

PASTORALISTS' AND GRAZIERS' ASSOC AND DOLA

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

File Ref: 95063

Decision Ref: D02795

Participants:

Pastoralists' and Graziers' Association
Complainant

- and -

Department of Land Administration
Respondent

DECISION AND REASONS FOR DECISION

FREEDOM OF INFORMATION - refusal of access - livestock and improvement returns relating to pastoral leases - clause 3(1) - personal information about third parties - public interest factors for and against disclosure - clause 8 confidential communications - clause 8(1) - whether disclosure would be actionable at common law - clause 8(2) prejudice to the future supply of information of that kind to the agency - clause 4(3) commercial or business information - information about business, professional, commercial or financial affairs of a person - whether disclosure could reasonably be expected to produce an adverse affect on those affairs - whether disclosure could reasonably be expected to prejudice the future supply of information of that kind - whether, on balance, in the public interest to disclose.

Freedom of Information Act 1992 (WA) ss. 24; 68(1); 72(1)(b); 75(1); 102(2);
Schedule 1 clauses 3(1); 4(3)(a); 4(3)(b); 4(7); 8; 8(1); 8(2)(a); 8(2)(b).

Freedom of Information Regulations 1993 regulation 10.

Freedom of Information Amendment Regulations 1994 regulation 7.

Land Regulations 1968 Schedule.

Queensland FOI Act.

Land Act 1933 ss. 23(1); 101A(1); 102(4)(a); 102(4)(b); 103(3)(a); 103(4)(a);
103(4)(b).

Re Corrs Pavey Whiting and Byrne v Collector of Customs (Vic) (1987) 74 ALR
428.

Re "B" and Brisbane North Regional Authority (Information Commissioner, QLD,
31 January 1994, unreported).

Re Searle Aust Pty Ltd v Public Interest Advocacy Centre (1992) 108 ALR 163.

DECISION

The decision of the agency is set aside. Except for matter which is exempt under clause 3(1) of Schedule 1 to the *Freedom of Information Act 1992*, as described in these Reasons for Decision, none of the disputed documents is otherwise exempt.

B. KEIGHLEY-GERARDY
INFORMATION COMMISSIONER

25th August 1995

REASONS FOR DECISION

BACKGROUND

1. This is a "reverse FOI application". That is, it consists of a complaint by a third party against a decision to give access to a document. It is a complaint by the Pastoralists' and Graziers' Association ('the complainant') against a decision by the Department of Land Administration ('the agency') that access under the *Freedom of Information Act 1992* ('the FOI Act') should be given to documents consisting of Livestock and Improvement Returns relating to certain pastoral leases ('the requested documents').
2. On 19 December 1994, Mr R A Illich ('the access applicant') applied under the FOI Act for access to certain annual returns for pastoral leases held by the Pastoral Board. Specifically, the access applicant sought access to those records dating from the year ending 30 June 1987 to the present date inclusive, relating to 28 properties which he listed. Following receipt of that application, the agency consulted with the current and former lessees to whom the requested documents related. Although a number of lessees did not respond, the agency received replies from 33 lessees objecting to the release of the requested documents for various reasons. On 2 February 1995, Mr Ian Allison, Acting Executive Officer of the Pastoral Board, decided to grant access to copies of the requested documents for the years 1980-1986. However, access to edited copies of documents for the years 1988-1994 was granted with matter claimed to be exempt under clause 4(3) of Schedule 1 to the FOI Act deleted from those copies. By virtue of regulation 10 of the *Freedom of Information Regulations 1993* (inserted by regulation 7 of the *Freedom of Information Amendment Regulations 1994*), the Pastoral Board is, for the purposes of the FOI Act, to be considered a part of the agency.
3. On 28 February 1995, the agency received an application for internal review of its decision to grant access to edited copies of the requested documents. That application was lodged by Mr Boulton, President of the complainant, acting as the authorised representative of a number of pastoral lessees affected by the agency's initial decision. On 22 March 1995, the internal reviewer, Mr Ross McDonald, Policy Officer, Legal and Legislative Review in the agency, varied the initial decision and decided that the requested documents for the years 1991-1987 could be released with the names of third parties deleted from those documents, on the basis that disclosure of the names would reveal matter that is, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act.
4. Following the decision of Mr McDonald to grant access to edited copies of the requested documents, Dr Esbenshade, Pastoral Director of the complainant, applied to the Information Commissioner on 19 April 1995, seeking external review of the decision of the agency.

REVIEW BY THE INFORMATION COMMISSIONER

5. On 11 May 1995, in accordance with my statutory obligation under s.68(1) of the FOI Act, the agency was notified that I had accepted this complaint for external review. In accordance with my authority under s.75(1) and under s.72(1)(b) of the FOI Act, I sought the production to me of the documents in dispute together with the file maintained by the agency in respect of the access application. Those documents were delivered to my office on 16 May 1995.
6. On 30 May 1995, my Investigations Officer met with Dr Esbenshade, representing the complainant, and Mr Northcott, a member of the Pastoral Board and a pastoralist, who attended that meeting in his private capacity as a pastoralist. The purpose of that meeting was to discuss the complainant's concerns about the release of the requested documents.
7. On 28 June, having examined the documents in dispute and considered the submissions and other material before me, I provided the parties with my preliminary view and reasons for that view. It was my preliminary view, on the basis of the material then before me, that the complainant's claims that the documents are exempt under clauses 4(3) and 8 of Schedule 1 to the FOI Act, could not be sustained. However, it was my preliminary view that the matter proposed by the agency to be deleted as personal information about third parties was, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act.
8. Following receipt of that preliminary view, I received a further written submission from the complainant in support of its claims that the requested documents are exempt under clauses 4(3) and 8 of Schedule 1 to the FOI Act, together with a letter from the Chairman of the Pastoral Board which the complainant claimed also supported its view that all of the requested documents are exempt in total. Therefore, as the agency had decided that some of the requested documents are not exempt whilst others and parts of others are exempt, the issue for my determination is whether any part of the requested documents is exempt and, if so, for what reason or reasons.

THE DISPUTED DOCUMENTS

9. There are 66 documents in dispute between the parties ('the disputed documents'). Each of the disputed documents is a completed prescribed Form 21, "*Return of Livestock and Improvements*" as contained in the schedule to the *Land Regulations 1968*. Each document contains standard information provided by the lessee relating to the particular pastoral lease, including the number of stock, improvements and value of improvements made to buildings, plant and equipment on the lease.

THE EXEMPTIONS

(a) Clause 8 - Confidential communications

10. The complainant claims that the disputed documents are exempt under clauses 8(1) and 8(2) of Schedule 1 to the FOI Act. Clause 8 provides:

"8. Confidential communications

Exemptions

- (1) *Matter is exempt matter if its disclosure (otherwise than under this Act or another written law) would be a breach of confidence for which a legal remedy could be obtained.*
- (2) *Matter is exempt matter if its disclosure -*
- (a) *would reveal information of a confidential nature obtained in confidence; and*
 - (b) *could reasonably be expected to prejudice the future supply of information of that kind to the Government or to an agency.*

Limits on exemption

- (3) *Matter referred to in clause 6 (1) (a) is not exempt matter under subclause (1) unless its disclosure would enable a legal remedy to be obtained for a breach of confidence owed to a person other than -*
- (a) *person in the capacity of a Minister, a member of the staff of a Minister, or an officer of an agency; or*
 - (b) *an agency or the State.*
- (4) *Matter is not exempt matter under subclause (2) if its disclosure would, on balance, be in the public interest."*

(i) Clause 8(1)

11. Clause 8(1) may apply to exempt documents in circumstances where disclosure, other than under the FOI Act or another written law, would be actionable at common law. The requirements to found an action for breach of confidence were explained in the dissenting judgment of Gummow J. in *Corrs Pavey Whiting and Byrne v Collector of Customs (Vic)* (1987) 74 ALR 428. Other than in cases involving contractual obligations of confidence, Gummow J said (at 437):

"It is now settled that in order to make out a case for protection in equity of allegedly confidential information, a plaintiff must satisfy certain

criteria. The plaintiff (i) must be able to identify with specificity, and not merely in global terms, that which is said to be the information in question, and must also be able to show that (ii) the information has the necessary quality of confidentiality (and is not, eg, common or public knowledge), (iii) the information was received by the defendant in such circumstances as to import an obligation of confidence, and (iv) there is actual or threatened misuse of that information: Saltman Engineering Co Ltd v Campbell Engineering Co (1948) 65 RPC 203 at 205; Commonwealth v John Fairfax and Sons Ltd (1980) 150 CLR 39 at 50-51; 32 ALR 485 at 491-492; and O'Brien v Komesaroff (1982) 150 CLR 310 at 326-328; 41 ALR 255 at 266-268. It may also be necessary, as Megarry J thought probably was the case (Coco v Clark (AN) (Engineers) Ltd [1969] RPC 41 at 48), and as Mason J (as he then was) accepted in the Fairfax decision was the case (at least for confidences reposed within government), that unauthorised use would be to the detriment of the plaintiff".

12. The Queensland Information Commissioner also provided a detailed analysis of the law in this area when considering the application of the equivalent provision in the Queensland FOI Act in his decision in *Re "B" and Brisbane North Regional Health Authority* (31 January 1994, unreported). At paragraph 95 of that decision, the Information Commissioner noted the comments of Gummow J in *Corrs Pavey* to the effect that disclosure of information to a government agency pursuant to the exercise of statutory powers to compel the disclosure of such information cannot give rise to any obligation of confidence under the general law.
13. In my view, the principle to which Gummow J was referring is reflected in his following comments, at page 437:

"If the documents for which exemption is claimed under s.45[of the Commonwealth FOI Act] in these proceedings had been supplied by Alphapharm only pursuant to direct requirement of the [Australian Customs] Service under its statutory powers (e.g. Customs Act 1901 s.38B) I would have some difficulty in seeing how from these circumstances any obligation of confidence could arise under the general law. The question in such a case would rather be one of finding a statutory restriction (if there be one) upon use by the [Australian Customs] Service of the information in the documents, and then of measuring the terms of that statutory restriction against the terms of the exemption in s.38 of the FOI Act: Newscorp v NCSC (1984) 52 ALR 277; Kavvadias v Commonwealth Ombudsman (1984) 52 ALR 728."

14. It is the submission of the complainant that the requirements to establish an exemption under clause 8(1) are satisfied by the provisions of the *Land Act 1933*, specifically sections 102(4)(b) and 103(4)(a). The *Land Act 1933* ('the Land Act') is a law relating to Crown land. It deals with, *inter alia*, grants of Crown land, the granting of leases of land to Aborigines and the granting of pastoral leases. It establishes the Pastoral Board which assists the Minister for Lands in

determining whether pastoral leases are liable for forfeiture. The Land Act also prescribes certain conditions which attach to pastoral leases including "improvement conditions" requiring the lessee to effect and maintain a certain level of improvement to the property. Section 102(4)(b) of the Land Act provides:

"Every lessee of a pastoral lease shall furnish to the Board annually not later than 31 December a return in the prescribed form showing full particulars of the improvements effected on the land the subject of his lease during the year next preceding that date and the cost of those improvements or stating that no improvements were effected on that land during that year."

15. Further, s.103(4)(a) provides:

"(4) A lessee of a pastoral lease -

(a) shall furnish to the Board annually not later than 31 December a return in the prescribed form setting forth the respective numbers of sheep, cattle and horses with which the land the subject of his lease was stocked on the next preceding 30 June;"

16. The particulars with respect to pastoral leases that are furnished under the Land Act are submitted in the form of a statutory declaration. Further, leases may be forfeited under s.103(3)(a) of the Land Act. One ground for forfeiture is that the land the subject of the lease is not stocked or kept stocked with the number of sheep or cattle, or both, the Board considers to be a number sufficient for stocking, taking into account the carrying capacity of the land, seasonal climatic conditions and the period of time that has elapsed since the commencement of the lease.
17. Before forfeiture under the Land Act may occur, the Pastoral Board is required to make certain recommendations to the Minister for Lands concerning the number of stock, fencing requirements and compliance with conditions attached to the grant of a particular lease. On receiving such a report from the Pastoral Board, the Minister for Lands is required to give the lessee a notice requiring the lessee to comply with the requirements of the Pastoral Board. Failure to comply with such a notice may result in forfeiture of the lease under s.23(1) of the Land Act.
18. In my view, failure to submit the required information under ss.102(4)(b) and 103(4)(a) of the Land Act and in the prescribed form, can lead to action resulting in a forfeiture of the relevant pastoral lease. Given these facts, and based on the principle expressed by Gummow J in *Corrs Pavey*, cited at paragraph 13 above, it is my view that disclosure of the disputed documents would not enable a plaintiff to obtain a legal remedy for a breach of confidence. Further, in my view, there are no statutory provisions in the Land Act that restrict the use of information obtained by the agency, or the Pastoral Board on behalf of the agency, that

require consideration in the manner suggested by Gummow J. Therefore, I find that the disputed documents are not exempt under clause 8(1) of Schedule 1 to the FOI Act.

(ii) Clause 8(2)

19. The requirements of both paragraphs (a) and (b) of clause 8(2) must be satisfied in order to establish an exemption under that clause. It was the submission of the complainant that the requirements of paragraphs (a) and (b) were satisfied by the additional information provided in a letter from the Chairman of the Pastoral Board to the complainant, a copy of which was provided to me by the complainant.

20. In that letter, the Chairman of the Pastoral Board submitted, *inter alia*, that:

"...as a matter of policy and practice, the Pastoral Board has always firmly held that the information conveyed by pastoral lessees in submitting annual returns under Section 102 (improvements) and Section 103 (stock numbers) of the "Land Act, 1933" is obtained, and maintained, on a confidential basis...

The policy of the Pastoral Board outlined above requires that the statistical information furnished by pastoralists' in their annual returns be retained on a strictly confidential basis for seven (7) years, after which details may be released.

I confirm that this policy of confidentiality is based on mutual understandings and undertakings developed over many years and is not established by statutory provisions in the Land Act."

21. Even if I were prepared to accept that those comments are sufficient to persuade me that the disputed documents contain information of a confidential nature obtained in confidence, I am of the view that those comments are insufficient to establish the requirements of paragraph (b) of clause 8(2), namely, that disclosure of the disputed documents could reasonably be expected to prejudice the future supply of information of that kind to the agency. In any case, I am informed by the agency that the pastoralists' returns are filed on a general correspondence file in the agency. This suggests to me that the documents do not possess the necessary degree of secrecy or confidentiality that the complainant believes to be the case.

22. However, it is the submission of the complainant that each of the disputed documents is an exempt document for the following reasons which I have summarised:

(i) The requested documents were supplied to the Pastoral Board in confidence and releasing those documents under the FOI Act would cause pastoralists to lose confidence in the confidentiality of those returns thus jeopardising the accuracy of future returns;

- (ii) The policy of the Pastoral Board is that the requested documents are confidential for seven years and that policy should prevail; and
 - (iii) The identity of the access applicant is unknown and his or her reasons for seeking access to the requested documents are also unknown. Given this fact, there may be commercial reasons for seeking access to the requested documents.
23. However, none of those reasons addresses the requirements of paragraph (b) of clause 8(2). Further, I reject the suggestion that the accuracy of future returns would be in doubt and the inference, if it can be called that, to be drawn that the ability of the agency in the future to obtain prescribed information relating to pastoral leases could reasonably be expected to be prejudiced. There is simply no material before me capable of supporting that conclusion. The complainant stated that the disclosure of information in the disputed documents "*...would be likely to cause pastoralists to lose confidence in the confidentiality of their annual Livestock and Improvement returns*". However, that is an altogether different matter to claiming that the ability of the agency to obtain that information in the future could reasonably be expected to be prejudiced. The supply of the information in the disputed documents is a statutory requirement and a condition attached to the granting of a pastoral lease. Given those facts, I am not persuaded that the agency's ability in the future to obtain such information as is prescribed by statute could reasonably be expected to be affected in any way.
24. However, in addition to the prescribed information contained in the disputed documents, each lessee includes in his or her return, a record of rainfall in the area. That information is recorded voluntarily on a separate document attached to the Form 21. The provision of that information is useful for government records and statistics. However, it appears that the government could obtain that information from other sources. Although it is not compulsory to do so, I was informed that the lessees provide the information as a matter of course and in accordance with usual practices. In my view, it could be in the interests of the lessees to provide this information, especially if it becomes necessary under s.101A(1) of the Land Act to seek relief from payment of rent on account of drought or flood. In any case, there is no material before me that would provide any grounds for expecting the future supply of that information to the agency could reasonably be expected to be prejudiced by disclosure of the disputed documents.
25. It appears to me that the concerns expressed by the complainant are largely the result of entrenched attitudes in a conservative community that reflect the days of pre-FOI legislation. Those community attitudes, and indeed the attitudes in government agencies, must change to accommodate the culture of openness, accountability and responsibility inherent in FOI. I can understand that the complainant and the pastoralists whom the complainant represents may be uneasy with the effects of FOI legislation. However, as I have said before, FOI has ushered in a new era of government accountability. It is no longer sufficient to

rely on previous conventions of confidentiality as a reason to refuse to disclose documents.

26. The general right of access to documents held by State and local government agencies provided by the FOI Act is subject only to a valid claim for exemption as provided by that Act. The comments of the Full Court of the Federal Court of Australia in *Searle Aust Pty Ltd v Public Interest Advocacy Centre* (1992) 108 ALR 163, are relevant on this point, The Court said, at p.180:

"Prior to the coming into operation of the FOI Act, most communications to Commonwealth Departments were understood to be confidential because access to the material could be obtained only at the discretion of an appropriate officer. 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."

27. Such is also the case in Western Australia since the FOI Act came into operation on 1 November 1993. Therefore, on the material before me, for the reasons I have given, I find the disputed documents are not exempt under clause 8(2) of Schedule 1 to the FOI Act.

(c) Clause 4(3)

28. The disputed documents are also claimed by the complainant to be exempt under clause 4(3) of Schedule 1 to the FOI Act. Clause 4(3) provides:

"4. Commercial or business information

Exemptions

(1)...

(2)...

(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) *Matter is not exempt matter under subclause (1), (2) or (3) merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of an agency.*
 - (5) *Matter is not exempt matter under subclause (1), (2) or (3) merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of the applicant.*
 - (6) *Matter is not exempt matter under subclause (1), (2) or (3) if the applicant provides evidence establishing that the person concerned consents to the disclosure of the matter to the applicant.*
 - (7) *Matter is not exempt matter under subclause (3) if its disclosure would, on balance, be in the public interest."*
29. Clause 4(3), like many other exemption clauses in Schedule 1 to the FOI Act, consists of two parts. For matter to be exempt matter under clause 4(3), both paragraphs (a) and (b) of clause 4(3) must be established. That is, it must be shown that disclosure of the documents in question would reveal information of the kind specified in paragraph (a) of clause 4(3), being information about the business, professional, commercial or financial affairs of a person, and also that disclosure of that information could reasonably be expected to produce some adverse effect on those affairs, or could reasonably be expected to prejudice the future supply of information of that kind to the Government or to an agency. However, the "public interest test" in clause 4(7) also envisages that some kinds of business or commercial information may be disclosed if, on balance, it would be in the public interest to do so.
30. The agency decided that the current lessees of Crown land for pastoral use would have a valid claim for exemption under clause 4(3) of Schedule 1 to the FOI Act, but that it would be difficult to conclude that disclosure of the disputed documents would have an adverse effect on the business affairs of former lessees. It was the view of the agency that business planning was most accurate and detailed for a three year period, after which such planning became more theoretical and nebulous. In the exercise of his discretion, the agency's decision-maker on internal review chose three years as the cut-off point after which disclosure, in his view, would fail to have an adverse effect on the business affairs of a former or current lessee. On that basis, the decision-maker decided the disputed documents contain information that has a commercial value to the current lessees because the returns are a significant factor in setting the value of the property for sale or security purposes. The decision-maker concluded that the disputed documents for the years 1991-1993 are exempt but that the remainder are not exempt.

31. However, it was the view of the decision-maker that the names of the persons submitting the returns comprised personal information that was, *prima facie*, exempt matter under clause 3(1). Therefore, the agency proposed to disclose documents that were more than three years old with exempt personal information, namely, the names of the lessees, deleted from those documents.
32. However, the complainant submitted that the arbitrary period of three years was inappropriate for pastoral businesses. In a submission in response to my preliminary view, the complainant claimed that it was dissatisfied with the decision made by the agency on this point. The complainant said:

"...sheep wethers or ewes can be sold when they are four to five years old, but it is often two to three more years before all the associated receipts for the meat and wool produced by these animals are finally accounted for. Similar time lags occur for cattle, where it can be three to four years before calves are sold as steers. However, the time frame from calf to marketable steer varies considerably in rangeland environments, particularly during dry years when weight gain is retarded. Such difficulty to predict marketing factors for both sheep and cattle consequently impacts upon the financial accounting time lines for pastoral businesses. I therefore contest Mr McDonald's three year threshold [sic] date as being inadequate to protect the confidentiality of livestock and improvement returns. Furthermore, I contest the value of his deleting names of the persons making the returns. Local knowledge is sufficient to overcome the lack of names, so that previously confidential information can easily become public information."

33. From my examination of the disputed documents, I am satisfied that those documents contain information about the business, commercial or financial affairs of the lessees. That is, I am satisfied that the requirements of paragraph (a) of clause 4(3) are met by the substance of the information contained within the disputed documents. That information includes the numbers of stock on hand, the number purchased, the number sold and losses. It also includes details of the pastoralists' wool clip, where relevant, and the amount and cost of improvements made to the property.
34. However, the nature of the adverse effect on those affairs which it is claimed could reasonably be expected to follow from disclosure of the disputed documents is less clear. I accept the explanation of the complainant about the variability, and hence the reliability, of stock figures. In my view, the fact that the reliability of the data in the disputed documents is very much dependent on matters beyond the control of the lessee suggests that business planning based on those figures is likely to be uncertain at the best. For that reason, I do not consider that disclosure of the information in the disputed documents could reasonably be expected to have an adverse effect on the business, commercial or financial affairs of a lessee. Similarly, the cost to a lessee of improvements made to the property merely discloses expenditure. The documents do not, for example, disclose the source of funds, borrowings or any credit arrangements of a lessee. Further, for the reasons given at paragraph 23 above, I do not accept that

disclosure could reasonably be expected to prejudice the future supply of information of that kind to the agency.

35. From the material before me, I am not persuaded that a claim for exemption under clause 4(3) has been established with respect to any of the disputed documents. In both written and oral submissions the complainant's representative sought to persuade me that the confidentiality of the disputed documents should be protected and that none of the disputed documents should be disclosed to the access applicant. However, from my reading of those submissions, I am of the view that the complainant's objections mainly stem from uncertainty about the motives of the access applicant. This is so in spite of the clear intention in the FOI Act that the general right of access is not affected by any reasons given by an access applicant nor by the agency's belief as to what those reasons might be.
36. However, if I were satisfied, which I am not, that the complainant had discharged its onus under s.102(2) of establishing that access should not be given or that a decision adverse to the access applicant should be made, I would, nevertheless, consider that there is a public interest in it being made known how the agency administers its responsibilities under the Land Act and also in ensuring that lessees of Crown Land manage that land in a manner that is consistent with their statutory obligations and for the long-term benefit of all of the community.
37. Accordingly, I consider there to be a public interest in a certain amount of public scrutiny of the operation of Crown leases which outweighs any public interest against disclosure of the information contained in the disputed documents. It has not been demonstrated to me, for example, that the public interest in protecting the livelihood of the lessees, or in maintaining the proper running of the leases and use of the land, or in preserving the supply of information to the agency would in any way be damaged by disclosure of the disputed documents.

Clause 3 - Personal information

38. Clause 3(1) of Schedule 1 to the FOI Act provides that matter is exempt if its disclosure would reveal personal information about an individual other than the access applicant. In previous decisions I have found that there is a strong public interest in the protection of personal privacy which is afforded by the provisions of clause 3(1). Although, in some instances, the mere mention of a person's name may be "personal information" about that person, there usually must be more information than a name in order to establish the exemption under clause 3.
39. In my view, there is information in the disputed documents which is, *prima facie*, exempt matter. Each document bears a record of a declaration that its contents are true, and that declaration bears the name and signature of the person making it, who is not necessarily the lessee in each instance. I agree with the decision-maker on this point and consider that it is practicable to delete exempt matter in accordance with the provisions of s.24 of the FOI Act.

40. I consider providing access to a document with only the name deleted, wherever possible, to be in accordance with the objects and intent of the FOI Act. Therefore, I find that the name and signature of the person making the declaration in each document is exempt matter under clause 3(1) and should be deleted from all copies of the disputed documents, not merely from those for the years 1987-1991 as decided by the agency, and access should be provided to copies of all the disputed documents with that matter deleted.

41. The complainant is of the view that the identity of the third parties may still be ascertained by other pastoralists due to the nature and size of the industry, and that the documents remain, therefore, exempt documents. However, it has not been demonstrated to me that this is the case. In any event, were I to accept that, as I have said above, I consider there is, on balance, a public interest in disclosure of the documents.
