

Decision D0232008 - Published in note form only

***Re Sideris and Department for Planning and Infrastructure* [2008] WAICmr 23**

Date of Decision: 23 June 2008

Freedom of Information Act 1992: Section 26; Schedule 1, Clause 6(1)

The complainant applied to the Minister for Planning and Infrastructure for ten different types of documents. In accordance with s.15(1) of the *Freedom of Information Act 1992* ('the FOI Act') the Minister transferred part of the complainant's access application to the Department for Planning and Infrastructure ('the agency').

The agency refused access to the requested documents under s.26 of the FOI Act on the basis that the documents described in the partially transferred access application could not be found or did not exist. The agency confirmed its decision on internal review. Thereafter, the complainant applied to the A/Information Commissioner ('the A/Commissioner') for an external review of the agency's decision.

The A/Commissioner required the agency to make further searches and inquiries for one of the requested documents. The agency made those additional searches and one document was located. It was the same document the A/Commissioner found to be exempt under clause 6(1) of Schedule 1 to the FOI Act in his decision in *Re Sideris and Minister for Planning and Infrastructure* [2008] WAICmr 22. The A/Commissioner informed the parties of his preliminary view of this matter. It was the A/Commissioner's preliminary view that having regard to the inquiries and searches undertaken by the agency and to the investigations undertaken by the Office of the Information Commissioner, the agency's decision to refuse access to the documents the subject of points 1, 2, 3 and 5 of the complainant's transferred access application under s.26 of the FOI Act was justified. In addition, it was the A/Commissioner's preliminary view that one document, as referred to above, was exempt under clause 6(1) of Schedule 1 to the FOI Act.

The A/Commissioner confirmed the agency's decision to refuse access to the requested documents under section 26 of the FOI Act on the ground that, despite all reasonable steps having been taken to locate the requested documents, except for one document, they cannot be found or do not exist. The A/Commissioner found one document is exempt under clause 6(1) of Schedule 1 to the FOI Act.