

COLLINS AND PLANNING

OFFICE OF THE INFORMATION
COMMISSIONER (W.A.)

File Ref: 96038
Decision Ref: D03996

Participants:

Gordon James Collins
Complainant

- and -

Ministry for Planning
Respondent

DECISION AND REASONS FOR DECISION

FREEDOM OF INFORMATION - refusal of access - valuation reports - internal memoranda and working documents - clause 6 - deliberative processes - identify particular deliberative process - advice and opinion obtained and recorded for the purpose of the deliberative processes of the agency - whether contrary to the public interest to reveal deliberations of the agency - limits on exemptions - whether matter is merely factual or statistical - section 24 - whether it is practicable for the agency to give access to a copy of a document from which the exempt matter has been deleted.

Freedom of Information Act 1992 (WA) ss. 6, 24, 72(1)(b), 75(1), 76(1)(b), 102(1); Schedule 1 clauses 6(1), 6(3), 8(2), 10(5).

Re Read and Public Service Commission (Information Commissioner, WA, 16 February 1994, unreported).

Re McNeill and Western Australian Trotting Association (Acting Information Commissioner, WA, 9 April 1996, unreported).

Re Waterford and Department of the Treasury (No. 2) (1984) 5 ALD 588.

Re Jones and Shire of Swan (Information Commissioner, WA, 9 May 1994, unreported).

Murtagh v Commissioner of Taxation (1984) 54 ALR 313.

Re Little and Others and Department of Natural Resources (Information Commissioner, QLD, 22 March 1996, unreported).

DECISION

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

- (i) Documents 1-7 and the relevant part of Document 15 are not exempt under clause 6(1) of Schedule 1 to the *Freedom of Information Act 1992*; and
- (ii) apart from the matter described in paragraph 10 of these reasons for decision, which matter is not in dispute, Documents 8, 9, 10, 11, 13 and 14 are not exempt under clause 6(1) of Schedule 1 to the *Freedom of Information Act 1992*.

B.KEIGHLEY-GERARDY
INFORMATION COMMISSIONER

5th July 1996

REASONS FOR DECISION

BACKGROUND

1. This is an application for external review by the Information Commissioner arising out of a decision of the Ministry for Planning ('the agency') to refuse Mr Collins ('the complainant') access to documents requested by him under the *Freedom of Information Act 1992* ('the FOI Act').
2. The complainant is the executor of the estate of the late Elsie Gladys Morgan. On 1 December 1995, solicitors for the complainant made an application under the FOI Act for access to documents in the possession of the agency relating to Lots 616 and 617 Hamilton Street, Ashfield, for which the deceased is the registered proprietor.
3. The complainant was granted access to certain documents. However, the agency refused the complainant access to other documents on the ground that those documents are exempt under clauses 6(1), 8(2) and 10(5) of Schedule 1 to the FOI Act. On 1 February 1996, the complainant sought internal review of the agency's initial decision. On 15 February 1996, the agency's internal reviewer, Mr Terry Martin, the Chief Executive Officer, confirmed the initial decision in respect of the agency's initial claims under clauses 6(1) and 10(5) of Schedule 1 to the FOI Act. However, the agency's claim under clause 8(2) was withdrawn.
4. On 13 March 1996, the complainant's solicitors lodged a complaint with the Information Commissioner seeking external review of Mr Martin's decision.

REVIEW BY THE INFORMATION COMMISSIONER

5. On 19 March 1996, I notified the agency that I had received this complaint. Pursuant to my powers under ss.75(1) and 72(1)(b) of the FOI Act, I had produced to me the documents in dispute, together with the file maintained by the agency in respect of this matter.
6. My Investigations Officer had a number of discussions with the parties on separate occasions with a view to conciliating this matter. However, on the basis of those discussions, conciliation did not appear to be an option. Therefore, after examining the documents in dispute and considering the submissions of the parties, on 14 May 1996, I provided the parties with my preliminary view and reasons for that view. Of the 15 documents in dispute, it was my preliminary view that one document may be exempt under clause 6(1) of Schedule 1 to the FOI Act and 6 other documents contain some matter which may be exempt under clause 6(1), but otherwise the documents may not be exempt. Both parties were invited to reconsider the matter in light of my preliminary view.

7. The agency responded to my preliminary view by informing me that it required specific policy direction from the Western Australian Planning Commission ('the WAPC'), a separate agency, in order to respond to my preliminary view and it sought an extension of time in which to prepare that response. On 6 June 1996, I received the agency's written response. The agency withdrew its claims for exemption under clause 10(5) of Schedule 1 to the FOI Act. However, the agency maintains its claims that the disputed documents are exempt in full under clause 6(1). To that end, the agency provided additional material for my consideration.
8. Following being informed of my preliminary view that one document and parts of six other documents may be exempt under clause 6(1), the complainant withdrew his complaint in respect of that one document and those parts of the six. He no longer pursues access to those.

THE DISPUTED DOCUMENTS

9. The 14 documents remaining in dispute are described below. Some of those documents are either exact copies of others, or copies with minor additions.

Document	Folio	Description
1	24-28	Valuation report dated 6/2/95.
2	38-41	Valuation report dated 14/2/95.
3	45	Handwritten memorandum of an officer of the agency, dated 20/2/95.
4	48-52	Copy of Document 1.
5	61-64	Copy of document 2.
6	81-85	Valuation report dated 3/4/95.
7	88	Handwritten memorandum of an officer of the agency, dated 11/4/95.
8	89	Handwritten memorandum of an officer of the agency, dated 12/4/95.
9	93-95	Report dated 19/4/95 from Acting Property Manager to WAPC.
10	99-101	Copy of document 9 with date stamp and Committee stamp.
11	102	Extract from the minutes of the meeting of the Executive, Finance and Property Committee of WAPC held on 26/4/95.

13	126-127	Report dated 28/11/95 from Acting Property Manager to Executive, Finance and Property Committee of WAPC.
14	128-129	Copy of Document 13 with Committee stamp.
15	130	Extract from the minutes of the meeting of Executive, Finance and Property Committee of WAPC, held on 5/12/95.

10. As mentioned earlier, the complainant decided not to pursue his claim for access to Document 12. The complainant also decided not to pursue access to the following parts of Documents 8, 9, 10, 11, 13 and 14:

Document 8 the two monetary amounts in the last line in paragraph 3;

Documents 9 and 10 the negotiating range in the second and third lines of the paragraph numbered 9; all the text after the words "figure of" in line 2 of the paragraph numbered 10 to the end of that paragraph; and all the text after the words "figure of" in line 4 of the Recommendation to the end of that paragraph;

Document 11 all of the text after the words "figure of" in line 2 to the end of that sentence; and

Documents 13 and 14 all of the words after the words "figure of" in line 3 of the paragraph numbered 1 at the bottom of page 1 to the end of the sentence.

11. No other concessions were made by either party. Therefore, as the complainant does not seek access to Document 12 nor to the parts of Documents 8, 9, 10, 11, 13 and 14 described in paragraph 10 above, this decision concerns the agency's claim that the balance of the matter contained in Documents 8, 9, 10, 11, 13 and 14 and Documents 1-7 and 15 are exempt under clause 6(1) of Schedule 1 to the FOI Act.

THE EXEMPTION

12. The agency claims that the disputed documents contain exempt matter under clause 6(1) of Schedule 1 to the FOI Act. Clause 6 of Schedule 1 to the FOI Act provides:

"6. *Deliberative processes*

Exemptions

- (1) *Matter is exempt matter if its disclosure -*

(a) would reveal -

- (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
- (ii) any consultation or deliberation that has taken place,

in the course of, or for the purpose of, the deliberative processes of the Government, a Minister or an agency;

and

(b) would, on balance, be contrary to the public interest.

Limits on exemptions

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

(3) *Matter that is merely factual or statistical is not exempt matter under subclause (1).*

(4) *Matter is not exempt matter under subclause (1) if at least 10 years have passed since the matter came into existence."*

13. To establish an exemption under clause 6, the agency must satisfy the requirements of both paragraphs (a) and (b) of subclause 1 of the exemption. If the disputed documents contain matter of a type described in paragraph (a), then it is necessary to consider the requirements of paragraph (b), that is, whether disclosure of that matter would, on balance, be contrary to the public interest. Further, the exemption is subject to the limitations provided in subclauses (2), (3) and (4), and regard must be had to whether any of those limitations applies.
14. I have discussed my view of the meaning and purpose of the exemption in clause 6(1) in a number of my formal decisions, initially in *Re Read and Public Service Commission* (16 February 1994, unreported) and most recently it was the subject of deliberation by the Acting Information Commissioner in *Re McNeill and Western Australian Trotting Association* (9 April 1996, unreported). I have also cited with approval the comments of the Commonwealth Administrative Appeals Tribunal ('the Tribunal') in *Re Waterford and Department of the Treasury (No. 2)* (1984) 5 ALD 588 in relation to the equivalent Commonwealth provision. In my view, the comments of the Tribunal in *Re Waterford* assist in determining the scope of the exemption in clause 6(1) of Schedule 1 to the FOI Act in Western Australia and I consider it worth repeating those comments. In that case, the Tribunal said, at paragraphs 58-60:

"58. As a matter of ordinary English the expression 'deliberative processes' appears to us to be wide enough to include any of the processes of deliberation or consideration involved in the functions of an agency. "Deliberation" means "the action of deliberating; careful consideration with a view to decision": see the *Shorter Oxford English Dictionary*. The action of deliberating, in common understanding, involves the weighing up or evaluation of the competing arguments or considerations that may have a bearing upon one's course of action. In short, the deliberative processes involved in the functions of an agency are its thinking processes - the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action. Deliberations on policy matters undoubtedly come within this broad description. Only to the extent that a document may disclose matter in the nature of or relating to deliberative processes does s.36(1)(a) come into play...

59. It by no means follows, therefore, that every document on a departmental file will fall into this category...Furthermore, however imprecise the dividing line may first appear in some cases, documents disclosing deliberative processes must, in our view, be distinguished from documents dealing with the purely procedural or administrative processes involved in the functions of the agency...

60. It is documents containing opinion, advice, recommendations etc. relating to the internal processes of deliberation that are potentially shielded from disclosure...Out of that broad class of documents, exemption under s.36 only attaches to those documents the disclosure of which is 'contrary to the public interest'..."

15. I consider that those comments equally describe the scope of clause 6(1) and I respectfully adopt them. On the basis of my examination of the disputed documents, I accept that some of the matter contained in those documents is clearly of a type described in paragraph (a) of clause 6(1). Documents 1, 2, 4, 5 and 6 contain the opinions of the respective valuers as to the value of the complainant's property. The remaining documents contain the advice and recommendations of officers of the agency.
16. However, I do not consider all of those documents to be deliberative process documents in the sense described in *Re Waterford*. Document 15, for example, is properly characterised, in my view, as a purely procedural or routine document being a factual record of a resolution of a meeting of the WAPC. I shall deal with Document 15 in more detail later in this decision. When considering the application of the exemption in clause 6, I consider it useful, if not necessary, to identify the deliberative processes of the agency to which the particular documents are claimed to relate in order to decide whether they are deliberative process documents in the sense described in *Re Waterford*, and to decide whether disclosure of such documents would, on balance, be contrary to the public interest. For that purpose and in this instance, consideration must be given to the relationship between the agency and the WAPC.

The relationship between the agency and the WAPC

17. In this instance, I have examined and considered the 1996 Information Statement of the agency, a copy of which has been provided to my office as required by the FOI Act. It appears that the agency and the WAPC have published a combined Information Statement, although the reality is that both the agency and the WAPC are separate “agencies” for the purposes of the FOI Act. In any event, the document provided to my office describes, *inter alia*, the functions of both agencies at page 1, as follows:

“The Western Australian Planning Commission (the Commission) and the Ministry of Planning (the Ministry) are the State agencies responsible for developing, reviewing and implementing the land use planning system in Western Australia. The Commission is a statutory authority which receives its technical advice and assistance from the Ministry which is a public sector agency. Both agencies are responsible to the Minister for Planning.”

18. At page 2 of the Information Statement, the agency’s responsibilities are described as follows:

“The Ministry advises the Westralian Australian Planning Commission [sic] and the Minister on all matters affecting the State. Its broad responsibilities include:

- *advising on the coordination and promotion of urban, rural and regional land use planning and land development;*
- *advising on the administration, revision and reform of legislation;*
- *advising on the provision of infrastructure;*
- *assessing town planning schemes and scheme amendments;*
- *managing and maintaining reserved land held by the Commission under the Metropolitan Region Scheme;*
- *controlling development under the Metropolitan Region Scheme;*
- *controlling subdivision under delegated authority from the Commission; and*
- *reviewing the Metropolitan Region Scheme.”*

19. At page 4 of the Information Statement, the responsibilities of the WAPC are described as follows:

“The Commission has a broad range of strategic responsibilities including:

- *preparing and implementing a State Planning Strategy which will put forward a vision for the future development of Western Australia;*
- *monitoring and forecasting land supply throughout the State and developing strategies to ensure the timely supply of affordable residential land;*
- *initiating proposed amendments to the Metropolitan Region Scheme to cater for anticipated population growth;*
- *initiating research projects and gathering information to enable it to keep abreast of contemporary trends in planning; and*
- *participating in a range of major urban development projects.*

20. There are a number of committees which assist the WAPC to discharge its responsibilities. One of the committees is the Executive, Finance and Property Committee. At page 5 of the Information Statement the role of this committee is described as follows:

“The role of this committee is to carry out the administrative, financial and property functions that the Commission delegates to it, including land acquisition and disposals, leasing and property deals, appointment of consultants and matters of urgency conforming with Commission policies.”

21. The WAPC is authorised to acquire land in accordance with the various Acts it administers and may purchase land from any person who is willing to sell his or her property on the basis of an open-market transaction in the same position as any other prospective purchaser of land. However, depending on the relevant criteria associated with the land, the WAPC may acquire land compulsorily subject to the provisions of certain relevant legislation. In this instance, I understand the WAPC does not have the power to compulsorily acquire the subject land.
22. Taking into account the role and functions of the agency and the WAPC, I consider the disputed documents relate to two quite distinct deliberative processes of those agencies. I consider the first deliberative process concerns the setting of a price at which an offer to purchase the land is initially made by the agency. In this instance, I consider the second deliberative process concerns determining which options to pursue when no agreement could be reached between the complainant and the agency on the purchase price of the land in question.

The first deliberative process - setting the purchase price of the land

23. In my view, Documents 1-11 relate to the first deliberative process identified above. They consist of independent valuation reports obtained by the agency containing valuations of the land in question; internal memoranda prepared by officers of the agency in relation to those valuations; and a report submitted to the WAPC through its Executive, Finance and Property Committee. They contain opinion, advice and recommendations obtained, prepared and recorded in the course of, or for the purposes of, that deliberative process. As those documents clearly contain matter of the type described in clause 6(1)(a), the question is whether their disclosure would, on balance, be contrary to the public interest.

Public interest

24. I recognise that there is a public interest in the agency and the WAPC having access to a wide range of advice and opinions in order that those agencies may carry out their functions and make informed planning decisions on matters that benefit the community as a whole. I consider that public interest is served by preserving the integrity of the deliberative processes of both the agency and the WAPC, but only to the extent that the disclosure of documents relied upon by either the agency or the WAPC during deliberations would adversely affect those processes such that it would, on balance, be contrary to the public interest to do so, or that disclosure would, for some other reason, be demonstrably contrary to the public interest.
25. I also recognise a public interest in the complainant being able to exercise his right of access under the FOI Act. In his application for external review, the complainant informed my office that release of the valuation documents would enable him to understand the position adopted by the WAPC with respect to acquiring land. The complainant submitted that disclosure may expedite a settlement between the parties and may avoid the need for litigation. The complainant informed my office that he was not prepared to proceed to arbitration in the matter without any knowledge of the basis upon which the purchase price of the land had been set by the agency. Further, the complainant stated that arbitration would not be an option until there were some common ground between the parties.
26. The agency claims that the breadth of its responsibilities to the general community for the efficient management of public monies outweighs the private interests of the complainant. The agency contends that negotiations with the complainant have not ceased and, although there is no agreement between the parties at this stage, it has offered to proceed to have the matter determined by arbitration. As I understand the argument, the agency contends that it is contrary to the public interest to disclose the disputed documents because it is the experience of the agency that property negotiations become extremely protracted when individuals are provided with information about the agency's reasoning and assumptions on property transactions and land values. The agency claims that

this experience relates to individual dealings and to successive dealings with different individuals who may have interests in properties within a broadly defined region or area.

27. The final submission of the agency referred to “long established experience” of this nature, and asserted that its view is based on experience. However, the agency provided no specific examples and, other than those general references to its experiences, the agency did not provide any material to support its claims about the adverse effects of disclosure of documents of the type in dispute. In the absence of supporting material, I have not attached much weight to the agency’s assertions. The agency did inform me that it had taken into account my decision in *Re Jones and Shire of Swan* (9 May 1994, unreported), but it considered that the circumstances of that matter were sufficiently different to those in this instance not to be relevant [In *Re Jones* I decided that a valuation report was not exempt under clause 6(1) because, *inter alia*, negotiations between the parties had broken down]. The agency maintains that, until its dealings with the complainant are finalised, no documents should be disclosed. However, the agency acknowledges that once negotiations have been finalised, a decision on access may be different.
28. With respect to Documents 1-7, since the price at which the agency is prepared to purchase the property has already been disclosed to the complainant, I do not consider that matter consisting merely of that information, is exempt matter under clause 6(1), or any other clause in Schedule 1 to the FOI Act, regardless of the state of the negotiations. In my view, the sensitive information in the documents consists of matter that discloses the negotiating range within which the agency is prepared to make an offer to the complainant and, as discussed earlier in paragraph 10, the complainant does not seek access to that particular information.
29. Taking into account the power of the WAPC with respect to the acquisition of private property for planning purposes, I am of the view, as I was in *Re Jones*, at paragraph 25 of that decision, that it is not in the public interest for negotiations of this nature to be conducted in “mutual half-light”: see also *Murtagh v Commissioner of Taxation* (1984) 54 ALR 313, at 329. In my view, the agency’s submission that a distinction should be made between the complainant’s private interests and “...the agency’s responsibility to the broader public interest of the general community...for efficient management of public monies” fails to recognise any public interest in the agency dealing fairly with a private citizen and in being seen to deal fairly in transactions with all citizens. Given the agency’s extraordinary powers and resources in respect of the acquisition of property, powers which are not available to private organisations or citizens, I certainly recognise such a public interest.
30. I am reinforced in that view by a decision of the Queensland Information Commissioner that concerned access to similar documents. In *Re Little and Others and Department of Natural Resources* (Information Commissioner Qld, 22 March 1996, unreported) the access applicants sought access to valuation reports of the department. Although he was dealing with the compulsory

acquisition of private property, I endorse the following comments of the Information Commissioner in *Re Little* which I consider to be equally apposite to the matter before me. He said, at paragraph 48:

“I do not accept the respondent’s argument...to the effect that, as agent for the wider public interest in attempting to acquire property for public purposes, the greater public interest is served by maximising its negotiating advantage against a property-owner who is trying to “maximise his benefit”. It would, in my opinion, be short-sighted and erroneous to suggest that the public interest in saving public money would justify a government agency in seeking to negotiate the acquisition of a citizen’s property on less than just terms. The greater public interest lies in preserving the principle of public acquisition of private property on just terms. Any citizen may be affected by a government proposal to acquire private property for public purposes. The interest in fair treatment of citizens by government in the course of acquisition processes is an interest which is common to all citizens and for their benefit.”

31. Although the matter before me does not involve the compulsory acquisition of private property, I agree that disclosure of valuation reports would give the complainant the opportunity to subject the agency’s offer to a detailed critical analysis by informing him of the assumptions, evidence and methodology upon which the purchase price offered by the agency was based. He would then be in a position to satisfy himself that the valuations and, in turn, the offer, are reasonably based or not. In that way he may be either reassured that he is being fairly dealt with by the agency or if, in his view, the basis of the valuations is not sound, he will be in a position to point out his concerns to the agency. To gain access to such information only after the completion of the negotiations, as suggested by the agency, would not be just and would not assist to open the process to public scrutiny in accordance with the objects of the FOI Act. Therefore, in balancing the competing interests, I am not persuaded that disclosure of Documents 1-11 would be contrary to the public interest, and I consider the balance lies in the disclosure of those documents to the complainant.

Limitation on exemption

32. In any event, I consider that Documents 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11 contain a considerable amount of merely factual information to which the limitation in clause 6(3) applies. That information may be severed from other more sensitive information, and cannot be exempt under clause 6(1). The factual information consists of information concerning the land in question, including title particulars, encumbrances, improvements, zoning details and a history of the property. Some of that information is on the public record and cannot, therefore, be exempt matter, in my view. Other factual information in the documents merely relates the history of the agency’s dealings with the complainant.

33. The agency did not consider the effect of the limitation in clause 6(3) which it is bound to do. In response to my preliminary view the agency said:

“Whilst some of the contents of these documents may contain information which could perhaps be available from other public sources, the documents as a whole reflect the agency’s advice and deliberative processes. When taken in the context of the volume and complexity of land and property transactions undertaken by the agency, the editing of documents to the level of individual words and sentences is fundamentally impractical as well as producing a result of little useful value.

Where documents contain information which is generally available from other public sources it is reasonable to require an applicant to obtain that “public” information through application to the appropriate authority. Indeed this principle is recognised in Section 6 of the Act.”

34. By those comments, I consider the agency has attempted to mount a “class claim” for exemption for all matter in the disputed documents. It also demonstrates a misunderstanding of the requirements under s.6 the FOI Act. Section 6 applies to documents which are publicly available, not information. Clearly, none of the disputed documents is publicly available for free or for inspection or purchase. Further, the limitation in clause 6(3) means that claims for exemption under clause 6(1) must be considered in the light of that limitation and requires a decision-maker to turn his or her mind to an identification of merely factual or statistical matter, if any, in the relevant documents.
35. Accordingly, for the reasons given in paragraphs 23-31 above, I find that Documents 1-7 are not exempt under clause 6(1) of Schedule 1 to the FOI Act, and Documents 8, 9, 10 and 11 other than those parts described in paragraph 10 above are not exempt under clause 6(1). It is clearly practicable for the agency to provide access to edited copies of Documents 8, 9, 10 and 11 with the matter described in paragraph 10 deleted. It is my decision, in accordance with s.76(1)(b) of the FOI Act that the complainant should be given edited copies of those documents in accordance with s.24 of the FOI Act.

The second deliberative process - consideration of options after setting the purchase price of the land.

Documents 13, 14 and 15

36. In my view, Documents 13 and 14 relate to the second deliberative process. That is, they record opinion, advice and recommendations concerning the action to be taken by the WAPC after the initial negotiations with the complainant failed to result in a suitable agreement. The action taken by the agency as a consequence of those deliberations has been finalised, but the negotiations between the parties remain stalled. In my view, the only matter in Documents 13 and 14 which is exempt matter under clause 6(1) is information concerning the

agency's negotiating range, and the complainant does not, in any case, seek access to that information.

37. I consider that the remaining matter in Documents 13 and 14 consists largely of a factual account of the history of the agency's dealings with the complainant in respect of the acquisition of the land in question. Whilst I recognise that there is a public interest in maintaining the integrity of an agency's deliberative process so that all relevant information is presented to the WAPC to enable informed decision-making to occur, I am not satisfied that disclosure of Documents 13 and 14 would adversely affect the integrity of those processes such that it would be contrary to the public interest to disclose them.
38. On that point, the agency did not offer any material to satisfy its onus under s.102(1). As I said before, the claims for exemption mounted by the agency are, in effect, a class claim for exemption for all documents relating to the deliberative processes of the agency and the WAPC. I do not consider that officers of the agency who may be required as part of their duties to provide advice to the WAPC would resile from those obligations if Documents 13 and 14 were disclosed. There is certainly nothing before me to provide any basis for reaching such a conclusion. Based on the material before me, I am not satisfied that the disclosure of edited copies of Documents 13 and 14 would, on balance, be contrary to the public interest. Accordingly, I find those documents are not exempt under clause 6(1) of Schedule 1 to the FOI Act. In any event, once again, I consider much of the information in Documents 13 and 14 is merely factual matter to which the limitation in clause 6(3) applies and which could not therefore be exempt under clause 6(1).
39. In my view, the only relevant part of Document 15 that is within the ambit of the access application is part 21.6.4. There is no evidence before me to suggest that the matter contained in Document 15 directly relates to the deliberations concerning the purchase price or the options available to the agency in the continued negotiations with the complainant and I do not consider that the document itself is a true deliberative process document in the sense described in *Re Waterford*. In my view, part 21.6.4 of Document 15 is not exempt for any reason as it is merely a factual record of a resolution of a meeting of the WAPC. It is not of a kind described in clause 6(1)(a) and in any event would, in my view, attract the limit in clause 6(3). Accordingly, I find that it is not exempt under clause 6(1) of Schedule 1 to the FOI Act.
