

Decision D0172010 - Published in note form only

Re Ravlich and Minister for Regional Development; Lands; Minister Assisting the Minister for Transport; Minister Assisting the Minister for State Development [2010] WAICmr 17

Date of Decision: 21 May 2010

Freedom of Information Act 1992: sections 20 and 39(3)(a)

On 11 March 2009, the complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the Minister for Regional Development ('the Minister') for access to "*all documentation relating to Ravensthorpe and Hopetoun*". Following discussions between the parties, the complainant amended the scope of her application to all documents from 21 January 2009 relating to both Ravensthorpe and Hopetoun on matters arising as a result of the closure of the Ravensthorpe nickel laterite project. The complainant also advised that personal information about third parties could be deleted from the requested documents and that media statements could also be excluded.

The Minister's decision was to refuse to deal with the access application under s.20 of the FOI Act. Section 20 provides that if - after taking reasonable steps to help the access applicant to change the application to reduce the amount of work required to deal with it - the agency considers that the work involved in dealing with it would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency can refuse to deal with the application.

As there is no right of internal review from the decision of a Minister - who is the 'principal officer' of an agency for the purposes of the FOI Act (s.39(3)(a)) - the complainant applied to the Information Commissioner for external review of the Minister's decision.

Following the receipt of the complaint, the Commissioner obtained the file maintained in respect of the complainant's access application from the Minister's office, which included documents identified as coming within the scope of the application, and made further inquiries with the Minister.

The Commissioner provided both parties with a letter setting out his preliminary view of the complaint, which was that the Minister's decision was justified. The complainant and the Minister's office both provided the Commissioner with further submissions in response to his preliminary view. In addition, the Minister agreed to deal with the application if its scope was reduced to briefing notes dated between 21 January 2009 and 24 April 2009 relating to the closure of the Ravensthorpe nickel laterite project. However, the complainant did not accept that conciliation proposal.

After taking the parties' further submissions into account, the Commissioner was not dissuaded from his preliminary view.

Having regard to the number of documents identified by the Minister within the scope of the application (approximately 300 documents, comprising 1,000 folios); the nature of those documents; and the scope of the application, the Commissioner considered that it would take between approximately 40 hours, at the lower end of that estimate, and 90 hours at the upper end, for the Minister to deal with the application.

For similar reasons to those given in *Re Ravlich and Attorney General; Minister for Corrective Services* [2009] WAICmr 17, the Commissioner was satisfied that the Minister had taken reasonable steps to assist the complainant to change the application to reduce the amount of work needed to deal with it and also that the work involved in dealing with the application would divert a substantial and unreasonable portion of the Minister's resources away from his office's other operations. The Commissioner confirmed the Minister's decision to refuse to deal with the complainant's access application under s.20 of the FOI Act.