

## Notice of Decision and Reasons for Decision

---

|                        |  |
|------------------------|--|
| Applicant:             | 'FG1'  |
| Agency:                | Department of Treasury and Finance   |
| Decision date:         | 19 June 2023   |
| Exemptions considered: | Sections 28(1)(ba), 28(1)(d), 30(1), 34(4)(a)(ii)  |
| Citation:              | 'FG1' and Department of Treasury and Finance (Freedom of Information) [2023] VICmr 63 (19 June 2023) |

---

FREEDOM OF INFORMATION – ministerial briefings – Budget Sector Debt Portfolio Interest Rate Risk Management – school bank balances 2021 – commercial passenger vehicle industry COVID-19 compliance support funding

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 documents requested by the Applicant under the FOI Act.

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

On the information before me, I am satisfied certain information in the documents is exempt from release under sections 28(1)(ba), 28(1)(d) and 34(4)(a)(ii). However, I am not satisfied information is exempt from release under section 30(1).

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 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.

**Sven Bluemmel**  
Information Commissioner

19 June 2023

## Reasons for Decision

### Background to review

1. The Applicant made a request to the Agency seeking access to specified briefs to the Treasurer.
2. The Agency identified eight documents falling within the terms of the Applicant's request and granted access to one document in full and refused access to seven documents in part under sections 28(1)(d), 30(1), 34(1)(b) and 34(4)(a)(ii). 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. The Applicant only seeks review of Documents 2, 5 and 8. Accordingly, the remaining documents fall outside of the scope of my review.
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 to be the 'correct or preferable decision'.<sup>1</sup> 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.

---

<sup>1</sup> *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at [591].

## Review of exemptions

### **Section 28(1)(d) – Disclosure of any deliberation or decision of the Cabinet**

11. Section 28(1)(d) provides a document is an exempt document if its disclosure would involve the disclosure of any deliberation or decision of the Cabinet or a sub-committee of the Cabinet,<sup>2</sup> other than a document by which a decision of the Cabinet was officially published.
12. A document will be exempt under section 28(1)(d) if there is evidence the Cabinet discussed and determined options or issues set out in a document.<sup>3</sup>
13. In *Asher v Department of Sustainability and Environment*,<sup>4</sup> the Victoria 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.
14. In *Secretary to the Department of Infrastructure v Asher*,<sup>5</sup> the Victoria Court of Appeal held ‘deliberations’ should be given a narrow interpretation such that it means the actual debate that took place rather than the subject matter of a debate:

It all depends upon the terms of the document. At one end of the spectrum, a document may reveal no more than that a statistic or description of an event was placed before Cabinet. At the other end, a document on its face may disclose that Cabinet required information of a particular type for the purpose of enabling Cabinet to determine whether a course of action was practicable or feasible or may advance an argument for a particular point of view.<sup>6</sup> The former would say nothing as to Cabinet’s deliberations; the latter might say a great deal.

15. 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 conclusions about how a matter should proceed.<sup>7</sup>
16. Where a decision made by the Cabinet is public, an announcement in relation to the issue decided will not disclose the Cabinet’s decision or deliberation.<sup>8</sup>

### *Document 5*

17. Document 5 is a brief to the Treasurer to provide them with information on government school bank balances in 2021, prior to a Victorian State Budget deliberation process.
18. The Agency has exempted details of an initiative to encourage schools to spend down balances under section 28(1)(d) in paragraph 13(a). The Agency provided OVIC with an

---

<sup>2</sup> Section 28(7).

<sup>3</sup> *Smith v Department of Sustainability and Environment* (2006) 25 VAR 65; [2006] VCAT 1228 at [23]; *Asher v Department of Infrastructure* (2006) 25 VAR 143; [2006] VCAT 1375 at [27].

<sup>4</sup> (General) [2010] VCAT 601 (6 May 2010) at [42], citing *Re Birrell and Department of Premier and Cabinet [Nos 1 and 2]* (1986) 1 VAR 230 at [239].

<sup>5</sup> (2007) 19 VR 17; [2007] VSCA 272 at [8].

<sup>6</sup> *Re Smith and Department of Environment and Sustainability* [2006] VCAT 1228.

<sup>7</sup> *Dalla Riva v Department of Treasury and Finance* (2005) 23 VAR 396; [2005] VCAT 2083 at [30], citing *Toomer and Department of Agriculture, Fisheries and Forestry and Ors* [2003] AATA 1301.

<sup>8</sup> *Honeywood v Department of Innovation, Industry and Regional Development* (2004) 21 VAR 1453; [2004] VCAT 1657 at [26]; *Ryan v Department of Infrastructure* [2004] VCAT 2346 at [46].

extrinsic document in support of its view the document will reveal disclosure of any deliberation or decision of the Cabinet or a sub-committee of the Cabinet.

19. I accept the information exempted in paragraph 13(a) would reveal information that was considered by a committee of the Cabinet.
20. It also exempted paragraph 14 under section 28(1)(d), the reasons for which I cannot explain in detail as to do so would reveal the very information claimed exempt. The Agency provided OVIC with an extrinsic document during this review, relating to a meeting of a committee of Cabinet in [month, year]. Having considered the date of the extrinsic document, I am not satisfied there is sufficient evidence before me to be satisfied paragraph 14 would reveal the deliberation or decision of Cabinet. Nevertheless, I will consider section 28(1)(ba), below.

#### *Document 8*

21. Document 8 concerns Commercial Passenger Vehicle Industry COVID-19 compliance support funding extension.
22. I am satisfied on the face of the document that the exempted information reveals decisions of a Cabinet committee. Accordingly, it is exempt from release under section 28(1)(d).
23. My decision on section 28(1)(d) with respect to Documents 5 and 8 is set out in the Schedule of Documents in **Annexure 1**.

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

24. Section 28(1)(ba) provides a document is exempt if it has been prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet.
25. 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.<sup>9</sup>
26. 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.<sup>10</sup>
27. The word ‘briefing’ means a ‘short accurate summary of the details of a plan or operation. The ‘purpose...is to inform the person being briefed’.<sup>11</sup> Therefore, the document should have the character of briefing material.<sup>12</sup> A document will be of such character if it contains

---

<sup>9</sup> *Ryan v Department of Infrastructure* (2004) 22 VAR 226; [2004] VCAT 2346 at [34] citing *Mildenhall v Department of Premier and Cabinet (No 2)* (1995) 8 VAR 478, at 290; *Herald & Weekly Times v Victorian Curriculum & Assessment Authority* [2004] VCAT 924 at [72]. See also *Department of Treasury and Finance v Dalla Riva* (2007) 26 VAR 96; [2007] VSCA 11 at [13].

<sup>10</sup> *Secretary to the Department of Treasury and Finance v Dalla Riva* [2007] VSCA 11 at [15]; *Ryan v Department of Infrastructure* [2004] VCAT 2346 at [34].

<sup>11</sup> *Ryan v Department of Infrastructure* [2004] VCAT 2346 at [41].

<sup>12</sup> *Ibid.*

'information or advice...prepared for the purpose of being read by, or explained to, a minister'.<sup>13</sup> It requires more than having 'placed a document before a minister'.<sup>14</sup>

28. The exemption cannot apply merely because Cabinet ultimately considered the issue.<sup>15</sup> The term 'issues to be considered by the Cabinet' within the meaning of section 28(1)(ba), requires that it must be more than just 'likely' the Cabinet will consider it. There must be an intention or expectation the relevant issue will be considered by the Cabinet, even if not ultimately considered.<sup>16</sup>
29. Having considered the extrinsic document provide by the Agency during this review, I am satisfied paragraph 14 of Document 5 briefs the Treasurer in relation to an issue that was to be considered by a Cabinet committee.
30. Accordingly, I am satisfied information in Document 5 is exempt from release under section 28(1)(ba).
31. My decision on section 28(1)(ba) is set out in the Schedule of Documents in **Annexure 1**.

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

32. 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.
33. 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.
34. Document 5 contains information exempted from release under section 30(1).

*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?*

35. 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.

---

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> *Environment Victoria Inc v Department of Primary Industries (general)* [2013] VCAT 39 at [40]; *Hennessy v Minister Responsible for the Establishment of an Anti-Corruption Commission & Anor (Review and Regulation)* [2013] VCAT 822.

<sup>16</sup> *Environment Victoria Inc v Department of Primary Industries* [2013] VCAT 39 at [38]-[41].

36. 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>17</sup>
37. The information exempted from release under section 30(1) is comments made by the Treasurer in response to a brief that provides an update on school cash accounts and actions to manage balances. I accept the comments are in the nature of opinion.

*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?*

38. 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>18</sup>
39. In *Re Waterford and Department of Treasury (No.2)*,<sup>19</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.
40. I am satisfied the document was made for the purposes of the deliberative processes of the Minister with respect to managing Victoria's budget and finances, specifically school bank balances in this instance.

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

41. 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.
42. 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>20</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 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 document would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a

---

<sup>17</sup> *Mildenhall v Department of Education* (1998) 14 VAR 87.

<sup>18</sup> *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at [208].

<sup>19</sup> [1984] AATA 67; (1984) 5 ALD 588; 1 AAR 1 at [58].

<sup>20</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

process, which the Agency would not otherwise be able to explain upon disclosure of the documents;

- (e) whether disclosure would not clearly or accurately representing a final position or decision reached by the Minister at the conclusion of a decision or process; and
  - (f) the public interest in the community being better informed about the way in which the Minister carries out their functions, including its deliberative, consultative and decision-making processes and whether the underlying issues require greater public scrutiny.
43. The Agency submits disclosure would compromise the deliberative processes involved in agency and ministerial relations.
44. In my view, disclosure would not be contrary to the public interest for the following reasons:
- (a) The document states that the purpose of the briefing was to provide the Treasurer with information on school bank balances prior to the budget deliberation process. The briefing was provided to the Treasurer on 10 December 2021 and signed on 21 March 2022 and the relevant Victorian State Budget was delivered on 3 May 2022. As such, the comments relate to issues considered in a previous budget process, which is now finalised.
  - (b) Disclosure is unlikely to inhibit Ministers from recording and communicating similar information in future. Rather, this document records the type of information that is ordinarily communicated as part of the Treasurer’s responsibilities.
  - (c) The exempted information records a decision or direction from the Treasurer regarding school cash balances ahead of a budget deliberation process. In my view, disclosure of this information is in the public interest, as it provides for accountability and transparency regarding directions provided to the Agency prior to a Victorian State Budget.
45. Accordingly, I am not satisfied that the information is exempt from release under section 30(1).
46. My decision on section 30(1) with respect to Document 5 is set out in the Schedule of Documents in **Annexure 1**.

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

47. Section 34(4)(a)(ii) provides a document is an exempt document if it contains, ‘in the case of an agency engaged in trade or commerce, information of a business, commercial or financial nature that would if disclosed under this Act be likely to expose the agency unreasonably to disadvantage’. 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 to disadvantage.
48. The Agency exempted parts of Document 2 under section 34(4)(a)(ii).

49. Document 2 is a brief to the Treasurer regarding the Budget Sector Debt Portfolio (**BSDP**) and the impact of interest rates on the Government's funding strategy.
50. The BSDP is a portfolio of debt borrowed by the Treasury Corporation of Victoria (**TCV**) on behalf of the State Government to provide funding for the budget.<sup>21</sup>
51. TCV is the central financing authority and financial advisor for Victoria.<sup>22</sup> TCV provides treasury services to state and public authorities that have been accepted as participating authorities by TCV under the *Treasury Corporation of Victoria Act 1992* (Vic) and provides services to other Victorian entities at the request of the Treasurer.<sup>23</sup>

*Is the Agency engaged in trade and commerce?*

52. Whether an agency is engaged in trade or commerce depends on the facts and circumstances of each case.<sup>24</sup>
53. VCAT has held 'the terms 'trade' and 'commerce' are not words of art; rather they are expressions of fact and terms of common knowledge'.<sup>25</sup> VCAT has adopted the view of the Federal Court of Australia that these terms are 'of the widest import'.<sup>26</sup>
54. An agency may be regarded as being engaged in trade or commerce, even if the amount of trade or commerce engaged in is insignificant and incidental to the agency's other functions.
55. Further, an agency may be engaged in trade or commerce, even if profit is not one of its express statutory objectives.<sup>27</sup>
56. It has been held trade and commerce must 'of their nature, bear a trading or commercial character'.<sup>28</sup>
57. The fact an agency's predominant activities may be described as 'governmental' does not preclude it from relying on the exemption under section 34(4)(a)(ii).<sup>29</sup>
58. In summary, the Agency submits it is engaged, through TCV, in trade and commerce in issuing government guaranteed bonds to investors to source funds to fund cash shortfalls in the budget.
59. I accept TCV is engaged in trade and commerce in the context of issuing bonds to investors.

---

<sup>21</sup> Department of Treasury and Finance, 'Treasury and Finance glossary for budget and financial reports' available at <https://www.dtf.vic.gov.au/sites/default/files/2018-04/DTF-glossary-for-budget-and-financial-reports%20%281%29.pdf>.

<sup>22</sup> Treasury Corporation of Victoria, *About TCV*, available at <https://www.tcv.vic.gov.au/about-tcv>.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Stewart v Department of Tourism, Sport and the Commonwealth Games* [2003] VCAT 45 at [41].

<sup>25</sup> *Gibson v Latrobe City Council (General)* [2008] VCAT 1340 at [33], citing *Re Ku-Ring-Gai Co-operative Building Society* (No 12) Ltd [1978] FCA 50; (1978) 36 FLR 134 per Deane J, with whom Brennan J agreed.

<sup>26</sup> *Ibid* at [34].

<sup>27</sup> *Thwaites v Metropolitan Ambulance Services* (1996) 9 VAR at [473].

<sup>28</sup> *Gibson v Latrobe City Council* [2008] VCAT 1340 at [35], citing *Concrete Constructions (NSW) Pty Ltd v Nelson* [1990] HCA 17; (1990) 169 CLR 594 at 604.

<sup>29</sup> *Stewart v Department of Tourism, Sport and the Commonwealth Games* (2003) 19 VAR 363; [2003] VCAT 45 at [41]; *Fyfe v Department of Primary Industries* [2010] VCAT 240 at [23].



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

60. The phrase 'information of a business, commercial or financial nature' is not defined in the FOI Act. Therefore, the words 'business, commercial or financial nature' should be given their ordinary meaning.<sup>30</sup>
61. The exempted information sets out information with respect to the Government's funding strategy, which I accept is information of a financial nature.

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

62. Whether disclosure is likely to expose an Agency *unreasonably* to disadvantage depends on the particular facts and circumstances of the matter, considering the consequences that likely to follow from disclosure of the information.
63. The provision contemplates that disclosure of a document under the FOI Act may expose the agency to a certain measure of disadvantage, and that any such exposure must be unreasonable.
64. The Agency submits the following disadvantage is likely to occur:

disclosure of the document would materially disadvantage [the Agency] as well as TCV if confidential details of the State's borrowing program and debt funding strategy are released to the wider public. One of the repercussions of such a release would be that investors could position their portfolios to take advantage of the proposed transactions that TCV will undertake and profit from this to the detriment of TCV and the State.

...

The subject document provides valuable and highly sensitive insights to wholesale bond market participants, and if the disclosure of the document is permitted, it will inevitably disadvantage TCV's ability to secure funding cost efficiently.

The release of the document which contains insights and analytics of the State's borrowing program and debt funding strategy would likely materially disadvantage and potentially harm the commercial interests of the State and TCV. Such harm/disadvantage will have long lasting effect as it is likely to occur every time TCV issues bonds in financial markets.

The release of the document which contains insights and analytics of the State's borrowing program and debt funding strategy would likely materially disadvantage and potentially harm the commercial interests of the State and TCV. Such harm/disadvantage will have long lasting effect as it is likely to occur every time TCV issues bonds in financial markets.

65. The Agency also submits the disadvantage would be unreasonable, considering all relevant facts and circumstances, given that:
- details of the State's debt portfolio issuance and management strategy contains highly sensitive commercial information such as composition of the debt benchmark, background on debt management decisions and specific details of the State's preferred and targeted maturities for new debt portfolio issuance;

---

<sup>30</sup> *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [25].

- if the requested information is released to the public, the market may front-run the TCV's issuance activities which may result in unreasonable disadvantage as the State will be required to pay higher interest costs.
66. I accept the Agency's submission that TCV will be exposed unreasonably to disadvantage as the information could be used by investors to disadvantage TCV's ability to secure funding cost efficiently.
67. As such, I am satisfied information in Document 2 is exempt from release under section 34(4)(a)(ii).
68. My decision on section 34(4)(a)(ii) with respect to Document 2 is set out in the Schedule of Documents in **Annexure 1**.

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

69. 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.
70. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'<sup>31</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>32</sup>
71. I note the Applicant did not seek access to names, telephone numbers or attachments to the documents in making their request to the Agency. As such, OVIC has not made inquiries with respect to attachments to the documents and names and telephone numbers are to remain deleted in accordance with section 25, as it is irrelevant information.
72. I have considered the effect of deleting irrelevant and exempt information from the documents. In my view, it is practicable for the Agency to delete the irrelevant and exempt information, because it would not require substantial time and effort, and the edited documents would retain meaning.
73. My decision on section 25 is set out in the Schedule of Documents in **Annexure 1**.

### **Conclusion**

74. On the information before me, I am satisfied certain information in the documents is exempt from release under sections 28(1)(ba), 28(1)(d) and 34(4)(a)(ii). However, I am not satisfied information is exempt from release under section 30(1).
75. 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 is granted in part.

---

<sup>31</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>32</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], [155].

76. My decision on each document is set out in the Schedule of Documents in **Annexure 1**.

### **Review rights**

77. If either party to this review is not satisfied with my decision, they are entitled to apply to the VCAT for it to be reviewed.<sup>33</sup>

78. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>34</sup>

79. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>35</sup>

80. 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.

81. 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>36</sup>

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

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

---

<sup>33</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>34</sup> Section 52(5).

<sup>35</sup> Section 52(9).

<sup>36</sup> Sections 50(3F) and 50(3FA).

**Annexure 1 – Schedule of Documents**

| <b>Document No.</b> | <b>Date of Document</b> | <b>Document Description</b>      | <b>No. of pages</b> | <b>Agency Decision</b>                              | <b>OVIC Decision</b>  | <b>OVIC Comments</b>   |
|---------------------|-------------------------|----------------------------------|---------------------|---|---|--|
| 1.                  | 8/12/2021               | Ministerial Briefing<br>B21/1586 | 4                   | Released in part<br>Sections 28(1)(d), 34(4)(a)(ii) | Not subject to review   |  |
| 2.                  | 8/12/2021               | Ministerial Briefing<br>B21/2054 | 4                   | Released in part<br>Section 34(4)(a)(ii)            | Release in part<br>Sections 34(4)(a)(ii), 25<br>No further information is to be released. | <b>Section 34(4)(a)(ii):</b> I am satisfied the document contains information that is exempt from release under section 34(4)(a)(ii) for the reasons provided in my decision above.<br><br><b>Section 25:</b> I am satisfied it is practicable to provide the Applicant with an edited copy of this document with exempt and irrelevant information deleted in accordance with section 25. |
| 3.                  | 8/12/2021               | Ministerial Briefing<br>B21/1631 | 3                   | Released in part<br>Section 28(1)(d)                | Not subject to review   |  |
| 4.                  | 10/12/2021              |                                  | 2                   | Released in full                                    | Not subject to review   |  |
| 5.                  | 10/12/2021              | Ministerial Briefing<br>B21/1790 | 4                   | Released in part<br>Sections 28(1)(d), 30(1)        | Release in part<br>Sections 28(1)(ba), 28(1)(d),<br>25                                    | <b>Section 28(1)(ba):</b> I am satisfied information in the document is exempt from release under section 28(1)(ba), for   |

| Document No. | Date of Document | Document Description          | No. of pages | Agency Decision                   | OVIC Decision  | OVIC Comments  |
|--------------|------------------|-------------------------------|--------------|-----------------------------------|--|--|
|              |                  |                               |              |                                   | <p>The following information in the document is to be released:</p> <p>(a) the information that the Agency exempted under section 30(1) on page 1.</p> <p>The below content is either irrelevant or exempt from release:</p> <p>(a) paragraph 13(a) is exempt from release under section 28(1)(d);</p> <p>(b) paragraphs 14(a) and (b) are exempt from release under section 28(1)(ba); and</p> <p>(c) the information the Agency deleted under section 25 as irrelevant information is to remain deleted.</p> | <p>the reasons provided in my decision, above.</p> <p><b>Section 28(1)(d):</b> I am satisfied information in the document is exempt from release under section 28(1)(d), for the reasons provided in my decision above.</p> <p><b>Section 30(1):</b> I am not satisfied information in the document is exempt from release under section 30(1) for the reasons provided in my decision above.</p> <p><b>Section 25:</b> See comments for Document 2.</p> |
| 6.           | 14/12/2021       | Ministerial Briefing B21/2014 | 4            | Released in part Section 28(1)(d) | Not subject to review  |  |

| Document No. | Date of Document | Document Description             | No. of pages | Agency Decision                                     | OVIC Decision   | OVIC Comments  |
|--------------|------------------|----------------------------------|--------------|---|---|--|
| 7.           | 8/12/2021        | Ministerial Briefing<br>B21/1586 | 4            | Released in part<br>Sections 28(1)(d), 34(4)(a)(ii) | Not subject to review   |  |
| 8.           | 8/12/2021        | Ministerial Briefing<br>B21/2054 | 4            | Released in part<br>Section 28(1)(d)                | Release in part<br>Sections 28(1)(d), 25<br>No further information is to be released. | Section 28(1)(d): I am satisfied information in this document is exempt from release under section 28(1)(d), for the reasons provided in my decision, above.<br><br>Section 25: See comments for Document 2. |