

**Decision D0012006 - Published in note form only**

***Re Smithson Planning and Department for Planning and Infrastructure [2006]*  
WAICmr 1**

**Date of Decision: 19 January 2006**

***Freedom of Information Act 1992: Section 26***

The complainant applied to the Department for Planning and Infrastructure ('the agency') for access under the *Freedom of Information Act 1992* ('the FOI Act') to certain documents relating to the Rainbow 2000© Project ('the Project'), a regional strategy prepared by the complainant for Albany and the lower Great Southern region of Western Australia. The agency gave the complainant access in edited form to three documents and advised that, pursuant to section 26 of the FOI Act, no other documents existed or could be found. The agency confirmed its decision on internal review, although it gave the complainant, for its information, access to six documents that related to the Project but which did not come within the scope of the complainant's application. Thereafter, the complainant applied to the A/Information Commissioner ('the A/Commissioner') for external review of the agency's decision that no further documents existed or could be found.

On receipt of this complaint, the A/Commissioner asked the agency to provide further information concerning the requested documents and to make further searches for them. The complainant was also asked to clarify the scope of its application and to provide additional information. Subsequently, the complainant clarified the scope of its application and the agency located two additional documents, although they were not documents sought by the complainant. On 7 December 2005, the complainant provided an addendum to its list of correspondence received from various Ministers and others in relation to the Project.

On 13 January 2006, the A/Commissioner wrote to the parties setting out her preliminary view of the complaint, which was that, on the information before her and in light of the additional searches and inquiries made, the agency had taken all reasonable steps to find the requested documents but that they could not be found or did not exist. The parties were informed, in detail, of the reasons for that view.

The complainant did not accept the A/Commissioner's preliminary view of this complaint but made no further submissions in support of its view that additional documents should exist. Since there were no suggestions as to additional searches which could be made or evidence to show that any further documents exist or should exist, the A/Commissioner was not dissuaded from her preliminary view. Accordingly, the A/Commissioner confirmed the agency's decision to refuse access to the requested documents under section 26 of the FOI Act on the ground that the agency had taken all reasonable steps to find the requested documents but that they cannot be found or do not exist.