

NCAT Affidavit
March 2019

**AFFIDAVIT OF TONY LESLIE WICKHAM AFFIRMED 12 DECEMBER
2024**

FILE DETAILS

Tribunal NSW Civil and Administrative Tribunal
Division Administrative and Equal Opportunity Division

Case number

TITLE OF PROCEEDINGS

First applicant **Secretary, Department of Communities and Justice**

3 applicants

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First respondent **Telina Webb**

Second respondent **DraftCom Pty Ltd (ACN 076 511 941)**

Third respondent **Paul McEwan**

FILING DETAILS

Filed for **Port Stephens Council, Applicant**

Legal representative Justin Cahill

Legal representative reference -

Contact name and telephone Justin Cahill, 9716 2662

Contact email infoandprivacy@dcj.nsw.gov.au

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AFFIDAVIT

Name Tony Leslie Wickham
 Address 116 Adelaide Street, Raymond Terrace NSW 2324
 Occupation Governance Section Manager
 Date 12 December 2024

I affirm:

- 1 I am the Governance Section Manager and Public Officer of Port Stephens Council ('PS Council') and have been employed by PS Council since 2003. I have held my current role since 2018.
- 2 I affirm this affidavit in support of PS Council's application for an order under s 110 of the *Government Information (Public Access) Act 2009* (NSW) ('GIPA Act') to restrain Telina Webb, DraftCom Pty Ltd ACN 076 511 941, and Paul McEwan from making access applications without first obtaining the approval of the NSW Civil and Administrative Tribunal ('NCAT').
- 3 In preparing this affidavit, I have relied on my own knowledge and recollections and, where necessary, I have reviewed relevant documents and files held by PS Council and consulted with relevant persons employed by PS Council.
- 4 The contents of this affidavit are true to the best of my knowledge, information and belief.
- 5 I have requested that paragraphs 188 to 205 of my affidavit be made on a confidential basis. This is because of my concerns that releasing this information would alert Ms Webb to the nature of significant negative impacts that her conduct has had on myself and other PS Council staff members. The paragraphs of my affidavit which I seek to make on a confidential basis are in red text and have been redacted from the copies to be served on the Respondents.

EXHIBIT

- 6 In preparing this affidavit, I have referred to a series of documents marked "Exhibit TLW-1". These documents are behind consecutively numbered tabs, numbered from 1 to 49. I have referred to those documents throughout this affidavit using their tab number within Exhibit TLW-1.

SUMMARY

- 7 Since 2011, the Respondents have lodged 90 access applications under the GIPA Act with PS Council. During this period of time Ms Webb and Mr McEwan have

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engaged PS Council and selected employees in an ongoing campaign of harassment, false allegations and published defamatory and derogatory material on the internet.

- 8 This affidavit is divided into six parts. Part 1 sets out the two access applications made to PS Council that lack merit for the purposes of s 110(1) of the GIPA Act. Part 2 provides a background to this application. Part 3 details the previous access applications received from Ms Webb and Mr McEwan. Part 4 sets out PS Council's dealings with Ms Webb and Mr McEwan and a brief overview of their impact on PS Council's functions and resources. Part 5 identifies the financial and work, health, and safety impact that Ms Webb's protracted conduct has had on PS Council's staff and public funded resources. Part 6 includes the particulars of Ms Webb's ongoing conduct, including internal reviews and external review proceedings, the complaints she has lodged with Mr McEwan, the website she uses, and the extent of her excessive correspondence. This part also includes my confidential evidence, the mitigation attempts PS Council has made, and the impact on PS Council if a s 110 order is not made.

PART 1: SECTION 110 CRITERIA

Applications that lack merit

- 9 In the two years commencing on 4 October 2022, PS Council have received two access applications under s 41 of the GIPA Act signed by Ms Webb that were found to have lacked merit within the meaning of s 110(2) of the GIPA Act. These applications are as follows:
- (a) PSC2023-00112; and
 - (b) PSC2023-04772.

PSC2023-00112

- 10 On 6 December 2022, PS Council received an access application signed by Ms Webb ('PSC2023-00112'). That application was not on letterhead, but at the top the notation appears "Telina Webb E:draftcom@bigpond.com". A copy of that application is exhibited at **Tab 1** of TLW-1.
- 11 PSC2023-00112 sought the following information:
- (a) *Full disclosure and / or unredacted copy of the terms of engagement and / employment of Amol Mane.*
 - (b) *Full disclosure and / or unredacted copy of the security approvals for access to the IPC GIPA Tool by Amol Mane.*

(c) *Full disclosure and / or unredacted copy of the modifications to both the files by Amol Mane, both noted to have occurred on 18th August 2017, both apparently actioned at the same time of 7:36am.*

- 12 Amol Mane has never been employed or been otherwise engaged by PS Council.
- 13 On 11 January 2023, PS Council decided under s 58(1)(b) of the GIPA Act that the information was not held. A copy of that notice of decision is exhibited at **Tab 2** of Exhibit TLW-1.

PSC2023-04772

- 14 On 11 December 2023, PS Council received an access application signed by Ms Webb ('**PSC2023-04772**'). A copy of that application is exhibited at **Tab 3** of Exhibit TLW-1.
- 15 This application was submitted on the DraftCom Pty Ltd (ACN 076 511 941) ('**DraftCom**') /as NSW Freedom of Information (ABN 87 076 511 941) ('**NSW Freedom of Information**') letterhead and signed by Ms Webb.
- 16 PSC2023-04772 sought the following information:
- (a) *A copy of invoices and remittance notices to representative external legal service providers relating to the following matter – PSC2023-02302-001 [sic] / IPC23-R000457.*
- 17 On 16 January 2024, PS Council decided under s 58(1)(b) of the GIPA Act that the information was not held. A copy of that notice of decision is exhibited of **Tab 4** of Exhibit TLW-1.

PART 2: BACKGROUND

- 18 In or around April 2011, PS Council received a complaint that Ms Webb and her husband, Mr McEwan had installed a privacy screen ('**Privacy Screen**') on the property they then owned at 3 Sapphire Court, Raymond Terrace NSW 2324 ('**the Property**'), located in PS Council's local government area ('**LGA**').
- 19 The Privacy Screen was installed without prior approval from PS Council.
- 20 On 15 July 2011, Ms Webb and Mr McEwan lodged a development application ('**DA 483/2011**') with PS Council in respect of the Privacy Screen, which PS Council refused. A subsequent demolition order was issued.
- 21 On 27 July 2011, Ms Webb lodged her first access application with PS Council seeking details of the complaints relating to the Privacy Screen. Since this time, Ms

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Webb and Mr McEwan have continued to lodge frequent access applications, informal requests, complaints, and initiated many proceedings.

- 22 To the best of my knowledge, Ms Webb and Mr McEwan have not lived in PS Council's LGA since the sale of the Property in 2013.

DraftCom Pty Ltd t/as NSW Freedom of Information

- 23 Mr McEwan is the sole director and shareholder of DraftCom. A copy of an ASIC current and historical company extract for DraftCom dated 8 November 2024 is exhibited at **Tab 5** of Exhibit TLW-1.
- 24 On 7 September 2021, NSW Freedom of Information was registered as a business name held by Draftcom Pty Limited. A copy of an ASIC current and historical business name extract for NSW Freedom of Information dated 8 November 2024 is exhibited at **Tab 6** of Exhibit TLW-1.
- 25 Ms Webb has, at times, signed off on access applications that are on the DraftCom t/as NSW Freedom of Information company letterhead, including PSC2023-00112 which was found to lack merit.
- 26 I observe that the footer of the letterhead details "DraftCom Pty Ltd t/as NSW Freedom of Information". It also includes the same NSW Freedom of Information logo as displayed on NSW Freedom of Information's website ('**Website**'), of which Ms Webb is the Site Administrator. A copy of the NSW Freedom of Information Website "About the Site Administrator" page is exhibited at **Tab 7** of Exhibit TLW-1.

PART 3: THE RESPONDENTS' PRIOR ACCESS APPLICATIONS AND INFORMAL REQUESTS

- 27 Between 4 October 2022 and 4 October 2024, PS Council received a total of 90 access applications under s 41 of the GIPA Act from members of the public, including the Respondents. Ten of these 90 applications were signed by Ms Webb and one was signed by Mr McEwan. I calculate that 11.11 per cent of access applications lodged with PS Council for the previous two years were signed by Ms Webb and Mr McEwan.
- 28 As at 3 December 2024, Council has received 388 access applications since 2011, and 4,834 informal requests since 2012 under the GIPA Act from members of the public, including the Respondents.
- 29 Of the 388 access applications received by PS Council, 90 were lodged by the Respondents under s 41 of the GIPA Act.




30 Additionally, of the 4,834 informal requests received by PS Council, 103 of them were lodged by the Respondents under s 8 of the GIPA Act.

31 Based on all access applications and informal requests received by PS Council, I calculate that:

- (a) 23.45 percent of the access applications received by PS Council since 2011 were signed by Ms Webb or Mr McEwan; and
- (b) 2.13 percent of the informal requests received by PS Council since 2012 [or 2011?] were submitted by Ms Webb or Mr McEwan.

Respondents' access applications under s 41 of the GIPA Act

32 The 90 access applications PS Council received from the Respondents under s41 of the GIPA Act were signed as follows:

Access Applications under s 41 of the GIPA Act		
DraftCom letterhead signed by Ms Webb	Signed by Ms Webb (no letterhead)	Signed by Mr McEwan (no letterhead)
5	73	12

33 A schedule listing these access applications by the date on which they were received is exhibited at **Tab 8** of Exhibit TLW-1. This schedule includes for each access application PS Council's reference number, the respective decision, the time spent in responding to the access applications, and page references to the applications in Exhibit TLW-1. This schedule also identifies:

- (a) the access applications that were submitted using the DraftCom t/as NSW Freedom of Information letterhead, signed by Ms Webb, which are highlighted in orange; and
- (b) the access applications that are found to lack merit, which are highlighted in blue.

34 Copies of the access applications received by PS Council from the Respondents are exhibited as follows:

- (a) all access applications signed by Ms Webb are exhibited at **Tab 9** of Exhibit TLW-1;

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- (b) all access applications signed by Mr McEwan are exhibited at **Tab 10** of Exhibit TLW-1; and
- (c) all access applications submitted on the DraftCom t/as NSW Freedom of Information letterhead, signed by Ms Webb are exhibited at **Tab 11** of Exhibit TLW-1.

Respondents' informal requests under s 8 of the GIPA Act

- 35 The 103 informal requests PS Council received from the Respondents under s 8 of the GIPA Act were signed as follows:

Informal Requests under s 8 of the GIPA Act		
DraftCom letterhead signed by Ms Webb	Signed/submitted by Ms Webb (no letterhead)	Signed/submitted by Mr McEwan (no letterhead)
0	95	8

Similarities between access applications

- 36 I am of the view Ms Webb, Mr McEwan and his company, DraftCom t/as NSW Freedom of Information lodged access applications in concert with one another.
- 37 This is because there are clear similarities between the access applications lodged by the Respondents and indications that they may be acting in concert.
- 38 All of the access applications signed off by Ms Webb and Mr McEwan, that aren't on the DraftCom t/as NSW Freedom of Information letterhead, use a variation of a DraftCom email address as the email contact.
- 39 The access applications submitted on the DraftCom t/as NSW Freedom of Information letterhead signed by Ms Webb include 'info@nswfreedomofinformation.net' as the applicant's contact email address.
- 40 I observe that the applications and correspondence that are signed off by Ms Webb and Mr McEwan individually are alike in their formatting style and use very similar wording.
- 41 I also observe that the access applications from them that contain hand-writing used the same hand writing.

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42 Additionally, their applications seek similar classes of information, including information that is related to proceedings and other matters initiated by Ms Webb and Mr McEwan.

43 At times, Ms Webb and Mr McEwan also sought the same information under separate access applications. Examples of these applications are as follows.

PSC2012-05342, PSC2012-05346 and PSC2016-01633

44 On 20 December 2012, PS Council received an access application signed by Ms Webb seeking a "Copy of all objections to DA16 – 483-2011-1 and 82A Review from Mrs Genevieve Espinola, including attachments" ('PSC2012-05342') (see Tab 9 of Exhibit TLW-1 at pages 97 to 98).

45 On 20 December 2012, PS Council received an access application signed by Ms Webb seeking a "Copy of objection including attachments from J + J Logan, August 2011 – DA 483/2011. Copy of objection including attachments from J + J Logan, 2012 – 82A review DA483 / 2011" ('PSC2012-05346') (see Tab 9 of Exhibit TLW-1 at pages 101 to 102).

46 On 7 June 2016, PS Council received an access application signed by Mr McEwan seeking a "copy of all objecting submissions and attachments for the DA NO: 483/2011, including the original DA and subsequent 82a Requests for Review" ('PSC2016-01633') (see Tab 10 of Exhibit TLW-1 at pages 379 to 382).

PSC2018-02026 and PSC2019-04987

47 On 8 June 2018, PS Council received an access application signed by Ms Webb seeking, among other things, copies of the secondary employment register for 2008 to date ('PSC2018-02026') (see Tab 9 of Exhibit TLW-1 at pages 241 to 245).

48 On 28 October 2019, PS Council received an access application signed by Mr McEwan seeking, among other things, copies of the secondary employment register from 2010 to date ('PSC2019-04987') (see Tab 10 of Exhibit TLW-1 at pages 383 to 384). This application was decided on 15 January 2020.

PSC2019-02506 and PSC2020-04244

49 On 4 June 2019, PS Council received an access application signed by Ms Webb seeking copies of "ALL Council records pertaining to the Tribunal Decision of 27 March 2019 to ALL third parties. That is ALL correspondence from 27 March 2019 to date" ('PSC2019-02506') (see Tab 9 of Exhibit TLW-1 at pages 301 to 303).

50 Ten documents were located in response to PSC2019-02506, and PS Council refused access on the basis that they were subject to legal professional privilege.

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- 51 On 23 November 2020, PS Council received an access application signed by Mr McEwan seeking copies of *"all Council records relating to the Tribunal Decision of 27 March 2019 to all third parties. I understand correspondence was exchanged between Council and third parties in May 2019, resulting in a total of (10) ten documents"* ('PSC2020-04244') (see Tab 10 of Exhibit TLW-1 at pages 390 to 392).
- 52 The "Tribunal Decision of 27 March 2019" referred to in both PSC2019-02506 and PSC2020-04244 relates to external review proceedings initiated by Mr McEwan, concerning his access application PSC2016-01633 (as mentioned at paragraph 46 above).

PSC2021-03072 and PSC2022-03847

- 53 On 3 September 2021, PS Council received an access application signed by Mr McEwan seeking information relating to *McEwan v Port Stephens Council (2021) NSWCATAD 110*, being *"Copy of all invoices and related documentation issued by Council and its external legal service(s) provider(s) who acted in this matter, unredacted, these documents are expected to include; Remittance Notices confirming payment transactions have been completed; Internal documentation requesting approval of expenditure; Internal documentation giving approvals of expenditure"* ('PSC2021-03072') (see Tab 10 of Exhibit TLW-1 at pages 407 to 409).
- 54 On 31 October 2022, PS Council received an access application signed by Ms Webb seeking information relating to *McEwan v Port Stephens Council (2021) NSWCATAD 110*, being *"An unredacted copy of all invoices and remittance advices for legal services for this matter..."* ('PSC2022-03847') (see Tab 9 of Exhibit TLW-1 at page 372).

PSC2024-01840, PSC2024-01842 and PSC2024-02164

- 55 Notably, on 8 May 2024, PS Council received separate access applications, one on the DraftCom t/as NSW Freedom of Information letterhead signed by Ms Webb, and the other signed by Mr McEwan ('PSC2024-01840' and 'PSC2024-01842' respectively).
- 56 PSC2024-01840 sought access to *"a full and unedited copy of each and every case management record uploaded to the IPC GIPA Tool"* (see Tab 11 of Exhibit TLW-1 at pages 417 to 418).
- 57 PSC2024-01842 also sought access to *"a full and unedited copy of each and every case management record uploaded to the IPC GIPA Tool"* (see Tab 10 of Exhibit TLW-1 at pages 411 to 412).

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- 58 I observe that the body of both these applications is identical and the remittances for the application fees of both PSC2024-01840 and PSC2024-01842 appear to have been paid by Ms Webb and were paid within two minutes of each other.
- 59 On 29 May 2024, PS Council received a further access application on the DraftCom t/as NSW Freedom of Information letterhead signed by Ms Webb ('PSC2024-02164') (see Tab 11 of Exhibit TLW-1 at pages 421 to 424).
- 60 Similarly to PSC2024-01840 and PSC202401842, PSC2024-02164 sought access to, *"a full and unedited copy of each and every case management record uploaded to the IPC GIPA Tool by Port Stephens Council between the period 01st January 2017 up to and including 31 December 2017"*.

Pending application subject of NCAT Review

- 61 Ms Webb currently has an access application with PS Council, being 'PSC2024-01841' (see Tab 11 of Exhibit TLW-1, pages 419 to 420), which is the subject of an external review by the NCAT, reference 2024/00315254.
- 62 PSC2024-01841 was submitted on 8 May 2024 on the DraftCom t/as NSW Freedom of Information letterhead and signed by Ms Webb.
- 63 The information that was located in response to this application included attachments to an email to the Information and Privacy Commission ('IPC') dated 17 March 2015, which was refused in full as the information was subject to the conclusive presumption outlined in schedule 1, s 6(1) of the GIPA Act.
- 64 Ms Webb initially sought review of PS Council's decision externally with the IPC. This review was then referred to the NCAT by the IPC under s 99 of the GIPA Act. This matter was listed for hearing before the NCAT on 2 December 2024, however Ms Webb applied for an adjournment of this hearing and the matter is now set to be determined on the papers.

PART 4: PS COUNCIL'S FUNCTIONS AND DEALINGS WITH THE RESPONDENTS

PS Council's functions

- 65 The Governance Section within PS Council has three divisions, being the Governance Business Unit, the Legal Services Business Unit, and the Enterprise Risk Business Unit. There are 16 staff in these three divisions, with two staff allocated to responding to requests for information.
- 66 The Governance Section has a myriad of functions outside of the GIPA Act that have been impacted by the long-term unreasonable conduct of Ms Webb. A document

detailing the framework of the Governance Section and its functions outside of the GIPA Act is exhibited at **Tab 12** of Exhibit TLW-1.

67 In respect of access applications and informal requests under the GIPA Act, PS Council spends approximately:

(a) five hours to prepare a notice of decision for an access application under s 41 of the GIPA Act; and

(b) one and a half hours responding to an informal request under s 8 of the GIPA Act.

68 A copy of PS Council's procedures for processing these access applications and informal requests is exhibited at **Tab 13** of Exhibit TLW-1.

Overview of dealings with the Respondents

69 PS Council has, as at the date of affirming this affidavit:

(a) spent 849.25 hours in processing access applications and informal requests under the GIPA Act received from Ms Webb and Mr McEwan, and

(b) incurred external legal costs totalling \$572,090.49 in GIPA and privacy related matters before the NCAT involving Ms Webb and Mr McEwan.

70 Responding to these matters has absorbed an exceptional and disproportionate amount of PS Council's resources and negatively impacted on the health and safety of council employees required to deal with Ms Webb and those acting in concert with her.

71 As the manager of the Governance Section, I am of the view that her prolonged and unreasonable conduct has also created workplace hazards and risks and has, on many occasions, obstructed my ability to provide a safe working environment for me and the staff I supervise.

72 Additionally, over the last 13 years, I am of the view Ms Webb has launched a protracted querulant and vitriolic campaign against myself, Ms Lisa Marshall, being PS Council's Legal Services Manager, and PS Council and its staff more broadly.

73 As part of that campaign, Ms Webb has consistently published libellous and untruthful allegations about PS Council staff and myself on the Website since its establishment in 2021.

PART 5: IMPACT OF RESPONDENTS' CONDUCT

Impact on PS Council's functions and resources

- 74 Access applications signed by Ms Webb and Mr McEwan, their varying complaints, proceedings they have initiated and their consequent conduct has put considerable strain on PS Council's resources for over 13 years.
- 75 Due to the number of access applications received from Ms Webb and Mr McEwan, PS Council was required to increase staff resources for processing access applications.
- 76 Between 2003 and 2011, PS Council allocated about 30% of one full-time staff resource to accessing information applications.
- 77 Since around 2011, PS Council allocated about 50% of one full-time staff resource to accessing information applications.
- 78 From 2020, PS Council increased the staff resources to 80% across two full-time employees.
- 79 Further, in 2019, PS Council was required to increase the legal budget in the amount of \$100,000.00 due to the ongoing legal matters in the Tribunal.
- 80 These increases in staff resources combined with the external legal costs removed the opportunity to use that funding on community assets and infrastructure. Examples of the types of infrastructure and services provided to the community can include:
- (a) building public children's playgrounds;
 - (b) building and maintaining toilet blocks;
 - (c) improvements to local community halls; and
 - (d) sporting field maintenance.
- 81 The processing of Ms Webb and Mr McEwan's access applications and complaints over the last 13 years has had a significant impact on PS Council's functions. It has taken a substantial amount of time to process Ms Webb and Mr McEwan's access applications, and respond to their internal and external reviews, complaints and correspondence, in circumstances where my team is not significantly resourced.

Time spent processing access applications and informal requests

- 82 As detailed above at paragraph 28, 388 access applications and 4,834 informal requests under the GIPA Act were received by PS Council since 2011 and 2012 respectively.
- 83 Council has spent 1,760.49 hours processing access applications and 6,077.30 hours processing informal requests since June 2012. The number of hours spent

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processing these access applications and informal requests was calculated by combining the processing times for each application, as entered by PS Council officers in the appropriate register at the time.

84 In total, it has taken 849.25 hours to deal with Ms Webb and Mr McEwan's access applications and informal requests. This is higher than any other applicant PS Council has dealt with since the commencement of my role in 2003.

85 This is a significant and disproportionate amount of time considering there are only two staff who respond to access applications at PS Council.

86 As at the date of affirming this affidavit, PS Council has spent 769 hours responding to access applications and informal requests signed by Ms Webb. This equates to 21.97 weeks of full-time work for one of PS Council's employees, based on a 35-hour work week. This time can be broken down as follows:

(a) 606.25 hours for access applications, being 17.32 weeks of work; and

(b) 162.75 hours for informal requests, being 4.65 weeks of work.

87 PS Council has also spent 80.25 hours responding to access applications and informal requests signed by Mr McEwan. This equates to 2.29 weeks of full-time work for one PS Council's employees, based on a 35-hour work week. This time can be broken down as follows:

(a) 57.75 hours for access applications, being 1.65 weeks of work; and

(b) 22.5 hours for informal requests, 3.21 days of work.

88 On the basis of these figures, I calculate:

(a) 37.72 per cent of the total time spent processing access applications were spent processing the Respondents' access applications; and

(b) 3.05 per cent of the total time spent processing informal requests were spent processing the Respondents' informal requests.

Time and costs of dealing with NCAT matters

89 Since 2011, Ms Webb and Mr McEwan have brought combined 31 matters before the NCAT seeking review of PS Council officers' notices of decision or privacy internal review decisions.

90 Defending these proceedings has caused a significant impact on PS Council's resources and ability to respond to these matters on its own.

91 On many occasions, PS Council was required to brief external legal representatives as its staff did not have the capacity to defend Ms Webb and Mr McEwan's

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applications before the NCAT whilst maintaining its GIPA functions and service to other members of the public.

92 PS Council has incurred significant costs totalling \$572,090.49 (excluding GST) in engaging external legal representation for GIPA and PPIPA related matters before the NCAT involving Ms Webb and Mr McEwan. The source of these financial resources are the rate payers of Port Stephens.

93 With respect to matters initiated by Ms Webb and Mr McEwan, the external legal costs can be broken down as follows:

(a) \$225,959.69 for matters involving Ms Webb;

(b) \$127,413.10 for matters involving Mr McEwan; and

(c) \$102,092.20 for matters involving Ms Webb and Mr McEwan together.

94 In addition to the figures at paragraph 93(a)-(c), PS Council has also incurred costs of \$116,625.50 in previous attempts to seek a restraint order under s 110 of the GIPA Act, and Ms Webb's subsequent appeal of the successful 110 order.

95 Copies of remittances paid to PS Council's external legal representatives and their corresponding invoices for these NCAT matters are exhibited at **Tab 14** of Exhibit TLW-1. Some information contained in these documents has been redacted where it was the subject of an access application made by Ms Webb and PS Council determined to withhold access to that information. Other information has been redacted as it is unrelated to these proceedings or is confidential to PS Council or to PS Council's external legal representatives.

PART 6: THE RESPONDENTS' CONDUCT

96 Ms Webb and Mr McEwan have initiated various proceedings with PS Council in the Land and Environment Court, the NCAT and the Local Court. Many of these proceedings have involved external review of PS Councils decisions under the GIPA and PPIP Act.

97 A schedule detailing these proceedings is exhibited at **Tab 15** of Exhibit TLW-1. This schedule also details the previous s 110 proceedings initiated by PS Council.

Reviews of PS Council GIPA decisions

98 Ms Webb and Mr McEwan sought internal review with PS Council and external review of PS Council's GIPA decisions from either the Information Commissioner or NCAT on 72 occasions. Details of these reviews are summarised as follows:

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	IPC	NCAT	Internal
Ms Webb	19	29	13
Mr McEwan	8	2	1
Combined total	27	31	14

Privacy internal and external reviews

99 Ms Webb and Mr McEwan have also sought internal and external review of privacy matters under the *Privacy and Personal Information Protection Act 1998* (NSW) ('PPIP Act').

Privacy internal reviews

First privacy internal review

100 On 31 May 2017, Ms Webb lodged a privacy internal review under Part 5 of the PPIP Act, where she alleged that:

- (a) one of her GIPA applications, being PSC2012-05343 was used by PS Council for training purposes without her consent; and
- (b) her identifying documents were retained without consent, being access applications PSC2012-05342, PSC2012-05343 and PSC2012-05346 lodged in 2012 ('the First PIR').

101 On 24 July 2017, Ms Michelle Gilliver-Smith, the Organisation Development Section Manager with PS Council, wrote to Ms Webb advising that the First PIR could not proceed as it had been lodged out of time, and that the matter be remitted and dealt with under Council's Complaint Handling Policy. A copy of the internal review application and Ms Gilliver-Smith's determination is exhibited at **Tab 16** of Exhibit TLW-1.

Second privacy internal review

102 On 25 February 2019, Ms Webb lodged a second privacy review under Part 5 of the PPIP Act, where she alleged:

- (a) I had disclosed a letter dated 25 October 2011 ('subject letter') containing personal information concerning Ms Webb to third parties without her prior consent;

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(b) the subject letter was used within legal proceedings when it was clearly identified as without prejudice; and

(c) a copy of the subject letter and/or details of the content of it to at least one member of the public without prior consent.

103 On 4 June 2019, Ms Marshall wrote to Ms Webb advising that PS Council found the alleged conduct in relation to Information Privacy Principle 11 did not occur. A copy of that determination is exhibited at Tab 17 of Exhibit TLW-1.

Third privacy internal review

104 On 19 November 2021, Ms Webb lodged a third privacy review under Part 5 of the PPIP Act, where she alleged that I disclosed personal information of both Ms Webb's and her husband, Paul McEwan, during a presentation to the NSW Local Government Professionals meeting on 17 July 2018 ('the Third PIR').

105 On 21 January 2022, Ms Marshall wrote to Ms Webb advising that PS Council found that there was insufficient evidence to prove that there had been a breach of Ms Webb and Mr McEwan's privacy under the PPIP Act. A copy of that determination is exhibited at Tab 18 of Exhibit TLW-1.

Privacy external reviews

106 On 14 February 2022, Ms Webb and Mr McEwan lodged an application for administrative review with the NCAT for Ms Marshall's determination dated 21 January 2022 of the Third PIR, being *FFH v Port Stephens Council* [2023] NSWCATAD 101.

107 On 2 May 2023, the NCAT handed down its decision and found a minor breach had occurred, although no further action was required.

108 On 10 May 2023, Ms Webb and Mr McEwan appealed the NCAT's decision of 2 May 2023, being *FHH v Port Stephens Council* [2023] NSWCATAP 239.

109 On 25 August 2023, the NCAT dismissed the appeal.

Land and Environment Court Proceedings

110 In or around July 2012, Ms Webb and Mr McEwan commenced merits review proceedings in the NSW Land and Environment Court in respect of the demolition order of the Privacy Screen.

111 On 29 November 2012, these proceedings were resolved by consent orders.

Contempt proceedings

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112 In addition to the abovementioned external review proceedings, Ms Webb has also commenced two sets of proceedings in the NCAT accusing PS Council and its officers of contempt. These proceedings were baseless and were commenced without foundation in fact.

Proceedings 2018/262624

- 113 On 27 August 2018, Ms Webb initiated proceedings against myself, Ms Marshall and Mr Carlo Zoppo, an external solicitor engaged by PS Council, by way of application to the NCAT ('**2018/262624 Application**'). A copy of that application is exhibited at **Tab 19** of Exhibit TLW-1.
- 114 The 2018/262624 Application alleged that there had been an unlawful internal review by PS Council's conduct in deciding to release further information to Ms Webb in an attempt to resolve NCAT proceedings 2019/119922 and 2018/119930.
- 115 On 14 November 2018, PS Council's solicitors wrote to Ms Webb requesting that she withdraw the 2018/262624 Application on the basis that her allegations of contempt were deficient at law and that she had not provided sufficient evidence to establish the allegations. A copy of that letter is exhibited at **Tab 20** of Exhibit TLW-1.
- 116 On 4 December 2018, Ms Webb sent two letters to PS Council's solicitors and the NCAT to withdraw the 2018/262624 Application only on the basis that she perceived PS Council's solicitors to have threatened, bullied and intimidated her. A copy of those letters is exhibited at **Tab 21** of Exhibit TLW-1.

Proceedings 2019/00174490

- 117 On 15 May 2019, Ms Webb initiated further proceedings against PS Council by way of application to the NCAT ('**2019/00174490 Application**'). A copy of that application is exhibited at **Tab 22** of Exhibit TLW-1.
- 118 The 2019/00174490 Application alleged that PS Council was in contempt of the NCAT based on asserted non-compliance with orders made on 27 March 2019.
- 119 On 17 December 2019 and 24 February 2020, the 2019/00174490 Application was heard.
- 120 On 11 March 2020, the NCAT dismissed the 2019/00174490 application in *Webb v Port Stephens Council; Webb v Port Stephens Council; Port Stephens Council v Webb* [2020] NSWCATAD 81.
- 121 Ms Webb appealed this decision, although the appeal was dismissed on 27 July 2020 in *Webb v Port Stephens Council* [2020] NSWCATAP 152 on the basis that the Appeal Panel did not have jurisdiction to hear the appeal.

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Local Court Proceedings

- 122 On 11 June 2019, Ms Webb filed a statement of claim with the Local Court Small Claims Division seeking \$3,961.50 from PS Council. This amount was sought for the cost of processing charges for access applications lodged with PS Council and NCAT filing fees for some of her GIPA applications in which she had sought administrative review. There was no legal basis for these proceedings as the fees Ms Webb paid were statutory fees payable under the GIPA Act.
- 123 On 13 August 2021, Magistrate Stone handed down a decision in favour of PS Council and made a costs order of \$944.00 against Ms Webb. A copy of that decision is exhibited at **Tab 23** of Exhibit TLW-1.

Complaints

- 124 Ms Webb and Mr McEwan have also lodged a total of 38 complaints with PS Council and external organisations, including:
- (a) PS Council Code of Conduct complaints;
 - (b) complaints to the Information and Privacy Commissioner; and
 - (c) complaints to other bodies including:
 - i. The NSW Ombudsman;
 - ii. NSW Police;
 - iii. Law Society of NSW; and
 - iv. Legal Services Commissioner.
- 125 A schedule of all complaints lodged by Ms Webb and Mr McEwan and their outcomes is exhibited at **Tab 24** of Exhibit TLW-1.

Code of Conduct complaints

- 126 PS Council is required to adopt a Code of Conduct under the *Local Government Act 1993* (NSW) ('Code'). A copy of the Code is exhibited at **Tab 25** of Exhibit TLW-1.
- 127 Under the Procedures for Administration of the Code, PS Council is required to appoint a complaints coordinator to manage complaints made under the Code.
- 128 I am the complaints coordinator for Council, and Ms Marshall is the alternate. I do not manage complaints regarding myself, as these are delegated to Ms Marshall or PS Council's Human Resources Section at the direction of the General Manager.
- 129 Since 2012, Ms Webb and Mr McEwan have lodged 21 complaints alleging that PS Council's staff and legal representation have breached the Code ('Code

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Complaints'). Sixteen of these complaints were lodged between May 2017 and January 2019.

- 130 I understand that six of the Code Complaints have been made against me.
- 131 On 19 occasions, Ms Webb and Mr McEwan sent Code Complaints directly to Councillors as well as the General Manager. I note the Code only requires the complaint to be lodged with the General Manager. Ms Webb and Mr McEwan have also sent emails to directly to Councillors commenting on the outcome of PS Council's Code Complaints. These emails were sent from draftcom@bigpond.com. Copies of these emails are exhibited at **Tab 26** of Exhibit TLW-1.
- 132 It takes considerable time for PS Council to carefully consider and respond to the Code Complaints. PS Council has spent approximately 80 hours responding to Ms Webb and Mr McEwan's Code complaints.
- 133 PS Council determined to take no action for all of the Code Complaints as each complaint was determined to be unfounded.
- 134 A copy of all Code Complaints lodged by Ms Webb and Mr McEwan and their respective outcome is exhibited at **Tab 27** of Exhibit TLW-1.

Complaint to NSW Ombudsman

- 135 On 3 November 2014, PS Council received a letter from the NSW Ombudsman advising that Ms Webb and Mr McEwan had made a complaint about PS Council's conduct in relation to the dealings of DA 483/2011 and the Privacy Screen ('**Ombudsman Complaint**').
- 136 On 1 December 2014, PS Council responded to the questions in the NSW Ombudsman's letter. A copy of the NSW Ombudsman's letter dated 3 November 2014 and PS Council's response is exhibited at **Tab 28** of Exhibit TLW-1.
- 137 To the best of my knowledge, PS Council has not received any other correspondence from the NSW Ombudsman in relation to the Ombudsman Complaint.

Complaints to Information Commissioner

- 138 Since September 2015, Ms Webb and Mr McEwan have lodged ten complaints under s 17 of the *Government Information (Information Commissioner) Act 2009* ('**GIIC Complaints**'). A copy of the GIIC Complaints and outcomes are exhibited at **Tab 29** of Exhibit TLW-1.
- 139 The GIIC Complaints concerned PS Council's handling of access applications Ms Webb and Mr McEwan had lodged under the GIPA Act.

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- 140 The Information Commissioner determined seven out of the ten GIC Complaints required no action.

Complaints to Law Society of NSW

- 141 Ms Webb and Mr McEwan have also lodged four complaints with the Professional Standards Department of the Law Society of NSW ('Law Society').

First complaint

- 142 On 30 May 2017 and 5 June 2017, Ms Webb and Mr McEwan lodged a formal complaint to the Law Society.
- 143 This complaint alleged that Ms Marshall had made false and misleading representations to the NCAT during proceedings *Webb v PSC [2017] NSWCATAD 271*. Ms Webb and Mr McEwan alleged Ms Marshall, in doing so had perverted the course of justice.
- 144 On 10 October 2017, the Law Society closed the complaint as it was misconceived or lacked substance, and indicated the subject matter would be better investigated or dealt with by the police or another investigatory or law enforcement body. A copy of that determination is exhibited at **Tab 30** of Exhibit TLW-1.

Second complaint

- 145 On 8 April 2024, Ms Webb and Mr McEwan lodged a formal complaint with the NSW Office of the Legal Services Commissioner ('OLSC') concerning Ms Marshall's conduct.
- 146 On 9 April 2024, the NSW Legal Services Commissioner referred the complaint to the Law Society for their action.
- 147 This complaint concerned costs proceedings *FHH v Port Stephens Council (No 2) [2023] NSWCATAP 282* and *Webb v Port Stephens Council [2023] NAWCATAD* and alleged that Ms Marshall's conduct was as follows:
- (a) lack of costs disclosure and costs agreement, as well as the absence of a legal services tender;
 - (b) excessive advocacy for the purposes of increasing costs;
 - (c) withholding information from the costs assessor; and
 - (d) claiming costs outside of the Tribunal Order.
- 148 On 16 May 2024, the Law Society closed the complaint on the basis that it required no further investigation. A copy of that determination is exhibited at **Tab 31** of Exhibit TLW-1.

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Third complaint

- 149 On 6 May 2024, Ms Webb lodged a formal complaint to the OLSC concerning Ms Marshall's conduct.
- 150 On 8 May 2024, the NSW Legal Services Commissioner referred the complaint to the Law Society.
- 151 This complaint alleged that Ms Marshall was involved in systematic unconscionable conduct including:
- (a) involvement in a conspiracy to conceal and protect open access information;
 - (b) coercing Ms Webb and Mr McEwan to sign a "fraudulent" letter which concedes that their development was unlawful; and
 - (c) recording a private conversation between Ms Webb and Mr McEwan while in a Hearing Room.
- 152 On 30 May 2024, the Law Society closed the complaint on the basis that it was misconceived or lacking in substance. A copy of that determination is exhibited at **Tab 32** of Exhibit TLW-1.

Fourth complaint

- 153 On 13 May 2024, Ms Webb lodged a complaint to the OLSC concerning the conduct of Stephanie Posniak.
- 154 Ms Posniak is PS Council's inhouse Lawyer.
- 155 On 6 June 2024, the OLSC referred the complaint to the Law Society.
- 156 This complaint concerned costs proceedings *FHH v Port Stephens Council (No 2)* [2023] NSWCATAP 282 and alleged that Ms Posniak conduct involved:
- (a) the absence of a costs agreement between PS Council and the Law Practice is unconscionable; and
 - (b) the claim for costs against Ms Webb, and the costs assessment on foot, are unlawful.
- 157 On 18 July 2024, the Law Society closed the complaint on the basis that it was misconceived or lacking in substance. A copy of that determination is exhibited at **Tab 33** of Exhibit TLW-1.

Complaint to NSW Police

- 158 On 23 March 2018, Ms Marshall received a telephone call from a detective of Raymond Terrace Police Station notifying her that they had received a complaint

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from Ms Webb. The complaint alleged Ms Marshall and I had misled the NCAT and perverted the course of justice in NCAT proceedings *Webb v Port Stephen Council* [2018] NSWCATAP 224 and *Webb v Port Stephens Council* [2018] NSWCATAP 211. A copy of Ms Marshall's email file note of the call is exhibited at **Tab 34** of Exhibit Folder TLW-1.

159 To my knowledge, no action has been taken by the NSW Police in relation to these allegations.

Complaint to Legal Services Commissioner

160 On 15 August 2018, Ms Webb made a formal complaint to the OLSC about an external solicitor instructed by PS Council, Mr Carlo Zoppo ('LSC Complaint').

161 Ms Webb alleged that Mr Zoppo had engaged in gross professional misconduct by unlawfully and unethically advising PS Council to contravene the GIPA Act and NCAT orders, and that he was in contempt of Court by not complying with those orders.

162 On 19 September 2018, the OLSC determined to close Ms Webb's complaint as it was misconceived or lacking in substance. A copy of the LSC Complaint and the determination is exhibited at **Tab 35** of Exhibit TLW-1.

NSW Freedom of Information Website

163 As detailed above at paragraph 26, Ms Webb is the Site Administrator of the NSW Freedom of Information Website (see Tab 7 of Exhibit TLW-1, at pages 27 to 30).

164 The Website is available in the public domain.

Media Releases

165 Among other things, Ms Webb posts '**Media Releases**' to the Website, which make reference to me, Ms Marshall and PS Council's staff broadly.

166 The Media Releases contain information that is defamatory, threatening, and false. Ms Webb has also posted the direct contact details of PS Council's staff throughout the Media Releases, including mobile phone numbers and email addresses.

167 The Media Releases relating to PS Council are exhibited at **Tab 36** of Exhibit TLW-1 and are detailed as follows:

Date	Title of Media Release	Exhibit Pages
25/06/2021	Student of Criminology Defeats Local Council Legal Dream Team	1480 - 1481
1/10/2021	NSW Freedom of Information Site Will Give the Public a Voice	1482 - 1483

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13/10/2021	NSW Local Council Discloses Extraordinary Costs for Repeated Failed Attempts to Restrain a Member of the Public from Exercising Freedom of Information Rights	1484 - 1485
18/10/2021	Port Stephens Council Forks Out \$99,000.00 in Public Monies to Clear Its False & Misleading Claims an FOI Applicant Posed a Serious Risk to Public Safety	1486 - 1488
20/10/2021	NSW Local Council Releases Documents Showing It Used Public Monies To Have A Factual Media Release Removed From Numerous Online News Publications	1489 - 1490
25/10/2021	NSW Local Councils Reveal Contradicting Approaches and Interpretation in Administering Freedom of Information Legislation	1491 - 1492
17/02/2022	Local Council Senior Right to Information Officers Had Knowledge of Agency Misrepresentations to NSW Civil & Administrative Tribunal	1493 - 1495
09/05/2022	Local Council Governance Manager Fails in Pleadings for Anonymity in NSW Civil & Administrative Tribunal	1496 - 1498
17/05/2022	Port Stephens Council Takes Out Top Prize for Most Extortive Cost for a Single Page of Government Information	1499 - 1500
14/09/2022	Local Council Succeeds in Preventing Public Access to Falsified Records	1501 - 1502
21/01/2023	NSW Crown Solicitor and Local Council Documented to Collaborate on Submissions, Billing Unsuspecting Public	1503 - 1504
08/02/2023	NSW Local Council Marks 10 th Anniversary of False & Misleading Publications on Government Website	1505 - 1506
18/02/2023	NSW Civil & Administrative Tribunal Reluctant [sic] to Discuss Implications of Government Sector Employee Legislation Concerning Staff Obligations to Comply with Mandated Code of Conduct	1507 - 1510
21/02/2023	NSW Civil & Administrative Tribunal's Decision Inconsistencies and Procedural Errors Continue to be Seriously Problematic for The Unrepresented, Exposed and Vulnerable General Public	1511 - 1516
09/03/2023	Cash-Strapped Local Council Seeking Special Rate Rise In Excess Of 30% Indignantly Claims Engaging Costly External Legal Service Providers Is Its Right	1517 - 1519
17/03/2023	Loophole in Current Freedom of Information Process Enables NSW Agencies to Obstruct Access Applicants' Legislated Review Rights	1520 - 1521
24/05/2023	NSW Crown Solicitor Evidenced to Collude with a Local Council to Prevent Access to Freedom of Information Training Documents, Adding to Costs Accumulated	1522 - 1523

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06/06/2023	NSW Civil & Administrative Tribunal Awards Legal Costs to Local Council Despite Evidence of Collusion Involving the Office of the NSW Crown Solicitor	1524 - 1525
07/07/2023	Local Council Dodges Breach of Privacy Bullet by Claiming "But the NCAT Published it First!"	1526 - 1528
24/07/2023	Prominent Sydney Law Firm Bypasses Legislated Procurement Processes and Continues to Do Business with Port Stephens Council Despite Legal Services Contract Expiring in Mid-2022	1529 - 1530
29/11/2023	Member of the Public Pleads with Port Stephens Council for Compassion and Logic as Council Pushes Unrepresented Party to the Brink of Mortal Personal Harm	1531 - 1578
18/01/2024	Free NSW Public Service Website Reveals Plans for 2024 Expansion of Its Community Services	1579 - 1581
03/06/2024	Port Stephens Council Joins the Defamation Queue Threatening Legal Action Against Site Administrator of Free Community Service	1582 - 1587
08/07/2024	Port Stephens Council & Sydney's Lindsay Taylor Lawyers Caught Inflating Legal Costs Against Unrepresented Parties by Over 30% to Compound Quantity of Costs Claim	1588 - 1591
14/07/2024	NSW Office of Local Government Discloses it has a 'BS' Department	1592 - 1593
31/07/2024	NSW Law Society Discloses Investigations into Solicitor Gross Professional Misconduct Fail by not meeting <i>Briginshaw v Briginshaw</i> Legal Principle	1594 - 1595
30/08/2024	Request for Urgent Parliamentary Inquiry into the Maladministration, Systemic Abuse, and Failures of the NSW Civil & Administrative Tribunal and the NSW Civil & Administrative Tribunal Act 2013 Confirmed Received by Extensive List of Ministers, Senator, Legislative Council and National Media	1596 - 1633
23/09/2024	Public's Ongoing Investigation into NSW Right to Information and Privacy Officer Behaviours and Activities Reveals Cartel Posse Mentality, Denigrating Legislated Rights and Undermining Beneficial Legislation	1634 - 1641

168 Notably, the Media Release published on 7 July 2023 (see Tab 36 of Exhibit TLW-1, pages 1526 - 1528), included statements involving the privacy matter *FHH v Port Stephens Council* [2023] NSWCATAD 101 heard by NCAT on 7 July 2022 and 30 September 2022, and for which a decision was handed down on 2 May 2023.

169 The decision includes an order under s 64(1)(a) of the *Civil and Administrative Tribunal Act 2013* prohibiting or restricting the disclosure of the name of the applicants.

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- 170 In contravention of the Tribunal's order, the 'Media Release' published by Ms Webb to the Website clearly identifies the applicants and repeats fabrications that I concocted evidence in NCAT in 2017 during a confidential session at which neither Ms Webb or Mr McEwan were present.
- 171 This Media Release perpetuates the level of harassment and intimidation of me with the allegation Ms Webb makes of an unlawful agreement and concealing information to protect a member of the public.

Certificate of Achievement

- 172 The Website also includes a 'Forum' where Ms Webb has posted a series of 'Certificates of Achievements'.
- 173 On 17 May 2022, Ms Webb awarded PS Council with an award titled 'Most Extortive Cost for a Single Page of Government Information' ('Award'). A copy of a screenshot of the award is exhibited at **Tab 37** of Exhibit TLW-1.
- 174 On 18 May 2022, Ms Webb emailed the Media Release titled 'Port Stephens Council Takes Out Top Prize for Most Extortive Cost for a Single Page of Government Information' dated 17 May 2024 posting the Award to PS Council's Councillors. A copy of that email is exhibited at **Tab 38** of Exhibit TLW-1.
- 175 I am of the view that the Award is an attempt to disparage the reputation of PS Council and belittle its staff.

Forum posts

- 176 The Website also includes other separate forums, including posts titled 'Rate your Agency', 'Rate NSW Office of Local Government' and 'Rate the NCAT'. A copy of these forum posts is exhibited at **Tab 39** of Exhibit TLW-1.
- 177 These forums invite members of the public to post reviews about their dealings with a particular agency or the NCAT. Both forums include disparaging posts from Ms Webb and Mr McEwan and other members of the public about PS Council and other agencies, including the NCAT.
- 178 I observe that individuals who are the subject of a s 110 restraint order have also posted to the forum, including Phillip Walker and Peter Zonneville (see Tab 39 of Exhibit TLW-1, pages 1654 to 1658).

Correspondence

- 179 In my dealings with Ms Webb, she has sent myself and other PS Council staff repeated and frequent correspondence concerning the same subject matter within short periods of time.


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180 Ms Webb and Mr McEwan's correspondence has at times been, in my view, condescending, disparaging, excessive, passive aggressive and has caused distress to PS Council staff. Their correspondence includes comments such as:

- (a) On 29 November 2023, Mr McEwan sent a 39-page letter to Ms Marshall and copied in PS Council's General Manager, the then Councillors, Mayor and Deputy Mayor. This letter was hyperlinked to a Media Release titled, *'Member of the Public Pleads with Port Stephens Council for Compassion and Logic as Council Pushes Unrepresented Party to the Brink of Mortal Personal Harm'* published to the NSW Freedom of Information Website on 29 November 2023 (see Tab 36 of Exhibit TLW-1, pages 1531 to 1578). In his letter, Mr McEwan, among other things;
- i. called Ms Marshall *'foolish'*;
 - ii. called myself and Ms Marshall *'Council's Dynamic Corrupt Duo'*;
 - iii. stated Ms Marshall and I have *'repeatedly acted in text-book fashion of Routine Activity Theory, where criminal actions are easily performed as part of everyday workplace activities, a theory which makes clear you both fit the parameters of the Crime Triangle'*;
 - iv. claimed that PS Council was *'completely responsible for'* Ms Webb suffering two transient ischemic attacks;
 - v. stated that Ms Marshall is *'a total disgrace to the legal profession'*; and
 - vi. stated that the GIPA Act *'has become a money-making and punitive mechanism to cause the public the maximum amount of personal damage, frustration, distress, anxiety, and financial impact possible by a NSW government agency, exemplified by Port Stephens Council'*.
- (b) On 15 May 2024, Ms Webb sent an email to Sarah Rose, PS Council's Governance Officer, stating, among other things;
- i. *'Ms Rose, OMG are you saying Tony Wickham deleted the letter from Council's system?! This is a serious matter, at minimum an offence under the GIPA Act 2009 Section 120! You can report that directly to the IPC on behalf of the public'*;
 - ii. *'Your superior Tony Wickham writing a false and misleading letter to the IPC is absolutely scandalous and one that I have now repeatedly published as a matter of the greatest public interest'*; and

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iii. *'I hope the provision of this infamous false and misleading letter assists you';*

- (c) On 22 May 2024, Mr McEwan sent an email to Ms Rose from 'draftcom.pmc@gmail.com', which stated *'Your response to my valid access application is completely embarrassing. Personally, I always hope the Port Stephens Council will exhibit some kind of professionalism, adherence to legislation, and just basic honest and good customer service. Unfortunately it continually affirms everything to the contrary';*
- (d) On 30 May 2024, Ms Webb sent a letter to the IPC using the DraftCom t/as NSW Freedom of Information letterhead, copying in myself and Ms Rose stating, *'This disgraceful decision showing a Determining Officer clearly lacking the most fundamental of mathematical and reading comprehension skills to process a very straightforward request...'* and *'I would also expect the Commissioner will see fit to make some kind of educational training recommendations to this now notoriously infamous agency, if not the issuing of a seriously warranted reprimand';* and
- (e) On 4 June 2024, Ms Webb sent a letter to the IPC using the DraftCom t/as NSW Freedom of Information letterhead, copying in myself and Ms Rose, *'...any government clerk using up (2) two hours of time to collate a mostly copied-and-pasted document is clearly absent of the necessary skills for this particular role and the public should not be financially penalised for that'.*

A copy of this correspondence is exhibited at **Tab 40** of TLW-1.

- 181 Ms Webb and Mr McEwan have also sent considerable correspondence directly to PS Council's Councillors and the Mayor. At times, Ms Webb has sent her Media Releases. I observe that the nature of this correspondence is patronising and antagonising towards PS Council staff. A copy of examples of this correspondence is exhibited at **Tab 26** and **Tab 41** of TLW-1.
- 182 On 12 August 2024, PS Council's IT team conducted an email audit ('Audit') of the email correspondence between Ms Webb, Mr McEwan and PS Council (including Mayor and Councillors) using the email addresses known to be used by them.
- 183 The Audit revealed that Ms Webb and Mr McEwan had sent a total of 1,629 emails to PS Council between 1 January 2011 to 12 August 2024, and PS Council had sent 1,820 emails in reply.
- 184 A total of 3,449 emails were corresponded over 13 years. On average this equates to 265 email exchanges per year. Based on these figures, PS Council has, on

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average, has either sent or received correspondence with Ms Webb and Mr McEwan on every business day since 2011.

185 The date range for the Audit was 1 January 2011 to 12 August 2024 and revealed the following figures:

Email address	Received	Sent by PS Council
draftcom@bigpond.com	1463	1623
info@nswfreedomofinformation.net	94	36
wrapture_attire@outlook.com	6	4
paul.mcewan@draftcom.net	43	117
6259car@gmail.com	11	0
Draftcom.pmc@gmail.com	12	40 (17 auto replies/read receipts)
TOTAL	1,629	1,820

Work, Health and Safety Impact

186 I am informed by PS Council staff, and from my own experiences dealing with Ms Webb and Mr McEwan, that responding to their excessive correspondence and applications has caused significant distress and has obstructed our abilities to complete other tasks and functions. Ms Webb's 'Media Releases' also contain personal attacks on myself and other PS Council staff members, and the team more broadly.

187 I am of the view that PS Council should not be subject to baseless and public personal attacks when the team are simply performing their professional obligations and duties as officers of a local council.

188 The frequency and nature of Ms Webb's repeated correspondence, in conjunction with the Media Releases, has created significant stress and risks for me and other PS Council staff.

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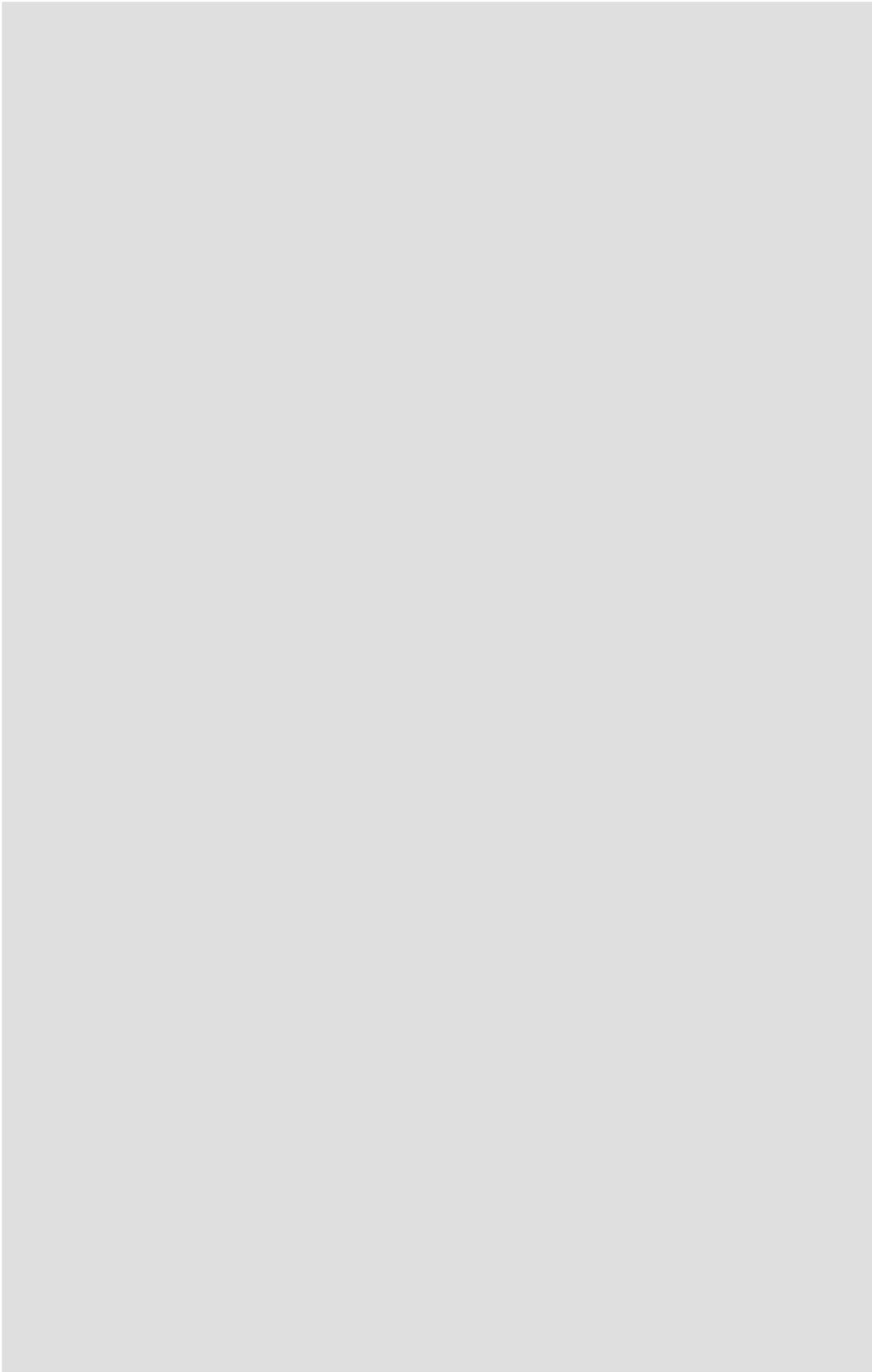
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Mitigation attempts

207 PS Council on many occasions has attempted to mitigate the impact of Ms Webb's conduct on its resources and staff wellbeing. These strategies have included:

- (a) communications restrictions;
- (b) two attempts at a s 110 order under the GIPA Act; and
- (c) a cease and desist letter in relation to the Media Releases.

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Communications restrictions

- 208 PS Council has imposed a communications restriction on Ms Webb and Ms McEwan in attempts to manage the health and safety risks to employees caused by the unreasonable, distressing and excessive nature of their correspondence.
- 209 In 2019, two formal restrictions warning letters were also issued to Ms Webb.
- 210 These measures were introduced as a strategy to endeavour to manage the impact of Ms Webb and Mr McEwan's conduct on staff health and safety. They were also implemented to allow staff time to respond to other tasks and duties. I have been informed by staff that there were numerous occasions where their workdays were consumed by receiving and responding to Ms Webb's emails detracting them from all other work.

2011-2013 restriction

- 211 Between 22 July 2011 and 2 November 2011, Ms Webb sent 104 emails to PS Council. In addition, Ms Webb would personally deliver large volumes of correspondence to the customer service desk at PS Council. This correspondence was addressed to numerous staff and Councillors and all contained the same information.
- 212 At the time, PS Council had refused to consent to DA 483/2011.
- 213 On 3 November 2011, PS Council wrote to Ms Webb and Mr McEwan in relation to complaints lodged by Ms Webb. In that letter, PS Council advised that Ms Webb and Mr McEwan should only correspond with PS Council in writing and through particular PS Council officers, being Matthew Brown and me. A copy of that letter is exhibited at **Tab 43** of Exhibit TLW-1.
- 214 Although this restriction was in place, Ms Webb and Mr McEwan sent considerable correspondence, including to officers other than Mr Brown and me. A copy of this correspondence is bundled together and exhibited at **Tab 44** of Exhibit TLW-1.
- 215 On 14 February 2012, PS Council further restricted Ms Webb and Mr McEwan to sending two items of correspondence each month. A copy of that letter is exhibited at **Tab 45** of Exhibit TLW-1.
- 216 These restrictions were in place until 17 September 2013.

2019 restriction warning

- 217 On 27 May 2019, Ms Webb sent an email to me and PS Council Governance Officer Ms Holly Jamadar in relation to Ms Jamadar's decision concerning Ms Webb's access application PSC 2019-01056. This correspondence contained allegations

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that PS Council officers had undertaken an unlawful internal review and that I had sent a letter to the IPC that contained defamatory, false and misleading statements. A copy of Ms Webb's email is exhibited at **Tab 46** of Exhibit TLW-1.

- 218 On 13 June 2019, PS Council's General Manager Wayne Wallis wrote to Ms Webb warning that PS Council would consider issuing a formal restriction of service should she continue the conduct outlined in that letter. A copy of Mr Wallis' letter is exhibited at **Tab 47** of Exhibit TLW-1.
- 219 This letter was sent following Ms Webb's correspondence of 27 May 2019, together with a series of other email correspondence sent by Ms Webb. This correspondence was demanding and antagonizing in nature, and frequently alleged that PS Council was deliberately procrastinating matters.
- 220 On 1 July 2019, Mr Wallis sent Ms Webb a further warning letter outlining that Ms Webb had failed to adhere to the first warning letter and continued to ignore the letter where she was asked to interact with Council officers in an appropriate manner and refrain from personal attacks. A copy of that letter enclosing the subject correspondence from Ms Webb is exhibited at **Tab 48** of Exhibit TLW-1.
- 221 I understand that Mr Wallis did not receive a response from Ms Webb to either warning letters, although PS Council officers continued to receive correspondence on an ongoing basis from Ms Webb.

Previous s 110 orders

- 222 PS Council has filed two previous s 110 applications under the GIPA Act for a restraint order against Ms Webb.

First s 110 Application

- 223 On 19 May 2017, PS Council filed its first s 110 application with the NCAT as it had received four access applications under the GIPA Act that had lacked merit.
- 224 The matter was heard on 19 July 2017.
- 225 On 22 November 2017, the matter in *Port Stephens Council v Webb* [2017] NSWCATAD 341 was handed down and PS Council's application was dismissed.
- 226 On this occasion, the NCAT did not take into account Ms Webb's conduct.

Second s 110 Application

- 227 On 12 December 2019, PS Council filed its second s 110 application with the NCAT as it had received four access applications under the GIPA Act that had lacked merit.

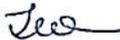
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- 228 On 11 March 2020, the matter in *Webb v Port Stephens Council; Webb Port Stephens Council; Port Stephens Council v Webb* [2020] NSWCATAD 81 was handed down ('2020 Restraint Order').
- 229 The second application was successful and restricted Ms Webb from making access applications solely or acting jointly or in concert with any other person without first obtaining the approval of NCAT.
- 230 Ms Webb appealed the 2020 Restraint Order.
- 231 On 27 July 2020, the 2020 Restraint Order was set aside on appeal: *Webb v Port Stephens Council* [2020] NSWCATAP 152 and was remitted for re-determination to a differently constituted Tribunal.
- 232 The 2020 Restraint Order decision was remitted on the grounds that the decision to restrain Ms Webb was affected by apprehended bias as Principal Member Marks, being the presiding member of the second s 110 order. This is because Principal Member Marks had previously invited PS Council to make the application under s 110 of the GIPA Act on 17 December 2019. PS Council had already filed the second s 110 Application on 12 December 2019, being five days before Principal Member Marks had invited PS Council to make the application.
- 233 The remitted matter was heard on 10 December 2020.
- 234 On 25 June 2021, the remitted matter of *Port Stephens Council v Webb* [2021] NSWCATAD 180 was handed down which dismissed PS Council's second application for a restraint order against Ms Webb.

Cease and desist letter

- 235 On 16 May 2024, PS Council's external legal representatives, Lindsay Taylor Lawyers, sent a Cease and Desist letter to Ms Webb ('Cease and Desist Letter'). A copy of the Cease and Desist Letter is exhibited at **Tab 49** of Exhibit TLW-1.
- 236 The Cease and Desist Letter requested that a series of already published Media Releases be removed from the Website, and that Ms Webb cease from publishing any further material that appears to disparage PS Council or its officers, or contains the personal details of those officers. This was requested on the basis that Ms Webb had publicly made the following defamatory accusations:
- (a) I acted unlawfully under the GIPA Act, made false allegations against members of the public and exercised my powers as Governance Manager for an improper purpose;




- (b) I made false claims, wrote a false and misleading letter to the IPC and entered into an 'unlawful agreement' with a member of the public to conceal documents;
- (c) I engaged in 'gross professional misconduct', used public monies for my own personal gain and colluded with the Office of the Crown Solicitor; and
- (d) Ms Marshall and I committed acts of perjury, perverted the course of justice, abused our public offices and breached PS Council's Code of Conduct.

237 As at 10 December 2024, the Media Releases listed in the Cease and Desist Letter have not been removed from the Website.

238 Since the Cease and Desist Letter, Ms Webb has published six further Media Releases that are disparaging towards PS Council, being:

- (a) Port Stephens Council Joins the Defamation Queue Threatening Legal Action Against Site Administrator of Free Community Service;
- (b) Port Stephens Council & Sydney's Lindsay Taylor Lawyers Caught Inflating Legal Costs Against Unrepresented Parties by Over 30% to Compound Quantity of Costs Claim;
- (c) NSW Office of Local Government Discloses it has a 'BS' Department;
- (d) NSW Law Society Discloses Investigations into Solicitor Gross Professional Misconduct Fail by not meeting *Briginshaw v Briginshaw* Legal Principle;
- (e) Request for Urgent Parliamentary Inquiry into the Maladministration, Systemic Abuse, and Failures of the NSW Civil & Administrative Tribunal and the NSW Civil & Administrative Tribunal Act 2013 Confirmed Received by Extensive List of Ministers, Senator, Legislative Council and National Media; and
- (f) Public's Ongoing Investigation into NSW Right to Information and Privacy Officer Behaviours and Activities Reveals Cartel Posse Mentality, Denigrating Legislated Rights and Undermining Beneficial Legislation.

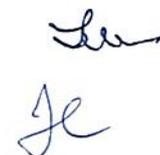
239 Notably, the Media Release posted on 3 June 2024 being the Media Releases titled "*Port Stephens Council Joins the Defamation Queue Threatening Legal Action Against Site Administrator of Free Community Service*" has published a copy of the Cease and Desist Letter via a hyperlink (see Tab 36 at pages 1583 to 1587).

Impact on PS Council if s 110 order is not made

240 PS Council on numerous occasions has attempted to mitigate the prolonged and detrimental impact Ms Webb and Mr McEwan have had on its resources and staff well-being. These measures have so far been unsuccessful in mitigating the

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- ratepayer funded financial strains, resourcing impact and psychosocial risks Ms Webb and Mr McEwan's conduct has on PS Council.
- 241 A s 110 restraint order against Ms Webb, Mr McEwan and DraftCom would have a significant and purposeful impact on PS Council's functions to manage its finite resources and staff health and safety.
- 242 If a s 110 restraint order is not granted, I am very concerned Ms Webb will continue to lodge frequent access applications individually and or/in concert with Mr McEwan and his company DraftCom t/as NSW Freedom of Information. As this conduct has continued for 13 years, I cannot see an end to it should the restraint order not be granted.
- 243 A s 110 restraint order would also significantly reduce the opportunity for Ms Webb to send excessive correspondence to PS Council, and also the opportunity to continue reviewing these matters before the NCAT. I am concerned about how this will impact the health and safety of staff at PS Council and PS Council's resources.
- 244 I consider that an order under s 110 is necessary to protect PS Council's staff from this egregious and relentless campaign of behaviour, and to allow PS Council's funding and resources to be used on other functions and community assets as rate payer funds are intended to be spent.

Handwritten signature in blue ink, appearing to be 'JL'.

