



# Victoria Government Gazette

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**SPECIAL**

## Freedom of Information Act 1982

IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE BEFORE THE COURT OF APPEAL

Between

The Secretary, Department of Treasury and Finance  
John Edward Kelly

Applicant  
Respondent

### Reason for Seeking Leave to Appeal

1. Section 25A of the **Freedom of Information Act 1982** (“the Act”) allows an agency to refuse to process a request if that request would substantially and unreasonably divert the resources of the agency from its other operations.
2. On 14 March 2001, the Victorian Civil and Administrative Tribunal (“VCAT”) decided that 321 freedom of information requests should not be treated as a related bundle of requests for the purposes of making a decision under section 25A of the Act.
3. VCAT, decision if allowed to stand, means that an FoI applicant can defeat the purposes of s25A of the Act (namely, that resources of an agency not be substantially and unreasonably diverted) simply by segmenting a single request into numerous requests. The effect of allowing the decision to stand will be that any agency resources are in fact diverted in ways that are substantial and unreasonable.
4. The Department is seeking leave to appeal against the decision in order to prevent —
  - (a) the substantial and unreasonable diversion of the Departments resources that will otherwise occur in this instance; and
  - (b) the damage that will otherwise occur across the whole of government in Victoria in relation to the management of Freedom of Information processes and government projects generally;
5. VCAT also decided during the hearing that the Department had to provide the applicant with a list of the files generated by the former Energy Projects Division of the Department. The Department also intends to appeal against this decision on the basis that the VCAT erred in law in ordering that the list be provided to the applicant.

IAN LITTLE  
Secretary to the Department of  
Treasury and Finance

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