

23 September 2025

[Contact details removed]

By email only: [contact details removed]

Dear ['GC3'],

Notice of Decision under section 49P of the *Freedom of Information Act 1982* (Vic)

Agency:	Department of Premier and Cabinet
Applicant:	'GC3'
Citation:	'GC3' and Department of Premier and Cabinet (Freedom of Information) [2025] VICmr 83 (23 September 2025)

The letter sets out my decision on your application for a review of a freedom of information (FOI) decision made by the Department of Premier and Cabinet (the **Agency**).

Background

Your request to the Agency under the *Freedom of Information Act 1982* (Vic) (**FOI Act**) sought access to:

- Any briefing materials prepared by the Department for the Premier, the Premier's office, or another ministerial office, concerning the proposal announced by Premier Jacinta Allan on 1-2 August 2025 to enshrine a legal right to work from home for at least two days per week
- Cost-benefit analyses or impact assessments, financial or economic reports prepared in relation to the policy developed by the department
- Please limit scope to documents developed between 1 June-1 August 2025

On [date], the Agency made a decision on your request and decided to refuse access to 4 documents in full. It relied on sections 28(1)(b), 28(1)(c) and 32(1) of the FOI Act.

On [date], you applied to OVIC for a review of the Agency's decision.

Relevant exemptions under the FOI Act

The following sections of the FOI Act are relevant to my decision:

- Section 28(1)(b) of the FOI Act – this section provides that information cannot be released if it was prepared by a Minister, or on behalf of a Minister, or by an agency, for the purpose of submitting it to Cabinet for Cabinet’s consideration.
- Section 28(1)(c) of the FOI Act – this section provides that a document that is a copy or draft of, or contains extracts from Cabinet documents cannot be released. This includes copies, drafts or extracts from:
 - an official record of any deliberation or decision of the Cabinet
 - a document that was prepared by a Minister, or on behalf of a Minister, or by an agency, for the purpose of submitting it to Cabinet for Cabinet’s consideration
 - a document that was prepared for a Minister to brief them about an issue to be considered by the Cabinet.
- Section 32 of the FOI Act – this section provides that documents subject to legal professional privilege or client legal privilege cannot be released.

Reasons for decision

I have conducted a review of the decision made by the Agency and made a fresh decision as follows under section 49P of the FOI Act.

- **Document 1** – memorandum of advice

I am satisfied this document is exempt in full under section 32(1) of the FOI Act.

It cannot be released to you because it is a memorandum of legal advice. It is a confidential communication between the client, being the Agency, and their lawyers that was made for the dominant purpose of providing legal advice.

I do not agree with your view that legal professional privilege has been waived, because I consider the substance of the legal advice was not disclosed by the Premier in her interview with ABC Radio Melbourne on 3 August 2025.¹

- **Document 2** – submission to a Cabinet committee

I am satisfied that this document is exempt in full under section 28(1)(b) of the FOI Act.

The document is a submission to a Cabinet committee for its consideration. This was the sole purpose of the document.

¹ <https://www.abc.net.au/listen/programs/melbourne-mornings/premier-jacinta-allan/105609734>.

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- Document 3 – draft submission proposal

I am satisfied that this document is exempt in full under section 28(1)(c) of the FOI Act.

The document is a draft submission to a Cabinet committee for its consideration. It is a draft of Document 2, and I am satisfied Document 2 is exempt under section 28(1)(b) of the FOI Act.

- Document 4 – draft briefing

I am satisfied this document is exempt in full under section 28(1)(c) of the FOI Act.

I have viewed extrinsic documents provided by the Agency which confirm that this is a draft of a briefing to a Minister in relation to a matter to be considered by the Cabinet.

It is not practicable to edit the documents to delete information that is prohibited from release as the required deletions would make the documents meaningless. As such, I have decided to refuse access to the documents in full.

Your review rights

If you are not satisfied with my decision, you can apply to the Victorian Civil and Administrative Tribunal (VCAT) for it to be reviewed.



You have 60 days from the date you receive this decision to apply to VCAT.

Information about how to make an application to VCAT is available at www.vcat.vic.gov.au.

VCAT can also be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.

Yours sincerely

Penny Eastman
Public Access Deputy Commissioner