

Notice of Decision and Reasons for Decision

Applicant:	'FW6'
Agency:	Department of Treasury and Finance
Decision date:	16 April 2025
Exemptions and provision considered:	Sections 30(1), 34(1)(b), 34(4)(a)(ii) and 35(1)(b), 25
Citation:	'FW6' and Department of Treasury and Finance (Freedom of Information) [2025] VICmr 33 (16 April 2025)

FREEDOM OF INFORMATION – internal documents – public interest – information provided in confidence – business affairs information – engaged in trade or commerce – North East Link Program – executive summary – list of appendices

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 and more information is to be released.

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

For information about further review rights through the Victorian Civil and Administrative Tribunal (**VCAT**), please refer to the end of this decision.

My reasons for decision follow.

Penny Eastman
Public Access Deputy Commissioner

16 April 2025

Reasons for Decision

Background to review

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

A copy of all correspondence (including letters and emails) received by the department from [a third party] relating to the North East Link Project, between [dates].

...

Please note that personal information of non-executive staff, such as names and addresses, is not required. Accordingly, documents can be edited to redact such information.
2. Following consultation with the Agency after notification under section 25A(6), the scope of the request was amended to:
 - (a) Monthly Development Phase Progress Report No 16 ([date]) – executive summary only, being the first 21 pages (**Report**);
 - (b) Appendices titles – title of appendices to the Report (**Appendices**).
3. The Applicant advised that personal information of non-executive staff, such as names and addresses, is not required. Accordingly, documents can be edited to redact such information.
4. The Agency identified two documents falling within the terms of the Applicant's request and refused access to the documents in full under sections 34(1)(b), 34(4)(a)(ii) and 35(1)(b). The Agency's decision letter sets out the reasons for its decision.

Review application

5. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
6. I have examined a copy of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. During the review, the Agency sought to rely on section 30(1) in addition to the exemptions already applied to refuse access to the documents in full.
9. I have considered relevant 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.

Review of exemptions

Section 30(1) – Internal working documents

12. During the review, the Agency sought to apply an additional exemption to the documents, section 30(1).
13. To be exempt under section 30(1), three conditions must be satisfied:
 - (a) the document or information is matter in the nature of:
 - (i) opinion, advice or recommendation prepared by an agency officer or a Minister; or
 - (ii) consultation or deliberation that has taken place between agency officers or Ministers; and
 - (b) the matter was created during the deliberative process of an agency, Minister, or the government's functions; and
 - (c) disclosure of the matter would be contrary to the public interest.
14. The exemption does not apply to purely factual material in a document.¹
15. 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.
16. In this case the documents were prepared by [a third party]. [The third party] was appointed by the government to build [part of the North East Link project].² For the purposes of section 30(1), the document was prepared by an Agency officer.
17. Document 1 is a monthly progress report. While I consider much of the information is factual, I am also satisfied it contains information that is opinion, advice or the recommendation prepared by an agency officer, and that it was created during the deliberative processes of the Agency.
18. Document 2 is a list of the appendices to the report. While it could be considered factual, I am satisfied the document contains opinion and advice as to the information the author chose to include and is therefore not 'purely' factual. I am also satisfied Document 2 was created during the deliberative processes of the Agency.

¹ Section 30(3).

² Footnote redacted.

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

19. 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. This requires a 'process of the weighing against each other conflicting merits and demerits'.³
20. The balancing of public interest factors for and against disclosure does not begin from empty scales or a blank page. Instead, I consider the FOI Act requires the balancing to occur from and within a default position that the document or information should be released.
21. 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:⁴
 - (a) the right of every person to gain access to documents under the Act;
 - (b) the sensitivity of the issues involved and the broader context of how the documents were created;
 - (c) the stage of a decision or policy development at the time the communications were made;
 - (d) whether disclosure of the documents would be likely to inhibit communications between agency officers that are essential for the agency to make an informed and well-considered decision or for those officers to properly participate in a process of the agency's functions (such as an audit or investigation, regulatory or law enforcement function);
 - (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, but only where 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 decision by an agency or Minister;
 - (g) the likelihood that disclosure would inhibit the independence of officers, including their ability to conduct proper research and make detailed submissions;
 - (h) the public interest in the community being better informed about an agency's deliberative, consultative and decision-making processes;
 - (i) the public interest in government transparency and accountability by enabling scrutiny or criticism of decisions and the decision-making process and building the community's trust in government and its decision making processes;

³ *Sinclair v Maryborough Mining Warden* [1975] HCA 17; (1975) 132 CLR 473 at [485], adopted in *Department of Premier and Cabinet v Halls* [1999] VSCA 117 at [30].

⁴ See <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-30/#disclosure-would-be-contrary-to-the-public-interest>.

- (j) whether there is controversy or impropriety around the decision or the decision-making process.
22. The Agency advised its submissions in this matter are confidential.
23. I have decided it would not be contrary to the public interest to disclose the information in the documents for the following reasons:
- (a) It is clear from the title of the report that the information it presents is at a point in time. That the status of a project changes over time does not broadly make disclosure of information about that project as it progresses contrary to the public interest. Rather, disclosure provides the ability for community participation in the project while it is being undertaken.
 - (b) Where timelines for a project as described in a report may not be met, I do not consider disclosure to be contrary to the public interest. Rather, the public interest weighs in favour of disclosure to hold the government to account for the delivery of the project.
 - (c) Having carefully considered the content of the documents, I do not consider their disclosure would lead to unnecessary speculation or debate.
 - (d) I note the case law cited by the Agency from a decision made in 2013 and that a significant number of documents are publicly available in relation to the project. However, each case must be considered on its merits, and I do not consider there are compelling reasons for deciding that disclosure of the documents subject to review in this case would cause harm to the project, the Agency or the government such that it would be contrary to the public interest.
24. The documents are therefore not exempt under section 30(1).

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

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

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

26. In *Thwaites v Department of Human Services*,⁵ VCAT observed the phrase ‘information acquired’ in section 34(1) signifies the need for some positive handing over of information in some precise form.
27. I am satisfied the information in the documents were obtained from a business undertaking, being [the third party].

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

28. VCAT has also recognised the words ‘business, commercial or financial nature’ have their ordinary meaning.⁶
29. Further, I am satisfied the documents contain information of a business, commercial or financial nature.

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

30. Section 34(2) provides that in deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, for the purposes of paragraph (b) of subsection (1), an agency or Minister may take account of any of the following considerations—
- (a) whether the information is generally available to competitors of the undertaking;
 - (b) whether the information would be exempt matter if it were generated by an agency or a Minister;
 - (c) whether the information could be disclosed without causing substantial harm to the competitive position of the undertaking; and
 - (d) whether there are any considerations in the public interest in favour of disclosure which outweigh considerations of competitive disadvantage to the undertaking, for instance, the public interest in evaluating aspects of government regulation of corporate practices or environmental controls—
- and of any other consideration or considerations which in the opinion of the agency or Minister is or are relevant.
31. I have also had regard to the decision in *Dalla Riva v Department of Treasury and Finance*,⁷ in which VCAT held documents are exempt under section 34(1)(b) if their disclosure would:
- (a) give competitors of a business undertaking a financial advantage;

⁵ (1999) 15 VAR 1.

⁶ *Gibson v Latrobe CC* [2008] VCAT 1340 at [25].

⁷ [2007] VCAT 1301 at [33].

- (b) enable competitors to engage in destructive competition with a business undertaking; and
 - (c) would lead to the drawing of unwarranted conclusions as to a business undertaking's financial affairs and position with detrimental commercial and market consequences.
32. I consider the phrase 'expose the undertaking unreasonably to disadvantage' in section 34(1)(b), contemplates disclosure of documents under the FOI Act may expose a business undertaking to a certain measure of disadvantage. By the introduction of the word 'unreasonably' in section 34(1)(b), I consider Parliament determined this exemption applies where an undertaking would be exposed 'unreasonably' to disadvantage only, rather than where disclosure would result in any measure of exposure to disadvantage.
33. Accordingly, section 34(1)(b) contemplates a business undertaking may be exposed to a certain level of disadvantage. The question is whether any such disclosure would expose the undertaking unreasonably to disadvantage.
34. In determining whether disclosure of commercially sensitive information in a document would expose an undertaking unreasonably to disadvantage, if practicable, an agency must notify an undertaking and seek its views on disclosure.⁸
35. The Agency advised it consulted with [the third party], which objected to disclosure due to 'commercial sensitivities'. [The third party] did not provide any further information about the effect of disclosure.
36. In its confidential submission, the Agency cited several examples of parts of Document 1 that were sensitive and the nature of the disadvantage to [the third party] should the information be disclosed.
37. I have decided disclosure would not expose [the third party] unreasonably to disadvantage for the following reasons:
- (a) While the specifics would not be known publicly, the report covers general themes at a high level that would not be unusual for such a project.
 - (b) Having carefully considered the examples provided by the Agency, I do not consider the information in Document 1 or 2 to be detailed enough for a competitor to obtain an advantage over [the third party] or associated entities in this, or in future projects.
 - (c) I consider the project financials high level and specific enough to the project that disclosure would not expose [the third party] or its business partners to disadvantage.
 - (d) Given the above, I consider the documents could be disclosed without causing substantial harm to [the third party] or other entities involved in the project.
 - (e) Similar to my analysis of section 30(1), I consider the public interest weighs in favour of disclosure of the progress of a significant public infrastructure project.

⁸ Section 34(3).

- (f) I also consider that a business undertaking projects for government, particularly those involving large sums of public money, should expect public scrutiny as part of its role of providing a public service.

38. The documents are therefore not exempt under section 34(1)(b).

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

39. 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.

Is the Agency engaged in trade and commerce?

40. Whether an agency is engaged in trade or commerce depends on the facts and circumstances of each case.⁹
41. VCAT has held ‘the terms ‘trade’ and ‘commerce’ are not words of art; rather they are expressions of fact and terms of common knowledge’.¹⁰ VCAT has adopted the view of the Federal Court of Australia that these terms are ‘of the widest import’.¹¹ 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.¹²
42. Further, an agency may be engaged in trade or commerce, even if profit is not one of its express statutory objectives.¹³
43. While the phrase ‘trade and commerce’ may be interpreted broadly,¹⁴ it has been held trade and commerce must ‘of their nature, bear a trading or commercial character’.¹⁵
44. In *Pallas v Road Corporation* [2013] VCAT 1967, VCAT found that an agency that enters contracts to deliver statutory services or functions, is not doing so for the purposes of trade or commerce, it is doing so to fulfil its statutory functions and deliver governmental services.

⁹ *Stewart v Department of Tourism, Sport and the Commonwealth Games* [2003] VCAT 45 at [41].

¹⁰ *Gibson v La Trobe 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.

¹¹ *Ibid* at [34].

¹² *Marple v Department of Agriculture* (1995) 9 VAR 29 at [46].

¹³ *Thwaites v Metropolitan Ambulance Services* (1996) 9 VAR at [473].

¹⁴ *Re Ku-Ring-Gai Co-operative Building Society (No 12) Ltd* [1978] FCA 50; (1978) 36 FLR 134.

¹⁵ *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.

45. The approach in *Pallas* has not been universally adopted by VCAT and 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).¹⁶
46. In this case, the Agency is claiming that Major Roads Projects Victoria (**MRPV**) as a project office of the Victorian Infrastructure Delivery Authority (**VIDA**) is engaged in trade or commerce. The Agency advised that the North East Link State Tolling Corporation (**STC**) also has an interest in the documents. The Agency advised it discussed this FOI request with both MRPV and STC.
47. In its submission, the Agency noted recent examples involving similar documents where VCAT found the relevant agency was engaged in trade or commerce.
48. I would also like to note that in a recent VCAT decision, *Department of Treasury and Finance (DTF) v Davis*,¹⁷ Member Smithers decided DTF was engaged in trade or commerce:

In my view it is clear DTF was engaging in trade and commerce. It was engaging as a purchaser in a process of determining who it would enter into a contract with, to provide a public transport ticketing system for the next 15 years.
49. In that case, a witness for DTF advised:

...the State's public transport ticketing system is a live project that is currently being delivered. And as part of this, the State and Conduent are in continuous discussions as to how this is being delivered, which is sensitive commercial information between those parties.¹⁸
50. Similar to this case, the decision that DTF was engaged in trade or commerce was made after the contract had been awarded and the documents subject to review relate to how the project is being delivered. However, what is not similar is that the documents in this case do not involve any negotiation between the parties, rather, they comprise a report, and a list of appendices to the report, on the status of various elements of the project. I therefore consider it is open to me to determine that the specific documents under my review do not involve the Agency, or MRPV or VIDA, being engaged in trade or commerce.
51. However, other case law, for example, *Commissioner of State Revenue v Tucker*,¹⁹ provide a broader explanation for the test of whether an agency is engaged in trade or commerce:

By engaging the external undertakings in commercial contracts, the SRO was engaged in trade or commerce.²⁰
52. In determining whether the Agency is engaged in trade or commerce, I must consider the facts and circumstances of the documents before me. In my view, the case law is not settled as to the particular circumstances of this matter. I therefore have decided not to make a finding as to whether the Agency is engaged in trade or commerce; however, I will consider the remaining limbs of section 34(4)(a)(ii).

¹⁶ *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].

¹⁷ (Review and Regulation) - [2024] VCAT 618

¹⁸ *Department of Treasury and Finance v Davis* (Review and Regulation) [2024] VCAT 618 at [40]

¹⁹ (Review and Regulation) [2021] VCAT 238.

²⁰ *Ibid* at [173].

Do the documents contain information of a business, commercial or financial nature?

53. 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.²¹
54. I consider the documents, in part, contain information of a business, commercial or financial nature.

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

55. 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.
56. 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.
57. In *Department of Treasury and Finance (DTF) v Davis*²² cited above, Member Smithers provided the following analysis as to whether disclosure would unreasonably expose DTF to disadvantage:

Mr Davis made submissions couched in terms of the public’s right to know. While that is not the way the test is articulated in s 34(4)(a)(ii), I do accept that I must factor in the presumption in favour of disclosure in s 3 of the Act when considering whether the disadvantage to DTF of disclosure would be unreasonable.

I now turn to the consideration of this question in relation to the relevant parts of the Brief, namely, paragraphs 13(b), 20 and 21.

The considerations applicable to paragraphs 13(b) and 21 are the same. Section 34(4)(a)(ii) was the sole exemption claimed for these two paragraphs. They both deal with sensitivities in relation to the relationship with the outgoing operator, NTT Data. Although much of the work to hand over the system to the new operator has been undertaken, there remain matters which require the involvement of PTT Data, such that the relationship with that entity is important. In light of the content of those two paragraphs, and of the evidence given by Ms O’Sullivan about them, I am satisfied that their disclosure would at present be likely to expose DTF unreasonably to disadvantage. The significance of this concern will diminish over time. But at this point, the exemption is made out.

The third paragraph in the Brief for which s 34(4)(a)(ii) is claimed is paragraph 20. The sensitivity here concerns the relationship with the new provider, Conduent. Again, I am satisfied from the evidence received that release of this paragraph will undermine DTF’s position in ongoing discussions with Conduent with regard to the implementation and management of the ticketing system. Again, it is possible that these concerns will diminish to a level such that the exemption no longer applies. But at the present time, disclosure would

²¹ *Gibson v Latrobe CC (General)* [2008] VCAT 1340 at [25].

²² (Review and Regulation) [2024] VCAT 618

be likely to expose DTF unreasonably to disadvantage.

In determining that s 34(4)(a)(ii) applies, I am conscious of the high stakes here, the sensitivity of the issues the subject of the contracts, and the vital importance of effective relationships between the private operators and the government.

For these reasons, I find that paragraphs 13(b), 20 and 21 are exempt under s 34(4)(a)(ii).²³

58. Importantly, in that matter, DTF determined to release the document in part, only claiming section 34(4)(a)(ii) to certain more sensitive information.
59. The information claimed exempt is information that would affect the ongoing relationship between DTF and the third party business undertakings, in a way that would expose it unreasonably to disadvantage in those relationships.
60. As noted above, the Agency advised its submissions in this matter are confidential.
61. I have decided disclosure would not expose the Agency unreasonably to disadvantage for the following reasons:
 - (a) As described above, in my view the documents provide an update on the progress of the project, rather than containing any information relating to sensitive commercial negotiations. I also consider the type of information included is either at a high level or where it is detailed, it relates to this specific project and could not be used by third party business undertakings to the disadvantage of the Agency.
 - (b) I consider that service providers are required to provide such information and disclosure will not have any impact on the provision of similar information in the future.
 - (c) I note that government will continue to engage with similar businesses on large infrastructure projects, however, I do not consider the information in these particular documents could be used by such businesses to the disadvantage of future government tenders.
 - (d) If some disadvantage were to occur, I consider the Agency, given its unique buying power, it would be minimal.
 - (e) The public interest weighs in favour of disclosure so as to hold the Agency and its contractors accountable for the progress of the project.
62. I am therefore not satisfied the documents are exempt under section 34(4)(a)(ii).

²³ Ibid at [49] – [54].

Section 35(1)(b) – Information obtained in confidence

63. A document is exempt under section 35(1)(b) if two conditions are satisfied:
- (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
 - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.
64. Section 35(2) provides that this section does not apply to information—
- (a) acquired by an agency or a Minister from a business, commercial or financial undertaking; and
 - (b) that relates to trade secrets or other matters of a business, commercial or financial nature.
65. As the Agency advised the information was acquired from a business undertaking, section 35(1)(b) does not apply.

Section 25 – Deletion of exempt or irrelevant information

66. 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.
67. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’²⁴ 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 25.²⁵
68. The Applicant is not seeking the names or other identifying information of non-executive Agency officers that appear in Document 1. This information is therefore irrelevant to the request.
69. I have considered the effect of deleting irrelevant information from Document 1. In my view, it is practicable for the Agency to delete the irrelevant information, because it would not require substantial time and effort, and the edited documents would retain meaning. There is no irrelevant information in Document 2.

Conclusion

70. On the information before me, I am not satisfied the documents are exempt from release under sections 30(1), 34(1)(b), 34(4)(a)(ii) or 35(1)(b).

²⁴ *Mickelburgh 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].

²⁵ *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].

71. As I am satisfied it is practicable to provide the Applicant with an edited copy of Document 1 with irrelevant information deleted in accordance with section 25, access is granted in part. As there is no irrelevant information in Document 2, access is granted in full.

Timeframe to seek a review of my decision

72. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.²⁶
73. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²⁷
74. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁸
75. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
76. 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.²⁹

Third party review rights

77. As I have determined to release documents that contain information of a business, financial, or commercial nature relating to a business undertaking, if practicable, I am required to notify those persons of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.³⁰
78. I have determined it is practicable to notify [the third party] of my decision.
79. However, I have determined it is not practicable to notify the other third party business undertakings in the documents, as [the third party] is the overriding contract holder, the other businesses are involved in the project in a more limited way, and I do not have contact details for them.

When this decision takes effect

80. My decision does not take effect until [the third party's] 60 day review period expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

²⁶ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²⁷ Section 52(5).

²⁸ Section 52(9).

²⁹ Sections 50(3F) and 50(3FA).

³⁰ Sections 49P(5), 50(3A) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision
1.	[Date]	North East Link Program – Primary Package – Monthly Development Phase Progress Report - Executive summary	21	<p>Refused in full</p> <p>Sections 34(1), 34(4)(a)(ii), 35(1)(b)</p> <p>The Agency also applied section 30(1) during the course of the review.</p>	<p>Release in part</p> <p>Section 25</p> <p>The Agency is to release the document with the personal affairs of non-executive agency officers deleted in accordance with section 25.</p>
2.	[Date]	List of appendices to Document 1	1	<p>Refused in full</p> <p>Sections 34(1), 34(4)(a)(ii), 35(1)(b)</p> <p>The Agency also applied section 30(1) during the course of the review.</p>	Release in full