

Decision D0022008 – Published in note form only

Re Deacons and Heritage Council of Western Australia [2008] WAICmr 02

Date of decision: 15 January 2008

Freedom of Information Act 1992: Schedule 1: clause 3(1)

In late March 2007, the complainant applied to the Heritage Council of Western Australia ('the agency') for access under the *Freedom of Information Act 1992* ('the FOI Act') to all documents sent to the Minister for Heritage and copies of all file notes, correspondence, minutes of committee or council meetings etc. in relation to two heritage listed properties in Perth.

The agency gave the complainant access to a number of documents falling within the scope of its access application but refused it access to other documents, on the ground that they were exempt, either in full or in part, under clauses 3, 4(3), 6 and 7 of Schedule 1 to the FOI Act. On internal review, the agency, confirmed its decision on access. In early July 2007, the complainant applied to the A/Information Commissioner ('the A/Commissioner') for an external review of that decision.

The A/Commissioner required the agency to provide its FOI File and information in relation to the searches made for the documents. One of the A/Commissioner's legal officers made further inquiries with the agency. No further documents of the requested kind were identified as a result of those inquiries. In late August 2007, the legal officer advised the complainant of the results of those initial inquiries.

The A/Commissioner's office received further information from the complainant and made further inquiries into the complaint with the agency and, as a result of those inquiries, some further documents falling within the scope of the complainant's access application were identified by the agency. The agency released edited copies of most, but not all, of those additional documents to the complainant. The agency claimed that the deleted matter was either exempt under clause 3(1) or that it was information that was outside the scope of the complainant's access application. The agency maintained its claim that the other documents to which access had been refused, either in full or in part, were exempt under clauses 3, 4(3), 6 and 7 of Schedule 1 to the FOI Act.

On 17 December 2007, the A/Commissioner provided the parties with a letter setting out his preliminary view of the complaint. The A/Commissioner was of the view that the personal information about persons other than public officers contained in the disputed documents was exempt under clause 3 but that the disputed documents were otherwise not exempt under clauses 4(3), 6 or 7.

The agency accepted the A/Commissioner's preliminary view and gave the complainant access to those documents and parts of documents which, in the A/Commissioner's preliminary view, were not exempt. The complainant made no further submissions. Therefore, the A/Commissioner was not dissuaded from his preliminary view. The A/Commissioner decided that the disputed documents are exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the agency's decision to refuse access on that basis.