

Decision D0242003 – Published in note form only

Re: Lazza's Hiab & Tilt Tray Services Pty Ltd and Western Power Corporation
[2003] WAICmr 24

Date of Decision: 24 September 2003

Freedom of Information Act 1992; clause 7

The complainant applied to the agency for access, under the *Freedom of Information Act 1992* ('the FOI Act'), to documents relating to the investigation of a fatal industrial accident.

The agency refused access to 2 documents on the ground that they are exempt under clause 7 of Schedule 1 to the FOI Act.

The Information Commissioner obtained the disputed documents from the agency and examined them. Both documents were reports into the events and circumstances surrounding the industrial accident. However, on their face, the disputed documents did not appear to fall within the terms of the exemption in clause 7.

The agency then provided the Information Commissioner with additional documents that clearly established that the agency's in-house Legal Counsel had sought reports of the investigation so that he could provide legal advice to the agency and so that those documents could be used by the agency in legal proceedings, which were reasonably anticipated following the fatal industrial accident.

After considering that material, the Information Commissioner was satisfied that the disputed documents would be privileged from production in legal proceedings on the ground of legal professional privilege. The Information Commissioner found the disputed documents exempt under clause 7 and confirmed the decision of the agency to refuse access to them.