

## Notice of Decision and Reasons for Decision

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Applicant:	'FN7'
Agency:	Department of Justice and Community Safety
Decision date:	17 January 2024
Exemptions considered:	Sections 28(1)(d), 30(1), 33(1)
Citation:	'FN7' and Department of Justice and Community Safety (Freedom of Information) [2024] VICmr 11 (17 January 2024)

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FREEDOM OF INFORMATION – correspondence between Ministers and Commissioners – Funding Plan – disclosure not contrary to the public interest – document neither discloses a decision or deliberation of Cabinet

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.

I am satisfied that certain information in the documents is exempt from release under section 33(1). However, I am not satisfied information is exempt from release under section 30(1).

Where 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, I have determined to grant access to the documents in part.

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

Please refer to the end of this decision for information about further review rights through the Victorian Civil and Administrative Tribunal.

My reasons for decision follow.

Joanne Kummrow  
**Acting Information Commissioner**

## Reasons for Decision

### Background to review

1. The Applicant made the following request to the Agency:
  1. I am seeking access to information pursuant to the Freedom of Information Act 1982 (Vic).
  2. To assist I have attached two documents:
    - (a) A document from Fire Rescue Victoria that records its Executive Structure dated [date] (Annexure A)
    - (b) A document from Fire Rescue Victoria that records its Organisational Structure dated [date] (Annexure B)
  3. I seek access to a document or documents that contain:
    - (a) written directions and correspondence from the [a Minister] to Fire Rescue Victoria in relation to any fire service since [date];
    - (b) written directions and correspondence from [a Minister] to Fire Rescue Victoria since [date] that relate to the legal case currently being heard by the Federal Court of Australia under the matter number [number], and otherwise known as [reference]; and
    - (c) written directions and correspondence from [a Minister] to Fire Rescue Victoria since [date] that relate to the transfer of fire services infrastructure delivery arrangements from Fire Rescue Victoria to the Community Safety Building Authority.
  4. To put the request at [3](a) more specifically, I seek a document or documents written since [date] that contain:
    - (a) written directions from [a Minister], or by [named persons] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [several named persons]; and
    - (b) correspondence from [a Minister], or by [named persons] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [named persons].
  5. To put the request at [3](b) more specifically, I seek a document or documents written since [date] that contain:
    - (a) written directions from [a Minister], or by [named persons] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [several named persons], where that written direction relates to the legal case currently being heard by the Federal Court of Australia under the matter number [number], and otherwise known as [reference]; and

- (b) correspondence from [a Minister], or by [named person] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [several named persons], where that correspondence relates to the legal case currently being heard by the Federal Court of Australia under the matter number [number], and otherwise known as [reference].
- 6. To put the request at [3](c) more specifically, I seek a document or documents written since [date] that contain:
  - (a) written directions from [a Minister], or by [named persons] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [several named persons], where that written direction relates to the transfer of fire services infrastructure delivery arrangements from Fire Rescue Victoria to the Community Safety Building Authority; and
  - (b) correspondence from [a Minister], or by [named persons] on [their] behalf, and sent or issued to Fire Rescue Victoria or any person who holds an office within Fire Rescue Victoria's Executive Structure (per Annexure A) or Organisational Structure (per Annexure B) including [several named persons], where that correspondence relates to the transfer of fire services infrastructure delivery arrangements from Fire Rescue Victoria to the Community Safety Building Authority.
- 2. The Agency identified 34 documents falling within the terms of the Applicant's request and released two documents outside the FOI Act and 11 documents in full and refused access to 19 documents in part and to one document in full under sections 30(1) and 33(1).<sup>1</sup>
- 3. The Agency'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 Agency's decision to refuse access.
- 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.

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<sup>1</sup> In its decision letter, the Agency states that it released 10 documents in part and 21 documents in full. However, some of the documents counted as being 'released in full' had irrelevant personal affairs information deleted. Accordingly, I have considered certain documents as being released in part rather than in full.

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>2</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.

## Review of exemptions

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

11. The Agency refused access to Document 11 in full under section 30(1).
12. 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.
13. The exemption does not apply to purely factual material in a document.<sup>3</sup>

*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?*

14. 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.
15. 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>4</sup>
16. Document 11 is the Initial Funding Plan for Fire Rescue Victoria (**FRV**) for [date range].
17. It was attached to Document 10, which is a letter to the [position title] from [a Minister].
18. The document was prepared in accordance with section 130 of the *Fire Rescue Victoria Act 1958* (Vic) (**FRV Act**), which provides that the Minister must prepare an Implementation Plan in

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<sup>2</sup> *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at [591].

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

<sup>4</sup> *Mildenhall v Department of Education* (1998) 14 VAR 87.

relation to various matters, including the financial sustainability of FRV and must include the development of a funding plan.

19. I am satisfied the document discloses matter in the nature of advice and recommendation with respect to FRV funding.

*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?*

20. 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>5</sup>

21. In *Re Waterford and Department of Treasury (No.2)*,<sup>6</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.

22. The Agency submits the document was produced as part of the deliberative processes of the Agency. Specifically, it was produced because of a program of work regarding financial management processes in the emergency management sector and that it is also being used as a key source of input into a Cabinet submission.
23. The Applicant submits the document was not created or used for the deliberative process involved in the functions of government as there is an insufficient nexus between the document and the actual deliberative process. The Applicant states the exemption is not intended to apply to documents that merely inform other documents that are then used for deliberations, and it is too remote from the deliberative process intended to be captured by section 30(1).
24. I am satisfied the document was made in the course of, and for the purposes of, the deliberative processes involved in the Minister fulfilling their statutory obligation under section 130 of the FRV Act. Specifically, assessing the financial sustainability of FRV and developing an initial funding plan, which in my view, is a deliberative process within the meaning of section 30(1).

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

25. In deciding if release is 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. In doing so, I have given weight to the following relevant factors:<sup>7</sup>

- (a) the right of every person to gain access to documents under the FOI Act;

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<sup>5</sup> *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at [208].

<sup>6</sup> [1984] AATA 67; (1984) 5 ALD 588; 1 AAR 1 at [58].

<sup>7</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

- (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;
  - (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.
26. The Agency submits disclosure would be contrary to the public interest for the following reasons:
- (a) while the document was not created for the purposes of being submitted to the Cabinet, the document is a key source on input for Cabinet submissions;
  - (b) the document was attached to a Cabinet submission;
  - (c) information in the document is highly sensitive given its connection with matters considered by the Cabinet;
  - (d) the current deliberations and the nature of the sensitive information in the document may be subject to change and the release of this information prior to any decision is contrary to the public interest;
  - (e) the document contains sensitive point-in-time data;
  - (f) the document was prepared in consultation with FRV, which was required to release highly sensitive information to the Agency in confidence, which would not ordinarily be in the public domain, be held by the Agency and discloses the current financial management practices of FRV;
  - (g) there is a high risk that disclosure could damage the relationship between FRV and the Government given information has been provided in confidence for the delivery of an independent review;

- (h) disclosure would likely reduce trust between the Agency and FRV and impact the likelihood that FRV will work collaboratively with the Agency on sensitive financial matters in the future, noting that the Agency has conducted significant work to rebuild trust with FRV regarding engagement across financial management practices and areas requiring reform and release at this point in time would jeopardise this trust and engagement required to strengthen future financial sustainability;
  - (i) release of the document would impact the ability for the Agency and the Government to meaningfully address the longer-term financial position of FRV and other organisations within the emergency management sector. For example, the Agency considers that FRV would not proactively share financial material with the Agency and other emergency service organisations would likely not be forthcoming with material if there is a risk the Agency is required to release that information under FOI; and
  - (j) release of specific or select parts of the document could be used for malicious purposes, including suggesting that community safety is at risk because the document does not provide analysis of the budget, financial and investment decisions of FRV (or the former MFB), or the decisions made by key internal committees, that have led to the current financial position of FRV, and in isolation and without any analysis of these important considerations, it could be implied that the issue is a lack of funding only.
27. The Agency also made confidential submissions in support of its decision.
28. The Applicant submits disclosure would not be contrary to the public interest for the following reasons:
- (a) there is an inherent interest held by the public in having access to the budgetary information of public agencies for the purpose of transparency and accountability;
  - (b) there is an inherent public interest in understanding the expenditure of public funds; and
  - (c) the Agency has not met the requirements of section 36 for various reasons.
29. While the Applicant made submissions with respect to section 36, it is a separate exemption from section 30(1) and, while section 36 concerns whether disclosure of a document would be contrary to the public interest, it is separate to the public interest test under section 30(1).
30. I have carefully considered Document 11 and decided that disclosure of the document would not be contrary to the public interest for the following reasons:
- (a) I accept the information in Document 11 does not constitute a final decision with respect to funding FRV, and that such matters ultimately sit with the Cabinet. However, Document 11 clearly has a significant role with respect to funding considerations for FRV. Although the document is connected with issues that either have been or are to be considered by the Cabinet, I do not consider the document was created for such a purpose.
  - (b) I have also taken into consideration that the document is an interim funding plan only, is clearly marked as such and its purpose explained both in the document and the letter to which it was attached (See Document 10). In such circumstances, I am not satisfied the purpose of the document would be misunderstood or misused by the Applicant.

- (c) While I acknowledge the Agency's view that information was obtained from FRV on a confidential basis, I do not accept the Agency or the Minister will be inhibited from obtaining similar information from FRV in the future, particularly where it is in the interest of that agency to provide accurate and fulsome financial information when requested or required, including by the Minister.
- (d) Having considered the purpose for which the document was created, I consider it would be unlikely that FRV would refuse to provide information when it is requested from the Minister for the purposes of the Minister fulfilling their statutory obligations under the FRV Act.
- (e) There is a significant public interest in transparency in government spending of public funds, including funding and sustainability for public sector agencies.
- (f) I do not accept the Agency's submission that the document contains information that could pose a risk to the public.
- (g) I acknowledge the Agency's submission that the current deliberations and the nature of the sensitive information in the document may be subject to change and the release of this information prior to a final decision is against the public interest. However, I consider that such arguments underestimate the capacity of the public to understand advice received and decisions made by government are often done at a particular point in time and can be subject to change. As stated above, the document is clearly labelled as an interim funding report, and as stated in Document 10, a longer-term funding plan was also to be developed at a later date.
- (h) By providing access to information that demonstrates preliminary considerations, figures and advice on which eventual decisions are made, disclosure of documents such as these builds community trust in government decision making processes.

31. Accordingly, I am not satisfied that Document 11 is exempt from release under section 30(1).

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

- 32. As I am not satisfied that Document 11 is exempt from release under section 30(1), I have considered whether it is exempt under section 28(1)(d) for completeness, given the Agency's submission that the document was attached to a Cabinet submission.
- 33. 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>8</sup> other than a document by which a decision of the Cabinet was officially published.
- 34. Deliberation means the actual debate that took place, and not just the subject of the debate:<sup>9</sup>

[8] 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

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<sup>8</sup> Section 28(7).

<sup>9</sup> *Secretary to the Department of Infrastructure v Asher* [2007] VSCA 272 at [8] and [58].



or feasible or may advance an argument for a particular point of view. The former would say nothing as to Cabinet's deliberations; the latter might say a great deal.

[58]...when one has regard to the meaning of the term 'deliberation' and the object of the Act as contained in s 3, one cannot accept the appellant's submission that it is sufficient to attract the exemption that the document discloses the subject matter upon which Cabinet may have deliberated. The deliberative process involves the weighing up or evaluating of the competing arguments or considerations that may have a bearing upon Cabinet's course of action – its thinking processes - with a view to the making of a decision. It encompasses more than mere receipt of information in the Cabinet room for digestion by Cabinet ministers then or later.

[Citations omitted]

35. Having considered the Agency's submission that the document was not prepared for Cabinet, and was only attached to a Cabinet submission, I consider that the document itself was supplementary to the actual matter that was considered and the subject of deliberation by the Cabinet.
36. Accordingly, on the information before me and on the face of the document, I am not satisfied it discloses a decision or deliberation of the Cabinet, and is not exempt from release under section 28(1)(d).

***Section 33(1) – Documents affecting personal privacy of third parties***

37. A document is exempt from release under section 33(1) if two conditions are satisfied:
  - (a) disclosure of the document under the FOI Act would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant (a **third party**);<sup>10</sup> and
  - (b) such disclosure would be 'unreasonable'.

*Do the documents contain personal affairs information of individuals other than the Applicant?*

38. Information relating to a person's 'personal affairs' includes information that identifies any person or discloses their address or location. It also includes any information from which this may be reasonably determined.<sup>11</sup>
39. A document will disclose a third party's personal affairs information if it is capable, either directly or indirectly, of identifying that person.<sup>12</sup>
40. During the review, the Agency advised OVIC that it no longer claims certain information exempt from release under section 33(1), which included specified names, email addresses and position titles. This is set out in the Schedule of Documents in **Annexure 1** for the relevant documents.

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<sup>10</sup> Sections 33(1) and 33(2).

<sup>11</sup> Section 33(9).

<sup>12</sup> *O'Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

41. The information that the Agency seeks to remain exempt from release under section 33(1) are email addresses and telephone numbers of agency officers.

*Would disclosure of the personal affairs information be unreasonable?*

42. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the interest in protecting a third party's personal privacy in the particular circumstances.
43. In *Victoria Police v Marke*,<sup>13</sup> the Victorian Court of Appeal held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others'. Further, the exemption under section 33(1) 'arises only in cases of unreasonable disclosure' and '[w]hat amounts to an unreasonable disclosure of someone's personal affairs will necessarily vary from case to case'.<sup>14</sup> The Court further held, '[t]he protection of privacy, which lies at the heart of [section] 33(1), is an important right that the FOI Act properly protects. However, an individual's privacy can be invaded by a lesser or greater degree'.<sup>15</sup>
44. In determining whether disclosure of the personal affairs information would be unreasonable in the circumstances, I have considered the following factors:
- (a) the nature of the personal affairs information;
  - (b) the circumstances in which the information was obtained;
  - (c) the Applicant's interest in the information;
  - (d) whether any public interest would be promoted by release of the personal affairs information;
  - (e) the likelihood of disclosure of information, if released;
  - (f) whether the individuals to whom the information relates object, or would be likely to object, to the release of the information;
  - (g) whether disclosure of the information would or would be reasonably likely to endanger the life or physical safety of any person;<sup>16</sup>
45. The Applicant submits they seek access to personal affairs information so they can identify who within FRV, Emergency Management Victoria and the Minister's office were aware of, contributed to or was provided with the materials in these documents. They also seek the personal affairs information of decision-makers to engage and consult with them on future decisions.
46. The Applicant submits it would be in the public interest to disclose this as the documents refer to the affairs of a public agency and the decisions of the people referred to in these documents affect the interests of [specified members of the community]. For example, release of the

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<sup>13</sup> [2008] VSCA 218 at [76].

<sup>14</sup> Ibid.

<sup>15</sup> Ibid at [79].

<sup>16</sup> Section 33(2A).

information is in the interest of firefighters who provide for community safety so that they may understand how decisions are made including in relation to litigation relating to their wages, entitlements, and conditions of work and in relation to the building and construction of the fire stations and facilities they rely on to provide their essential function of fighting fires for the protection of life and property of the community.

47. The Applicant also submits the information to which the Agency refused access appears to relate to statutory office holders and there is an inherent and well-established public interest in disclosure of such information.
48. I am satisfied disclosure of certain personal affairs information, being email addresses and direct telephone numbers, would not be unreasonable for the following reasons:
- (a) in most of the documents, the Agency has either already released the names and position titles of the third parties, or no longer claims that information as exempt during this review. Accordingly, disclosure of the email addresses and direct telephone numbers are not going to add any further understanding about who was involved in the communications;
  - (b) generally, the direct contact details of an agency officer are not made widely available;
  - (c) I consider the Applicant would be reasonably likely to have established communication methods with the Agency given their role, and the non-disclosure of the direct email addresses and telephone numbers subject to review would not materially impact their ability to engage and consult with the Agency or other related persons or entities in the emergency management sector; and
  - (d) there is no public interest in disclosing the direct contact details where the name of a relevant third party has already been released.
49. Accordingly, I have determined to release the personal affairs information that the Agency no longer claims is exempt from release. However, I have determined the remaining personal affairs information is exempt from release under section 33(1).

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

50. 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.
51. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’<sup>17</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>18</sup>

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<sup>17</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>18</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].

52. I have considered the information the Agency deleted from the documents as irrelevant, which is the name of an Agency officer who saved the email correspondence into PDF format for the purpose of processing the FOI request. I agree it falls outside the scope of the Applicant's request and is to remain deleted.
53. I have considered the effect of deleting irrelevant and exempt information from the documents. In my view, it is practicable to delete the irrelevant and exempt information, as to do so would not require substantial time and effort, and the edited documents would retain meaning.

### Conclusion

54. On the information before me, I am satisfied certain information in the documents is exempt from release under section 33(1). However, I am not satisfied information is exempt from release under section 30(1).
55. Where 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.
56. The Schedule of Documents in **Annexure 1** sets out my decision.

### Timeframe to seek a review of my decision

57. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (VCAT) for it to be reviewed.<sup>19</sup>
58. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>20</sup>
59. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>21</sup>
60. 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.
61. 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>22</sup>

### Third party review rights

62. As I have determined to release documents that contain the personal affairs information of persons other than the Applicant, if practicable, I am required to notify those persons of their

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<sup>19</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>20</sup> Section 52(5).

<sup>21</sup> Section 52(9).

<sup>22</sup> Sections 50(3F) and 50(3FA).

right to seek review by VCAT of my decision within 60 days from the date they are given notice.<sup>23</sup>

63. In this case, I am satisfied it is practicable to notify the relevant third parties of their review rights and confirm they will be notified of my decision on the date of decision.

**When this decision takes effect**

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

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<sup>23</sup> Sections 49P(5), 50(3) 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.	[date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released.	<b>Section 25:</b> I am satisfied the name in the top left corner is irrelevant information for the purposes of my review and is to be deleted.
2.	[date]	Attachment to Document 2	2	Released in full	Not subject to review	
3.	[date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released.	<b>Section 25:</b> See comments for Document 1.
4.	[date]	Attachment to Document 3	2	Released in full	Not subject to review	
5.	[date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released.	<b>Section 25:</b> See comments for Document 1.

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
6.	[date]	Attachment to Document 5	2	Released in full	Not subject to review	
7.	[date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released.	Section 25: See comments for Document 1.
8.	[date]	Attachment to Document 7	2	Released in full	Not subject to review	
9.	[date]	Email	1	Released in part Section 25	Release in part Section 25 No further information is to be released.	Section 25: See comments for Document 1.
10.	[date]	Attachment 1 to Document 9	2	Released in part Section 33(1)	Released in part Section 33(1) The name of the third party is to be released.	Section 33(1): During the review, the Agency advised it no longer considers section 33(1) applies to the name to which it had refused access, and it can be released. Accordingly, the relevant information to which the Agency refused access, is to be released.

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>However, it still claims email addresses and telephone numbers are exempt from release.</p> <p>I am satisfied the email address and telephone number are exempt from release under section 33(1) for the reasons provided in the Notice of Decision above.</p> <p><b>Section 25:</b> I am satisfied it is practicable to provide the Applicant with an edited copy of this document.</p>
11.	Undated	Attachment to Document 10	24	<b>Refused in full</b> Section 30(1)	<b>Release in full</b>	<p><b>Section 30(1):</b> I am not satisfied this document is exempt from release under section 30(1) for the reasons provided in the Notice of Decision above.</p> <p><b>Section 28(1)(d):</b> I am not satisfied this document is exempt from release under section 28(1)(d) for the reasons provided in the Notice of Decision above.</p>



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						<b>Section 25:</b> see comments for Document 10.
12.	[date]	Email	1	<b>Released in part</b> Section 25	<b>Release in part</b> Section 25 No further information is to be released.	<b>Section 25:</b> See comments for Document 1.
13.	[date]	Attachment to Document 12	2	<b>Released in full</b>	<b>Not subject to review</b>	
14.	[date]	Email	1	<b>Released in part</b> Sections 33(1), 25	<b>Release in part</b> Section 25 The name at the top left corner of the document is to remain deleted as it is irrelevant information.	<b>Section 33(1):</b> During the review, the Agency advised it no longer considers information in this document is exempt from release under section 33(1). Accordingly, the information to which the Agency refused access is to be released. <b>Section 25:</b> See comments for Document 10.
15.	[date]	Attachment to Document 14	2	<b>Released in full</b>	<b>Not subject to review</b>	

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16.	Undated	Attachment to Document 15	1	Released in full	Not subject to review	
17.	[date]	Email	1	Released in part Sections 33(1), 25	Release in part Section 25 The name at the top left corner of the document is to remain deleted as it is irrelevant information.	<b>Section 33(1):</b> See comments for Document 14. <b>Section 25:</b> See comments for Document 10.
18.	[date]	Attachment to Document 17	3	Released outside of the FOI Act	Not subject to review	
19.	Undated	Attachment A to Document 18	36	Released outside of the FOI Act	Not subject to review	
20.	[date]	Email	1	Released in part Sections 33(1), 25	Release in part Section 25 The name at the top left corner of the document is to remain deleted as it is irrelevant information.	<b>Section 33(1):</b> See comments for Document 14. <b>Section 25:</b> See comments for Document 10.
21.	[date]	Attachment to Document 20	2	Released in part Section 33(1)	Release in full	<b>Section 33(1):</b> See comments for Document 14.

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						<b>Section 25:</b> See comments for Document 10.
22.	[date]	Email	1	<b>Released in part</b> Sections 33(1), 25	<b>Release in part</b> Section 33(1), 25  No further information in the document is to be released.	<b>Section 33(1):</b> I am satisfied the email address is exempt from release under section 33(1) for the reasons provided in the Notice of Decision above.  <b>Section 25:</b> See comments for Document 10.
23.	[date]	Attachment to Document 22	2	<b>Released in part</b> Section 33(1)	<b>Release in part</b> Section 33(1)  No further information in the document is to be released.	<b>Section 33(1):</b> See comments for Document 22.  <b>Section 25:</b> See comments for Document 10.
24.	[date]	Attachment A to Document 23	1	<b>Released in full</b>	<b>Not subject to review</b>	
25.	[date]	Email	1	<b>Released in part</b> Section 25	<b>Release in part</b> Section 25	<b>Section 25:</b> See comments for Document 1.
26.	[date]	Letter	2	<b>Released in part</b> Section 33(1)	<b>Release in part</b> Section 33(1)	<b>Section 33(1):</b> During the review, the Agency advised it no longer considers that section 33(1) applies to the name and position

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
					The email address is to remain deleted under section 33(1).	title to which it had refused access and that it can be released. Accordingly, the information to which the Agency refused access, is to be released. However, it submits the email address is exempt from release under section 33(1). I am satisfied the email address is exempt from release under section 33(1) for the reasons provided in the Notice of Decision above.  <b>Section 25:</b> See comments for Document 10.
27.	[date]	Attachment to Document 26	12	Released in full	Not subject to review	
28.	[date]	Email	1	Released in part Section 25	Release in part Section 25	<b>Section 25:</b> See comments for Document 1.
29.	[date]	Attachment to Document 28	3	Released in full	Not subject to review	
30.	[date]	Email	1	Released in part	Release in part	<b>Section 25:</b> See comments for Document 1.

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				Section 25	Section 25	
31.	[date]	Email	1	Released in full	Not subject to review	
32.	[date]	Email	1	Released in part Section 33(1)	Release in part Sections 33(1), 25 No further information is to be released.	<b>Section 33(1):</b> See comments for Document 22. <b>Section 25:</b> See comments for Document 10.
33.	[date]	Attachment to Document 32	1	Released in part Section 33(1)	Release in part Sections 33(1), 25 No further information is to be released.	<b>Section 33(1):</b> See comments for Document 22. <b>Section 25:</b> See comments for Document 10.
34.	[date]	Attachment to Document 33	1	Released in full		