

**OFFICE OF THE INFORMATION
COMMISSIONER (W.A.)**

**File Ref: F2003126
Decision Ref: D0082004**

Participants:

Terence Malcolm Rogers
Complainant

- and -

Water Corporation
First Respondent

- and -

Kevin Ernest Guppy
Second Respondent

- and -

KG & GS Nominees Pty Ltd
Third Respondent

DECISION AND REASONS FOR DECISION

FREEDOM OF INFORMATION - refusal of access - information relating to pre-qualification process, tender and contract documents - clause 3(1) - personal information about third parties - clause 3(4) - prescribed details - qualifications held - clause 3(6) - the public interest - clause 4(2) - whether the information and documents have a commercial value to a person - the 'mosaic' theory - clause 4(3) - business, professional, commercial or financial affairs - whether disclosure could reasonably be expected to have an adverse effect - clause 4(7) - whether disclosure is in the public interest - section 26 - documents that cannot be found or do not exist.

Freedom of Information Act 1992 (WA): sections 11; 26; 69(4); 102(1); 102(2); 102(3); Schedule 1, clauses 3(1); 3(4); 3(6); 4(2); 4(3); 4(7); 10(4); Glossary.

Water Corporation Act 1995: section 4.

Freedom of Information Regulations 1993 (WA): regulation 9(2)(b).

Interpretation Act 1984 (WA): section 5.

Broken Hill South Ltd v Commissioner of Taxation (NSW) (1936-1937) 56 CLR 337.

Re Precious Metals Australia Ltd and Department of Minerals and Energy [1997] WAICmr12.

Re Jones and Jones and Town of Port Hedland [2000] WAICmr 23.

Re Prosser Management Pty Ltd and Another and Harvey Norman Holdings Ltd and Another [2003] WAICmr 30.

Searle Australia Pty Ltd v Public Interest Advocacy Centre and Another (1992) 36 FCR 111; 108 ALR 163.

Re O'Reilly and Queensland Police Service (1996) 3 QAR 402.

Attorney-General's Department and Australian Iron and Steel Pty Ltd v Cockcroft (1986) 10 FCR 180; 64 ALR 97.

Re QMS Certification Services Pty Ltd and Department of Land Administration and Another [2000] WAICmr 48.

DECISION

The decision of the agency to refuse access to the disputed matter claimed to be exempt under clause 3(1) of Schedule 1 to the *Freedom of Information Act 1992* ('the FOI Act') in documents 2, 3, 6, 10, 14, 19 and 66 is confirmed, except for the information recorded in lines 14-17 on page 2 of the résumé attached to document 19, which matter is not exempt under clause 3(1).

The decision of the agency to refuse access to the disputed matter in documents 108, 112, 116 and 124 on the ground that it is exempt under clause 4(3) of Schedule 1 to the FOI Act is confirmed.

The decision of the agency to refuse access to the disputed matter claimed to be exempt under clause 4(2) in documents 5-11, 14-16, 19-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107, 109, 110, 115, 117, 119 and 123 on the ground that it is exempt under clause 4(2) is set aside and in substitution it is decided that that information is not exempt.

D A WOOKEY
A/INFORMATION COMMISSIONER

5 March 2004

REASONS FOR DECISION

1. This is an application for external review by the Information Commissioner, arising from a decision made by the Water Corporation ('the agency') under the *Freedom of Information Act 1992* ('the FOI Act') to give Mr Rogers ('the complainant') access to documents requested by him, either in full or with editing, and to refuse him access to other documents. The complainant seeks external review of the agency's decision to refuse access to certain documents and to give access to other documents in an edited form. Mr Guppy ('the second respondent') opposes the giving of access. The second respondent is one of two directors of KG & GS Nominees Pty Ltd, as trustees for K Guppy and G Smith Trust, trading as Futura Constructions ('the third respondent'), which also opposes the giving of access.

BACKGROUND

2. The agency is established by section 4 of the *Water Corporation Act 1995* as a body corporate with perpetual succession and is responsible for a range of water services to the Western Australian community. I understand that the agency's Project Management Branch provides clients of the agency with a project management service and that it selects qualified and experienced personnel to work on a contract for service basis in its project teams. Individuals selected via the agency's pre-qualification process are placed on a list of pre-qualified people. The agency invites tenders from pre-qualified people on that list for project management work. I understand that, as a result of this process, the third respondent has successfully tendered for a number of contracts for services with the agency and its two directors/employees, Mr Guppy and Mr Smith, have performed work for the agency under various contracts for services between the third respondent and the agency.
3. On 13 January 2003, the complainant, who is currently engaged in litigation with the agency, applied to the agency for access under the FOI Act to information in relation to 26 separate matters relating to the third respondent and several other persons who may have been employed or engaged by the agency in relation to the supply of water and sewerage services. Of particular interest to the complainant were documents relating to the tender and subsequent construction of the Maida Vale main sewer.
4. Pursuant to its obligations under section 11 of the FOI Act, the agency advised the complainant that his right of access under the FOI Act was a right to apply for access to documents, rather than information. In order to assist him, the agency identified various categories of documents that might be relevant to the complainant's access application. On 20 February 2003, the complainant reframed his access application as a request for access to documents relating to, amongst other things, work done for the agency by the third respondent and by that company's two employees/directors, together with documents relating to the qualifications of the second respondent.

5. Following that, the agency identified 152 documents as falling within the revised scope of the complainant's access application. The agency dealt with those documents in separate groups and, between 29 May 2003 and 25 June 2003, the agency gave the complainant five notices of decision in respect of those documents. As a result of those decisions, the agency gave the complainant access to a substantial number of the requested documents, but also refused him access to other documents, either in full or in part, on the basis that those documents contained matter that was exempt under one or more of clauses 3(1), 4(2) or 10(4) of Schedule 1 to the FOI Act. The agency also refused the complainant access to certain information in several of the requested documents, on the ground that it was information which fell outside the revised scope of the access application.
6. On 7 July 2003, the complainant requested an internal review of the agency's decisions, as set out in the five notices. I understand that the agency's decision on internal review was incorrectly addressed and, as a result, was not received by the complainant within the prescribed time. Consequently, on 5 August 2003, the complainant made a complaint to the Information Commissioner seeking external review of the agency's deemed confirmation of its initial decision to refuse access. On inquiry by this office, the agency advised the then Information Commissioner ('the former Commissioner') that a notice confirming the agency's original decisions had been sent to the complainant on 25 July 2003.

REVIEW BY THE INFORMATION COMMISSIONER

7. The former Commissioner obtained the disputed documents from the agency, together with the relevant FOI files. In the course of my office dealing with this matter, the agency provided my office with additional information and documents to clarify various matters. Further inquiries were made with the complainant to clarify the scope of his access application, and with the agency to ascertain the basis upon which the exemptions claimed by the agency were made.
8. In response, the complainant reduced the scope of his access application to the following documents:
 - *“Documents relating to the qualifications/prequalification of Mr Guppy and Futura Constructions.*
 - *Any documents containing ministerial directives concerning service concessions/inducements to Joe White Maltings.*
 - *In relation to each of the identified tenders/contracts concerning Mr Guppy/Futura (including Mr Smith):*
 - *The tender submission*
 - *Documents relating to the evaluation of the tender*
 - *Documents relating to the award or the extension of any contract.”*

The complainant also asserted that there were other documents that came within the scope of his access application, which the agency had failed to locate.

9. Whilst examining the agency's files relating to this matter, my office identified some additional documents that appeared to come within the revised scope of the complainant's access application. As part of the conciliation process, the complainant withdrew his complaint in relation to some of the requested documents, including those documents which the agency claimed were exempt under clause 10(4), and the agency agreed to release other documents to him, either in full or in edited form.
10. On 3 October 2003, after considering the material then before her, the former Commissioner informed the parties, in writing, of her preliminary view of this complaint, including her reasons. It was the former Commissioner's preliminary view that the disputed matter in documents 2, 3 and 66 and certain information in documents 6, 10, 14 and 19, may be exempt matter under clause 3(1) and that the disputed matter in documents 108, 110, 112, 116 and 124 may be exempt under clause 4(3) of Schedule 1 to the FOI Act, but that other information that the agency or the second respondent claimed was exempt under clauses 3(1), 4(2) and 4(3) may not be exempt under those exemption clauses.
11. The former Commissioner also concluded, having regard to the revised terms of the complainant's access application, that certain information recorded in documents 2, 3, 6, 7, 10, 14-16, 68, 69, 79, 93 and 100 (which she identified to the parties in a schedule attached to the letter containing her preliminary view) fell outside the scope of the revised access application, because it was information about third parties not sought by the complainant. As a result, the former Commissioner declined to deal further with that particular information. Having examined the material available to the former Commissioner; the revised scope of the complainant's access application; and the information concerned, I agree with the former Commissioner's conclusion that the information described in the schedule attached to her letter of 3 October 2003 falls outside the scope of the complainant's revised access application. Accordingly, I have not dealt further with that information.
12. In accordance with the provisions of section 69(4) of the FOI Act, the former Commissioner provided the second respondent with a copy of her letter of 3 October 2003, on the basis that both he and/or the third respondent might be affected by a decision made on this complaint. Subsequently, the second respondent applied to be joined as a party to this complaint and was so joined. The second respondent made submissions to the former Commissioner claiming that certain information in the requested documents was exempt under clause 4(2) or clause 4(3) of Schedule 1 to the FOI Act. The complainant and the agency also made submissions to the former Commissioner, in response to her preliminary assessment. Finally, the third respondent also applied to be joined as a party to this complaint and was joined. The third respondent made no submissions to me but relied on the second respondent's submissions.
13. In response to the former Commissioner's preliminary view, the agency and the second respondent withdrew their objections to the disclosure of the disputed information in documents 1 and 4 and some of the disputed information in documents 2 and 3 and the agency released copies of documents 1 and 4 and edited copies of documents 2 and 3 to the complainant.

14. The agency now claims that certain information in documents 5-11, 14-16, 18-22, 48, 65, 69, 72, 77, 80, 83, 84, 91, 93, 94, 100, 105, 107 and 109 is exempt under clause 4(2) and that certain information in documents 108, 110, 112, 116 and 124 is exempt under clause 4(3) of Schedule 1 to the FOI Act.
15. The second respondent maintains his claim that certain information in documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124 is exempt under clause 4(2) or, in the alternative, under clause 4(3) of Schedule 1 to the FOI Act.
16. Both the agency and the second respondent maintain their claims that the disputed matter in documents 2, 3 and 66 and certain information in documents 6, 10, 14 and 19 is exempt under clause 3(1) of Schedule 1 to the FOI Act.
17. In his response to the former Commissioner's preliminary view, the complainant withdrew his complaint in respect of certain information in documents 14 and 19 but did not withdraw his complaint in respect of the remaining information in dispute in those documents. The complainant also maintains his claim that there are additional documents that come within the revised scope of his access application that the agency has not identified. What remains in dispute between the parties is certain information contained in 52 documents, which the agency has identified to me. The agency has given the complainant access to edited copies of each of those 52 documents.

THE DISPUTED MATTER

18. The documents containing the disputed matter are listed and described in the schedule attached to this decision and numbered 2, 3, 5-11, 14-16, 18-22, 48, 59, 60, 65, 66, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124. Those documents were created between 1996 and 2002 and can be categorised as follows:
 - Documents 2 and 3 relate to the agency's pre-qualification process for the selection of qualified individuals to work as part of its project management teams. Some of that information is also found in documents 6 and 10.
 - Documents 5-8 relate to Contract No. AS 50919 - Provision of a Contract Manager for Warnbro, Maida Vale and Thornlie Main Sewers.
 - Documents 9-11, 83 and 84 relate to Contract No. AS 60915- Provision of a Project Manager for Various South West Region Projects.
 - Documents 14-16, 100, 105, 107 and 109 relate to Contract No. AS 90908 and 90908B - Provision of Works Inspectors for a Period of 12 Months for Various Contracts Within the Perth Metropolitan Region.
 - Documents 18-22, 48, 72, 74-76, 79-81, 91-94, 97 and 110 relate to Contract No. AS 90910 – Provision of a Construction Coordinator and

Other Personnel for Neerabup Groundwater Scheme Stages 1 and 2 and Lexia Groundwater Scheme and Related Projects.

- Documents 65, 66, 69, 70 and 77 relate to Contract No. AS 70910 – Provision of Works Inspector (originally Contract PM/W97/004 Beenyup Wastewater Treatment Plant – Distribution Works).
 - Documents 108, 112, 115-117, 119, 123 and 124 relate to Contract No. AG-01-10354 – Provision of a Construction Coordinator and Works Inspector – Wanneroo Miex Project.
 - Documents 59 and 60 are recruitment action forms for various projects.
19. The disputed matter relates, in the main, to the résumés of the third respondent’s directors; rankings/scores of the second respondent; and tender or contract pricing information relating to the third respondent’s contracts with the agency.

THE EXEMPTIONS

Clause 3(1) – personal information

20. The agency and the second respondent claim that the disputed matter in documents 2, 3 and 66, and certain information in documents 6, 10, 14 and 19, is exempt under clause 3(1) of Schedule 1 to the FOI Act. Clause 3, insofar as it is relevant, provides:

“(1) Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).

Limits on exemption

(2) ...;

(3) ...;

(4) *Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who performs, or has performed, services for an agency under a contract for services, prescribed details relating to –*

(a) the person;

(b) the contract; or

(c) things done by the person in performing services under the contract;

(5) ...;

(6) *Matter is not exempt matter under subclause (1) if its disclosure would, on balance, be in the public interest.”*

21. The term “personal information” is defined in the Glossary in Schedule 2 to the FOI Act to mean:

“information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead -

- (a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or*
- (b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample”.*

22. The definition of the term “personal information” in the FOI Act makes it clear that the exemption in clause 3(1) applies to any information or opinion about a person from which the identity of that person is either apparent or can reasonably be ascertained from that information or opinion. I share the former Commissioner’s view that the purpose of the exemption in clause 3(1) is to protect the privacy of individuals whose personal information may be contained in documents held by State and local government agencies. The exemption in clause 3(1) is recognition by Parliament that State and local government agencies collect and hold sensitive and private information about individuals, which should not ordinarily be publicly accessible without the informed consent of the individuals concerned, or where its disclosure, on balance, is clearly in the public interest.

The complainant’s submission

23. The complainant submits that the two directors of the third respondent may not be properly qualified for the work undertaken by that company under its various contracts for service with the agency. Accordingly, the complainant submits that it would, on balance, be in the public interest to release information concerning the personal and formal qualifications of those persons.

Consideration

24. I have examined the information in documents 2, 3, 6, 10, 14, 19 and 66, which the agency and the second respondent claim is exempt under clause 3(1). Documents 2, 3, 6 and 10 contain the second respondent’s relative performance ranking awarded under the agency’s pre-qualification process. Documents 14, 19 and 66 include copies of the résumés of each of the two directors of the third respondent. Taking into account the context in which the disputed matter appears in documents 2, 3, 6, 10, 14, 19 and 66, I consider that the matter which the agency and the second respondent claim is exempt under clause 3(1) is “personal information” about the two directors of the third respondent, as defined in the FOI Act. It is, therefore, information of a kind that is *prima facie* exempt under clause 3(1) of Schedule 1 to the FOI Act.

25. I have considered whether any of the limits on exemption in clauses 3(2)-3(6) applies in this instance. In my view, having regard to the nature of the disputed matter and the information before me, only the limits on exemption in clauses 3(4) and 3(6) are potentially applicable in this case.

Clause 3(4) – prescribed details

26. Clause 3(4) provides that prescribed details, relating to a person who performs, or has performed, services for an agency under a contract for services, are not exempt under clause 3(1). The relevant prescribed details are set out in regulation 9(2) of the *Freedom of Information Regulations 1993* (‘the Regulations’), as follows:

“(a) the person’s name;

(b) any qualifications held by the person relevant to the person’s position or the services provided or to be provided pursuant to the contract;

(c) the title of the position set out in the contract;

(d) the nature of services to be provided and described in the contract;

(e) the functions and duties of the position or the details of the services to be provided under the contract, as described in the contract or otherwise conveyed to the person pursuant to the contract; or

(f) anything done by the person in the course of performing or purporting to perform the person’s functions or duties or services, as described in the contract or otherwise conveyed to the person pursuant to the contract”.

27. I have considered whether any of the disputed matter in documents 2, 3, 6, 10, 14, 19 and 66 consists of prescribed details of the kind referred to in paragraphs (a)-(f) of regulation 9(2). In particular, I have considered whether the performance ranking scores and the résumés come within regulation 9(2)(b).

28. The High Court of Australia, in *Broken Hill South Ltd v Commissioner of Taxation (NSW)* (1936-1937) 56 CLR 337 per Dixon J at 371, referred to well settled principles of statutory interpretation that:

“... require the words of the Act to be given their ordinary grammatical meaning unless to do so would produce a repugnancy or absurdity or internal inconsistency. In deciding what that meaning is, regard must be had to the Act as a whole and to its subject matter.”

In my view, the word “held” in regulation 9(2)(b) of the Regulations should be given its plain and ordinary meaning. “Hold” and “held” are defined in *The*

Australian Concise Oxford Dictionary of Current English (third edition, 1997), at page 633, to mean, among other things: “**3** tr. *possess, gain or have, esp.: ...b gain or have gained (a degree, record, etc.)*”.

29. Applying that approach, I understand the phrase “*any qualifications held by the person*” in regulation 9(2)(b) to refer to any formal academic qualifications held or gained by the two directors of the third respondent, which are relevant to their positions or to the services provided by them, pursuant to the third respondent’s contracts with the agency. In my view, such qualifications are prescribed details pursuant to regulation 9(2)(b) of the Regulations and are not, thus, exempt. In my view, there is nothing to indicate that regulation 9(2)(b) should be interpreted broadly to encompass, for example, work experience or personal - as opposed to academic - qualifications. Accordingly, I do not consider that other qualifications, such as personal qualifications, are subject to the limitation on the exemption in clause 3(4).
30. However, having examined the disputed matter, I consider that the academic qualifications of the second respondent, contained in lines 14-17 on page 2 of the résumé attached to document 19, are prescribed details of the kind referred to in regulation 9(2)(b) and, accordingly, I find that that particular matter is not exempt under clause 3(1).

Clause 3(6) – the public interest

31. Clause 3(6) provides that matter is not exempt matter under clause 3(1) if its disclosure would, on balance, be in the public interest. Section 102(3) of the FOI Act provides that the onus is on the access applicant to establish that disclosure would, on balance, be in the public interest. Accordingly, the onus is on the complainant to establish that the disclosure of information (which in my view is *prima facie* exempt under clause 3(1)) in documents 2, 3, 6, 10, 14, 19 and 66 about persons other than himself would, on balance, be in the public interest.
32. I have considered the complainant’s submission that it is, on balance, in the public interest to disclose all of the information that concerns or relates to the personal or formal qualifications of the third respondent’s directors/employees, on the basis that they may not have the required qualifications for the relevant work. There is nothing before me, other than the complainant’s unsupported assertion, to establish that either of the third respondent’s directors/employees is not relevantly qualified. Moreover, given that the agency has released to the complainant material relating to its pre-qualification process, including that concerning the second respondent, and in view of my findings concerning the second respondent’s formal academic qualifications, I consider that that public interest has been satisfied to a certain degree in this case.
33. I recognise that there is a public interest in people, such as the complainant, being able to exercise their rights of access under the FOI Act. In this case, I consider that that public interest has also been satisfied, to a substantial extent, by the agency’s disclosure of all of the requested documents to the complainant, either in full or in edited form.

34. I also acknowledge that there is a strong public interest in government agencies being accountable for, and being seen to be accountable for, their decision-making processes (particularly where, as here, the tender and pre-qualification process eventually leads to the expenditure of public monies) and in the observance by agencies of statutory requirements. However, having inspected the disputed matter in documents 2, 3, 6, 10, 14, 19 and 66, I do not consider that the disclosure of the small amount of personal information which has been deleted from those documents would cast any further light on the agency's decision-making processes, nor serve to make the agency more accountable for its decision-making, so as to tilt the balance in favour of disclosing the personal information about individuals in this instance.
35. In my view, there is a strong public interest in maintaining personal privacy, which is recognised by the inclusion of the exemption in clause 3(1). I consider that that public interest will only be displaced by some other, stronger, public interest that requires the disclosure of personal information about another person. Therefore, in balancing the competing interests, on the basis of the material before me, I have given more weight to the public interest in protecting the privacy of third parties. Accordingly, I find that the information identified as personal information in documents 2, 3, 6, 10, 14, 19 and 66 (other than lines 14-17 on page 2 of the résumé attached to document 19) is exempt under clause 3(1) but that the information in those lines of the résumé is not exempt.

Clause 4 – Commercial or business information

36. The agency and the second respondent claim that certain information in documents 6, 10, 14 and 19 and the disputed matter in documents 5, 7-9, 11, 15-16, 18, 20-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124 is exempt under clause 4(2) or clause 4(3) of Schedule 1 to the FOI Act. Clause 4, so far as is relevant, provides:

“4. *Commercial or business information*

Exemptions

- (1) ...
- (2) *Matter is exempt matter if its disclosure –*
- (a) *would reveal information (other than trade secrets) that has a commercial value to a person; and*
- (b) *could reasonably be expected to destroy or diminish that commercial value.*
- (3) *Matter is exempt matter if its disclosure –*

- (a) *would reveal information (other than trade secrets or information referred to in subclause (2)) about the business, professional, commercial or financial affairs of a person; and*
- (b) *could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of that kind to the Government or to an agency.*

Limits on exemptions

- (4) ...
- (5) ...
- (6) ...
- (7) *Matter is not exempt matter under subclause (3) if its disclosure would, on balance, be in the public interest.”*

37. The exemptions in clauses 4(2) and 4(3) are intended to protect different kinds of information from disclosure and the terms of those provisions make it clear that information that may be found to be exempt under clause 4(2) cannot also be exempt under clause 4(3), although it is open to an agency or a third party to make alternative submissions as to which of the exemption clauses applies. It is also possible that a single document may contain a mixture of information, some of which is exempt under clause 4(2) and the remainder under clause 4(3).

The complainant's submission

- 38. In his response to the former Commissioner's preliminary view, the complainant emphasised that he is not a commercial competitor of the third respondent but is seeking the disputed information to use in his litigation against the agency. He takes the view that the agency is claiming exemption for the disputed matter in order to avoid an examination of its tendering processes.
- 39. The complainant submits that it would be in the public interest to disclose information about the third respondent's tender documents and its prices because, in the course of the discovery process resulting from his litigation with the agency, the complainant claims that he has noted certain "anomalies" in one of the third respondent's tenders. That tender was submitted to the agency on a "pre-qualified" basis and, thus, the complainant argues, was "*not subject to the rigours of the 'Public Tender' requirements*". The complainant submits that this, together with his understanding that the second respondent had an established prior relationship with the agency, may have afforded the third respondent an unfair advantage.
- 40. The complainant further submits that there are also "anomalies" in relation to the registration of the third respondent and, accordingly, it is also in the public interest that the agency's tendering processes are open to scrutiny, so that such alleged discrepancies can be examined.

The agency's submission

41. The agency submits that “[t]he disputed information is commercially confidential as it provides access to the hourly rates and estimated hours; variation/extension costs; and mileage and other charges and allowances that Futura initially submitted to the Corporation in 1996” and that “[d]uring this time there have been increases to the pricing structure, ie rates per hour, costs and charges, for subsequent contracts and variations to the contracts.”
42. The agency states that the contracts in question are ‘schedule of rates’ rather than ‘lump sum’ contracts and that the agency will generally only disclose the successful tenderer’s contract price in the latter case. The agency submits that the details of the rates tendered by a successful tenderer are commercially confidential.
43. The agency submits that it would not be in the public interest to disclose financial information that is commercially confidential. In particular, the agency submits that, if the disputed matter were released, any competitor of the third respondent (whether the complainant or others) would have the ability to ascertain that company’s pricing structure and, consequently, the knowledge to underprice a tender offer when competing with the third respondent for any future commercial work put up for tender by the agency or any another organisation. The agency submits that disclosure of the disputed matter would destroy any competitive advantage that the third respondent has gained between 1996 and the present in bidding for similar contracts with the agency or any other organisation.

The second respondent's submission

44. The second respondent submits that the disclosure of the disputed matter would reveal details about the third respondent’s business structure, its processes and its pricing. That information has a commercial value to the third respondent and its disclosure could reasonably be expected to diminish the company’s competitive advantage in the market place. The second respondent submits that, if the disputed matter were to be released to a business competitor, the third respondent would be placed at a disadvantage in making tender submissions to other organisations for future work.
45. The second respondent submits that the disclosure of the third respondent’s previous contract rates, contract hours and lump sums would allow for the forward calculation of its current rates. The second respondent has provided me with calculations to illustrate that over a number of years the third respondent has made tender submissions to the agency which have included rate rises calculated in a particular way. The second respondent submits that the release of any individual rate will allow the easy calculation of the third respondent’s current rates and, thus, its competitive advantage in the market place could reasonably be expected to be diminished. Accordingly, the second respondent submits that the disputed matter is exempt under clause 4(2).

46. The second respondent further submits that the third respondent supplied the disputed matter to the agency in the belief that it would be confidential between the parties and relied on the confidentiality clauses set out in the tender and contract documents, in support of its belief. The second respondent submits that, if the third respondent had been aware that the disputed matter was to be subject to public release, then it would have reviewed the extent of the information included in its tender submissions. The second respondent believes that other companies in a like position would do the same, thus adversely affecting the future supply of information to the Government. Accordingly, the second respondent submits that the disputed matter is exempt, in the alternative, under clause 4(3).

Clause 4(2) – information that has a commercial value

47. The agency claims that certain information in documents 5-11, 14-16, 18-22, 48, 65, 69, 72, 77, 80, 83, 84, 91, 93, 94, 100, 105, 107 and 109 is exempt under clause 4(2) of Schedule 1 to the FOI Act. The second respondent also claims that that information in those documents, together with the disputed matter in documents 59, 60, 70, 74-76, 79, 81, 92, 97, 108, 110, 112, 115-117, 119, 123 and 124, is exempt under clause 4(2).
48. Clause 4(2) is concerned with the protection from disclosure of information which is not a trade secret but which has a ‘commercial value’ to a person. The definition of the word ‘person’ in section 5 of the *Interpretation Act 1984* makes it clear that the exemption in clause 4 applies to bodies corporate or unincorporate, as well as to natural persons.
49. In order to establish an exemption under clause 4(2), the matter for which a claim for exemption is made must be shown to have a commercial value, although I agree with the former Commissioner that it is not necessary that the commercial value be quantified or assessed. In several decisions, the former Commissioner consistently held that matter has a ‘commercial value’ to a person if it is valuable for the purpose of carrying on the commercial activities of any person and, further, that it is by reference to the context in which the information is used, or exists, that the question of whether or not particular information has a commercial value to a person may be determined: see, for example, *Re Precious Metals Australia Ltd and Department of Minerals and Energy* [1997] WAICmr 12 and *Re Jones and Jones and Town of Port Hedland* [2000] WAICmr 23.

Consideration

50. I have examined the information in documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124, which the agency and/or the second respondent claim is exempt under clause 4(2). It comprises tender/contract pricing information, including charges and allowances; variation and extension costs; estimated hours and hourly rates. I have also considered the submissions and the information provided to me by the parties. Under section 102(1) of the FOI Act, the onus is on the agency to establish that its decision to refuse access to the

disputed matter is justified. In addition, under section 102(2) of the FOI Act, as the second and third respondents also oppose the giving of access, the onus is also on the second and third respondents to establish that access should not be given or that a decision adverse to the complainant should be made.

51. In relation to this claim for exemption, the submissions made by the complainant and the agency in respect of the public interest are not relevant, since the 'public interest test' in clause 4(7) is only relevant to an exemption claim under clause 4(3). Accordingly, I have considered those submissions in relation to that provision, at paragraphs 78-83, below.
52. I do not accept the agency's submission that because the information is 'commercially confidential' (which I understand to mean information that is not in the public domain) it has 'commercial value' to the third respondent. In *Re Prosser Management Pty Ltd and Another and Harvey Norman Holdings Ltd and Another* [2003] WAICmr 30, at paragraph 21, the former Commissioner considered a similar claim and found that, whilst confidentiality of information may be a factor to be considered in deciding whether the relevant information has a commercial value, that fact alone does not, of itself, establish that the information has a commercial value, or that it is exempt information. I agree with that view.
53. I also reject the second respondent's submission that the disputed matter is inherently confidential, because of confidentiality clauses set out in the relevant tender and contract documents. The second respondent was asked to produce documentation to support this claim. He provided my office with a copy of a confidentiality undertaking for Contract No. AS 90910, signed by the second respondent. However, having read that material, in my opinion, that undertaking clearly states that it operates to protect the confidential information of the agency, rather than that of the contractor and its employees.
54. In her preliminary view, the former Commissioner considered whether the disputed matter was covered by confidentiality clauses in the tender or contract documents. The former Commissioner noted that the agency's General Conditions of Contract operate to protect the agency's, rather than the contractor's, information and that the agency's Conditions of Tendering for 1996 state that the agency shall treat all information acquired about tenderers "*throughout the process of tendering*" in strict commercial confidence, although that provision does not appear in its Conditions of Tendering for 1999. The former Commissioner also observed that, since the commencement of the FOI Act, no agency can give any person or organisation express assurances of absolute confidentiality. In *Searle Australia Pty Ltd v Public Interest Advocacy Centre and Another* (1992) 36 FCR 111, at p.127, the Full Federal Court said, in relation to the Commonwealth *Freedom of Information Act 1982*:

"With the commencement of the FOI Act on 1 December 1982, not only could there be no understanding of absolute confidentiality, access became enforceable, subject to the provisions of the FOI Act. No officer could avoid the provisions of the FOI Act simply by agreeing to keep documents confidential. The FOI Act provided otherwise."

55. I accept that this view applies equally to the FOI Act, which became operative in Western Australia in November 1993. I note that the agency accepts the former Commissioner's comments concerning the confidentiality of the disputed matter, as set out in her preliminary view. I consider that the second respondent's claim in this regard is not supported by the material before me.
56. I have also taken into consideration, as a factor in deciding whether the disputed matter has a commercial value, the agency's advice that the relevant contracts are "schedule of rates" rather than lump sum contracts and that the agency will only generally disclose the successful tenderer's price in the latter case.
57. The third respondent is a company engaged in project management work for the agency, and I accept that it competes in a commercial environment for work of that kind. I have considered whether the disputed matter, in each of documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124, is valuable for carrying on the commercial activities of the third respondent, in the context of its current activities as a contractor supplying project management services to government agencies or private organisations.
58. Taking the disputed documents individually, I am not persuaded that the disclosure of the disputed matter in each of those documents would reveal information that has a commercial value to the third respondent, in the sense described. I do not consider, for example, that information showing that in 1997 the second respondent had an expected workload of a specified number of hours per week (document 70) or the estimated cost and recommended tender price, with nothing further, for a contract awarded in January 2001 (document 115) is information that has a commercial value to the third respondent or to any other person.
59. The second respondent submits that I should consider the cumulative effect of disclosure of the disputed matter which involves piecing together information obtained from one document with different information gathered from other documents, in order to calculate the current rates of the third respondent. That claim, which is known as the 'mosaic theory', was discussed by the Queensland Information Commissioner in *Re O'Reilly and Queensland Police Service* (1996) 3 QAR 402 at pp.410-412. In that case, the Queensland Commissioner observed:

"21 *...references to the possibility of mosaic analysis do no more than draw to the attention of the decision-maker the fact that disclosure of the information in issue in a particular case should not necessarily be viewed in isolation. It points to the possibility that, in certain cases, disclosure of a piece of information in issue, when combined with other available information, could enable the deduction of further information, the disclosure of which would be contrary to one of the public interests which the exemption provisions in the FOI Act are designed to protect.*

22. *It must be borne in mind that the mosaic theory does not give rise to any separate exemption and can only be used to establish a factual basis for satisfaction of one of the exemption provisions within the FOI Act.”*
60. As I understand it, the second respondent is claiming that the disclosure of the disputed matter would, when analysed and pieced together with other material already disclosed, enable the calculation of the third respondent’s current rates. In other words, the second respondent contends that the disclosure of the disputed matter would, through some ill-defined process of selecting, analysing and making calculations using the information, effectively reveal the third respondent’s current rates and pricing information, which the second respondent claims is information that has a commercial value to the third respondent.
61. The second respondent has provided me with information to illustrate how and why he believes that this kind of outcome might be achieved. I have considered the second respondent’s claims in this regard and my officers have made comparative calculations, using the information provided by the second respondent, together with certain data which my officers obtained to test the second respondent’s submission that disclosure of information relating to the third respondent’s previous contract rates, hours and lump sums would enable calculation of its present pricing structures. As a result of that analytical process, I am not persuaded that it is possible for a person to calculate the third respondent’s current rates with any degree of accuracy from the disputed matter by analysing it in conjunction with other information already disclosed to the complainant.
62. Accordingly, I am not satisfied that either the agency or the second respondent have established the requirements of paragraph (a) of clause 4(2) for the disputed matter which they claim is exempt under clause 4(2). That is, I am not satisfied that the disputed matter in documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124 is information that has a commercial value to the third respondent. Accordingly, it is unnecessary for me to consider whether the requirements of paragraph (b) are made out in this case.
63. For the reasons given, I am not satisfied that either the agency or the second respondent has established a valid claim for exemption under clause 4(2). Accordingly, I find that the disputed matter in documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124 is not exempt under clause 4(2).

Clause 4(3) – information about business, professional, commercial or financial affairs

64. The second respondent claims that certain information in documents 5-11, 14-16, 18-22, 48, 59, 60, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107-110, 112, 115-117, 119, 123 and 124 is, in the alternative, exempt under clause 4(3) of Schedule 1 to the FOI Act. The agency claims that certain information in documents 108, 110, 112, 116 and 124 is exempt under clause 4(3).

65. The exemption in clause 4(3) is more general in its terms than the exemption in clause 4(2) and deals with information (other than trade secrets or information of the kind referred to in clause 4(2)) about the business, professional, commercial or financial affairs of a person, in circumstances where disclosure could reasonably be expected to have an adverse effect on those affairs, or to prejudice the future supply of information of that kind to the Government or to an agency.
66. The exemption in clause 4(3) recognises that the business of government is frequently mixed with that of the private sector and that neither the business dealings of private bodies, nor the business of government, should be adversely affected by the operation of the FOI Act. The exemption in clause 4(3) comprises two parts and both paragraphs (a) and (b) of clause 4(3) must be satisfied before a *prima facie* claim for exemption is established. If the requirements of paragraphs (a) and (b) are satisfied, the application of the limit on exemption in clause 4(7) must also be considered.

Consideration

67. I have examined the disputed matter which is claimed to be exempt under clause 4(3) and, given the context in which that information appears in the disputed documents, I am satisfied that the disputed matter would, if disclosed, reveal information about the third respondent's business, professional, commercial or financial affairs and, arguably, information about the business, professional, commercial or financial affairs of that company's two directors, one of whom is the second respondent. Accordingly, I am satisfied that the requirements of paragraph (a) of clause 4(3) are satisfied in respect of the disputed matter.
68. I understand the gist of the second respondent's submissions to be that the disclosure of the disputed matter could reasonably be expected to have an adverse effect on the business, commercial or financial affairs of the third respondent because such disclosure could reasonably be expected to affect adversely that company's ability to compete for project management work. The second respondent also submits that, had the third respondent been aware that the disputed matter could be publicly released, it would have limited the extent of the information given to the agency and that other companies would do the same, with the result that, in future, the supply of such information to the Government would be adversely affected.
69. The agency submits that the disclosure of the disputed matter would allow the third respondent's business competitors to ascertain information about that company's pricing structure, which in turn would allow those competitors to underprice the third respondent's future tenders on any commercial work, whether government or private sector. Accordingly, the agency asserts that any competitive advantage gained by the third respondent between 1996 and 2003 would be adversely affected.

70. The correct approach to the interpretation of the phrase “...*could reasonably be expected to*” in clause 4 is that the words should be given their ordinary and natural meaning and they require a judgment to be made by the decision-maker as to whether something is reasonable, as distinct from something that is irrational, absurd or ridiculous: see *Attorney-General's Department and Australian Iron and Steel Pty Ltd v Cockcroft* (1986) 10 FCR 180 at 190 and *Searle*.
71. I do not accept the second respondent’s submission that the third respondent would have limited the extent of the information given to the agency, had it been aware that the disputed matter could become publicly available under the FOI Act. The disputed matter refers to information such as the third respondent’s hourly rates, its charges and allowances, availability, hours estimated and worked and tender prices. Clearly, that is information that must be provided when tendering. It is my understanding that, if that kind of information were not provided to the agency, the tender would not comply with tender specifications, thereby leading to the tender being rejected for non-compliance. In those circumstances, I do not accept that the third respondent or other tenderers in a like position would refuse to provide this type of information in the course of seeking work from the agency or that it could reasonably be expected that the disclosure of the disputed matter could prejudice the future supply of information of that kind to the Government or to an agency.
72. In *Re QMS Certification Services Pty Ltd and Department of Land Administration and Another* [2000] WAICmr 48, the former Commissioner held that the disclosure of fees paid by the agency to Quality Assurance Services (‘QAS’) for particular services could reasonably be expected to have an adverse effect on QAS because, in future business dealings, competitors of QAS, armed with that knowledge, would be in a position to undercut QAS in future tenders, whilst not being obliged to disclose similar information to QAS. In that particular case, the documents under consideration were 12 months old and QAS was the successful tenderer.
73. Having examined the relevant documents, I consider that the disclosure of the disputed matter in documents 108, 112, 116 and 124 that relates to Contract no. AG-01-10354 - which is the most recent of the contracts - could reasonably be expected to have an adverse effect on that company’s business, commercial or financial affairs in the way suggested by both the agency and the second respondent, because it contains the most recent and relevant commercial information about the third respondent’s pricing structure, costs and rates.
74. Having regard to the competitive commercial environment in which the third respondent operates, I accept that the disclosure of the disputed matter in documents 108, 112, 116 and 124 could reasonably be expected to have an adverse effect on the third respondent’s competitive ability, because it would inform competitors of the third respondent’s recent rates and give them a good idea of that company’s current rates. I accept that the complainant is not a commercial competitor of the third respondent. However, I note that disclosure of documents under the FOI Act is effectively disclosure to the world at large, since no control on the dissemination of documents can be imposed after their

release. Accordingly, I consider that disclosure of the disputed matter would place the third respondent in a position of competitive disadvantage vis-à-vis its competitors in submitting future tenders for the supply of specialist consultancy services to the agency and to other government and non-government organizations.

75. However, in my view, the same conclusion cannot be reached in respect of the disputed matter in documents 60, 115, 117, 119 and 123, which relates to the same contract or for document 59 which appears to relate to a different contract. Those particular documents do not contain any specific and detailed information about the third respondent's most recently quoted hourly rates, costs or pricing structures. Rather, the disputed matter consists of various total estimated and actual costs. Accordingly, I do not consider that the disclosure of the disputed matter in documents 59, 60, 115, 117, 119 and 123 could reasonably be expected to have an adverse effect on the business, financial or commercial affairs of the third respondent or to prejudice the future supply of information of that kind to the Government or to an agency.
76. With regard to the remainder of the disputed matter claimed to be exempt under clause 4(3) in documents 5-11, 14-16, 18-22, 48, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107, 109 and 110, that information is somewhere between three and eight years old and relates to contracts prior to the most recent contract. For the reasons given above, I am not persuaded that, if any or all of that disputed matter were to be disclosed, the third respondent's current pricing information would be revealed or could be accurately calculated and I am not satisfied, in any event, that the disclosure of information that is more than three years out of date about tender/contract prices, or the basis on which those prices were calculated, could reasonably be expected to have an adverse effect on the business, commercial or financial affairs of the third respondent.
77. I am not persuaded that the requirements of paragraph (b) of clause 4(3) are satisfied in relation to the disputed matter which is claimed to be exempt under clause 4(3), in documents 5-11, 14-16, 18-22, 48, 65, 69, 70, 72, 74-77, 79-81, 83, 84, 91-94, 97, 100, 105, 107, 109 and 110, and therefore I find that those documents are not exempt under clause 4(3). However, in my view, the requirements of paragraph (b) of clause 4(3) are satisfied in respect of the disputed matter in documents 108, 112, 116 and 124. Therefore, I find that the disputed matter in those documents is *prima facie* exempt under clause 4(3). However, it remains for me to consider whether the limit in clause 4(7) applies to the disputed matter in documents 108, 112, 116 and 124.

The public interest

78. Clause 4(7) provides that matter is not exempt under clause 4(3) if its disclosure would, on balance, be in the public interest. In other words, matter that is *prima facie* exempt under clause 4(3) may not be exempt and may be disclosed under the FOI Act if it is established that it would, on balance, be in the public interest to do so. Pursuant to section 102(3) of the FOI Act, the complainant bears the onus of establishing that disclosure would, on balance, be in the public interest.

79. In this instance, the complainant has not identified any public interest factors that may weigh against the disclosure of the disputed matter in documents 108, 112, 116 and 124 but, rather, has focused his attention solely on finding reasons why disclosure of the disputed matter in those particular documents would be in the public interest.
80. I agree with the complainant's submission that there is a public interest in the public being able to scrutinise the operations of the agency and to make its own judgment as to whether it is discharging its functions in a manner that is equitable and accountable. I consider that there is a strong public interest in State and local government agencies being accountable for the decisions they make to award contracts for the performance of services undertaken for the benefit of the public - and at public expense - and I also consider that there should be as much transparency as possible in the awarding of contracts. I consider it to be in the public interest for both tenderers for government contracts, and the public generally, to have confidence that such transactions are dealt with properly by the Government and its agencies.
81. However, in this instance, I consider that those particular public interests have been adequately served by the disclosures already made by the agency to the complainant and do not require the disclosure of the disputed matter in documents 108, 112, 116 and 124. Moreover, I do not consider that the disclosure of that disputed matter would, of itself, provide the complainant, or any other person, with information about the agency's decision-making processes in relation to the awarding of contracts or further the public interest in the accountability of the agency's tender processes.
82. Weighing against disclosure, I recognise that there is a public interest in the agency receiving (and keeping confidential) certain sensitive commercial information received from private individuals and companies that provide tender submissions to government agencies and, thus, maintaining its ability to attract competitive and competent tenderers to enable it to discharge its obligations to the community at large by carrying out public works at competitive rates. Although I consider that individuals and commercial organisations undertaking business with government - and being paid for that work from the public purse - must necessarily expect to be subject to a higher degree of scrutiny and accountability in respect of that work, I do not consider it to be in the public interest that such persons should suffer significant commercial disadvantage because of it. Clearly, that is what the exemptions in clause 4 are designed to avoid.
83. In balancing the competing interests, I consider that, in respect of the disputed matter in documents 108, 112, 116 and 124, the public interest factors weighing against disclosure outweigh those for disclosure, for the reasons given above. Accordingly, I find that the disputed matter in documents 108, 112, 116 and 124 is exempt matter under clause 4(3).

Documents that cannot be found or do not exist

84. The complainant claims that he has not been given access to additional documents that come within the scope of his access application. Those documents relate to two separate issues:
- (1) Ministerial letters or directives from the former Government to the agency concerning Joe White Maltings Limited ('JWM') and the installation of the Maida Vale main sewer ('the Sewer'); and
 - (2) the second respondent's qualifications.
85. Section 26 of the FOI Act deals with the obligations of an agency in circumstances where it is unable to locate the documents sought by an access applicant or where those documents do not exist. Section 26 provides that the agency may advise an applicant, by written notice, that it is not possible to give access to a document if all reasonable steps have been taken to find the documents and the agency is satisfied that the document is either in the agency's possession but cannot be found or does not exist.

The first issue

86. With regard to the first issue, the complainant submits that the agency holds directives, in the form of correspondence from the former Premier and/or Ministers, in relation to the agency's dealings with JWM, or that other documents such as briefing notes, diary entries or memoranda should exist in relation to such directives. The complainant provided the former Commissioner with three documents, which he claims contradict the agency's assertion that the requested documents do not exist.

The second issue

87. With regard to the second issue relating to the second respondent's qualifications, the complainant has provided me with no objective information, other than his unsupported assertion, to justify his claim that further documents exist. I note that documents 2, 3 and 10 contain information relating to the agency's pre-qualification process concerning the second respondent and, further, that document 19 contains the second respondent's résumé. It is not clear to me what other information the complainant is seeking.

Consideration

88. In respect of the first issue, the former Commissioner made inquiries with the agency concerning the requested Ministerial directives and asked for searches to be made. The agency consulted with a number of officers and searched its database, the files relevant to that issue and its storage and work areas. A list of the files searched and the officers consulted were provided to this office. The agency confirmed, in writing, that it could not find any documents of the kind requested.

89. The former Commissioner, in her preliminary view of this matter, stated that she had examined the three documents provided by the complainant in support of his claim that additional documents exist at the agency but that she was not persuaded that they were evidence of the fact that such documents should exist. I have examined those documents and I agree with that view. In my opinion, there is nothing in those documents which establishes that any Ministerial directives relating to the agency's dealings with JWM exist or should exist.
90. In light of the searches and inquiries made by the agency, and in view of the lack of any objective evidence to establish that the documents described by the agency actually exist or should exist, I am satisfied that the agency has taken all reasonable steps to locate documents of the kind described but that they either do not exist or cannot be found.
91. In respect of the second issue, the agency was requested to make further searches of its records. Following those searches, the agency informed me that, apart from the documents the subject of this decision, it does not hold any other information of the kind requested by the complainant. In light of the above, and in the absence of any objective material to support the complainant's claims on this aspect of the matter, I am satisfied that the agency has taken all reasonable steps to find the requested information and that it either cannot be found or does not exist, more likely the latter.

Schedule of Documents

Doc. No.	Date	Description
2	08/12/95	Agency document headed "Overall Summary of the Person as a Contract Coordinator RI 695"
3	08/12/95	Agency document headed "Overall Summary of the Person as a Project Manager RI 695"
5	09/01/96	Schedule 3/Schedule of Rates from tender document of Futura Constructions ('Futura') for Contract No. AS 50919
6	00/01/96	Agency document headed "AS 50919 – Provision of a Project Manager for Warnbro and Maida Vale & Thornlie Main Sewers"
7	19/01/96	Agency's submission to Chairman Tender Committee re Contract for Noting – Contract AS50919
8	19/01/96	Schedule for Contract No. AS 50919 (attached to letter from agency to Futura)
9	17/09/96	Schedule 3 of tender for Contract No. AS 60915 (attached to letter from Futura to agency)
10	(?)00/11/96	3 pages from agency document headed "AS60915 – Provision of a Project Manager for Various South West Region Projects"
11	21/11/96	Submission to Chairman Tender Committee – Contract for Noting – Contract No. AS 60915 (2 pages)
14	13/04/99	Letter from Futura to agency attaching submission re Tender No. AS 90908
15	23/04/99	Document headed "Commercial Vetting of Contract" re Contract No. AS 90908
16	03/05/99	Submission for Tender Committee Endorsement for approval to award Contract No. AS 90908 (2 pages)
18	19/04/98	Letter from Futura to agency.
19	04/05/99	Letter from Futura to agency attaching Tender No. AS 90910
20	17/05/99	Letter from Futura to agency
21	12/07/99	Agency document headed "Commercial Vetting of Contract" re Contract No. AS 90910
22	12/07/99	Agency document headed "Submission for Tender Committee Endorsement for Approval to Award Contract No AS 90910"
48	24/10/00	Memo to Manager Project Management Branch
59	16/02/02	Recruitment Action (Project Management) re Project Manager
60	05/12/02	Recruitment Action (Project Management) re Project Manager
65	04/03/97	Schedule 3 (attachment to letter from Futura to agency)
66	05/03/97	Résumé (attached to Letter from Futura to agency)
69	07/03/97	Memo to Manager, Project Management Branch, from Project Manager

70	07/03/97	Letter from Manager, Project Management Branch, to Futura
72	16/04/97	Memo to K Guppy from M Dennett with attachment
74	12/05/97	Memo to Tender Committee from Project Manager and Manager, Project Management Branch
75	15/05/97	Memo to Contract Payments Officer from Project Manager, Project Management Branch
76	15/05/97	Memo to Contract Payments Officer from Project Manager with attachment
77	16/05/97	Letter to Futura from Management, Project Management Branch, with attachment
79	17/03/98	Handwritten memo to Manager, Project Management Branch from Project Manager
80	19/04/98	Letter to agency from Futura
81	22/04/98	Memo to Contract Payments Officer from Project Manager, Project Management Branch
83	01/05/98	Handwritten note to M Paterniti from Manager, Project Management, with attachments
84	01/05/98	Letter to Futura from Manager, Project Management re Contract AS 60915
91	20/10/98	Handwritten note to Manager, Project Management from Project Manager
92	26/10/98	Memo to Manager, Project Management from Project Director
93	08/03/99	Memo to Manager, Project Management from Project Director
94	24/03/99	Memo to General Manager, Engineering & Contracts Division from Manager, Project Management
97	07/04/99	Alternative Tendering Approval re sole tender approval
100	26/05/99	Handwritten note re Contract No. AS 90908
105	20/03/00	Handwritten memo to Project Director from Project Manager re Neerabup Groundwater Schedule – Stage 2
107	27/07/00	Memo to Manager, Project Management Branch from Project Manager
108	20/11/00	Letter to Manager, Project Management from Futura
109	22/11/00	Memo to Project Director from Project Manager
110	03/01/01	Computer printout (attached to note to Manager, Project Management)
112	04/01/01	Approval to Waive Public Tendering from Manager, Project Management Branch to Executive Officer, Tender Committee
115	19/01/01	Submission for Tender Committee Endorsement for approval to award Contract No. AG-01-10354
116	29/10/01	Letter to Futura from A/Manager, Project Management
117	18/12/01	Submission for Tender Committee Endorsement for approval to vary Contract No. AG-01-10354
119	18/01/02	Submission for Tender Committee Endorsement for approval to vary Contract No. AG-01-10354

123	6/12/02	Submission for Tender Committee Endorsement for approval to extend Contract No. AG-01-10354
124	11/12/02	Letter to Futura from Manager, Contract Services Branch, Engineering and Contracts Division, with attachment