelihood or unreasonableness of any disadvantage to which the third party undertakings would be exposed or the nature of any such disadvantage.
64. I consider the phrase 'expose the undertaking unreasonably to disadvantage' in section 34(1)(b), contemplates disclosure of documents under the FOI Act may expose a business undertaking to a certain measure of disadvantage. By the introduction of the word 'unreasonably' in section 34(1)(b), I consider Parliament determined this exemption applies where an undertaking would be exposed 'unreasonably' to disadvantage only, rather than where disclosure would result in any measure of exposure to disadvantage.
65. Accordingly, section 34(1)(b) contemplates a business undertaking may be exposed to a certain level of disadvantage. The question is whether any such disclosure would expose an undertaking unreasonably to disadvantage.
66. Having carefully reviewed the documents and the information before me, on balance, I am not satisfied disclosure of the information would cause the undertakings substantial financial or commercial harm.
67. In reaching this decision, I have taken into account the following considerations:
- (a) The documents were created as part of a process by which the government allocates public money to meritorious development proposals. I consider there is nothing sensitive about the nature of such documents or the way in which the information was acquired by the Agency such that release would give a competitor of the undertakings a financial advantage or would allow destructive competition.
 - (b) I accept there are circumstances where disclosure of information provided in confidence to an agency may affect confidential commercial dealings. However, I am not persuaded in this case where the relevant information does not go beyond a summary of the undertakings' financial commitment to approved government projects and the broad expectations of the undertakings' involvement.
 - (c) I am not satisfied disclosure of the documents would discourage others from applying for funding under similar government schemes.
 - (d) I consider disclosure of the documents to the Applicant is in the public interest and supports open and accountable government in the allocation of public money.

¹⁹ Section 34(3).

68. Accordingly, I am satisfied the information is not exempt under section 34(1)(b).
69. My decision in relation to section 34(1)(b) is outlined in the Schedule of Documents in **Annexure 1**.

Section 25 – Deletion of exempt or irrelevant information

70. 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.
71. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’²⁰ and the effectiveness of the deletions. Where deletions would render a document meaningless, they are not ‘practicable’, and release of the document is not required under section 25.²¹
72. I have considered the information the Agency deleted from the documents as irrelevant. I agree it falls outside the scope of the Applicant’s request as the Applicant agreed to exempt personal affairs information of Agency officers.
73. My decision in relation to section 25 is outlined in the Schedule of Documents in **Annexure 1**.

Conclusion

74. I am satisfied certain information in the documents is exempt from release under sections 28(1)(ba) and 28(1)(d) and irrelevant to the terms of the Applicant’s request.
75. However, I am not satisfied certain information in the documents is exempt from release under sections 30(1), 32(1) or 34(1)(b).
76. As I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with irrelevant and exempt information deleted in accordance with section 25, access to the documents is granted in part.
77. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Review rights

78. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.²²
79. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²³
80. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁴
81. 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.

²⁰ *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].

²¹ *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].

²² The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²³ Section 52(5).

²⁴ Section 52(9).

82. 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.²⁵

Third party review rights

83. As I have determined to release documents that contain information of a business, financial, commercial nature relating to business undertakings, if practicable, I am required to notify the business undertakings of their right to seek review by VCAT of my decision within 60 days from the date it is given notice.²⁶
84. In this case, I am satisfied it is practicable to notify the relevant third party of their review rights and confirm they will be notified of my decision on the date of decision.

When this decision takes effect

85. My decision does not take effect until the third parties' 60 day review period expires.
86. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

²⁵ Sections 50(3F) and 50(3FA).

²⁶ Sections 49P(5), 50(3), 50(3A) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
1.	N/A	Briefing B20/1113	N/A	Release in full	Not subject to review	
2.	[date]	Briefing B20/1167	3	Refuse in part Sections 30(1), 34(1)(b)	Release in part Section 25 The document is to be released except for information that is irrelevant, which is to be deleted in accordance with section 25, being: <ul style="list-style-type: none"> the irrelevant information redacted by the Agency. 	<p>Section 30(1): I am satisfied the document discloses matters in the nature of opinion, advice, recommendation, consultation or deliberation of an officer and the document was made in the course of, or for the purpose of, the deliberative processes involved in the functions of the agency. However, I am not satisfied disclosure of the relevant material, which the Agency determined is exempt from release under section 30(1), would be contrary to the public interest for the reasons outlined above.</p> <p>Section 34(1)(b): I am satisfied the document contains information acquired from a business undertaking relating to matters of a business, commercial or financial nature. However, I am not satisfied disclosure of certain material would be likely to expose the business undertaking unreasonably to disadvantage for the reasons outlined above.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						Section 25: The Applicant does not seek access to certain information in the documents. Therefore, such information is irrelevant to the terms of the Applicant's request and is to be deleted in accordance with section 25.
3.	[date]	Briefing B20/1369	1	Refuse in part Section 28(1)(d)	Release in part Sections 28(1)(ba), 25 The document is to be released except for information that is exempt and irrelevant, which is to be deleted in accordance with section 25, being: <ul style="list-style-type: none"> the irrelevant information redacted by the Agency; and information exempted from release by the Agency under section 28(1)(d). 	<p>Section 28(1)(ba): The Agency provided evidence an issue discussed in a paragraph in this document was the subject of a submission to be submitted to the Cabinet for consideration. Based on the information before me, I am satisfied the relevant information exempted from release by the Agency under section 28(1)(d) was prepared for the purpose of briefing a Minister in relation to an issue to be considered by a subcommittee of the Cabinet and is exempt under section 28(1)(ba).</p> <p>Section 28(1)(d): As I am satisfied the relevant information is exempt under section 28(1)(ba), it is not necessary to consider the application of section 28(1)(d) to the same information.</p> <p>Section 25: See comments for Document 2.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
4.	[date]	Briefing B20/1040	3	<p>Refuse in part</p> <p>Sections 28(1)(d), 30(1), 34(1)(b)</p>	<p>Release in part</p> <p>Sections 28(1)(d), 25</p> <p>The document is to be released except for information that is exempt and irrelevant, which is to be deleted in accordance with section 25, being:</p> <ul style="list-style-type: none"> the irrelevant information redacted by the Agency; and information exempted from release by the Agency under section 28(1)(d). 	<p>Section 28(1)(d): I am satisfied certain information in the document discloses deliberation of an issue by a subcommittee of the Cabinet and is exempt from release under section 28(1)(d).</p> <p>Sections 25, 30(1) and 34(1)(b): See comments for Document 2.</p>
5.	[date]	Briefing B20/1194	4	<p>Refuse in part</p> <p>Sections 30(1), 32(1)</p>	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released except for information that is irrelevant which is to</p>	<p>Sections 25 and 30(1): See comments for Document 2.</p> <p>Section 32(1): I am not satisfied the content of Document 5 is exempt from release under section 32(1) for the reasons set out above.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					<p>be deleted in accordance with section 25, being:</p> <ul style="list-style-type: none"> the irrelevant information redacted by the Agency. 	
6.	N/A	Briefing B20/1081	N/A	Release in full	Not subject to review	
7.	[date]	Briefing B20/1080	3	<p>Refuse in part</p> <p>Section 34(1)(b)</p>	<p>Release in part</p> <p>Section 25</p> <p>The document is to be released except for information that is irrelevant, which is to be deleted in accordance with section 25, being:</p> <ul style="list-style-type: none"> the irrelevant information redacted by the Agency. 	Sections 25 and 34(1)(b): See comments for Document 2.