

Notice of Decision and Reasons for Decision

Applicant:	'GB9'
Agency:	Victorian Infrastructure Delivery Authority
Decision date:	24 June 2025
Exemptions and provision considered:	Sections 28(1)(b), 28(1)(c), 30(1), 34(1)(b), 25
Citation:	'GB9' and Victorian Infrastructure Delivery Authority (Freedom of Information) [2025] VICmr 80 (24 June 2025)

FREEDOM OF INFORMATION – Melton train line – Melton Line Upgrade Project – Melton Corridor Capacity Improvement – Western Rail Plan – environmental impact – sustainability – threatened ecological communities, flora and fauna – factual information – public interest considerations

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 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 13 for information about review rights through the Victorian Civil and Administrative Tribunal (**VCAT**).

My reasons for decision follow.

Penny Eastman
Public Access Deputy Commissioner

24 June 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 reviews, reports, analysis and documents relating to the environmental impact of increasing capacity to nine train cars on the Melton line.

Where a discrete document does not exist, yet the information requested could be generated in the form of a report, I request the production of a document pursuant to s19 of the *Freedom of Information Act 1982*.

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. The Agency identified 30 documents falling within the terms of the Applicant's request and refused access to them in full under section 30(1). 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 to Documents 3, 9, 12, 18, 20 and 23.
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 in relation to the documents subject to review. This is within the required 28 days under section 49M(2).
5. The Agency decided Documents 3, 9, 12 and 20 were out of scope of the review, and that Document 18 is exempt under section 38 and Document 23 is exempt under sections 28(1)(b), 28(1)(c) and 30(1).
6. The Applicant did not agree with the Agency's fresh decision in relation to Documents 3, 9, 12, 20 and 23. The Applicant does not seek review of the decision to exempt Document 18.
7. As required by section 49MA(2), I proceeded with my review of the fresh decision.
8. I have examined a copy of the documents subject to review.
9. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
10. I have considered relevant communications and submissions received from the parties.
11. 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.
12. 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 25 – Deletion of irrelevant information

13. Firstly, I must determine whether Documents 3, 9, 12 and 20 are out of scope of the request. The Agency initially determined those documents in scope, and then decided, in its fresh decision, that they were out of scope.
14. Irrelevant information is information which is clearly outside the scope, or beyond the terms of the applicant's request.
15. In its submission, the Agency acknowledged the confusion caused by initially identifying documents in scope only to later determine they were not. This was attributed to changes in Agency personnel.
16. To decide if a document falls within the request, I must consider:
 - (a) The overall context in which the request is made, and appreciate that an applicant cannot necessarily be expected to have an intimate knowledge of the subject matter of the documents they seek or the inner workings of government.
 - (b) That in many instances, an applicant will not know the types of documents or information held by an agency or Minister, or how to describe the documents they seek. This requires an agency and Minister to refrain from taking an artificial or strained interpretation of the words used in a request, and to interpret the request beneficially when considering whether information is or is not irrelevant.¹
 - (c) The object of the FOI Act is to extend, as far as possible, the right of the community to access government information limited only to necessary exceptions and exemptions, and that the FOI Act is to be interpreted to further that object.
17. My office provided an initial view to the Agency that Documents 3, 9 and 12 are in scope of the request, whereas we agreed that Document 20 is out of scope as it relates to a heritage rather than an environmental assessment.
18. In response, the Agency maintained its view that Documents 3, 9 and 12 are out of scope of the request. In summary, the Agency advises that the three documents relate to the Melton Corridor Capacity Improvement (**MCCI**) which was a component of the Western Rail Plan (**WRP**). The assessments undertaken in Documents 3, 9 and 12 were not in relation to the Melton Line Upgrade Project (the **Project**). The Agency argues that due to the age of the documents (late [year]), and the timing of the request, being just after the announcement of the Project, that the Applicant was specifically requesting documents relating to the Project rather than any earlier documents that fell within the WRP.

¹ See comments of Deputy President Lambrick in *Country Fire Authority v Rennie* (Review and Regulation) [2021] VCAT 492, [74]. See also *AU8 and Major Transport Infrastructure Authority (Freedom of Information)* [2019] VICmr 189.

19. The project was announced on [date] and the Applicant made their request [around a month later].
20. In their request for review of the fresh decision, the Applicant advised they thought the Agency was incorrect in relation to the terms of their request, and that determining the documents irrelevant is not in line with the objectives of the FOI Act.
21. I have bolded the text that I consider I must closely examine to determine scope in this matter as follows:

A copy of all reviews, reports, analysis and documents relating to the **environmental impact of increasing capacity to nine train cars on the Melton line**.

22. The Applicant's request does not refer to a specific project.
23. The documents are titled:
 - (a) Document 3 – Melton Corridor Capacity Improvement, 'MCCI ecology existing conditions assessment', dated [date].
 - (b) Document 9 – Melton Corridor Capacity Improvement, 'Sustainability Management Plan Design Package – revision B', [date].
 - (c) Document 12 – Melton Corridor Capacity Improvement, 'Greenhouse Gas Footprint register revision A', [date].
24. While the documents have been exempted in full, I note that, Documents 3 and 9 refer to increasing capacity to nine train cars on the Melton line, and contain some form of environmental analysis.
25. I acknowledge the timeframes referred to by the Agency; however, I consider the documents fall within the terms of the request in the spirit in which I am required to interpret the FOI Act described above.
26. Document 12 does not refer to increasing the capacity to nine trains on the Melton Line, rather it refers only to the Melton Corridor Capacity Improvement project. As this is distinct from the Applicant's request, I have decided it is not relevant to the request.
27. Document 20 does not relate to the environment, rather it refers to heritage. It is therefore not relevant to the request.
28. As I have decided Documents 3 and 9 fall within the terms of the request I have considered whether they are exempt under section 30(1) as set out below. However, firstly I will examine whether Document 23 is exempt under sections 28(1)(b) or 28(1)(c).

Section 28(1) – Cabinet documents

29. For more information about section 28 see the FOI Guidelines.²

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

30. Section 28 is intended to ensure the Cabinet process remains confidential.
31. Section 28(7)(a) defines 'Cabinet' as including a committee or sub-committee of Cabinet.
32. Section 28(1) does not apply to:
- (a) a document that is more than 10 years old;
 - (b) a document that contains purely statistical, technical, or scientific material, unless it would disclose any deliberation or decision of Cabinet; or
 - (c) a document by which a decision of the Cabinet was officially published.

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

33. 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.
34. The document must have been created for the sole, substantial or dominant purpose of submission to the Cabinet for its consideration.³
35. 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.⁴ 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.⁵

Consideration by the Cabinet

36. The document must be prepared for consideration by the Cabinet, not merely for the purpose of placing it before the Cabinet.⁶
37. 'Consideration' means 'a step in a deliberative process'.⁷ For example, a matter which is likely to be discussed at a meeting of the Cabinet, or a matter on which an actual decision of the Cabinet must be made.⁸
38. A document 'for information' or voluminous 'raw information' and 'primary documents' are not likely to be directly considered in the Cabinet regardless of whether they are attached to a Cabinet submission.⁹

³ *Mildenhall v Department of Premier and Cabinet* (No 1) (1995) 8 VAR 284, 290 approved by *Ryan v Department of Infrastructure* [2004] VCAT 2346, [34] and *Herald & Weekly Times v Victorian Curriculum & Assessment Authority* [2004] VCAT 924, [72]

⁴ *Department of Treasury and Finance v Dalla-Riva* [2007] VSCA 11, [13].

⁵ *Davis v Major Transport Infrastructure Authority* [2020] VCAT 965, [80], [82].

⁶ *Ryan v Department of Infrastructure* [2004] VCAT 2346, [34]–[36]; *Davis v Major Transport Infrastructure Authority* [2020] VCAT 965, [22].

⁷ *Olexander v Department of Premier Cabinet* [2002] VCAT 497, [46].

⁸ *Ibid.*

⁹ *Ryan v Department of Infrastructure* [2004] VCAT 2346, [36]–[40]; *Olexander v Department of Premier Cabinet* [2002] VCAT 497, [46].

39. A preliminary or preparatory document used to prepare a Cabinet submission, such as a brief from one department to another to assist in preparing a submission, is not a document prepared for the purpose of submission to the Cabinet for the Cabinet to consider.¹⁰
40. If a summary or executive summary of a report is submitted for consideration by the Cabinet, both the summary and full report can be exempt.¹¹
41. A report prepared by an external consultant can be 'prepared by an agency' and can be captured even if the consultant did not know the document would go to the Cabinet when created.¹² It is the agency's purpose in commissioning the external consultant to prepare the document that is relevant.¹³
42. Where the Cabinet specifically asks for a document to be prepared, the document will be exempt from release.¹⁴
43. In its submission, in part, the Agency advised the document:

...was commissioned to inform advice in relation to Planning and Environment requirements to be addressed in the Project Business Case which, as stated above, was itself required to be prepared in order to seek Cabinet's approval and release of the funding necessary for the delivery of the Project.

...

The complete document was also included in the supplementary reports register in support of the Business Case, to be made available upon request...
44. The Agency also argues that *Stretton v Major Transport Infrastructure Authority*¹⁵ (**Stretton**) supports the application of sections 28(1)(b) and 28(1)(c) to the document.
45. In that decision, the member accepted sworn evidence that the document was prepared with the intention of being submitted to Cabinet as an annexure to a business case, despite the fact that it did not end up being annexed to that business case. Rather, some of the research or information that appeared in the document subject to review was included in the business case (though not quoted in the business case directly). In my view the member determined the document exempt under section 28(1)(b) due to the evidence regarding the reason for the document being prepared, rather than what it was used for following its creation.
46. The Agency was provided with my initial view that section 28(1)(b) did not apply to the document. In response, the Agency reiterated its reliance on *Stretton*, and also referred me to *Donnellan v Linking Melbourne Authority*¹⁶ which I have considered.

¹⁰ *Department of Infrastructure v Asher* [2007] VSCA 272, [37], [40], [55].

¹¹ *Olexander v Department of Premier Cabinet* [2002] VCAT 497, [28]-[29]; *State Owned Enterprise for Irrigation Modernisation in Northern Victoria v Manners* [2010] VSC 516, [28].

¹² *Smith v Department of Sustainability and Environment* [2006] VCAT 1228, [17]; *Asher v Department of Premier and Cabinet* [2008] VCAT 450 [39]-[43], [74].

¹³ *Honeywood v Department of Innovation, Industry and Regional Development* [2004] VCAT 1657, [28].

¹⁴ *Smith v Department of Sustainability and Environment* [2006] VCAT 1228, [17].

¹⁵ [2022] VCAT 1421.

¹⁶ (Revised) (Review and Regulation) [2014] VCAT 1027.

47. From the information currently before me, I do not have sufficient information to make the determination that Document 23 was prepared for the purpose of submission to Cabinet.
48. This is because, unlike the decisions cited by the Agency, I do not have evidence before me that the Agency officers that prepared the document considered they were preparing it for submission to Cabinet. Rather, the Agency describes the document as one that was prepared to 'inform' a business case, and it was the business case that was prepared for submission to Cabinet for its consideration.
49. I have also considered that the content of the document refers to its creation as part of a 'proposed' project, therefore confirming its preparatory status. I also note that elements of the project did ultimately happen, and I do not consider the contents of the document to be speculative or contentious.
50. In my view, in this case, to consider such a preparatory document subject to section 28(1)(b) would allow for its application to a broad range of documents prepared by government agencies prior to the preparation of a business case not intended by the exemption or intended by the objects of the FOI Act.
51. Document 23 therefore does not squarely fall within the terms of section 28(1)(b) and it is not exempt.

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

52. 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).
53. The Agency claims the document is exempt under section 28(1)(c) because it is draft of a document referred to in section 28(1)(b). As I have decided section 28(1)(b) does not apply, section 28(1)(c) also does not apply.

Section 30(1) – Internal working documents

54. The Agency exempted Documents 3, 9 and 23 under section 30(1).
55. For more information about section 30 see the FOI Guidelines.¹⁷
56. Section 30(1) exempts documents that contain opinion, advice or recommendation, or consultation or deliberation, where disclosure would be contrary to the public interest. A document is not exempt simply because it is an internal working document.¹⁸
57. 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

¹⁷ <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-30/>.

¹⁸ *Graze v Commissioner of State Revenue* [2013] VCAT 869, 25.

- (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.
58. The term 'officer' is defined in section 5(1). It includes independent contractors, consultants and legal advisers engaged by an agency to carry out work or provide services.¹⁹

Purely factual information – section 30(3)

59. Section 30(1) does not apply to purely factual information.²⁰
60. Factual information is information without any opinion or inference – it is information that is objectively the same for any individual.
61. Common examples of factual information include:
- (a) statistics, data, times, or dates;
 - (b) backgrounds,²¹ summaries or chronologies of events. For example, recounting of facts as seen by individuals during an investigation,²² development of a policy, or file notes informing or recounting past events such as a conversation with a manager.²³ Information of this nature does not cease to be factual simply because there might be some future debate about its accuracy;²⁴
 - (c) actual financial expenditure, as opposed to financial advice based on estimates and assumptions.²⁵
62. When deliberative information is intertwined with factual information and cannot be separated, that intertwined information is exempt where its disclosure is contrary to the public interest.²⁶
63. However, an agency or Minister must critically examine the information to ensure that the intertwined information is truly inseparable. In many instances it will be practicable to sever the deliberative information from the factual information by redacting a document.

Do the documents contain opinion, advice or recommendation, or consultation or deliberation?

¹⁹ See example, *Mees v University of Melbourne* (General) [2009] VCAT 782, [31].

²⁰ Section 30(3).

²¹ See example, *NKY v Department of Education and Training* [2022] VCAT 302, [83]-[87].

²² See example, *Baker v Department of Education and Training* [2005] VCAT 2263, 11.

²³ See example, *Conyers v Monash University* [2005] VCAT 2509, [32], [35].

²⁴ *Porter v Victoria Police* [2005] VCAT 962, [23].

²⁵ *Doyle v Department of Human Services* [2002] VCAT 1768, [20].

²⁶ *Mees v University of Melbourne* [2009] VCAT 782, [29]-[30].

64. I consider a substantial amount of information in the three documents to be purely factual and therefore not exempt under section 30(1). However, I am also satisfied the documents contain the opinion, advice and recommendations of Agency officers.

Was the matter created during the deliberative process of an agency, Minister, or the government's functions?

65. I am satisfied information in the documents (that is not purely factual) was created during the deliberative processes of the Agency, being documents prepared to support transport infrastructure upgrades.

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

66. In deciding whether disclosure of the information would be contrary to the public interest, I have given weight to the following relevant factors:²⁷
- (a) the right of every person to gain access to documents under the FOI 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;

²⁷ 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.

67. In relation to this matter, I have also considered the following additional factors:

- (a) The draft nature of a document and whether a final version is available are both relevant considerations. However, a document will not be exempt under section 30(1) only because it is in draft form, regardless of whether a final document exists.
- (b) The public interest factor that disclosure would ‘inhibit frankness and candour’ can only be relied upon in very limited situations and must be supported by detailed evidence and reasoning as to why disclosure would be contrary to the public interest.²⁸ It takes more than a mere assertion that an agency officer would be inhibited from providing frank and candid advice to exempt a document under section 30(1).
- (c) An agency should also keep in mind the professional obligations to provide robust and frank advice under the Code of Conduct for Public Sector Employees²⁹ (Responsiveness, Integrity, Impartiality, Accountability and Leadership). The Code of Conduct requires agency officers to maintain accurate and reliable records, and to make these records available when required. These obligations help to ensure that officers ‘implement government policy in an open and transparent manner’.³⁰

68. In summary, the Agency submits disclosure would be contrary to the public interest because:

- (a) the documents are preliminary;
- (b) the precedent set in *Peter Ryan MP v Melbourne Water*³¹ applies in relation to the technical aspects of the documents;
- (c) the scope of the project works as described in the documents is no longer considered accurate by the Agency and has been superseded by updated information;
- (d) it is beyond the remit of the Agency to provide additional information to explain differing information between the documents;
- (e) disclosure would inhibit frankness and candour of Agency officers.

69. The Agency also submits:

Projects such as the one subject to the FOI request have significant impact on the lives of numerous Victorians. It is imperative that all options for proposed major infrastructure projects be considered and explored to ensure a thorough and robust decision-making process is undertaken. If sensitive and preliminary information were to be released to the public, then decision makers would be reluctant to discuss and analyse certain sensitive matters, for fear of unjustified public scrutiny, which would weaken or undermine the decision-making process. A

²⁸ See example where this ground was upheld in *Nichols v Department of Education and Training* [2021] VCAT 1244, [37].

²⁹ <https://www.vpsc.vic.gov.au/ethics-behaviours-culture/codes-of-conduct/code-of-conduct-for-victorian-public-sector-employees/>.

³⁰ Code of Conduct for Victorian Public Sector Employees, section 8: “Demonstrating Accountability”.

³¹ (General) [2009] VCAT 2079.

decision making process that is not thorough or robust, devoid of discussing or analysing preliminary or sensitive information, would ultimately be to the detriment of the public interest.

70. I note in its second submission, the Agency maintains its view that the documents are exempt under section 30(1), as well as noting that Document 23 is a draft document for which a final version exists.
71. The Agency, in maintaining its section 30(1) claims against the release of Document 3, also stated that it discloses sensitive and confidential information about the presence and location of protected matters under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) including the location of threatened ecological communities, flora and fauna.
72. The Agency consulted with two business undertakings in accordance with section 34(3) in relation to the potential release of these documents. Both raised similar concerns with one business undertaking specifically advised against parts of Document 3 being publicly released due to such sensitivities around that information which is not publicly available.
73. I am not satisfied disclosure of the documents would be contrary to the public interest for the following reasons:
 - (a) The documents appear to be at or near their final versions. There is no information before me that Document 23 departs significantly from its final version, or which parts of this document would, following the completion of the final version, now be incorrect.
 - (b) While the documents may provide advice preliminary to a final government decision, there is no information before me that they are inaccurate or would be misleading. Rather, they represent the view of the Agency at the time of their creation. In my view, members of the community are capable of understanding that such projects are subject to change over time.
 - (c) I do not consider the documents are overly technical. Rather they explain environmental assessments of nature and wildlife in the context of legislative requirements.
 - (d) While I note that environmental assessments can be sensitive in some contexts, I do not consider the documents subject to this review contain sensitive information.
 - (e) Rather, the areas subject to the assessments for the most part would be observable by the public.
 - (f) In any case, I consider the public interest to weigh heavily in favour of disclosure of such assessments where their impact could affect ongoing land use.
 - (g) I do not consider disclosure would inhibit the provision of similar advice in the future, where agency officers, or contracted service providers, are required to provide accurate and robust advice to government.
74. I have also carefully considered the additional concerns raised by the Agency (and relevant business undertakings) as per the Agency's second submission about the potential impact of disclosing information about the location of endangered flora and fauna. While I agree that a small amount of information in Document 3 is more sensitive, I am not satisfied disclosure would have an impact on the survival or maintenance of the flora and fauna so described.

75. This is because I do not consider the reasons for the Applicant's request reflect any indication they are seeking the documents so as to destroy or have any impact on those flora and fauna, and even though under the FOI Act I cannot place any restrictions on the further dissemination of such information I consider the likelihood of such an impact to be very low.
76. I also note that in other circumstances the location and status of endangered species is well known.
77. I am therefore satisfied the documents are not exempt under section 30(1).

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

78. 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
79. While not applied by the Agency in its fresh decision, the Agency later advised that it considered section 34(1)(b) would need to be considered given the documents contain the business, commercial or financial information of third parties.
80. 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.
81. By reference to section 34(1)(b) specifically, both the consulted business undertakings confirmed that they did not object to the disclosure of the documents on the basis that release of their business, commercial or financial information would expose them to unreasonable disadvantage but did object to the disclosure of their staff's personal affairs information, which the Agency understands the Applicant has agreed to exclude from the scope of the FOI request. Therefore, the Agency submits that this information, where present in the documents, should be deleted in accordance with section 25.
82. For completeness, I therefore confirm section 34(1)(b) does not apply to the documents.

Section 25 – Deletion of exempt or irrelevant information

83. The Applicant does not seek personal affairs information of non-executive Agency officers. I note the persons named in the documents are Agency officers for the purposes of section 30(1). I have therefore concluded the Applicant is not seeking this information. I do not consider any of the named people to be at executive level.
84. Therefore, all names, emails addresses and any other contact details are irrelevant to the request.

85. I have considered the effect of deleting this irrelevant information from the documents. In my view, it is practicable for the Agency to do this, because it would not require substantial time and effort, and the edited documents would retain meaning.

Conclusion

86. On the information before me, I am not satisfied the documents are exempt under sections 28(1)(b), 28(1)(c), 30(1) or 34(1)(b).
87. Documents 3, 9 and 23 are to be released in part with irrelevant information deleted in accordance with section 25.

Timeframe to seek a review of my decision

88. If either party to this review are not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.³²
89. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.³³
90. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.³⁴
91. 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.
92. 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.³⁵

When this decision takes effect

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

³² The Applicant in section 50(1)(b) and the Agency in section 50(3D).

³³ Section 52(5).

³⁴ Section 52(9).

³⁵ Sections 50(3F) and 50(3FA).

Annexure 1 – Schedule of Documents

Document No.	Date of document	Document Description	No. of pages	Agency Fresh Decision	OVIC Decision	OVIC Comments
3.	[Date]	Melton Corridor Capacity Improvement Rail Projects Victoria Ecology Existing Conditions Assessment	372	Irrelevant – out of scope of the terms of the Applicant's request	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	The document is in scope of the request for the reasons described above. Given the Agency applied section 30(1) to the document in its original decision, I have also considered whether section 30(1) applies. For the reasons described above, I do not consider section 30(1) applies to the document. As the Applicant is not seeking the personal affairs information in the document, it is irrelevant under section 25.
9.	[Date]	Melton Corridor Capacity Improvement Rail Projects Victoria - Sustainability Management Plan Design Package – Revision B	15	Irrelevant – out of scope of the terms of the Applicant's request	Release in part Section 25 The document is to be released with irrelevant information deleted in accordance with section 25.	See comments for Document 3.

Document No.	Date of document	Document Description	No. of pages	Agency Fresh Decision	OVIC Decision	OVIC Comments
12.	[Date]	Melton Corridor Capacity Improvement Rail Projects Victoria Greenhouse Gas Footprint Register Revision A	12	Irrelevant – out of scope of the terms of the Applicant's request	Refuse in full	The document is out of scope of the request for the reasons described above.
20.	[Date]	Melton Line Upgrade Level Crossing Removal Project -Historical Desktop Assessment and Advice	40	Irrelevant – out of scope of the terms of the Applicant's request	Refuse in full	The document is out of scope of the request for the reasons described above.
23.	[Date]	Level Crossing Removal Project. Melton Line Upgrade Project Business	65	Refused in full Sections 28(1)(b), 28(1)(c), 30(1)	Release in part Section 25	The document is not exempt under sections 28(1)(b), 28(1)(c) or 30(1) for the reasons described above.

Document No.	Date of document	Document Description	No. of pages	Agency Fresh Decision	OVIC Decision	OVIC Comments
		Case 000 Multiple sites Ecological Desktop Assessment Revision A			The document is to be released with irrelevant information deleted in accordance with section 25.	See comments for Document 3 regarding section 25.