

Notice of Decision and Reasons for Decision

Applicant:	'FW9'
Agency:	Department of Treasury and Finance
Decision date:	17 April 2025
Exemptions and provisions considered:	Sections 28(1)(b), 28(1)(ba), 28(1)(c), 34(1)(b) and 34(4)(a)(ii)
Citation:	'FW9' and Department of Treasury and Finance (Freedom of Information) [2025] VICmr 36 (17 April 2025)

FREEDOM OF INFORMATION – Treasurer's advance – forward estimates – spreadsheets – rephase output – rephase asset – Department of Energy, Environment and Climate Change

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 fresh 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.

Please refer to page 11 for information about review rights through the Victorian Civil and Administrative Tribunal (**VCAT**).

My reasons for decision follow.

Penny Eastman
Public Access Deputy Commissioner

17 April 2025

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency seeking access to documents. Following consultation with the Agency, the request was clarified to:
 - [reference] – Budget Adjustments for the [year] – Budget
 - Attachment A1 – Treasurer’s Advance and Adjustment to Forward Estimates – Output
 - Attachment A2 – Treasurer’s Advance and Adjustment to Forward Estimates – Capital
 - Attachment B1 – Output Rephase
 - Attachment B2 – Asset Rephase
 - Attachment I – Appropriation Changes
 - Attachment J – Special appropriation
2. The Agency identified seven documents falling within the terms of the Applicant’s request and granted access to two documents in full and five documents in part, exempting certain information under sections 28(1)(b), 28(1)(d), 29A(1), 34(1)(b) and 35(1)(b). The Agency’s decision letter sets out the reasons for its decision.

Review application

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency’s decision to refuse access.
4. Section 49M(1) permits an agency to make a fresh decision on an FOI request during a review. On [date], the Agency made a fresh decision to release further information in the documents. The Agency also applied an additional exemption under section 28(1)(c) to refuse access to certain information in Document 5 and Attachment B2, and section 34(4)(a)(ii) to Attachment B1.
5. The Applicant did not agree with the Agency’s fresh decision and, as required by section 49MA(2), I proceeded with my review on the basis of the fresh decision. The Applicant sought review of the Agency’s decision to exempt certain information under sections 28(1)(b), 28(1)(c), 28(1)(d), 34(1)(b), 34(4)(a)(ii) and 35(1)(b).
6. During the review, the Agency further reconsidered its fresh decision and provided additional copies of Documents 2, 4, and 5 reflecting its reassessed view on the exemptions to be applied to those documents:
 - (a) Document 2 was exempted under sections 28(1)(c), 28(1)(d), 34(1)(b) and 34(4)(a)(ii);
 - (b) Document 4 was exempted under sections 28(1)(b), 28(1)(c), 28(1)(d), 29A(1)(a) and 34(4)(a)(ii); and
 - (c) Document 5 was exempted under sections 28(1)(c) and 28(1)(d).
7. I have examined a copy of the documents subject to review, being Documents 1, 2, 4 to 6.
8. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.

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.
12. In conducting a review under section 49F, section 49P requires that I make a new or 'fresh decision'. Therefore, my review does not involve determining whether the Agency's decision is correct, but rather requires my fresh decision to be the 'correct or preferable decision'.¹ 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

13. My review only concerns the exemptions under sections 28(1)(b), 28(1)(c), 28(1)(d), 34(1)(b) and 34(4)(a)(ii). Information about each exemption is detailed below.
14. My decision in relation to each of the exemptions is then set out in the Schedule of Documents at **Annexure 1**.

Section 28(1) – Cabinet documents

15. For more information about section 28, see the FOI Guidelines.²
16. Section 28 is intended to ensure the Cabinet process remains confidential.
17. Section 28(7)(a) defines 'Cabinet' as including a committee or sub-committee of Cabinet.
18. Section 28(1) does not apply to:
 - (a) a document that is more than 10 years old;³
 - (b) a document that contains purely statistical, technical, or scientific material, unless it would disclose any deliberation or decision of Cabinet;⁴ or
 - (c) a document by which a decision of the Cabinet was officially published.⁵

¹ *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577, [591].

² <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-28/>.

³ Section 28(2).

⁴ Section 28(3).

⁵ Section 28(1)(d).

Section 28(1)(b) – Document prepared for purpose of submission for consideration by the Cabinet

19. Section 28(1)(b) provides a document is exempt if it has been prepared by a Minister, or on behalf of a Minister, or by an agency, for the purpose of submitting it to the Cabinet for the Cabinet’s consideration.
20. The document must have been created for the sole, substantial or dominant purpose of submission to the Cabinet for its consideration.⁶
21. If there is more than one purpose of a document’s creation, it can be useful to ask whether the document would have been created but for the purpose of submission for consideration by the Cabinet.⁷ If the document would have been created in any event, this may indicate the purpose of the document’s creation was not for submission for consideration by the Cabinet.⁸

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

22. Section 28(1)(ba) exempts from release a document that was prepared for a Minister to brief them about an issue to be considered by the Cabinet.
23. The document must have been created for the sole, substantial or dominant purpose of briefing a Minister.⁹
24. It must be more than just ‘likely’ that the Cabinet will consider the issues outlined in the briefing. There must be an intention or expectation that the issue will be considered by the Cabinet (even if not ultimately considered).¹⁰
25. The purpose of briefing a Minister in relation to an issue to be considered by the Cabinet must be ‘immediately contemplated’ when the document is created. The exemption cannot apply:
 - (a) merely because Cabinet ultimately considers the issue;¹¹ or
 - (b) it is expected Cabinet is likely to consider the relevant issues in the future or from time to time.¹²

Section 28(1)(c) – A copy, draft or extract from a Cabinet document

26. Section 28(1)(c) exempts a document that is a copy or draft of, or contains extracts from, a document referred to in sections 28(1)(a), 28(1)(b) or 28(1)(ba).

⁶ *Ryan v Department of Infrastructure* [2004] VCAT 2346, [34]; *Herald & Weekly Times v Victorian Curriculum & Assessment Authority* [2004] VCAT 924, [72].

⁷ *Department of Treasury and Finance v Dalla-Riva* [2007] VSCA 11, [13].

⁸ *Davis v Major Transport Infrastructure Authority* [2020] VCAT 965, [80], [82].

⁹ *Ryan v Department of Infrastructure* [2004] VCAT 2346 [34]; *Herald & Weekly Times v Victorian Curriculum & Assessment Authority* [2004] VCAT 924 [72].

¹⁰ *Mildenhall v Department of Treasury and Finance* (unreported, AAT, Macnamara DP, 18 March 1996), 14.

¹¹ *Thwaites v Department of Health and Community Services* (unreported, AAT of Vic, Macnamara DP, 4 April 1996), 17.

¹² *Environment Victoria Inc v Department of Primary Industries* [2013] VCAT 39, [38]–[41].

27. An extract usually contains a reproduction of part of the text or material such as a quote, paraphrase, or summary.¹³ Simply referring to a Cabinet document or incorporating figures that appeared in a table in a Cabinet submission, is not sufficient.¹⁴
28. The document containing extracts must have been created after the official record, Cabinet submission or Ministerial brief was prepared.¹⁵

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

29. Section 28(1)(d) exempts a document which, if disclosed, would involve the disclosure of any deliberation or decision of the Cabinet or a sub-committee of the Cabinet, other than a document by which a decision of the Cabinet was officially published.
30. ‘Deliberation’ means the actual debate that took place, not just the subject matter of the debate (what the debate was about). In other words, how the subject matter was treated (how arguments were weighed up and evaluated) by the Cabinet with a view to making a decision, not just the subject matter itself.¹⁶
31. A document may reveal deliberations of Cabinet if the document, on its face:¹⁷
 - (a) discloses that the Cabinet required information of a particular type for the purpose of enabling the Cabinet to determine whether a course of action was practicable or feasible; or
 - (b) advances an argument for a particular point of view.
32. In contrast, a document that only reveals that certain information, such as a statistic or description of an event, was placed before Cabinet does not reveal a deliberation or decision of the Cabinet.¹⁸
33. Where the exemption is not clear on the face of the document, an agency or Minister will need to produce information and evidence to demonstrate how the Cabinet dealt with the document and whether it actually deliberated or made a decision that could be revealed by disclosure of the document.¹⁹

Section 34 – Documents relating to trade secrets etc.

34. For more information about section 34, see the FOI Guidelines.²⁰

¹³ *Mildenhall v Department of Education* (unreported, VCAT, Glover M, 16 April 1999); *Honeywood v Department of Human Services* [2006] VCAT 2048 [19].

¹⁴ *Mildenhall v Department of Education* (unreported, VCAT, Glover M, 16 April 1999); *Batchelor v Department of Premier and Cabinet* (unreported, AAT of Vic, Fagan P and Coghlan M, 29 January 1998) 23.

¹⁵ *Honeywood v Department of Human Services* [2006] VCAT 2048 [19]; *Smith v Department of Sustainability and Environment* (General) [2006] VCAT 1228 [28].

¹⁶ *Department of Infrastructure v Asher* [2007] VSCA 272, [6] and [58].

¹⁷ *Department of Infrastructure v Asher* [2007] VSCA 272, [8].

¹⁸ *Department of Infrastructure v Asher* [2007] VSCA 272, [8].

¹⁹ See *Asher v Department of Sustainability and Environment* [2010] VCAT 601.

²⁰ <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-34/>.

35. Section 34 contains several exemptions, which protect:

- (a) trade secrets of a business, commercial or financial undertaking;²¹
- (b) other business, commercial or financial information of an undertaking, where disclosure would likely expose the undertaking to an unreasonable disadvantage;²²
- (c) trade secrets of an agency;²³
- (d) other business, commercial or financial information of agencies engaged in trade or commerce;²⁴
- (e) the results of scientific or technical research undertaken by an agency;²⁵ and
- (f) examination papers, examiner's reports and similar documents, where the document's use is not yet completed.²⁶

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

36. A document or information is exempt under section 34(1)(b) if three conditions are satisfied:

- (a) the document or information was acquired from a business, commercial, or financial undertaking; and
- (b) the information relates to matters of a business, commercial or financial nature; and
- (c) disclosure of the information is likely to expose the undertaking unreasonably to disadvantage (based on matters listed in section 34(2) and any other relevant considerations).

Consultation

37. In deciding whether disclosure would expose an undertaking unreasonably to disadvantage, an agency or Minister, if reasonably practicable, must consult with the business undertaking from which it acquired information.

38. The Agency did not advise OVIC that consultation had taken place with the business undertakings referred to in the documents.

Information acquired from an undertaking

39. The phrase 'information acquired' involves some positive handing over of information to an agency in a precise form.²⁷

²¹ Section 34(1)(a).

²² Section 34(1)(b).

²³ Section 34(4)(a)(i).

²⁴ Section 34(4)(a)(ii).

²⁵ Section 34(4)(b).

²⁶ Section 34(4)(c).

²⁷ *Thwaites v Department of Human Services* (1999) 15 VAR 1, 14.

40. The actual document itself does not itself need to be acquired from an undertaking.²⁸

Information that relates to matters of a business, commercial or financial nature

41. 'Business', 'commercial' and 'financial' should each be given their ordinary meaning.²⁹ Information will 'relate to' matters of a business, financial or commercial nature if there is a sufficient or material connection or relationship between the information that would be disclosed by the disclosure of the documents and matters of a business, financial or commercial nature.³⁰

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

42. Section 34(2) provides that in deciding whether disclosure of information would expose an undertaking unreasonably to disadvantage, 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.
43. Other relevant considerations include whether disclosure would:
- (a) give a competitor of the undertaking a competitive financial advantage;
 - (b) enable that competitor to engage in destructive competition with the undertaking; or
 - (c) lead to unwarranted conclusions about the undertaking's financial affairs and position that result in commercial and market consequences.³¹
44. Where the business, commercial or financial information is so small or incidental to an undertaking's operations, its disclosure is unlikely to meet the threshold of

²⁸ *Gill v Department of Industry, Technology and Resources* (1985) 1 VAR 97, 106.

²⁹ *Gibson v Latrobe CC* [2008] VCAT 1340, [25].

³⁰ *Commissioner of State Revenue v Tucker* [2021] VCAT 238, [158], citing *J & G Knowles & Associates Pty Ltd v Commissioner of Taxation* [2000] FCA 196.

³¹ *Dalla Riva v Department of Treasury and Finance* [2007] VCAT 1301, [33].

unreasonable disadvantage.³²

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

45. 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 the document would be likely to expose the agency unreasonably to disadvantage.

Is the Agency engaged in trade and commerce?

46. Trade or commerce activities must ‘of their nature, bear a trading or commercial character’.³³

47. Whether an agency is engaged in trade or commerce depends on the facts and circumstances of each case.³⁴ It requires clear evidence that the agency is doing more than delivering government services or functions.

Information of a business, commercial or financial nature

48. The information must have a business, commercial, or financial nature. ‘Business’, ‘commercial’ and ‘financial’ should each be given their ordinary meaning.³⁵

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

49. Tribunals and courts describe ‘disadvantage’ in terms of the business, commercial or financial implications of disclosure. In particular, whether disclosure is likely to:

- (a) reduce an agency’s capacity to compete in a competitive market for buying and selling goods or services;³⁶
- (b) reduce an agency’s capacity to negotiate future commercial contracts;³⁷
- (c) strengthen the bargaining position of entities the agency negotiates with, at the expense of the agency competing for marketplace share;³⁸ or
- (d) expose the rates that an agency is prepared to accept for various services – and if so, the likely impact on the agency’s operations.

³² *Holbrook v Department of Natural Resources* (1997) 13 VAR 1, 8.

³³ *Gibson v Latrobe City Council* [2008] VCAT 1340; *Concrete Constructions (NSW) Pty Ltd v Nelson* [1990] HCA 17; (1990) 169 CLR 594, 604.

³⁴ *Stewart v Department of Tourism, Sport and the Commonwealth Games* [2003] VCAT 45, [41].

³⁵ *Gibson v Latrobe CC* [2008] VCAT 1340, [25].

³⁶ *Binnie v Department of Industry, Technology & Resources* (1986) 1 VAR 345, 348.

³⁷ *Binnie v Department of Industry, Technology & Resources* (1986) 1 VAR 345, 348; *Davis v Department of Transport* [2022] VCAT 721, [58].

³⁸ *Save Albert Park Inc v Australian Grand Prix Corporation* [2008] VCAT 168, [77].

50. Whether disadvantage would be unreasonable involves the consideration of all circumstances, including factors both in favour of, and against disclosure, such as:³⁹
- (a) the nature of the information;
 - (b) whether there is any public interest in disclosure or nondisclosure;
 - (c) the circumstances in which the information was obtained or created;
 - (d) whether the information has any current relevance; and
 - (e) the identity of the applicant and the likely motives of the applicant.
51. The word ‘unreasonably’ should be seen in the context of the balancing process between competing factors of the interest in maintaining confidentiality and the interest in public accountability and transparency on the part of the government, its departments and agencies, and entities that provide government services.⁴⁰
52. Refer to **Annexure 1** for my decision in relation the application on the above exemptions to the document subject to review.

Section 25 – Deletion of exempt or irrelevant information

53. 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.
54. Deciding whether it is ‘practicable’ to delete exempt or irrelevant information requires an agency or Minister to consider:
- (a) the effort involved in making the deletions from a resources point of view;⁴¹ and
 - (b) the effectiveness of those deletions – that is, whether the edited document still has meaning.⁴²
55. Irrelevant information is information which is clearly outside the scope, or beyond the terms of the applicant’s request. The Applicant is not seeking review of information deemed irrelevant by the Agency.
56. 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.

³⁹ *Fitzherbert v Department of Health and Human Services* [2019] VCAT 201, [61].

⁴⁰ *Asher v Department of innovation, Industry and Regional Development* [2005] VCAT 2702, [38].

⁴¹ *Mickelborough v Victoria Police* [2009] VCAT 2786, [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967, [82].

⁴² *Honeywood v Department of Human Services* [2006] VCAT 2048, [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267, [140], [155]; *Re Hutchinson and Department of Human Services* (1997) 12 VAR 422.

Conclusion

57. On the information before me, I am satisfied certain information in the documents is exempt from release under sections 28(1)(ba), 28(1)(c), 28(1)(d) and 34(4)(a)(ii). However, I do not consider these sections apply to all the information exempted by the Agency, nor do I consider section 34(1)(b) applies to the information identified by the Agency. Further information is therefore to be released to the Applicant.
58. 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.

Timeframe to seek a review of my decision

59. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.⁴³
60. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.⁴⁴
61. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.⁴⁵
62. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted at admin@vcat.vic.gov.au or 1300 018 228.
63. 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.⁴⁶

Third party review rights

64. As I have determined to release documents that contain information of a business, financial, commercial nature relating to a business undertaking, if practicable, I am required to notify those undertakings of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.⁴⁷
65. In this case, I am satisfied it is practicable to notify certain third party business undertakings only of their review rights and confirm notification attempts will be made as soon as possible following my decision.

When this decision takes effect

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

⁴³ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

⁴⁴ Section 52(5).

⁴⁵ Section 52(9).

⁴⁶ Sections 50(3F) and 50(3FA).

⁴⁷ 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	OVIC Comments
1.	[Date]	Ministerial brief - Budget Adjustments for the [year] Budget	11	Released in part Sections 28(1)(b), 28(1)(d)	Release in part Sections 28(1)(d), 25 The Agency is to release the document with information exempt under section 28(1)(d) and irrelevant information deleted in accordance with section 25.	<p>Section 28(1)(b): I am not satisfied the document was prepared for submission to Cabinet, as it is a briefing to a Minister. The information identified by the Agency is therefore not exempt under section 28(1)(b).</p> <p>Section 28(1)(ba): For completeness, I have considered whether the information exempted by the Agency under section 28(1)(b) is instead exempt under section 28(1)(ba). While I am satisfied the information identified by the Agency in the document was prepared for the purpose of briefing a Minister, I am not satisfied it relates to information 'to be considered' by Cabinet. It is therefore not exempt under section 28(1)(ba).</p> <p>Section 28(1)(d): I am satisfied, based on the content of the information, that the information identified as exempt by the Agency under section 28(1)(d) discloses decisions of a subcommittee of Cabinet. It is therefore exempt under section 28(1)(d).</p> <p>Section 25: I am satisfied the information identified by the Agency is irrelevant to</p>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						the request. Further, I am satisfied that it is practicable to delete exempt and irrelevant information.
2.	Undated	Attachment A1 to Document 1	6	Release in part OVIC review of reassessed Agency decision Sections 28(1)(c), 28(1)(d), 34(1)(b), 34(4)(a)(ii)	Release in part Sections 28(1)(c), 28(1)(d), 25 The document is to be released with exempt information deleted in accordance with section 25.	<p><u>Page 1</u></p> <p>Section 28(1)(d): I am satisfied based on the content of the information identified by the Agency, that it discloses a decision or deliberation of a subcommittee of Cabinet. It is therefore exempt under section 28(1)(d).</p> <p>Section 34(1)(b): I am not satisfied that disclosure of the information would expose the third party business undertakings unreasonably to disadvantage because:</p> <ul style="list-style-type: none"> the relationship between government and two of the named entities is publicly known; while one could infer a negative connotation from the exempted content, it is also in line with the commercial agreements between the Agency and the undertakings; I must make my decision based on evidence, the content of the

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>document, and the information before me. The third parties were not consulted, and therefore, beyond the Agency's position as recorded in its submission at paragraph 55, I do not have any further substantive information from the perspectives of the relevant third parties before me on what disadvantage, if any, would be caused by disclosure;</p> <ul style="list-style-type: none"> the information relates to significant public expenditure, such that it would not be unreasonable to release that information to provide accountability for the expenditure of public funds. <p>It is therefore not exempt under section 34(1)(b).</p> <p><u>Page 2</u></p> <p>There are no redactions of page 2.</p> <p><u>Page 3</u></p> <p>Section 28(1)(c): This exemption was applied to content in the third row of the page during the review, which was</p>

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						<p>previously exempted under sections 28(1)(ba) and/or 34(4)(a)(ii). I accept the Agency's submission that the information exempted was extracted from a specific submission to a subcommittee of Cabinet and is therefore exempt under section 28(1)(c).</p> <p>Section 28(1)(d): I am satisfied based on the content of the information identified by the Agency, that it discloses a decision or deliberation of a subcommittee of cabinet. It is therefore exempt under section 28(1)(d).</p> <p>Section 34(4)(a)(ii): Given my decision on section 28(1)(c), it is unnecessary to consider the application of section 34(4)(a)(ii) to the same information.</p> <p><u>Pages 4 to 6</u></p> <p>Sections 28(1)(c) and 28(1)(d): The Agency applied section 28(1)(c) to one sentence of information on page 5 and section 28(1)(d) to a small amount of content on pages 4 and 6. I am satisfied the exemptions identified by the Agency apply to the content for the reasons</p>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						described above in relation to pages 1 to 3. <u>All pages</u> Section 25: I am satisfied it is practicable to delete exempt information from the document.
3.	Undated	Attachment A2 to Document 1	3	Released in full	Not subject to review	
4.	Undated	Attachment B1 to Document 1	28	Release in part OVIC review of reassessed Agency decision Sections 28(1)(b), 28(1)(c), 28(1)(d), 29A(1)(a) and 34(4)(a)(ii)	Release in part Sections 28(1)(ba), 28(1)(c), 28(1)(d), 34(4)(a)(ii), 25 The document is to be released with exempt information deleted in accordance with section 25.	<u>Pages 3 to 8</u> Section 28(1)(d): I am satisfied based on the content of the information identified by the Agency, that it discloses a decision or deliberation of a subcommittee of cabinet. It is therefore exempt under section 28(1)(d). <u>Page 9</u> Section 28(1)(c): I am satisfied the Agency has provided evidence that the first and second redactions contain extracts from a Cabinet submission. The first two redactions are therefore exempt under section 28(1)(c). However, the Agency has not provided evidence for the third redaction, and as I am not satisfied it is

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						<p>apparent based on its content that it is an extract from a Cabinet submission, I am not satisfied it is exempt under section 28(1)(c). This content is to be released.</p> <p><u>Page 10</u></p> <p>I have determined different exemptions apply to certain content than those applied by the Agency, however, the effect of the decision is that no further information on this page is to be released.</p> <p>Section 28(1)(ba): I am satisfied the second and fourth redactions contain information prepared for the purpose of briefing a Minister regarding a matter to be considered by Cabinet. They are therefore exempt under section 28(1)(ba).</p> <p>Section 28(1)(d): I am satisfied the first and third redactions contain a decision or deliberation of Cabinet, and is therefore exempt under section 28(1)(d).</p> <p><u>Page 11</u></p> <p>I have determined different exemptions apply to certain content than those applied by the Agency, however, the</p>

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						<p>effect of the decision is that no further information on page 11 is to be released.</p> <p>Section 28(1)(ba): I am satisfied the fourth, sixth, eighth and ninth redactions contain information prepared for briefing a Minister regarding a matter to be considered by Cabinet. They are therefore exempt under section 28(1)(ba).</p> <p>Section 28(1)(d): I am satisfied the first, second, third, fifth and seventh redactions contain decisions or deliberations of Cabinet, and is therefore exempt under section 28(1)(d).</p> <p><u>Pages 12-13</u></p> <p>The information exempted under section 29A(1) is not subject to review.</p> <p><u>Page 14</u></p> <p>No information was redacted on page 14.</p> <p><u>Page 15</u></p> <p>Section 28(1)(d): I am satisfied the first redaction contains the decision or deliberation of Cabinet, and is therefore exempt under section 28(1)(d).</p>

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						<p>Section 34(4)(a)(ii): The information exempted refers to funding for four projects combined. Even if I was satisfied the Agency is engaged in trade or commerce, I am not satisfied disclosure would have any impact on the Agency. For example, I am not satisfied releasing information related to the amount of funding would prejudice the Department of Jobs Skills, Industry and Regions' future negotiations with the companies, if those companies become aware of the amounts that Department may be able to allocate as funding.</p> <p>It is therefore not exempt under section 34(4)(a)(ii).</p> <p><u>Page 16 and 17</u></p> <p>Section 28(1)(d): I am satisfied, based on the content of the document and the evidence provided in the Agency's submission, that the information identified by the Agency discloses a decision or deliberation of a subcommittee of Cabinet. It is therefore exempt under section 28(1)(d).</p> <p><u>Page 18</u></p>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>No information has been redacted on this page.<u>Page 19</u></p> <p>Section 28(1)(d): I am satisfied based on the content of the document that it discloses a decision or deliberation of a subcommittee of Cabinet. It is therefore exempt under section 28(1)(d).</p> <p>Section 34(4)(a)(ii): I am satisfied government is engaged in a competitive process in attracting a vaccine facility to the state, and it is therefore engaged in trade or commerce in relation to this issue. Further, I am satisfied disclosure of certain information would expose government unreasonably to disadvantage. The information identified by the Agency is therefore exempt under section 34(4)(a)(ii).</p> <p><u>Page 20</u></p> <p>Section 28(1)(d): I am satisfied, based on the exempted content, that the information identified in the first and second redactions by the Agency discloses a decision or deliberation of a subcommittee of Cabinet and are therefore exempt under section 28(1)(d). However, I am not satisfied the third</p>

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						<p>redaction contains such information, particularly given the information disclosed in the 'description and recommendation' column of the row entitled 'commercial transactions' and no evidence was provided in support of the exemption of this content in the Agency's submission. It is therefore not exempt under section 28(1)(d) and is to be released.</p> <p><u>Pages 21 to 24</u></p> <p>No information has been redacted from these pages.</p> <p><u>Pages 25 - 28</u></p> <p>Section 28(1)(d): I am satisfied, based on its content, that the information identified by the Agency discloses a decision or deliberation of a subcommittee of cabinet and is therefore exempt under section 28(1)(d).</p> <p><u>All pages</u></p> <p>Section 25: I am satisfied it is practicable to delete exempt information, as well as irrelevant information the Agency</p>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						exempted under section 29A(1), from the document.
5.	Undated	Attachment B2 to Document 1	17	Release in part OVIC review of reassessed Agency decision Sections 28(1)(c), 28(1)(d)	Release in part Sections 28(1)(c), 28(1)(d), 25 The document is to be released with exempt information deleted in accordance with section 25.	<p>Section 28(1)(c): I am satisfied the Agency has provided evidence that the information exempted by it are extracts from a cabinet submission. I am therefore satisfied it is exempt under section 28(1)(c).</p> <p>Section 28(1)(d): I am satisfied, based on the exempted content, that most of the information identified by the Agency discloses decisions or deliberations of a subcommittee of Cabinet and is therefore exempt under section 28(1)(d).</p> <p>However, where it has not been addressed in the Agency submission, and it is not apparent from the contents that the redactions on pages 8 or 11 are exempt under section 28(1)(d). This additional content is therefore to be released.</p> <p>Section 25: I am satisfied it is practicable to deleted exempt information from the document.</p>

Document No.	Date of document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
6.	Undated	Attachment I to Document 1	5	Released in part Section 28(1)(d)	Release in part Section 28(1)(d) Same decision as Agency. The Agency is to release the document with exempt information deleted in accordance with section 25.	Section 28(1)(d): I am satisfied, based on its content, that the information identified by the Agency discloses a decision or deliberation of a subcommittee of Cabinet and is therefore exempt under section 28(1)(d). Section 25: I am satisfied it is practicable to delete exempt information from the document.
7.	Undated	Attachment J to Document 1	1	Released in full	Not subject to review	