

**Decision D0122001 – Published in note form only**

***Re Nield and Shire of Serpentine-Jarrahdale [2001] WAICmr 12***

**Date of Decision: 28 February 2001**

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

The complainant sought access to two documents, being a letter sent in 1997 from a third party to a councillor of the agency and a letter addressed to the then Minister for Energy, a copy of which had allegedly been sent to the agency in 1997.

The agency searched its record holdings, including the relevant property files relating to the third party and the complainant, but could not find the documents described by the complainant. The agency also contacted certain councillors of the agency in an effort to locate the documents. The councillors had no recollection of either document and did not possess copies of either document.

The Information Commissioner was satisfied that the agency had taken all reasonable steps to find the requested documents and that the agency had complied with its obligations under the FOI Act. The Information Commissioner was of the view that the agency's copy of the letter addressed to the then Minister for Energy might have been misplaced, since there was material suggesting that a copy of that document had been forwarded to the agency. However, the Information Commissioner was unable to determine whether the other document exists, and if so, whether it should be held by the agency.

In the circumstances, the Information Commissioner confirmed the decision of the agency to refuse access to the documents under s.26 of the FOI Act on the grounds that the documents either do not exist or cannot be found.