# Decision and Reasons for Decision

Administrative Review Tribunal

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| **Applicant:** | Mr Kirill PORFIREV |
| **Respondent:** | Minister for Immigration and Citizenship |
| **Tribunal Number:** | 2649732 |
| **Tribunal:** | General Member M Brereton |
| **Place:** | Melbourne |
| **Date**: | 10 November 2026 |
| **Decision:** | The Tribunal sets aside the decision under review and remits the matter for reconsideration in accordance with the order that the applicant meets the following criteria for a Subclass 050 (Bridging (General)) visa:<br>• cl 050.223 of Schedule 2 to the Regulations. |

General Member M Brereton

Statement made on 10 November 2026 at 11:21am

# Statement of reasons

## APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister to refuse to grant the applicant a Bridging E (Class WE) visa under s 73 of the *Migration Act 1958* (Cth) (the Act).

2. The applicant applied for the visa on 19 October 2026. At that time Class WE contained two subclasses: Subclasses 050 and 051. In the present case, the applicant is seeking to satisfy the criteria for the grant of a Subclass 050 visa, which are set out in Part 050 of Schedule 2 to the *Migration Regulations 1994* (Cth) (the Regulations). Relevantly to this matter, the primary criteria include cl 050.212.

3. The decision to refuse to grant the was made on 21 October 2026 on the basis that the delegate was not satisfied the applicant intends to depart Australia or that he will comply with required conditions of the visa.

4. The applicant appeared before the Tribunal by video on 9 November 2026 to give evidence and present arguments. The Tribunal also received oral evidence from the applicant's partner, Ms EC.

5. The applicant was represented in relation to the review.

6. For the following reasons, the Tribunal has concluded that the decision under review is set aside and the matter be remitted for reconsideration.

## CONSIDERATION OF CLAIMS AND EVIDENCE

7. The issue in this case is whether the applicant satisfies relevant clauses for the grant of a Bridging Visa E. The criteria in issue are the grounds for seeking the visa and whether the applicant will comply with conditions.

### The grounds for seeking the visa - cl 050.212

8. At the time of the visa application, the applicant must meet one of the alternatives set out in cl 050.212(2)-(9). The applicant must continue to satisfy this criterion at the time of decision: cl 050.221.

9. In this case, the applicant is seeking to meet cl 050.212(2) (acceptable arrangements to depart Australia). The applicant does not claim to meet any of the other alternative criteria in cl 050.212. For the reasons below, the applicant meets cl 050.212.

*Acceptable arrangements to depart Australia*

10. Subclause 050.212(2) is met if the Minister, or the Tribunal on review, is satisfied that the applicant is making, or is the subject of, acceptable arrangements to depart Australia. 'Acceptable arrangements' is not defined in the Regulations. The Departmental guidelines (PAM3), whilst not binding on the Tribunal, nevertheless provide some guidance: *Chen v MIMIA* [2001] FCA 285 (*Chen*) at [26] and *Lin v MIMIA* [2001] FCA 283 (*Lin*) at [26]. It is also open to consider whether the applicant's intentions in making any arrangements to depart, were genuine (*Lin* at [30]).

11. The applicant applied for the visa on 19 October 2026. He participated in a telephone interview with an authorised officer on the same day. The Departmental file does not contain any audio recording, transcript, or notes of this interview. The delegate's decision sets out 25 dot points said to be points raised during the interview. Relevant to this consideration, the record indicates that the applicant stated that he is intending to obtain a new passport and to travel to Dubai, where he has employment arranged. He stated that he will be traveling with his girlfriend, who has family members and friends living in Dubai. He stated that his girlfriend and her family will provide him with financial support.

12. The decision record also sets out the applicant's extensive immigration history in Australia, previous bridging visas, previous protection visa application, and the fact that he has lodged a request for Ministerial intervention under s 48B of the Act, which remains under consideration.

13. The delegate had regard to the applicant's past conduct, which includes periods of immigration detention, periods of unlawful non-citizen status, statements of intention to depart which were not acted on, and a lack of evidence supporting the applicant's present stated intention. The delegate was not satisfied as to the credibility and reliability of the applicant's statements and was not satisfied that he intends to depart Australia.

14. On 8 November 2026, the applicant provided evidence and a submission to the Tribunal. Relevant to the present clause, the applicant has provided copies of emails from the Russian Consulate in Australia which confirm that he lodged a passport application on 27 October 2026. He has provided copies of air tickets in his name and Ms EC's name, for travel from Australia to Dubai on 18 March 2027. He has provided a copy of an offer of employment with a company in Dubai. Ms EC has provided a statement in which she confirms that she is the applicant's partner and will travel to Dubai with him. She states that she is employed by Volkswagen and is in the process of arranging a transfer from Australia to Dubai. She states that if this is not possible, she will obtain other employment in Dubai.

15. The delegate did not have the supporting evidence set out above. In the absence of the supporting evidence, the delegate had to consider the credibility of the claims and made that assessment based on the applicant's history. The supporting evidence, in the Tribunal's view, addresses the gaps identified by the delegate.

16. The delegate was understandably also concerned with previous inconsistent statements made by the applicant, but the Tribunal considers these carry less weight in the face of the supporting evidence now available. The Tribunal also takes into account the medical evidence. The evidence before the delegate included two reports from Dr Braun, a specialist psychiatrist who has been treating the applicant since 2016. The material provided to the Tribunal includes a further recent report from Dr Braun, dated 3 November 2026. It is not necessary to set out the medical evidence in detail at this point, but it is clear that the applicant has long standing mental health issues including post-traumatic stress disorder (PTSD) and these have affected his decision making and engagement with the Department in the past. As noted above, the applicant now has support from Ms EC (since 2024) and has an employment opportunity waiting for him in Dubai and the Tribunal is satisfied that these will have a positive impact on his ability to commit to his statements.

17. The applicant's legal representative makes the following submission:

> The requirement in cl 050.212(2) concerns a process, assessed by reference to the steps already taken and those remaining. The arrangements need not already be finalised, but must be real and acceptable in their circumstances: *Chen v Minister for Immigration and Multicultural Affairs* [2001] FCA 285 at [6], [11], [17], [21]–[22] and [30].

> The application identified departure as its basis. Its negative answer to the question about making arrangements must be weighed with the same day's interview, at which the applicant identified Dubai, his partner's family connections there, financial support and the passport step required for travel. The delegate recorded those matters and acknowledged supporting financial evidence. The contemporaneous interview establishes that the Dubai plan preceded the refusal; it was not first advanced in response to it.
>
> The subsequent sequence corroborates the substance of that plan: the employer's document is dated 23 October, the passport application was lodged on 27 October, and both travellers' tickets were issued on 1 November. Those closely connected steps implemented the destination and supported departure identified at interview. The Tribunal should infer from the contemporaneous account and that prompt implementation that the departure process had commenced by lodgement, with the formal documents following as successive steps. This is the basis on which satisfaction of the application-time criterion is sought.
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> The continuing arrangements are now substantial and documented: a lodged passport application, confirmed travel with [Ms EC] on 18 March 2027, and an employer-signed offer for work commencing on 5 April. [Ms EC]'s evidence connects the overseas opportunity to her family and confirms her intention to accompany the applicant. These matters establish an identifiable destination, means of travel, support and purpose after arrival. They support favourable findings under cls 050.212(2) and 050.221.
>
> The applicant's pending request for ministerial intervention does not qualify his intention to depart. His statement expressly identifies his focus as moving to Dubai and starting a life there with [Ms EC]. The present application is advanced on departure grounds and seeks a period directed to implementing that plan.[1]

18. The Tribunal agrees with the submission that the applicant's plans to depart were raised at the time of making the application. For the reasons set out above, the Tribunal gives weight to the supporting evidence now provided. The Tribunal also accepts that the extant request for Ministerial intervention does not, of itself, cast doubt on the applicant's intention to depart as stated in his application.

19. For these reasons, the Tribunal is satisfied that at the time of application the applicant was making acceptable arrangements to depart Australia. Therefore, the applicant meets cl 050.212(2).

**Whether the applicant continues to satisfy the time of application criteria - cl 050.221**

20. Clause 050.221 requires the applicant to continue to satisfy the requirements of cl 050.212 at the time of decision. The Tribunal has set out above the evidence showing that the applicant has applied for a passport, has a ticket to depart Australia, and has a job offer in Dubai. The Tribunal finds that at the time of decision the applicant continues to be making acceptable arrangements to depart Australia and continues to satisfy cl 050.212 and therefore meets cl 050.221.

**Whether the applicant will abide by conditions - cl 050.223**

21. Clause 050.223 requires that the Tribunal is satisfied at the time of decision, that if a bridging visa is granted to the applicant, the applicant will abide by any conditions imposed on it. Conditions that may be imposed on a Subclass 050 visa are provided for in Division 050.6

[1] Submission to Tribunal dated 6 November 2026.

and set out in Schedule 8 to the Regulations. Division 050.6 also sets out conditions to which the visa is subject.

22. When considering cl 050.223, the Tribunal must consider which conditions, if any, should be imposed and whether it is satisfied that the applicant would abide by those conditions. In deciding the question of whether the applicant would abide by conditions imposed, the Tribunal is to consider the likely conduct of the applicant. In that context, relevant considerations may include the applicant's past immigration history, in particular any previous breaches of immigration laws, the significance of the migration laws that were breached, the wilfulness with which those laws had been breached, whether there were any mitigating circumstances justifying their breach and whether the applicant had shown any contrition for their unlawful conduct: *Applicant VAAN of 2001 v MIMA (VAAN)* (2002) 70 ALD 289 at [15]-[16].

23. If the Tribunal is satisfied that the applicant will abide by the conditions if security of a particular amount is required, the applicant meets cl 050.223. However, if not satisfied that the applicant will comply with the conditions, regardless of any security that may be imposed, cl 050.223 is not met.

24. In this case, cl 050.617 allows the Minister to impose one or more specific conditions  This clause prescribes that, in addition to any mandatory conditions, certain conditions may be imposed. Clause 050.618 allows condition 8564 (the holder must not engage in criminal conduct) to be imposed in addition to any other condition under Division 050.6.

25. The Tribunal has examined the conditions proposed by the delegate and considers that these are appropriate. The Tribunal therefore considers that the following conditions should be imposed in the circumstances of this case:

**8101** The holder must not engage in work in Australia.

**8207** The holder must not engage in any studies or training in Australia.

**8401** The holder must report:

(a) at the time or times; and

(b) at a place or in a manner;

specified, orally or in writing, by the Minister from time to time.

**8506** The holder must notify Immigration at least 2 working days in advance of any change in the holder's address.

**8510** Within the time specified by the Minister for the purpose, the holder must, either:

(a) show an officer a passport that is in force; or

(b) make an arrangement satisfactory to the Minister to obtain a passport.

**8511** Within the time specified by the Minister for the purpose, the holder must, show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.

**8512** The holder must leave Australia by the date specified by the Minister for the purpose.

**8564** The holder must not engage in criminal conduct.

26. The delegate was not satisfied that the applicant will abide by the conditions imposed, even if a security was imposed. The applicant submits that if the Tribunal considers a security warranted, Ms EC will provide a security in the amount of A$5,000 – 10,000.

27. The delegate gave weight to the applicant's previous engagements with the Department. The applicant concedes this history but submits (emphases added):

> Clause 050.223 requires an affirmative prediction that the applicant will abide by the conditions imposed. The assessment is individual and prospective. Past conduct is relevant through what it reveals about the particular applicant, including the **circumstances** of earlier breaches, mitigation and reliability: *Applicant VAAN of 2001 v Minister for Immigration and Multicultural Affairs* [2002] FCA 197 (VAAN) at [15]–[16]. **The present evidence must therefore be assessed together with the history, including the practical changes which now support compliance**.
>
> …
>
> The delegate's adverse conclusions concerned past non-departure and disengagement, the absence of a current passport and documented travel arrangements, financial maintenance and suspected work, the effect of mental illness on reporting, address notification and criminal conduct. The delegate considered that security would not sufficiently address those concerns and preferred continued detention. The evidence on review answers each of those conclusions in concrete terms.[2]

28. Dr Braun's most recent report states:

> [The applicant] has capacity to consent to and follow treatment. He has capacity to make daily life decisions. He understands his diagnoses, his circumstances and the decisions before him.
>
> His insight and judgment are adequate. His mental illness affects mood, sleep, concentration and energy; it does not deprive him of the ability to understand and follow instructions, attend appointments or make and act on plans.
>
> His longitudinal record of engagement with treatment is objective evidence and example of that capacity. From November 2016 to February 2018 he attended progress reviews every three to four weeks, including after his release from detention in October 2017, and his mental state improved steadily. In 2017 he stopped using cannabis. From October 2023 to September 2024 he attended reviews every two to three weeks. From December 2025, on referral from his general practitioner, he again engaged in regular treatment and remained engaged at my review of 20 August 2026. Throughout these periods he kept appointments, took prescribed medication, followed psychoeducation recommendations and was able to participate in safety planning.
>
> The periods in which he fell out of care were periods without a treating clinician, medication or structured supportive management plan. His condition deteriorated over several months. He was able to recognise the early warning signs and reached out to his general practitioner who renewed the referral; he then re-engaged immediately. This pattern, deterioration when supportive structure is removed and

[2] Submission to Tribunal.

> improvement in symptoms and functioning when it is restored, has been consistent for ten years. It means that regular obligations such as scheduled appointments or reporting are not a burden his condition prevents him from meeting; they are the support structure within which he has repeatedly done well.
>
> His partner is a significant and stable protective factor. She has supported his treatment, including financial assistance, and her presence has reduced the isolation in which his symptoms previously worsen. His sense of being a burden to her is a symptom of depressive illness, and not an indication that the support is uncertain.[3]

29. The applicant's partner, Ms EC, states:

> I understand that this is my partner's second period in immigration detention. I am aware that he was previously detained, was released, and did not comply with his visa conditions after that release.
>
> My understanding is that he was on his own and had little support at that time. In my view, the prospect of travelling to a place where he did not know anyone would have been frightening for him.
>
> His circumstances are now different because he has my support and we have made plans to leave Australia together.
>
> I do not want him to go through this situation again. We have made plans and I am committed to following through with them.[4]

30. The applicant and Ms EC each gave oral evidence to the Tribunal. The Tribunal asked the applicant about his previous failure to comply with conditions and asked how it can be satisfied that he will comply with conditions now. The applicant said that at the time of his previous non-compliance he was alone and fearful for his future. The Tribunal notes that at that time, he was preparing for return to Russia, where he has claimed to fear harm. In the present matter, he is preparing to depart and travel to Dubai, with the support of his partner, where he has an employment opportunity. The applicant told the Tribunal that the big difference now is that he can see his plans for the future. He said that he will do whatever is required to be able to go to Dubai and start anew life with his partner and will not put her in a bad position.

31. Ms EC told the Tribunal that the applicant has always been honest and open with her about his experiences. She said that she knew he had breached conditions in 2017/2018, but the difference now is that they are together and have a solid plan. Ms EC said that they have been in a relationship for over two years. She said that she has been to Dubai twice before and has family support there (her father) and friends. The support networks have offered assistance to sort out living arrangements. Ms EC said that she has always intended to travel and work overseas (she is an Australian citizen) and now the timing is right. The Tribunal asked if she has confirmed that she can transfer her current employment to Dubai. She said that it is too early to confirm this yet, but she believes it will be possible. She said that if it is not possible, she has been offered a position in the family business there. She confirmed that she is willing and able to put up a security for the applicant and understands the implications if he does not comply with the conditions.

32. The Tribunal asked Ms EC if she has offered the applicant help and support in the past and she said that she has provided financial, emotional, and practical support. The Tribunal asked if the applicant is receptive to her help and support. She said that when they have been together and able to speak, he has been quite open, but she is worried that the longer

[3] Report of Dr Braun dated 3 November 2026.
[4] Statement of Ms EC dated 6 November 2026.

he spends in detention, the more withdrawn and isolated he is becoming. This has affected his relationship with some friends, although it has not impacted on Ms EC yet.

33. The Tribunal agrees that there are significant and positive differences in the applicant's personal circumstances now and finds that these cumulative circumstances mitigate the risks suggested by the past events. It is of course possible that aspects of these arrangements may change, or that other factors may intervene and lead to an increase in stress or anxiety for the applicant but, unlike previous occasions, he will not be dealing with those situations alone. The Tribunal gives great weight to the support now available from Ms EC, the stable home environment, and the employment offer in Dubai. The Tribunal also gives weight to the steps taken to obtain the new passport and the possession of airline tickets. The Tribunal has considered this carefully and is satisfied that the applicant will abide by the conditions, as he has a goal to work towards and a sense of responsibility to Ms EC. The Tribunal is satisfied that the applicant will do so without the need for a security.

*Further comment - 8401*

34. The applicant

> … proposes weekly reporting at the times and in the manner lawfully directed under condition 8401. His statement says that he does not expect weekly reporting to be a problem. He can drive when well and identifies a housemate as another possible source of transport. [Ms EC] gives her own direct evidence that she can drive him, assist with reporting appointments and use her flexible working arrangements to provide that help.
>
> The reporting proposal brings together clinical capacity, expressed willingness and practical means. Dr Braun's opinion addresses the relevant functions: understanding instructions, attending appointments and acting on plans. Her treatment history supplies concrete examples of sustained attendance within a structured arrangement. [Ms EC]'s transport and assistance make the proposed reporting schedule practicable.
>
> Weekly contact also gives the Department regular oversight of the passport and departure process. It is directly suited to the purpose of the visa and provides a continuing connection between the applicant's stated intention and the steps being taken to implement it.[5]

35. The Tribunal has considered the applicant's request together with the other evidence discussed above and having regard to all of this material, considers and supports that weekly reporting would be effective and reasonable.

*Further comment – 8510*

36. The applicant has made application for a new Russian passport. He has provided evidence of both the application and the delay that may affect the application. The applicant has asked that this condition be calculated as seven days after the grant of the passport and undertakes to provide progress updates at the weekly reporting visits. He submits that:

> The completed lodgement, the identified consular process and his expressed willingness to attend supply a positive basis for finding that he will comply with condition 8510.[6]

[5] Submission to Tribunal.
[6] Submission to Tribunal.

37. The applicant's submission is supported by an email from the Honorary Consul General of Russia for Queensland and Victoria.[7] This states that estimated processing time is a minimum of four months, due in part to the irregularity of diplomatic mail services and the applicant's presence in immigration detention, where he is unable to attend a consular visit. The email asks that the timeframe be considered an estimate rather than a guaranteed date.

38. The Tribunal finds that there is no confirmed date for the processing of the passport and having regard to that and to the other circumstances discussed above, considers and supports that the requested timeframe for provision of the passport and the suggested updating process are effective and reasonable to comply with this condition.

*Further comment – condition 8512*

39. The applicant asks for a departure deadline and visa cessation on 31 March 2027. The intended departure is thirteen days earlier (18 March 2027), but the applicant submits, and the Tribunal accepts that this may be impacted by delays in obtaining the new passport. The applicant submits that:

> The additional thirteen days provide a defined contingency while preserving the proposed commencement of employment on 5 April. The period sought is tied to the actual itinerary and overseas opportunity.

40. The Tribunal considers and supports that the requested deadline/cessation date is reasonable.

**Conclusion**

41. On the evidence before it, the Tribunal is satisfied that the applicant will abide by conditions imposed on the visa if granted. Therefore, the applicant meets cl 050.223.

42. Given these findings, the appropriate course is to set the decision aside and remit the visa application to the Minister to consider the remaining criteria for the visa.

43. The visa application is also an application for a Subclass 051 (Bridging (Protection Visa Applicant)) visa. The applicant is not a relevant eligible non-citizen as set out in cl 051.211 of Schedule 2 to the Regulations and therefore does not meet the requirements for the grant of that visa.

**DECISION**

44. The Tribunal sets aside the decision under review and remits the matter for reconsideration in accordance with the order that the applicant meets the following criteria for a Subclass 050 (Bridging (General)) visa:

- cl 050.223 of Schedule 2 to the Regulations.

**Date(s) of hearing**: 9 November 2026

**Representatives for the Applicant:** Dr J Donnelly of Counsel
Mrs Maryanne Issa (MARN: 1577048)

[7] Email from Irina Bruk, dated 2 November 2026.