

Decision D0322012 - Published in note form only

Re Newbery-Starling and Town of Port Hedland [2012] WAICmr 32

Date of Decision: 30 November 2012

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

In February 2012, the complainant, Louise Newbery-Starling, applied to the Town of Port Hedland ('the agency') under the *Freedom of Information Act 1992* ('the FOI Act') for access to documents regarding building approvals on a property within the boundaries of the agency.

The agency initially and upon internal review refused access to the requested documents on the ground they were exempt under clause 3(1) of Schedule 1 to the FOI Act. In April 2012, the complainant applied to the Information Commissioner for external review of the agency's decision.

Following receipt of the complaint, the Commissioner obtained the original of the disputed documents, together with the agency's FOI file maintained in respect of the complainant's access application.

In November 2012, the A/Information Commissioner provided the parties with a letter setting out her preliminary view of the complaint. The A/Commissioner's preliminary view was that the disputed documents would, if disclosed, reveal personal information, as defined in the FOI Act, about a number of individuals. There was no evidence that any of those individuals consented to the disclosure of personal information about them. Further, the A/Commissioner considered that none of the limits in clauses 3(3) to 3(5) of Schedule 1 to the FOI Act applied.

In weighing the competing public interests for and against disclosure, the A/Commissioner considered that the public interests favouring non-disclosure outweighed those favouring disclosure in this particular case. Accordingly, the A/Commissioner's preliminary view was that the disputed documents were exempt under clause 3(1).

In light of that, the complainant was invited to withdraw her complaint or provide submissions in response and was granted an extension of time in which to do so. However, the complainant neither withdrew her complaint nor made further submissions. Consequently, the Commissioner reviewed all of the material before him and confirmed the agency's decision to refuse access to the disputed documents on the ground that they were exempt under clause 3(1) of Schedule 1 to the FOI Act.