

## Notice of Decision and Reasons for Decision

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Applicant: 'EY4'  
Agency: Department of Treasury and Finance, on behalf of Invest Victoria  
Decision date: 22 December 2022  
Exemptions considered: Sections 30(1), 34(4)(a)(ii)  
Citation: 'EY4' and Department of Treasury and Finance, on behalf of Invest Victoria (Freedom of Information) [2022] VICmr 250 (22 December 2022)

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FREEDOM OF INFORMATION – Invest Victoria – urban air mobility – advanced air mobility – blueprint – external consultant – business, commercial or financial information – agency engaged in trade or commerce – agency not exposed unreasonably to disadvantage

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 in part to a document requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision.

I am satisfied the document is not exempt from release under sections 30(1) or 34(4)(a)(ii).

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

The Schedule of Documents in **Annexure 1** sets out my decision.

My reasons for decision follow.

**Joanne Kummrow**  
Public Access Deputy Commissioner  
22 December 2022

## Reasons for Decision

### Background to review

1. The Applicant made a request to Invest Victoria via the Department of Treasury and Finance (the Department) seeking access to:
  1. Minutes and briefings relating to Invest Victoria convened Regulators Forum held on 15 July 2020.
  2. The most recent version of blueprint paper for urban air mobility in Victoria.
2. The Department processed this request on behalf of Invest Victoria and identified two documents falling within the terms of the Applicant's request. It granted access to one document in full and refused access to the other in full under section 34(4)(a)(ii).
3. The Department's decision letter sets out the reasons for its decision.

### Review application

4. The Applicant sought review by the Information Commissioner under section 49A(1) of the decision to refuse access to one document.
5. In considering this application, it came to my attention that Invest Victoria is a 'prescribed authority' as defined in section 5(1) of the FOI Act. Invest Victoria is therefore an 'agency' in its own right for the purposes of the FOI Act and its Principal officer, and/or a person authorised by them under section 23 of the FOI Act, is required to make the decision on an FOI request received by Invest Victoria. Both Invest Victoria and the Department were consulted on this issue.
6. The principal officer of Invest Victoria (hereafter referred to as the Agency) provided confirmation to me during this review that they authorised the Department to process and make the decision relating to this FOI request on their behalf.
7. I have examined a copy of the document subject to review, which is titled, 'Blueprint for enabling Advanced Air Mobility in Victoria – Draft Final Presentation'.
8. The Applicant and the Agency, via the Department, were invited to make a written submission under section 49H(2) in relation to the review.
9. I have considered all communications and submissions received from the parties.
10. 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.
11. 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.
12. 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 to be 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 my decision.

## Review of exemptions

### **Section 34(4)(a)(ii) – Information that would expose the Agency unreasonably to disadvantage**

13. A document is exempt under section 34(4)(a)(ii) if:
- (a) the agency is engaged in trade or commerce;
  - (b) the document contains information of a business, commercial or financial nature; and
  - (c) disclosure of which would be likely to expose the agency unreasonably or disadvantage.

#### *Is the Agency engaged in trade or commerce?*

14. Whether an agency is engaged in trade and commerce depends on the facts and circumstances of each case. While the phrase ‘trade and commerce’ may be interpreted broadly,<sup>1</sup> it has been held trade and commerce activities must ‘of their nature, bear a trading and commercial character’.<sup>2</sup>
15. The Victorian Civil and Administrative Tribunal (VCAT) has held ‘the terms ‘trade’ and ‘commerce’ are expressions of fact and terms of common knowledge’,<sup>3</sup> and has adopted the view of the Federal Court of Australia that these terms are ‘of the widest import’.<sup>4</sup>
16. An agency may be engaged in trade and commerce even if the trade or commerce activities in which it is engaged are insignificant and incidental to its other functions.<sup>5</sup>
17. The fact an agency’s main activities may be described as ‘governmental’ does not preclude an agency from relying on the exemption under section 34(4)(a)(ii).<sup>6</sup>
18. An agency may also be engaged in trade and commerce activities even if profit is not one of its express statutory objectives.<sup>7</sup>
19. The exemption in section 34(4)(a)(ii) is intended to apply where a public sector body conducts itself, or part of its operations, in a manner similar to a commercial entity.
20. The Agency relies on section 34(4)(a)(ii) to refuse access to the document.
21. The document was prepared by an external consultant engaged by Invest Victoria and broadly concerns ‘urban air mobility’ in Victoria.
22. Taking into consideration the above factors, I must be satisfied the Agency is engaged in ‘trade or commerce’ for the purposes of section 34 of the FOI Act and in the specific circumstances of this matter, limited only to the activities described in the document.
23. The Agency, via the Department, submits:

Invest Victoria sits within the Economic Development portfolio of the Department of Treasury and Finance, gazetted as an Administrative Office in relation to the Department under the *Public*

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<sup>1</sup> *Re Ku-Ring-Gai Co-operative Building Society (No 12) Ltd* (1978) 36 FLR 134 per Deane J, which whom Brennan J agreed.

<sup>2</sup> *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [35]; *Concrete Constructions (NSW) Pty LTD v Nelson* (1990) 169 CLR 594 at 690.

<sup>3</sup> *Pallas v Roads Corporation (Review and Regulation)* [2013] VCAT 1967 at [33].

<sup>4</sup> *Ibid* at [34]; *Re Ku-Ring-Gai Co-operative Building Society (No 12) Ltd* (1978) 22 ALR 621 at 649.

<sup>5</sup> *Marple v Department of Agriculture* (1995) 9 VAR 29 at [47].

<sup>6</sup> *Stewart v Department of Tourism, Sport and the Commonwealth Games* (2003) 19 VAR 363; [2003] VCAT 45 at [41].

<sup>7</sup> *Thwaites v Metropolitan Ambulance Services* (1996) 9 VAR 427 at [473].

*Administration Act 2004.* Invest Victoria is responsible for leading the State's engagement with international investment attraction with a focus on securing foreign direct investment (FDI) from global investors. Both the Agency and international investors operate in a highly competitive environment. The Invest Victoria team works to identify potential new technologies and capabilities that do not exist in Victoria, build investor relationships with targeted companies and works to secure these companies' expansion into Australia, and specifically Victoria. Before these investments are made, companies carefully survey their options, often working with multiple competing Australian and international investment facilitation agencies, assessing locations across the Asia Pacific region, before choosing a preferred location to establish, creating high skilled jobs. As a consequence, international and subnational jurisdictions and their investment agencies compete intensively to attract new market entrants.

...

Invest Victoria is seeking to achieve financial and commercial success for Victoria – for example, Invest Victoria's website expressly notes that the whole-of-government investment strategy "focuses on attracting global companies from emerging and growth industries that are crucial to growing the state's economy and creating jobs". Although Invest Victoria is not trying to achieve financial and commercial success for itself as a business entity, this objective is nonetheless more closely aligned to achieving financial and commercial success.

Invest Victoria does not conduct activities that are a government function comparable to road building that the government oversees for the citizens of Victoria as part of its core government responsibilities. Rather, Invest Victoria's activities support and facilitate business entities engaged in trade and commerce that supports economic growth for Victoria.

24. Given the functions of the Agency in the context of the document subject to review, I accept it is engaged in trade or commerce for the purposes of the FOI Act limited only to the activities described in the document. This is because, based on the information before me, I am satisfied the Agency is actively engaged in a competitive environment.

*Does the document contain information of a business, commercial or financial nature?*

25. The phrase 'information of a business, commercial or financial nature' is not defined in the FOI Act. I accept the words 'business, commercial or financial' should be given their ordinary meaning.<sup>8</sup>
26. The Agency, via the Department, submits:

[The document] outlines a range of possible investment attraction methodologies available to Invest Victoria to secure companies' investment and a set of potential strategic actions.

Significantly, the document makes clear that the State of Victoria's consideration about taking a commercial role in the industry, alongside other selected methodologies, will impact investor decision making about the suitability of Victoria for investment ahead of other jurisdictions. That is to say, the methods and actions that will create an attractive investment environment or potential new revenue streams for Government are the substance of this document.

In this way, the redacted document discloses information of a highly sensitive nature in relation to the potential future direction of Government commercial decision-making in regard to supporting the development of an Urban Air Mobility ecosystem in Victoria.

27. I am satisfied it contains business and commercial information.

*Would disclosure of the document be likely to expose the Agency unreasonably to disadvantage?*

28. Section 34(4) contemplates disclosure of a document containing information of a business, commercial or financial nature under the FOI Act may expose an agency to a certain measure of disadvantage.

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<sup>8</sup> *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [25].

29. In the context of section 34(4)(a)(ii), ‘disadvantage’ has been interpreted to be in the nature of an agency engaged in trade or commerce being exposed to commercial or competitive disadvantage. For example, in *Accident Compensation Commission v Croom*,<sup>9</sup> ‘disadvantage’ contemplated by this section is interpreted as ‘disadvantage in a business, commercial or financial sense’.<sup>10</sup>

In my opinion, the word “disadvantage” in the context of trade or commerce and information of a business, commercial financial in nature means injury of a financial kind.<sup>11</sup>

30. The term ‘likely’ in the context of this section means ‘probable, such as well might happen or be true’.<sup>12</sup>
31. Whether any disadvantage would be ‘unreasonable’ depends on the particular facts and circumstances of the matter and involves a balancing exercise.<sup>13</sup>
32. Further, it is not enough to establish there is a likelihood of disadvantage as any such exposure to disadvantage must be ‘unreasonable’ in the circumstances.<sup>14</sup>
33. Unlike section 34(1)(b), which is to be considered in conjunction with the factors under section 34(2), there is no list of factors to be considered in relation to section 34(4)(a)(ii).
34. I note VCAT has taken the following factors into consideration:<sup>15</sup>
- (a) the nature of the information to be disclosed;
  - (b) the circumstances in which the information was obtained by the agency;
  - (c) the likelihood that concerned persons would not wish the information to be disclosed without their consent; and
  - (d) the current relevance and sensitivity of the information.
35. The Agency, via the Department, submits disclosure of the document would be reasonably likely to expose the Agency unreasonably to disadvantage for the following reasons:

The document reveals information that is not publicly available as to Victoria’s potential plans for investment attraction in the advanced aerial mobility sector, nor is it available to the Agency’s competitors, being other states or countries competing in the market for commercial investments.

The document presents a range of options and methods to government that each have significant implications in the way they could be interpreted by potential investors in the State, impacting their investment location decisions. This is also true of Victoria’s competitors who are equally vying to attract the investment of major players of the industry to their jurisdictions.

The document reveals the methods that could be employed by the Agency to attract investment, and this disclosure would expose Victoria to competitive disadvantage in attracting investment over other jurisdictions.

Significant investments in Victoria’s pipeline could be lost should investors draw conclusions about actions that the State may choose not to take, or not take at a particular time.

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<sup>9</sup> [1991] 2 VR 322.

<sup>10</sup> *Ibid* at 325.

<sup>11</sup> *Ibid* at 331.

<sup>12</sup> *Asher v Department of Innovation, Industry and Regional Development* [2005] VCAT 2702 at [38]; *Gibson v Latrobe City Council (General)* [2008] VCAT 1340 at [39].

<sup>13</sup> *Asher MP v Department of Innovation, Industry and Regional Development (General)* [2005] VCAT 2702 at [28] and [38].

<sup>14</sup> *Re Byrne and Swan Hill Rural City Council* (2000) 16 VAR 366 as cited in *Dalla-Riva v Department of Treasury and Finance* [2005] VCAT 2083 at [30].

<sup>15</sup> *Byrne v Swan Hill Rural City Council* (2000) 16 VAR 366 at 372-3; *Page v Metropolitan Transit Authority* (1988) 2 VAR 243 at 246; *Dalla Riva v Department of Treasury and Finance* [2005] VCAT 2083 at [30]; as cited in *Gibson v Latrobe City Council (general)* [2008] VCAT 1340 at [41].

...

This disadvantage is likely to occur through release because the applicant is regularly published in the media and it is safe to therefore conclude the applicant may be interested to publish this document or - more likely - a narrative interpreting it in the general press. The disadvantage is likely to occur soon after the applicant publishes their interpretation of the document, at a time when potential investors and competitor jurisdictions will read and interpret the applicant's characterisation of Victoria's potential investment attraction plan for the sector using this document. This will have immediate impact on investor decision making when assessing whether or not Victoria is the right place to invest or whether significant investment in trials, assembly, infrastructure and manufacturing relevant to the advanced aerial mobility sector should be made elsewhere instead in the region.

...many international investors from the whole advanced aerial mobility supply chain now have certainty of a strong Australian regulatory pathway and clear timelines to commercialisation on the horizon in Australia. The provided timelines for a commercial advanced aerial mobility industry in Australia have in turn increased competitive investment activity between Australian states and territories, seeking to secure major investment now as different companies determine where to locate their Australian operations

This unpublished document outlines some potential strategies for investment attraction in a highly competitive environment, with the release and potential impact on or withdrawal of investment for Victoria having significant implications.

The public release of this information significantly disadvantages the Agency as the investment attraction agent of the State with a significant adverse impact on the Victorian economy.

Considering the investment at risk into the State, the public interest weighs against disclosure, as to disclose this document would inhibit the Agency from the function ascribed to it by government which is unreasonable.

36. The document sets out the current industry landscape, conditions for industry growth and the potential benefits to the state of Victoria with respect to advanced air mobility. However, the document ultimately represents a proposed policy framework and does not reveal any negotiations between the State and business undertakings or investment strategies. While I acknowledge that release of the document may reveal that the Agency may have an interest in developing policy or investing in this area, the document does not reveal any commercial or strategic information that may expose the Agency unreasonably to disadvantage with respect to attracting investors.
37. The stated risk is that release may have a negative impact on potential decision making and in attracting investors over other jurisdictions has not been established in sufficient detail to meet the requirements of section 34(4)(a)(ii), which requires an Agency to clearly articulate an actual disadvantage that is reasonably likely to occur.
38. Even if a defined disadvantage had been established, given the above stated role of the Agency at paragraph 23, the Agency is not subject to the same market forces or competition as a commercial entity would be. As such, I consider it would be reasonably likely to overcome any exposure to disadvantage arising from disclosure of the document.
39. Further, I consider government agencies have considerable bargaining strength in the provision of services. In this case, I am not satisfied there is sufficient evidence before me to support the view that disclosure would impact the ability of the State government to attract future offers from private sector companies, because the potential terms on which it did business would become publicly known. Ultimately, businesses will more likely than not be prepared to do business with government agencies where they consider it is in their commercial interests to do so.
40. Accordingly, I do not accept disclosure of the document would be likely to expose the Agency unreasonably to disadvantage and I am not satisfied the document is exempt under section 34(4)(a)(ii).

### **Section 30(1) – Internal working documents**

41. During the review, the Department was provided with an initial view that section 34(4)(a)(ii) does not apply to the document and was invited to provide a further submission on whether other exemptions may apply, specifically sections 30(1) and 33(1).
42. While maintaining its view section 34(4)(a)(ii) applies, the Department made a further submission addressing the application of section 30(1), which states as follows:

In respect to the application of s30(1) to the document, ... we would argue that partial release of this document could be interpreted by the reader as representing a Victorian Government public policy release.. and would therefore be problematic under section 30(1). Public policy for the sector is subject to deliberative processes of the government. ... disclosure [of a document] that is taken to represent a government position is therefore likely to create great community and industry confusion about government plans and intentions and is therefore contrary to the public interest.

We would also add that: An Industry Vision Statement<sup>16</sup> for the sector was publicly released on 30 August 2022 and reflects an agreed public policy position for an emerging sector....

The published statement is designed to support industry and community understanding of the current Victorian position in this highly complex area. The release of a public vision statement underlines how releasing draft documentation produced by third party consultants as part of broader deliberative processes that is not endorsed by Government and does not reflect the content of the publicly released policy, with recommendations and action plans that contradict in many areas the government’s actual public position, will create confusion, thereby undermining investor and community confidence in the technology and being contrary to the public interest.

43. 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; and
  - (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.
44. The exemption does not apply to purely factual material in a document.<sup>17</sup>
45. The term ‘officer of an Agency’ is defined in section 5(1). It includes a member of the agency, a member of the agency’s staff, and any person employed by or for the agency, regardless of whether they are subject to the *Public Administration Act 2004* (Vic) apply or not.

*Does the document 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?*

46. 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.

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<sup>16</sup> State of Victoria, *Advanced Air Mobility in Victoria - Industry Vision Statement* (August 2022)

[https://www.invest.vic.gov.au/\\_data/assets/pdf\\_file/0006/703077/AAM-Industry-Vision-Statement-2022.pdf](https://www.invest.vic.gov.au/_data/assets/pdf_file/0006/703077/AAM-Industry-Vision-Statement-2022.pdf).

<sup>17</sup> Section 30(3).

47. 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.<sup>18</sup>
48. Section 30(3) provides purely factual information is not exempt under section 30(1). This provision must be considered in conjunction with section 25, which allows for an edited copy of a document to be released with exempt or irrelevant information deleted, where it is practicable to do so.
49. I am satisfied the document contains information in the nature of opinion, advice and recommendation prepared by external consultants who are Agency 'officers' in that they were engaged by the Agency pursuant to section 5(1).

*Was the document 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?*

50. The term 'deliberative process' is interpreted broadly and includes any of the processes of deliberation or consideration involved in the functions of an agency, Minister or government.<sup>19</sup>
51. In *Re Waterford and Department of Treasury (No.2)*,<sup>20</sup> 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.

52. I am satisfied the document was made in the course of, and for the purpose of, the Agency's deliberative processes in relation to the planning and development in the area of urban air mobility.

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

53. In deciding if release is contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful that the object of the FOI Act is to facilitate and promote the disclosure of information.
54. In deciding whether the information exempted by the Agency would be contrary to the public interest, I have given weight to the following relevant factors:<sup>21</sup>
  - (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 document and the broader context giving rise to the creation of the document;
  - (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 document 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;

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<sup>18</sup> *Mildenhall v Department of Education* (1998) 14 VAR 87.

<sup>19</sup> *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at [208].

<sup>20</sup> [1984] AATA 67; (1984) 5 ALD 588; 1 AAR 1 at [58].

<sup>21</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483 at 488.



- (e) whether disclosure of the document 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 document;
- (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.

55. Having reviewed the document and considered the submissions, I have determined that disclosure of the document would not be contrary to the public interest for the following reasons:

- (a) I do not accept the Department's submission that release of the document 'could be interpreted by the reader as representing a Victorian Government public policy release'. I am of the view members of the public are capable of understanding that the document may contain information that will be subject to change. I consider the Agency, in releasing the document, will be able to provide any further explanatory information to assist the public in understanding the information in the document given the current status of the Government's position on advanced air mobility in Victoria or further information that has become available since the document was created.
- (b) I also note the views of VCAT in *Graze v Commissioner for State Revenue*,<sup>22</sup> which observed the possibility of public scrutiny in some circumstances provides for better administrative decision making.
- (c) There is a strong public interest in the public being informed about the potential impact of investment projects on the community and the development of the advanced air mobility market in Victoria. Responsible government calls for an adequate degree of transparency to enable informed public debate. I consider disclosure of the document will increase the quality of information available to the public upon which any debate is based. If the public is informed about the underlying analysis and policies in relation to investment projects only after a decision is made, the ability of the public to engage in informed and effective debate is significantly reduced.
- (d) The Agency is responsible for ensuring advice it receives is accurate, complete and properly considered. It is the role of government, supported and informed by analysis and advice undertaken by Agency officers or consultants, to make decisions and act in the best interests of the public – a role that is necessarily and appropriately the subject of public scrutiny.
- (e) I consider there is a strong 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 with respect to investments on behalf of the State of Victoria. Further, disclosure would likely contribute to greater public scrutiny and community participation in the Agency's role in the development of new technological and economic investment.

56. Accordingly, I am satisfied disclosure of the document would not be contrary to the public interest, and this document is not exempt from release under section 30(1).

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<sup>22</sup> [2013] VCAT 869.

### **Section 25 – Deletion of exempt or irrelevant information**

57. 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.
58. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’<sup>23</sup> 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.<sup>24</sup>
59. During the review, the Applicant advised they do not seek access to personal affairs information in the document. Accordingly, personal affairs information, such as names and position titles, is to be deleted from the document as it is irrelevant information for the purposes of this review.
60. I am satisfied it is practicable to delete irrelevant information from the document in accordance with section 25, as it will not take substantial time or effort and the document will retain meaning.

### **Conclusion**

61. On the information before me, I am satisfied the document is not exempt from release under sections 30(1) and 34(4)(a)(ii).
62. Accordingly, I have determined to grant access to the document in part with irrelevant information deleted in accordance with section 25.

### **Review rights**

63. 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>25</sup>
64. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>26</sup>
65. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>27</sup>
66. 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.
67. 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>28</sup>

### **When this decision takes effect**

68. My decision does not take effect until the Agency’s 14 day review period expires.
69. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

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<sup>23</sup> *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].

<sup>24</sup> *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].

<sup>25</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>26</sup> Section 52(5).

<sup>27</sup> Section 52(9).

<sup>28</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  | OVIC Comments   |
|--------------|------------------|---|--------------|--|--|---|
| 1.           | 15/07/2020       | Minutes and briefings relating to Invest Victoria convened Regulators Forum | -            | Release in full                        | Not subject to review  |   |
| 2.           | [date]           | Blueprint for enabling Advanced Air Mobility in Victoria                    | 107          | Refuse in full<br>Section 34(4)(a)(ii) | Release in part<br>Section 25<br>The document is to be released with personal affairs information deleted in accordance with section 25. | Sections 30(1) and 34(4)(a)(ii):<br>I am not satisfied the document is exempt from release for the reasons set out in the Notice of Decision above.<br><br>Section 25: I am satisfied it is practicable to provide the Applicant with an edited copy of the document with irrelevant information deleted in accordance with section 25. |