

WINTERTON AND POLICE

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

**File Ref: 96156
Decision Ref: D01597**

Participants:

Helen Louise Winterton
Complainant

- and -

Police Force of Western Australia
Respondent

DECISION AND REASONS FOR DECISION

FREEDOM OF INFORMATION - refusal of access - documents concerning investigation of criticisms of conduct of earlier investigation - whether investigation of contraventions or possible contraventions of the law - ambit of access application - clause 3(1) - personal information - limits on exemption - personal signatures and home addresses and telephone numbers of officers of agency - clause 5(1)(b) - whether subsequent investigation was investigation of a contravention or possible contravention of the law - clause 7 - legal professional privilege - communications between Director of Public Prosecutions (DPP) and Commissioner of Police; DPP and Solicitor General; officer of agency and DPP; Solicitor General and Commissioner of Police - whether client/solicitor relationship - sole purpose test.

FREEDOM OF INFORMATION - sections 23 and 24 - obligation upon agency to consider giving access to edited copy.

Freedom of Information Act 1992 (WA) ss. 10, 23, 24, 31, 102(3); Schedule 1 clauses 1(1)(d), 3(1), 5(1)(b), 5(4), 7, 8(2), 11(1)(c)

Freedom of Information Act 1982 (Cth) s. 43(1)(c)(ii)

Re NHL and The University of Queensland (Information Commissioner, Qld, Decision No. 97001, 14 February 1997, unreported).

Manly v Ministry of Premier and Cabinet (Supreme Court of Western Australia, 15 June 1996, unreported, Library No. 950310).

Police Force of Western Australia v Kelly and Smith (Supreme Court of Western Australia, 30 April 1996, unreported, Library No. 960227).

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

Grant v Downs (1976) 135 CLR 674.

Waterford v The Commonwealth of Australia (1987) 163 CLR 54.

DECISION

The decision of the agency is set aside. In substitution it is decided that:

- (i) the matter described in Schedule A attached to the reasons for this decision is exempt under clause 3(1) of Schedule 1 to the *Freedom of Information Act 1992*;
- (ii) the matter described in Schedule B attached to the reasons for this decision is exempt under clause 5(1)(b) of Schedule 1 to the *Freedom of Information Act 1992*; and
- (iii) the documents are not otherwise exempt; and further
- (iv) the matter described in Schedule C attached to the reasons for this decision is outside the ambit of the access application.

B.KEIGHLEY-GERARDY
INFORMATION COMMISSIONER

20th May 1997

REASONS FOR DECISION

BACKGROUND

1. This is an application for external review by the Information Commissioner arising out of a decision of the Police Force of Western Australia (known as the Western Australia Police Service) ('the agency') to refuse Ms Winterton ('the complainant') access to documents of the agency requested by her under the *Freedom of Information Act 1992* ('the FOI Act').
2. The background to this complaint is as follows. In 1992, Mr Peter Kyle, a Perth solicitor, was commissioned by the State Government to inquire into certain matters with respect to the Council of the City of Wanneroo during the period May 1986 to May 1991. In June 1992, the terms of reference of the inquiry were extended and the period covered by the inquiry was extended to encompass matters up to 30 June 1992. Preliminary reports were submitted to the Minister for Local Government in April and in June 1992. Mr Kyle presented the final report of his findings ('the 1992 Report') to the Minister for Local Government on 2 December 1992 and, on 3 December 1992, the 1992 Report was tabled in the Parliament of Western Australia.
3. In late 1993, certain findings in the 1992 Report relating to possible criminal conduct by certain people were referred to the agency for further investigation. Investigations by the agency were commenced, but were terminated in December 1995 when all relevant documents were handed to Mr Kyle, who had been commissioned to reopen his inquiry.
4. Following an order of the Supreme Court of Western Australia disqualifying Mr Kyle, by reason of apprehended bias, from further inquiring into or making findings in respect of a particular person, Mr Kyle made certain public comments in respect of the agency's investigations of matters arising from the 1992 Report. Mr Kyle claimed that police were inefficient in their initial investigations and reticent in respect of aspects of those investigations which touched on matters that were alleged to be politically sensitive at the time. Following those public comments, Mr Kyle was requested to provide the Solicitor General with a report detailing certain matters including, *inter alia*, the matters the subject of his public comments.
5. On 29 February 1996, Mr Kyle provided the Solicitor General with a written report detailing his concerns ('the 1996 Report'). Thereafter, Mr Kyle was replaced by Mr Roger Davis. The investigation by Mr Davis was then reconstituted as the Royal Commission into the City of Wanneroo ('the Royal Commission'). At the date of this decision, the Royal Commission is continuing to conduct hearings into its terms of reference.

6. Subsequently, in April 1996, a copy of the 1996 Report was forwarded to the Commissioner of Police. An officer of the agency (Acting Detective Senior Sergeant T N Porter) conducted an investigation into the concerns expressed by Mr Kyle in respect of the agency's conduct of its earlier investigation of matters arising out of the 1992 Report. Acting Detective Senior Sergeant Porter submitted his report on the matter in May 1997.
7. On 2 August 1996, the complainant, who is the Deputy Chief of Staff of *The West Australian* newspaper, applied to the agency under the FOI Act for access to "*all documents - including personal notes and diary entries - relating to concerns by former local government inquiry head Peter Kyle about the police investigation into Wanneroo matters.*"
8. After agreement was reached between the agency and the complainant concerning the ambit of the access application, the agency dealt with the access application on the basis that it related to a request for access to documents relating to the concerns of Mr Kyle about the police investigation into Wanneroo-related matters. On 24 September 1996, Chief Inspector Rae, the officer in charge of the agency's FOI Unit, informed the complainant that he had located 2 documents, comprising 28 folios and 459 folios respectively, that he considered were within the ambit of the complainant's access application. Access to both documents was refused on the ground that those documents contain matter which is exempt under clauses 5(1)(b), 8(2) and 11(1)(c) of Schedule 1 to the FOI Act.
9. By letter dated 1 October 1996, the complainant sought internal review of the agency's decision and indicated a willingness to accept access to edited copies of the documents in question. On 15 October 1996, the agency's internal reviewer confirmed the decision of the agency that the requested documents are exempt under clauses 5(1)(b), 8(2) and 11(1)(c). The internal reviewer, Acting Inspector Sharkey, refused the complainant access to edited copies of the documents on the basis that "*...the provision of such an edited copy would not provide a concise and workable tool for the purpose required, nor would it reflect any similarity to the original document*".
10. On 22 October 1996, the complainant lodged a complaint with the Information Commissioner seeking external review of the agency's decision. In addition, the complainant asked for clarification from me as to whether it is an agency's responsibility to release documents in an edited form, whether or not that agency concurs with the end result of the editing.

REVIEW BY THE INFORMATION COMMISSIONER

11. I obtained copies of the disputed documents from the agency, together with a copy of the FOI file maintained by the agency in respect of this matter. After examining the disputed documents provided by the agency, it was apparent to me that there were more than two documents in dispute. For example, the document described as Document 2 by the agency, in fact, comprised a number of discrete

- documents, such as internal memoranda, investigation reports, Parliamentary Questions on Notice, Parliamentary Questions without Notice, Answers to Parliamentary Questions, letters to and from external parties, and facsimile messages.
12. Consequently, my Investigations Officer prepared a schedule which listed and described each of those discrete documents. Meetings and discussions were held with representatives of the agency and with the complainant. Although it was not possible to provide the complainant with a copy of the schedule prepared by my office (because to do so may have had the effect of disclosing exempt matter), the general nature of the documents listed in that schedule was described to the complainant in order that she could be in a position to decide whether access was required to all or any of those documents.
 13. In the course of the negotiations conducted by my officer, the complainant informed my office that she was not seeking access to any documents that predated the allegations made by Mr Kyle, nor was she seeking access to the documents which were annexed to the report of the police investigator given the task of inquiring into the allegations made by Mr Kyle. However, she confirmed that she was seeking access to documents which reflected and contained the police response to the various allegations made by Mr Kyle and, in particular, to those documents that consisted of the investigator's report and any recommendations made by him to the agency following the completion of his inquiries into those allegations.
 14. After the negotiations by my office with each of the parties, the number of documents in dispute was reduced considerably. On 21 January 1997, I informed the parties in writing of my preliminary view of this complaint, together with my reasons for that view. It was my preliminary view that certain matter in the disputed documents may be exempt under clause 3(1) of Schedule 1 to the FOI Act; certain matter was outside the ambit of the complainant's access application; and other matter was clearly exempt under clause 5(1)(b). Further, it was my preliminary view that the agency had not established a valid claim for exemption under clauses 8(2) or 11(1)(c) of Schedule 1 to the FOI Act for any of those documents.
 15. I received the agency's response to my preliminary view on 31 January 1997. The agency withdrew its claims for exemption under clauses 8(2) and 11(1)(c); agreed with my preliminary view that certain matter was outside the ambit of the access application and that certain matter within the documents is exempt under clause 3(1); maintained its claims for exemption under clause 5(1)(b) for all of the documents in dispute; and claimed that other matter is exempt under clause 7.
 16. The complainant responded to my preliminary view and informed my office that she no longer sought access to the matter within the documents which I had identified as being outside the ambit of her access application. Thereafter, further conciliation of this complaint was attempted but that attempt was unsuccessful.

17. Since some of the disputed documents were created by the Solicitor General and some by the Director of Public Prosecutions for Western Australia ('the DPP'), my office also consulted the Solicitor General and the DPP seeking information concerning the creation of those documents in order to assist me in the determination of this complaint. The Solicitor General provided me with detailed information concerning the creation of the 1996 Report and submitted that it may be exempt under clause 1(1)(d) and under clause 7 of Schedule 1 to the FOI Act. The DPP claimed that one document written by him is exempt under clause 7. Although the Solicitor General and the DPP are not parties to this complaint, I have, nonetheless, considered the submissions made by each of them in my determination of this matter.
18. Following my consideration of the information provided (including additional documentary evidence) and the submissions made to me by the Solicitor General, my office informed the complainant that it was my view that the 1996 Report (Document 43) was exempt under clause 7 of Schedule 1 to the FOI Act and that those parts of 2 documents (Documents 3 and 8) in which sections of the 1996 Report were reproduced *verbatim* were also exempt. The complainant was informed in detail of my reasons for that view and subsequently withdrew her complaint with respect to the 1996 Report and the relevant parts of Documents 3 and 8, which are described in Schedule C attached to these reasons and which, accordingly, are no longer in dispute and not subject to this decision.

PRELIMINARY MATTER - OBLIGATION TO CONSIDER EDITING

19. Section 23(1) of the FOI Act provides, *inter alia*, that, subject to s.24, an agency may refuse access to a document if the document is an exempt document. The term "exempt document" is defined in the Glossary in the FOI Act as meaning a document which contains exempt matter. The term "exempt matter" is defined as meaning matter that is exempt under Schedule 1 to the FOI Act. Further, pursuant to s.23(2), an agency may refuse access to documents without having identified any or all of them and without specifying the reason why matter in any particular document is claimed to be exempt matter if it is apparent, from the nature of the documents as described in the access application, that all of them are exempt documents, and there is no obligation under s.24 to give access to an edited copy of any of the documents.
20. Sections 23(1) and (2) are expressly made subject to the requirements of s.24 of the FOI Act. Section 24 provides:
 - "24. *If -*
 - (a) *the access application requests access to a document containing exempt matter; and*
 - (b) *it is practicable for the agency to give access to a copy of the document from which the exempt matter has been deleted; and*

(c) *the agency considers (either from the terms of the application or after consultation with the applicant) that the applicant would wish to be given access to an edited copy,*

the agency has to give access to an edited copy even if the document is the subject of an exemption certificate.”

21. In my view, s.24, when read in conjunction with ss.23(1) and (2), reinforces the general right of access provided by s.10 of the FOI Act and reflects the principle that an access applicant should, wherever possible, be provided with a copy of a requested document with exempt matter deleted. I consider that s.24 prevents the withholding of an entire document where only part of that document is exempt and requires the agency to consider the release of the non-exempt part of that document. Once all exempt matter has been deleted from a document, then, in my view, the document is no longer an exempt document as defined in the FOI Act.
22. The requirements of s.24 are cast in the form of a duty upon an agency to consider whether it is practicable to provide access to an edited copy of a requested document. I consider the expression “[i]f...it is practicable...” relates to the nature of the document requested and the ability of the agency to physically produce a document with exempt matter severed from it. For example, it is often practicable to edit a paper record by deleting exempt matter, but may be more difficult to do so if the document in question is, for example, a computer program or a video recording. Further, it may not be practicable to give access to a copy of a paper document from which exempt matter has been deleted if the non-exempt matter cannot be separated from the exempt matter. That might be the case, for example, where disclosure of (non-exempt) personal information about an access applicant would also necessarily involve disclosure of (exempt) personal information about a third party. However, I do not consider that the expression refers to whether the document, once it has been edited by the deletion of exempt matter, is considered by the agency to be intelligible (see also *Re NHL and The University of Queensland* (Information Commissioner, Qld, Decision No 97001, 14 February 1997, unreported)).
23. In my view, if the agency in this instance considered that “...*the provision of such an edited copy would not provide a concise and workable tool for the purpose required, nor would it reflect any similarity to the original document*”, then that was a matter which the agency should have brought to the attention of the complainant for the purpose of the complainant deciding whether she would wish to be given access to an edited copy and whether the agency was therefore under an obligation to give access in that form. If such consultation had taken place on this occasion, the complainant may have decided that she did not want access to edited copies of the particular documents. However, if an access applicant wishes, nonetheless, to be given access to an edited copy of a requested document, and the other conditions precedent in s.24 are met, then the views of the agency regarding the effect of the editing are not relevant to the duty of the

agency, pursuant to s.24, to provide access to an edited copy of the document concerned.

24. In this instance, the complainant made it quite clear that she was prepared to accept access to edited copies of the documents, and she specified the type of information which she was particularly interested in receiving. In my view, it was not apparent from the nature of the documents as described in the access application that the documents to which access was sought were all exempt. In those circumstances, I consider the decision-makers in the agency were under a duty to consider the editing of the documents sought pursuant to the provisions of s.24. However, they did not do so.

THE DISPUTED DOCUMENTS

25. There are 42 documents remaining in dispute in this matter. Those documents consist of notes of meetings and extracts of diary entries, internal memoranda, facsimile message sheets, routine administrative documents of the agency, correspondence from and to external agencies, the report of the agency concerning the inquiry into the allegations made by Mr Kyle in the 1996 Report, and other sundry papers.

THE EXEMPTIONS

(a) Clause 3 - Personal information

26. Clause 3, so far as is relevant, provides:

“3. *Personal information*

Exemption

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

Limits on exemption

(2) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal personal information about the applicant.

(3) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who is or has been an officer of an agency, prescribed details relating to -

(a) the person;

(b) the person's position or functions as an officer; or

(c) things done by the person in the course of performing functions as an officer.

(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) Matter is not exempt matter under subclause (1) if the applicant provides evidence establishing that the individual concerned consents to the disclosure of the matter to the applicant.

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

27. In the Glossary in the FOI Act, “personal information” is defined 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”.

28. As I have said before, I consider the exemption in clause 3(1) is designed to protect the privacy of persons about whom personal information may be contained in documents held by State and local government agencies. The definition of “personal information” in the Glossary makes it clear that any information or opinion about a person from which that person can be identified is, *prima facie*, exempt matter under clause 3(1).

29. I have examined the disputed documents. In my view, there is matter in some of those documents that is, *prima facie*, exempt matter under clause 3(1). That matter consists of names, addresses, telephone numbers, personal signatures and other private information concerning third parties.

30. The exemption in clause 3(1) is subject to a number of limits set out in sub-clauses (2) to (6). The limit in sub-clause (2) does not apply in this instance and there is no evidence before me that the limit in sub-clause (5) applies in respect of any of the personal information contained in the disputed documents. The limit in sub-clause (3) operates in respect of matter in the documents which, although personal information as defined in the FOI Act about police officers and other public officers, comprises prescribed details concerning those officers. That matter is not, therefore, exempt. Pursuant to s.102(3) of the FOI Act, the complainant bears the onus of persuading me that the limit in sub-clause (6) applies and the disclosure of personal information would, on balance, be in the public interest.
31. I have not received any submissions from the complainant on that point. I recognise that there is a public interest in maintaining the privacy of third parties. I also recognise a public interest in persons such as the complainant being able to exercise their rights of access under the FOI Act. I also consider there to be a public interest in the accountability of law enforcement agencies and, to that end, public scrutiny of their activities - particularly in circumstances where they are investigating criticisms of their own performance - so far as is possible without jeopardising that investigation or any of their other investigations or operations.
32. However, in balancing those competing interests, I am not persuaded that the latter or any other public interest would be served by allowing the complainant to have access to private information about individuals who may only have an indirect connection with the subject matter of the documents. Nor does it require the disclosure of the personal signatures or home addresses or telephone numbers of officers of the agency. For that reason, I consider that the public interest against disclosure in this instance outweighs any public interest in disclosure. Accordingly, I find the personal signatures of officers of the agency wherever they appear and the matter in Document 31 which is described in Schedule A attached to this decision to be exempt matter under clause 3(1) of Schedule 1 to the FOI Act.

(b) Clause 5(1)(b)

33. Clause 5(1)(b) provides:

“5. Law enforcement, public safety and property security

Exemptions

(1) Matter is exempt matter if its disclosure could reasonably be expected to -

(a) ...

(b) reveal the investigation of any contravention or possible contravention of the law in a particular case, whether or

not any prosecution or disciplinary proceedings have resulted”.

34. The exemption in clause 5(1)(b) has been the subject of two decisions by the Supreme Court of Western Australia. In *Manly v Ministry of Premier and Cabinet* (Supreme Court of Western Australia, 15 June 1995, unreported, Library No. 950310), the appellant appealed against my decision that a document relating to the affairs of the former Member for Wanneroo, which had been seized by police under a search warrant and which was the subject of an on-going investigation by the police which had been widely reported in the press, was an exempt document under clause 5(1)(b).
35. In that decision, Owen J. considered the scope and meaning of the exemption, noting that an analysis of similar provisions in other jurisdictions was of little assistance because those other provisions preclude access only if an investigation could reasonably be expected to be “prejudiced” by disclosure. After considering the arguments of the respondent as to the scope and meaning of clause 5(1)(b), His Honour said, at page 25:

“I think the clause is aimed at the specifics of the investigation, and not at the mere fact that there is or has been an investigation...A document is not exempt from disclosure simply because it would reveal the fact of the investigation. It must reveal something about the content of the investigation...”

I also think that it would be wrong to test the coverage of the clause by looking at the document in isolation. It must be considered in the light of the surrounding circumstances and in view of what else is known to the parties and the public...There must be something in the document which, when looked at in the light of the surrounding circumstances, would tend to show something about the content of the investigation. If that material is already in the public arena then it could not properly be said that the disclosure of the document would reveal the investigation.”

36. The scope and meaning of clause 5(1)(b) was also considered by the Supreme Court in *Police Force of Western Australia v Kelly and Smith* (Supreme Court of Western Australia, 30 April 1996, unreported, Library No. 960227). In that case, the agency had appealed my decision that certain documents relating to an investigation by the agency into the alleged unlawful discharge of a firearm by an officer of the agency were not exempt under clause 5(1)(b). Anderson J held, at page 13, that “...to the extent that any of the subject documents would reveal (whether for the first time or not) that the internal investigation branch of [the agency] was conducting an investigation or was about to conduct an investigation or had conducted an investigation into the conduct of the respondents as regards the incident at Fremantle on 25 March 1995 in which a firearm was discharged, that document is an exempt document within the meaning of cl 5(1)(b) of schedule 1 to the Freedom of Information Act 1992.”

37. After referring to the *Manly* decision and my reasons for decision in the case before him, His Honour said, at page 8:

“...documents which reveal that there is an investigation, the identity of the people being investigated and generally the subject matter of the investigation probably would satisfy the requirement stipulated by Owen J that the document “must reveal something about the content of the investigation”.”

38. Further, His Honour said at page 9:

“In my opinion the phrase “...if its disclosure could reasonably be expected to...reveal the investigation of any contravention of the law in a particular case...” is apt to include the revelation of the fact of a particular investigation by police of a particular incident involving certain people. I think there is very good reason to accept that Parliament intended that such matter be exempt from access under the Act.”

39. It was His Honour’s view that the stage which an investigation has reached, or whether the investigation has in fact been completed, is not relevant to whether matter is exempt under clause 5(1)(b). At pages 9-10, by way of comment, His Honour said:

“Even after an investigation has been completed there may be very good operational reasons why there should be no disclosure of it...Of course there may be no need for any secrecy whatever in a particular case and there may be good public interest reasons to give public access to the documents or to give the applicant access to the documents. However, whilst that may be a relevant consideration for the agency in exercising its discretion under s23(1) whether to allow access to the documents to the public or to a particular individual, it cannot help to determine whether the documents are in fact exempt documents under cl 5(1)(b).”

40. Clause 5(1)(b) requires that disclosure “*could reasonably be expected*” to reveal an investigation of the type described in that clause. Those words appear in several of the exemption clauses in Schedule 1 to the FOI Act. The meaning of the phrase, as it appears in s.43(1)(c)(ii) of the *Commonwealth Freedom of Information Act 1982*, was considered by the Federal Court of Australia in *Attorney-General’s Department and Australian Iron and Steel Pty Ltd v Cockcroft* (1986) 10 FCR 180. In considering the standard of proof imposed by that phrase, Sheppard J stated, at pp195-196:

“What is required is that the decision-maker act reasonably. For the document to be exempt his conduct must be taken to be that of the reasonable man. But then comes the difficulty. So acting, the decision-maker must expect that disclosure of the document could prejudice the future supply of information. In my opinion he will not be justified in claiming exemption unless, at the time the decision is made, he has real and substantial grounds for thinking that the production of the document

could prejudice that supply. But, stringent though that test may be, it does not go so far as to require the decision-maker to be satisfied upon a balance of probabilities that the production of the document will in fact prejudice the future supply of information.”

I accept that as the correct test to be applied in the interpretation of the phrase as it appears in clause 5(1)(b).

41. In respect of clause 5(1)(b), it is clear, in my view, that the contents of the document will be relevant to deciding the question of whether disclosure could reasonably be expected to reveal the fact of a particular investigation by police of a particular incident involving certain people, according to the broad test provided in *Police Force of Western Australia v Kelly and Smith*. In my opinion, it is not sufficient to satisfy the test suggested by His Honour in that case that the documents could reasonably be expected to reveal only the fact that there is, has been or will be an investigation. The documents must be reasonably expected to reveal, in His Honour's words, “...*the fact of a particular investigation by police of a particular incident involving certain people*” (at page 9). Further, of course, clause 5(1)(b) requires that, in order to be exempt, the investigation must be an investigation of a contravention or possible contravention of the law.
42. Of course, the mere reliance by an agency on clause 5(1)(b) as the basis for a refusal of access is, in my view, sufficient, of itself, to reveal the fact that there was or is an investigation. Accordingly, in most Australian FOI legislation there is a provision like s.31 of the FOI Act which gives agencies the option, in certain circumstances, of replying to an FOI request without confirming or denying the existence of requested documents. In circumstances where it is essential to conceal the fact of an investigation, it may be appropriate for an agency to respond to a request for access to documents relating to that investigation by relying on s.31. However, once an agency has identified the documents requested by an access applicant and claimed an exemption under clause 5(1)(b), the fact of that investigation becomes known to the access applicant. In my view, there is then generally no reason for that fact to be withheld from an access applicant in the course of my dealing with a complaint.
43. Further, once the fact of an investigation has been acknowledged by claiming exemption under clause 5(1)(b), it is necessary to examine each of the documents identified as being within the ambit of the access application to determine whether disclosure of any of those documents could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law, and whether any of the limits in clause 5(4) applies. It should not be assumed, in my view, that all documents forming part of a file relating to a particular investigation will, as a matter of course, be of a type to which clause 5(1)(b) may apply. However wide clause 5(1)(b) may be in its application, the terms of the clause do not create a class of documents to which the exemption may apply. Unless the provisions of s.23(2) are correctly relied upon by an agency, a decision as to access must be made with respect to each document.

44. Some documents identified in an FOI access application as pertaining to an investigation may be only indirectly related to that investigation. Some documents that are created or placed on an investigation file may be of such a kind that the disclosure of those documents could not reasonably be expected to reveal anything about an investigation. For example, administrative instructions or directions given by senior staff in the agency, documents recording the movements of files, administrative arrangements about agency personnel, or routine communications with external agencies may be identified as documents that fall within the ambit of an access application, but they may not necessarily be documents to which clause 5(1)(b) applies, as it may be that their disclosure could not reasonably be expected to reveal an investigation into a contravention or possible contravention of the law.
45. My examination of the disputed documents in this matter confirms, in my view, that some of the documents are properly described as routine administrative documents which bear no relationship to an investigation except that they happen to be located on an investigation file. As those documents are within the ambit of the complainant's access application, a decision on access must, therefore, be made in respect of each of those documents.
46. Having inspected all of the disputed documents, I am of the view that they contain information relating to two distinct investigations undertaken by the agency. Firstly, they contain matter relating to the investigation of certain matters arising out of the 1992 Report. Secondly, they contain matter relating to the subsequent investigation by Acting Detective Senior Sergeant Porter into matters arising out of the 1996 Report concerning the manner in which the earlier investigation was conducted.

The submission of the agency

47. In support of its claim for exemption under clause 5(1)(b), the agency claims that the documents in dispute were collected during the course of the subsequent investigation into the manner in which officers of the agency had dealt with the initial investigations, and formed the basis of a report and recommendations made in respect of the matter. Accordingly, the agency claims that the documents comprise an investigation conducted by an officer of the agency and, as such, the documents are exempt under clause 5(1)(b). Further, the agency claims that it is the "predominant business" of the agency to conduct investigations into contraventions or possible contraventions of the law. However, the agency did not identify the particular law or laws involved in such investigations.
48. I am not satisfied by the submission of the agency that all of the disputed documents could reasonably be expected, if disclosed, to reveal the investigations into the alleged criminal conduct which formed the initial investigations. In my view, it is not sufficient for the agency to claim that it is the "predominant business" of the agency to conduct investigations as a justification for the application of clause 5(1)(b). The FOI Act requires that each

document identified as within the ambit of a request be dealt with on its own merits. In its dealings with my office, the agency has not identified any particular law that prescribes how an investigation of the nature of the subsequent investigation should be conducted, nor any law that could possibly have been contravened if the initial investigation were not as thorough as it might have been.

49. In response to the invitation proffered in my preliminary view to identify such a law, the agency sought to persuade me that, by implication, disclosure of documents associated with the investigation conducted into the allegations made by Mr Kyle concerning the quality of the initial investigations would reveal the fact and the substance of the investigations conducted by the agency into matters raised in the 1992 Report regarding possible criminal matters, according to the interpretation of clause 5(1)(b) applied by Anderson J in *Police Force of Western Australia v Kelly and Smith*. After seeking advice from the Crown Solicitor's Office, the agency submitted that:

"...by virtue of the way in which the access application is expressed, any documents which fall within the scope of that application will reveal the investigations conducted into the commission of criminal offences raised by [the 1992 Report]...

The investigation which would be revealed by the release of those documents is not the investigation conducted by Detective Porter but the investigation conducted by the Police Service into the commission of criminal offences raised in [the 1992 Report]."

Consideration

50. I accept the general premise that the disclosure of documents created during a subsequent investigation into matters previously investigated by an agency may have the effect of revealing the initial investigation so as to bring those documents within the scope of the exemption in clause 5(1)(b). However, I do not accept that that premise is necessarily correct with respect to all such documents. In the circumstances of this complaint, the premise would be correct if the subsequent investigation were a re-investigation of the matters covered by the initial investigation. However, I do not consider that an inquiry into the manner in which officers of the agency dealt with particular matters is necessarily an investigation of a contravention or possible contravention of a law such that clause 5(1)(b) applies.
51. My examination of the disputed documents confirms that some aspects of the investigations by officers of the agency into matters raised in the 1992 Report are inextricably linked with the investigation conducted by the agency into the allegations of Mr Kyle concerning the agency's handling of the initial investigations and the initial investigations would, therefore, be revealed by the disclosure of some of those documents.

52. In my view, certain matter within the disputed documents which deals with the investigation into the substantive matters raised in the 1992 Report is matter which, if disclosed, could reasonably be expected to reveal the investigations undertaken by the agency into allegations of contraventions or possible contraventions of the law, including possible criminal conduct, by certain people. Accordingly, I consider that matter to be exempt from disclosure under clause 5(1)(b). However, not all of the matter within the disputed documents is of that type. I do not consider that the subsequent investigation, being an investigation about the quality of the initial investigations by the agency, is properly characterised as an investigation into a contravention or possible contravention of the law as required by clause 5(1)(b). Accordingly, I do not consider that matter that could reasonably be expected to reveal only the subsequent investigation is, by virtue of that alone, exempt under clause 5(1)(b).
53. Further, I consider that a considerable amount of matter contained in the documents which concerns the subsequent investigation into the quality of the earlier investigation could be disclosed without revealing the earlier investigation. Taking into account the requirements of s.24 of the FOI Act, and the particular matter which the complainant specified as being of interest to her, and having examined the documents, I consider it is practicable to edit some of the disputed documents in such a manner that the disclosure of edited copies of those documents could not reasonably be expected to reveal matter that is exempt under clause 5(1)(b).
54. Further, whilst expressing no view on the exempt status or otherwise of the documents, nor on whether or not they should be released to the complainant, the Instructing Solicitor to Counsel Assisting the Royal Commission has advised me that disclosure of the documents edited in the manner I propose and detailed in the schedules to this decision would not prejudice the work of the Royal Commission.

Clause 5(1)(b) as it applies to the disputed documents

55. In these reasons I refer to the disputed documents by number according to the schedule prepared by my office, and by folio number assigned to those documents by the agency. Document 1 (folio 1), Document 2 (folio 2), Document 13 (folio 27), and Document 14 (folio 28) are brief notes of meetings and extracts from the Day Book of the Commissioner of Police concerning meetings he attended. Having examined those documents, it is my view that none of them reveals a particular investigation by police of a particular incident involving certain people nor, more particularly, of a contravention or possible contravention of the law. Therefore, I find that those documents are not exempt under clause 5(1)(b).
56. Document 4 (folio 11), Document 5 (folio 12), Document 6 (folio 13), Document 7 (folio 14), Document 9 (folio 22), Document 18 (folio 227), Document 33 (folios 404-405), Document 35 (no folio number apparent), and Document 36 (folio 430) are internal memoranda between various officers of the

- agency. I have examined each of those documents. They reflect various administrative processes of the agency. Disclosure of those documents would not, in my opinion, reveal a particular investigation by police of a particular incident involving certain people. In my view, disclosure of those documents would not reveal anything of the initial investigations or any other investigation by police of a contravention or possible contravention of the law. Accordingly, I find that those documents are not exempt under clause 5(1)(b).
57. Document 24 (folio 237), Document 28 (folio 241), Document 29 (folio 242), and Document 30 (folio 243) consist of facsimile messages between various officers of the agency. Document 25 (folio 238) is a facsimile cover sheet from the agency to another agency. I have examined each of those documents. Those documents reveal that officers of the agency communicated with one another and with external agencies in the course of the subsequent investigation concerning aspects of the conduct of the agency, and nothing more. In my view, the disclosure of those documents could not reasonably be expected to reveal the earlier investigation or any other particular investigation by police of a contravention or possible contravention of the law. Accordingly, I find that those documents are not exempt under clause 5(1)(b).
58. Document 3 (folios 3-10) is an internal memorandum from the Assistant Commissioner (Crime Operations) to the Deputy Commissioner to which is attached a copy of a memorandum from the Commissioner of Police to the Minister for Police. Having examined that document, I am satisfied that it contains certain matter the disclosure of which could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law, as it contains matter which, if disclosed would reveal the investigation of matters arising out of the 1992 Report. In my view, that matter is clearly exempt matter under clause 5(1)(b) and I find accordingly. The exempt matter is described in the schedule attached to these reasons for decision (Schedule B).
59. However, I consider that that matter can be deleted from the document and that what remains relates only to the investigations into Mr Kyle's allegations about the conduct of those earlier investigations. As I have said before, I do not consider that it has been established that the investigation into those matters was an investigation into a contravention or possible contravention of the law. Accordingly, I do not consider the subsequent investigation to have been an investigation of the kind referred to in clause 5(1)(b). Therefore, I find that the remaining matter in Document 3 is not exempt under clause 5(1)(b).
60. Document 8 (folios 15-21) consists of a memorandum from the Assistant Commissioner (Crime Operations) to the Acting Deputy Commissioner. Document 8 pre-dates Document 3 and appears to be the document from which Document 3 was created. Document 8 contains the same information as Document 3, save for folio 3 of Document 3. Document 8 also contains additional introductory paragraphs and some concluding remarks not found in Document 3. Therefore, I find that the matter in Document 3 that is duplicated in Document 8 is exempt under clause 5(1)(b) for the same reasons as given in paragraph 58 above (and described in Schedule B). The additional matter

contained in Document 8 does not, in my view, reveal anything of the investigations of the matters raised in the 1992 Report, nor any other investigation of a contravention or possible contravention of the law. Therefore, I find that the remaining matter in Document 8, being the matter not found in Document 3, is not exempt matter under clause 5(1)(b).

61. Document 10 (folios 23-24) is a copy of a letter from the Commissioner of Police to the Royal Commissioner, Mr Davis. Document 37 (folios 431 - 432) is another copy of that document. Document 10 bears a hand-written note that does not appear on Document 37. The matter in those two documents which is identified in Schedule C, in my view, is outside the ambit of the complainant's access application. In any event, the complainant does not seek access to that information and it can be deleted from the documents. I have examined the remaining matter. In my view, the disclosure of that matter could not reasonably be expected to reveal anything about the earlier investigation or any other investigation into a contravention or possible contravention of the law. Accordingly, I find that the remaining matter in Document 10 and in Document 37 is not exempt under clause 5(1)(b).
62. Document 11 (folio 25) is a copy of a letter from the Commissioner of Police to the Solicitor General. The matter identified in Schedule C is outside the ambit of the complainant's access application. As the complainant does not seek access to that matter, it should be deleted from the document. Disclosure of the remaining matter, in my view, could not reasonably be expected to reveal the earlier investigation or any other investigation into a contravention or possible contravention of the law. Accordingly, I find that that matter is not exempt under clause 5(1)(b).
63. Document 12 (folio 26) is a memorandum from the Solicitor General to the Commissioner of Police. Document 42 (folio 440) is a copy of Document 12. In my view, the matter identified in Schedule C is outside the ambit of the access application and I find accordingly. The remaining matter, including the handwritten notes on Document 12 that do not appear on Document 42, in my view, could not reasonably be expected to reveal the earlier investigation or any other investigation into a contravention or possible contravention of the law. Accordingly, I find the remaining matter in Document 12 and Document 42 is not exempt under clause 5(1)(b). The agency also claims exemption under clause 7 for Document 42 and that claim is discussed below at paragraphs 75-81.
64. Document 15 (folio 219) is a file cover sheet relating to sundry papers. Document 16 (folios 220- 225), a report of an officer of the agency, is one of the sundry papers to which Document 15 relates. In my view, Document 15 is not exempt under clause 5(1)(b) and I so find. Document 16 is an internal agency report from one officer to another. I am satisfied that Document 16 contains some matter that could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. In my view, that matter is clearly exempt matter under clause 5(1)(b) and I have described it in Schedule B. However, in my opinion, the remaining matter reveals only the investigation of the police conduct of the earlier matters and not the investigation of a

- contravention or possible contravention of the law. Accordingly, I find that it is not exempt under clause 5(1)(b).
65. Document 17 (folio 226), Document 19 (folio 228), Document 20 (folio 231) and Document 22 (folio 235) are internal memoranda between officers of the agency. Those documents disclose aspects of the agency's administrative procedures in respect of the subsequent inquiry. Document 22 is a copy of Document 17 which has been forwarded to another officer of the agency and marked as such. Those documents both contain some matter which I consider to be exempt matter under clause 5(1)(b), as it reveals something of the earlier investigation, and I have described that matter in Schedule B. In my view, it is practicable to delete that matter from the documents. However, the matter remaining in Document 17 and Document 22 and the whole of Document 19 and Document 20 is not of the type referred to in clause 5(1)(b). In my view, disclosure of that matter could not reasonably be expected to reveal the earlier investigation or any other investigation into a contravention or possible contravention of the law. Accordingly, I find that Documents 19 and 20 and Documents 17 and 22, save for that matter described in Schedule B, are not exempt under clause 5(1)(b).
 66. Document 23 (folio 236) is an unsigned, undated copy of a letter from the agency to Counsel Assisting the Royal Commission. Document 21 (folio 232) is a signed and dated copy of Document 23. I have examined each of those documents. I consider that there is matter in those documents which could reasonably be expected to reveal something of the initial investigation. Accordingly, I find that matter to be exempt matter under clause 5(1)(b) and I have described that matter in Schedule B. However, the remaining matter in Document 21 and Document 23 reveals only matters of administration of the subsequent inquiry and is not exempt under clause 5(1)(b).
 67. Document 26 (folio 239) is a letter from an officer of the agency to an external agency. I have examined that document. In my view, disclosure of that document could not reasonably be expected to reveal an investigation into a contravention or possible contravention of the law, as it concerns the conduct of the subsequent inquiry only. Accordingly, I find that Document 26 is not exempt under clause 5(1)(b).
 68. Document 27 (folio 240) is an internal memorandum of the agency. I consider that there is matter in that document which, if disclosed, could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. In my view, that matter is exempt matter under clause 5(1)(b) and I find accordingly. The exempt matter is described in Schedule B. I find that the remaining matter in Document 27 concerns the conduct of the subsequent investigation only and is not exempt under clause 5(1)(b).
 69. Document 31 (folios 244-248) is a "running sheet" concerning the subsequent inquiry into the conduct of the agency. It contains some matter that I consider to be personal information about a third party and I have found that matter exempt under clause 3(1) (see paragraph 32 above). It also contains some matter that I

consider, if disclosed, could reasonably be expected to reveal the investigation of a contravention or possible contravention of the law. I find that matter exempt under clause 5(1)(b) and it is identified in Schedule B. I consider that the exempt matter can be severed and deleted in accordance with s.24 of the FOI Act and that the balance of the matter in Document 31 concerns the conduct of the subsequent administrative investigation only. In my view, disclosure of that matter could not reasonably be expected to reveal the earlier investigation or any other investigation into a contravention or possible contravention of the law. Accordingly, I find that, other than those parts identified in Schedule B, Document 31 is not exempt under clause 5(1)(b). Parts of the document are also claimed to be exempt under clause 7 and that is discussed below at paragraphs 75-81.

70. Document 32 (folio 403) is the agency's file cover sheet containing Document 34 (folios 406-428) which is the report of the second investigation. Document 32 is similar to Document 15 and, for similar reasons, I consider that there is nothing in that document that could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. Therefore I find that Document 32 is not exempt under clause 5(1)(b).
71. Having examined Document 34 in detail, I am satisfied that there is matter in that document which, if disclosed, could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. In my view, that matter is exempt matter under clause 5(1)(b) and I find accordingly. I have described the exempt matter in Schedule B. The remaining matter concerns only the subsequent investigation which, as I have said, was not an investigation of a contravention or possible contravention of the law. I find the remaining matter in Document 34 does not reveal the investigation of a contravention or possible contravention of the law and is not exempt under clause 5(1)(b). Exemption under clause 7 is claimed for some parts of Document 34 and those claims are discussed below at paragraphs 75-81.
72. Document 38 (folio 433) is a facsimile cover sheet from the DPP to the Commissioner of Police and Document 39 (folio 434) is the document, a letter, that was sent by that facsimile transmission to the Commissioner of Police. Document 40 (folios 435-438) is enclosed with Document 39. In my view, Document 38 is not exempt under clause 5(1)(b). However, there is some matter in Document 39 which I consider could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. In my view, it is practicable to delete that matter from Document 39 and to give access to an edited copy of that document. Therefore, I find the matter in Document 39, described in Schedule B is exempt matter under clause 5(1)(b). I find the remaining matter in Document 39 is not exempt under clause 5(1)(b). Exemption under clause 7 has also been claimed for Documents 38 and 39 and that is discussed below at paragraphs 75-81.

73. Document 40 (folios 435-438) is a copy of a communication between the DPP and the Solicitor General. Some matter on folio 436 may be exempt under clause 1 but, in any event, is outside the ambit of the access application and need not be disclosed as it is not sought by the complainant. That matter is identified in Schedule C. Further, I am satisfied that part of that document contains matter the disclosure of which could reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. Accordingly, I find that that matter is exempt under clause 5(1)(b), and it is described in Schedule B. However, I find that the remaining matter is not exempt under clause 5(1)(b). Exemption for the document has also been claimed under clause 7 and that is discussed below at paragraphs 82-86.
74. Document 41 (folio 439) is a copy of a letter from the Commissioner of Police to the Solicitor General. The matter identified in Schedule C is outside the ambit of the complainant's access application and is matter to which the complainant does not seek access. As for the remainder, I consider the document to be a routine piece of correspondence. Its disclosure, in my view, could not reasonably be expected to reveal an investigation into a contravention or possible contravention of the law. Accordingly, I find it is not exempt under clause 5(1)(b). A claim for exemption for the document under clause 7 is discussed below at paragraphs 75-81.

(c) Clause 7 - Legal professional privilege

75. The agency claims that matter contained in folios 245 and 247 of Document 31, folios 409, 412, 425 and 427 of Document 34, and the whole of Documents 38 (folio 433), 39 (folio 434), 40 (folios 435-438), 41 (folio 439) and 42 (folio 440) are exempt under clause 7. The DPP claims exemption under clause 7 for Document 40. Clause 7 provides:

"Legal professional privilege

Exemption

- (1) *Matter is exempt matter if it would be privileged from production in legal proceedings on the ground of legal professional privilege.*

Limit on exemption

- (2) *Matter that appears in an internal manual of an agency is not exempt matter under subclause (1)."*

76. The requirements to establish whether a document would be privileged from production in legal proceedings on the ground of legal professional privilege are well established by case law in Australia, and I have referred to those principles in a number of my formal decisions. Legal professional privilege applies to, *inter alia*, documents created for the sole purpose of use in legal proceedings or for

- the purpose of giving or obtaining legal advice: *Grant v Downs* (1976) 135 CLR 674.
77. I did not receive any submissions from the agency in relation to its claims for exemption under clause 7, which were only made after the agency had been informed of my preliminary view. However, I have considered the contents of those documents and whether they would be privileged from production in legal proceedings on the ground of legal professional privilege.
78. The parts of folios 245 and 247 of Document 31 for which exemption is claimed under clause 7 comprise notes of communications between the officer conducting the investigation into matters arising out of the 1996 Report and the DPP. Folios 409 and 412 of Document 34 each include a quotation of a passage from the DPP's memorandum to the Solicitor General (Document 40). Folios 425 and 427 of Document 34 each contain a quotation of another passage of that letter. Document 38 is a facsimile cover sheet from the DPP to the agency. Document 39 is a letter from the DPP to the Commissioner of Police. Document 40 is a copy of a memorandum from the DPP to the Solicitor General. Document 41 is a letter from the Commissioner of Police to the Solicitor General. Document 42 is a letter from the Solicitor General to the Commissioner of Police.
79. In my view, there is nothing in those documents which suggests or establishes that there was a solicitor/client relationship between the agency and the DPP, between the agency and the Solicitor General, or between the DPP and the Solicitor General in respect of these matters. There is no material before me to suggest that any of those documents constitutes or records a confidential communication between a client and legal adviser or an agent of either. Further, taking into account the nature of the communications, I do not consider that those documents were created for the purpose of giving or receiving legal advice, nor do they appear to contain any legal advice.
80. Mason and Wilson JJ in *Waterford v The Commonwealth of Australia* (1987) 163 CLR 54 at p.66 said:
- “...the sole purpose test is a test that looks to the reason why the document was brought into existence. If its sole purpose was to seek or to give legal advice in relation to a matter, then the fact that it contains extraneous matter will not deny to it the protection of the privilege. The presence of matter other than legal advice may raise a question as to the purpose for which it was brought into existence but that is simply a question of fact to be determined by the Tribunal as its decision on such a question is final.”*
81. The relevant passages of Document 31 contain records of communications which appear to me to have been made for the purpose of obtaining information, not legal advice, from the DPP for the purpose of the subsequent investigation. Documents 38 and 39 appear to me to have been created for the purpose of both providing information to, and requesting information from, the Commissioner of Police. There is nothing in those documents, nor anything else before me, that suggests that they were created for the purpose of giving legal advice to the

Commissioner of Police, or to any person. I note that the DPP has informed me that he has no objection to the disclosure of those two documents. Similarly, on the face of them, there is nothing to suggest that either Document 41 or Document 42 was prepared for the purpose of seeking or giving legal advice. Document 41 merely provides information as to a course of action that will ensue in respect of a particular matter and Document 42 is, essentially, a covering letter forwarding a particular matter to the Commissioner of Police to deal with, without giving any advice, legal or otherwise, in respect of the manner in which the matter ought to be dealt with. Accordingly, I consider that Documents 38, 39, 41 and 42 and those parts of Document 31 which are claimed to be exempt under clause 7 would not be privileged from production in legal proceedings on the ground of legal professional privilege and I find that they are not exempt under clause 7.

82. The question of whether Document 40 would be privileged from production in legal proceedings on the ground of legal professional privilege raises a number of issues. Those include the relationship between the DPP and the Government, the relationship between the Offices of DPP and Solicitor General, the circumstances of the creation of the document and the purpose for which it was created, and whether or not any privilege was waived by the provision of a copy of it to the agency in the circumstances.
83. Accordingly, I requested the DPP to provide me with some information as to the circumstances of the creation of the document and the purpose for which it was created. I also invited the DPP's comments as to whether or not he considers that the document would be privileged from production in legal proceedings on the ground of legal professional privilege and, if so, on what basis it would be so privileged. In response, the DPP informed me only that he does not consent to the release of the document and that it was confidential legal advice to the Solicitor General in response to a minute from the Solicitor General and "*...is therefore subject to legal professional privilege.*"
84. I do not consider that information sufficient to establish that the document is subject to legal professional privilege. The onus of establishing that a document is privileged rests upon the person seeking to establish the privilege: *Grant v Downs* at 689. I do not consider that to have been shown in this case. The mere claim by the DPP that the document is privileged is not sufficient to enable me, charged with a statutory responsibility to make a decision in accordance with the law, to determine that the document would be privileged from production on the relevant ground and is therefore exempt: see *Manly v Ministry of Premier and Cabinet* (Supreme Court of Western Australia, 15 June 1995, unreported, Library No. 950310, at pages 27-33). Further, there is no other material before me that I consider establishes that the document is privileged.
85. It is not apparent to me that the document comprises or records a confidential communication between a client and legal adviser for the purpose of giving or seeking legal advice. The Solicitor General is clearly not the client of the DPP nor the DPP the client of the Solicitor General in this instance. One possibility may be that the document was submitted to the Solicitor General in his capacity

as legal adviser to the Government for the purpose of enabling him to give advice to the Government. However, there is nothing before me, including the contents of the document itself, that establishes or even suggests that that was the case. On the contrary, having regard to the dates of the relevant documents, it appears to me that the Solicitor General had long since given the Government the legal advice required of him in the matter. There is nothing in the document itself that establishes the purpose of its creation. There is nothing before me that indicates that the Solicitor General requested any advice in respect of the document and it appears to me, from the contents of the document itself, that it consists of unsolicited comment only. I can see nothing in its contents in the nature of legal advice. It appears, rather, to comprise only comment in respect of factual matters.

86. Accordingly, I am not satisfied that Document 40 would be privileged from production in legal proceedings on the ground of legal professional privilege. Therefore I find that Document 40 and those parts of Document 34 which comprise *verbatim* reproductions of passages of Document 40 are not exempt under clause 7.

SCHEDULE A - EXEMPT MATTER, CLAUSE 3(1)

DOCUMENT	FOLIO	DESCRIPTION OF EXEMPT MATTER CLAUSE 3
3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 39, 41, 42, 43	003, 010, 011, 012, 013, 014, 021, 022, 023, 024, 025, 026, 225, 226, 227, 228, 231, 232, 235, 237, 238, 239, 240, 241, 242, 243, 404, 405, 428, 429, 430, 432, 434, 439, 440, 450	<ul style="list-style-type: none"> • Personal signatures where they appear on each folio.
31	246	<ul style="list-style-type: none"> • the telephone number and address in line 1 under the heading "1615"
	247	<ul style="list-style-type: none"> • the telephone number in line 4 under the heading "0930"; • the telephone number in line 1 under the heading "1120"; • the telephone number in line 1 under the heading "1200"

SCHEDULE B - EXEMPT MATTER, Clause 5(1)(b)

DOCUMENT	FOLIO	DESCRIPTION OF EXEMPT MATTER - CLAUSE 5(1)(b)
3	005	<ul style="list-style-type: none"> • words 11-12 of line 23, all of line 24, and words 1-9 of line 25; • the text of the three dot points (marked with asterisks) at the bottom of the page
	006	<ul style="list-style-type: none"> • the text of the two dots points (marked with asterisks) at the top of the page, and the following two paragraphs; • all of lines 15-30; • all of lines 33-36
	007	<ul style="list-style-type: none"> • the numerical reference and the following two words of line 4, words 6-10 of line 5, all of line 6 and word 1 of line 7; • words 1-7 of line 10, including the numerical reference, words 4-10 of line 11, and words 1-5 of line 12; • the last 2 words of line 19 and all of lines 20-23; • words 1-5 and the numerical reference in line 27; • line 32 except words 1-6, all of lines 33, 34, 35 and 36
	008	<ul style="list-style-type: none"> • lines 1-3 at the top of the page; • words 7-12 of line 24 and all of line 25
	009	<ul style="list-style-type: none"> • words 4-12 of line 9, and words 1-4 of line 10; • all of line 30
8	016	<ul style="list-style-type: none"> • the last 2 words of line 21, all of line 22 and the first 9 words of line 23; • all of the text of the 4 dot points (marked with asterisks) at the bottom of the page
	017	<ul style="list-style-type: none"> • all of the text of the dot point (marked with an asterisk) at the top of the page, and the following 2 paragraphs; • all of lines 12-28; • all of lines 31-34
	018	<ul style="list-style-type: none"> • the numerical reference and the words in brackets in line 1, the last 5 words of line 2, all of line 3 and the first word of line 4; • words 1-3, the number and the words in brackets in line 7, all except the first 3 words of line 8, the first 5 words of line 9; • the last word of line 16 and all of lines 17-20; • the first 5 words and the numerical reference in brackets in line 24; • all of line 29 except words 1-6, all of lines 30, 31, 32 and 33; • all of lines 38, 39 and 40
	019	<ul style="list-style-type: none"> • words 7-12 of line 19 and all of line 20
	020	<ul style="list-style-type: none"> • all of line 3 except the first 3 words, words 1-4 of line 4 • all of line 25

16	220	<ul style="list-style-type: none"> the last two words of line 1 and all of lines 2, 3 and 4 of paragraph 5 of the text; all of lines 18, 19 and 20
	222	<ul style="list-style-type: none"> all of paragraph 1; words 6-10 of the last line of paragraph 3
	223	<ul style="list-style-type: none"> paragraph 2 under the heading 2.1.1; paragraph 1 under the heading 2.1.3; paragraphs 1 and 2 under the heading 2.1.4; words 1-7 of line 1 of paragraph 1 under the heading 2.1.5
	224	<ul style="list-style-type: none"> paragraph 1 under the heading 2.1.6; all of the text under the heading 2.1.7, except for line 1; paragraph 1 under the heading 2.1.8
17	226	<ul style="list-style-type: none"> words 2-10 of line 3, and all of lines 4 and 5 of paragraph 3 of the text; paragraph 4 of the text
21	232	<ul style="list-style-type: none"> all of the heading under the salutation; words 5-12 of line 2 of paragraph 2 of the text
22	235	<ul style="list-style-type: none"> words 2-10 of line 3 and all of lines 4 and 5 of paragraph 3 of the text; paragraph 4 of the text
23	236	<ul style="list-style-type: none"> all of the heading under the salutation; words 5-12 of line 2 of paragraph 2 of the text
27	240	<ul style="list-style-type: none"> the last line of paragraph 2 of the text; line 1 of paragraph 4 of the text, except words 1-9
31	244	<ul style="list-style-type: none"> all except the first 5 words of the paragraph under the heading "1400"; word 11 of line 2 under the heading "1030"; word 13 of line 1 under the heading "1140"
	246	<ul style="list-style-type: none"> last four words of line 1, all of line 2 except the last four words, words 7-12 of line 3 and words 1-4 of line 5 under the heading "1500"
	247	<ul style="list-style-type: none"> words 4-10 of the first line on the page the last 3 words of line 1, all of line 2 and the first 6 words of line 3 of the paragraph under the heading "1200"
	248	<ul style="list-style-type: none"> the last 2 words of line 5 and all of line 6 of the first paragraph on the page; words 2-4 and word 15 of line 2, and words 1-2 of line 3 under the heading "1430" words 2-12 of line 3, and all of line 4 under the heading "1100"
34	407	<ul style="list-style-type: none"> the last 2 words of line 2 and the first word and numbers in line 3 of paragraph 3
	408	<ul style="list-style-type: none"> lines 6-7 of paragraph 5; all of paragraph 6

	409	<ul style="list-style-type: none"> • all of line 3 except the first word and all of lines 4-6 of paragraph 1; • all of paragraph 2
	412	<ul style="list-style-type: none"> • all the numerical references in line 11; • all of lines 12-17
	413	<ul style="list-style-type: none"> • all the numerical references in line 16; • all of lines 17-23; • words 3-6 of the last line of text
	414	<ul style="list-style-type: none"> • words 5-10 of line 9 of paragraph 3; • words 4-10 of line 4 of paragraph 4; • all of paragraph 5; • the heading over paragraph 6; • the last 4 words of line 1 and the first 3 words of line 2 of paragraph 6
	415	<ul style="list-style-type: none"> • all of lines 1-2, and words 1-3 of line 3 of paragraph 1; • words 14-16 of line 3, and all of line 4 of paragraph 2; • words 11-14 of line 3, and all of lines 4, 5 and 6 of paragraph 3; • the heading above paragraph 4; • lines 1, 2 and 3 and the first 5 words of line 4 of paragraph 4; • words 6-13 of line 4 and all of lines 5, 6 and 7 of paragraph 5; • the last 3 words of line 2 and all of line 3 of paragraph 7
	416	<ul style="list-style-type: none"> • the last 4 words of line 4, all of line 5 and words 1-9 of line 6 of paragraph 2; • all of paragraph 3 (2 lines); • the heading above paragraph 4; • all of paragraph 4 (2 lines); • words 3-14 of line 2, and word 1 of line 3 of paragraph 7 (2nd last paragraph on page)
	417	<ul style="list-style-type: none"> • all of the text except the heading and the first 2 lines under the heading;
	418	<ul style="list-style-type: none"> • all of paragraphs 1, 2 and 3; • all of paragraph 5; • all of paragraph 6; • all of the text below the numerical heading
	419	<ul style="list-style-type: none"> • all of paragraphs 1, 2, 3 and 4 • words 1-5 of line 2 of paragraph 6; • all of lines 1 and 2, the first 2 words of line 3, the last 4 words of line 4 and all of lines 5 and 6 of paragraph 7
	420	<ul style="list-style-type: none"> • all of the text
	421	<ul style="list-style-type: none"> • all of paragraph 1; • all of line 6 and words 1-7 of paragraph 2; • all of lines 1 and 2 and words 1-4 of line 3 of paragraph 1 under the heading 2.1.5; • all of lines 1 and 2 and the first word of line 3 of paragraph 2 under the heading 2.1.5

	422	<ul style="list-style-type: none"> • all of paragraphs 2, 3 and 4; • all of line 20 (a numerical reference); • words 1-3 of line 21; • all of lines 24 and 25; • the numerical reference in line 26; • all of lines 27, 28 and 29; • words 1-12 of line 30; • words 4, 5 and 6 of line 32; • words 3-14 of line 33, and all of line 34
	423	<ul style="list-style-type: none"> • all of paragraph 2; • words 1-10 of line 2 of paragraph 6
	424	<ul style="list-style-type: none"> • words 8-13 of line 3 and all of line 4 of the last paragraph
	425	<ul style="list-style-type: none"> • all of line 14
	426	<ul style="list-style-type: none"> • the last sentence (the last 4 words of line 4 and all of lines 5, 6 and 7) of paragraph 1; • the first sentence (all of line 1 and all except the last 4 words of line 2) of paragraph 2
39	434	<ul style="list-style-type: none"> • all of paragraphs 3 and 4 of the text
40	436	<ul style="list-style-type: none"> • the third heading and the 4 paragraphs beneath it (lines 18-30)
	437	<ul style="list-style-type: none"> • all of lines 1-6; • words 1-11 of line 12; • words 11-12 of line 13, words 1-4 of line 14, and all of line 16; • the last word of line 17; • all of lines 22-24; • the last 3 words of line 26 and all of lines 27, 28 and 29
	438	<ul style="list-style-type: none"> • all of the last paragraph and the heading above it (lines 19-25)

SCHEDULE C - MATTER OUTSIDE AMBIT OF REQUEST

DOCUMENT	FOLIO	DESCRIPTION OF MATTER OUTSIDE AMBIT
3	004	<ul style="list-style-type: none"> • all of lines 8-11 of the text
	005	<ul style="list-style-type: none"> • all of line 17
	006	<ul style="list-style-type: none"> • all of lines 13, 14, 31 and 32
	007	<ul style="list-style-type: none"> • all of lines 1, 2, 3, 16, 17, 18, 24, 25 and 26
	008	<ul style="list-style-type: none"> • all of lines 4-17 and 34-42
	009	<ul style="list-style-type: none"> • all of lines 17-29
8	015	<ul style="list-style-type: none"> • all of lines 11-14 of the text
	016	<ul style="list-style-type: none"> • all of line 15
	017	<ul style="list-style-type: none"> • all of lines 10, 11, 29, 30, 38, 39 and 40
	018	<ul style="list-style-type: none"> • all of lines 13, 14, 15, 21, 22, 23, 41 and 42
	019	<ul style="list-style-type: none"> • all of lines 1-12 and 29-37
	020	<ul style="list-style-type: none"> • all of lines 12-24
10	023	<ul style="list-style-type: none"> • all of paragraphs 2 and 3
	024	<ul style="list-style-type: none"> • the last 2 words of line 1 and the first 2 words of line 2 of the paragraph at the top of the page
11	025	<ul style="list-style-type: none"> • the last 4 words of line 3, all of line 4 and all of line 5 of paragraph 1; • all of paragraph 2
12	026	<ul style="list-style-type: none"> • the first dot point in paragraph 1
37	431	<ul style="list-style-type: none"> • all of paragraphs 2 and 3 of the text
	432	<ul style="list-style-type: none"> • the last 2 words of line 1 and the first 2 words of line 2
40	436	<ul style="list-style-type: none"> • all of lines 2 and 3 of paragraph 1 of item 2.2.2
	437	<ul style="list-style-type: none"> • all of lines 19-29
	438	<ul style="list-style-type: none"> • all of paragraphs 1-4
41	439	<ul style="list-style-type: none"> • all of paragraph 2 of the text
42	440	<ul style="list-style-type: none"> • as for Document 12