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Please quote file no:
PSC2011-02623

Ms Telina Webb
EMAIL: drafftcom@bigpond.com

Dear Ms Webb

**FORMAL APPLICATION
GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 (GIPA)**

I refer to your application of 4 August 2011 seeking information under GIPA.

Please find attached the Notice of Decision.

Should you have any questions please feel free to contact me.

Yours faithfully



**Tony Wickham
EXECUTIVE OFFICER**

Date: 9 August 2011



Government Information (Public Access) Act 2009
NOTICE OF DECISION

Applicant:	TELINA WEBB
File Ref:	PSC2011-02623
Decision-maker:	TONY WICKHAM – EXECUTIVE OFFICER
Date of decision:	9 AUGUST 2011

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1. Summary of access application

On 4 August 2011, Port Stephens Council received your access application under the *Government Information (Public Access) Act 2009* (GIPA Act), in which you sought access to the following documents:

"Port Stephens Council has advised my husband and I, it has received complaints from neighbours. I would like a copy of any and all complaints, including letters and all records of telephone conversations. I expect the information to include the complainants details."

It is noted that you deferred your original formal application of 27 July 2011 until a decision had been made on the informal request.

2. Processing of application

Under the *GIPA Act*, agencies must conduct reasonable searches for government information requested in an access application. In certain circumstances, they must also consult third persons to see whether they object to the information sought being released.

2.1 Searches conducted

A search of Council's records has been undertaken, to identify all government information falling within the scope of your application.

Records were located within Council's electronic document system (TRIM) and the Customer Request system (CRM).

2.2 Consultation

The government information to which you seek access includes information that is of a kind requiring consultation under s. 54 of the *GIPA Act*. That is, because you seek access to personal affairs information, therefore, it has been necessary to consult with relevant third persons to see whether they object to the release of their information.

An objection has been made to the release of the information sought, which is discussed in further detail in part 3.2 below.

3. Decision to refuse access

I am authorised by the principal officer, for the purposes of s. 9(3) of the *GIPA Act*, to decide your access application. I have examined all of the records containing the information falling within the scope of your application, as referred to in part 2.1 above.

3.1 Notice of decision

I have decided, under s. 58(1)(d) of the *GIPA Act*, to refuse to provide you with access to the information sought because there is an overriding public interest against its disclosure. In accordance with s. 61 of the *GIPA Act*, I advise you of:

- (a) the reasons for my decision and the findings on any material questions of fact underlying those reasons (see part 3.2 below of this Notice), and
- (b) the general nature and format of the records containing the information sought, with reference to the relevant public interest considerations against disclosure (see the attached Schedule of Documents).

3.2 Statement of Reasons

Under s. 9(1) of the *GIPA Act*, you have a legally enforceable right to be provided with access to the information sought, unless there is an overriding public interest against disclosure of the information. In making such a determination, agencies must apply the public interest test under s. 13, which provides that there will only be an overriding public interest against disclosure where public interest considerations in favour of disclosure are, on balance, outweighed by those against disclosure. Under s. 5 of the *GIPA Act*, there is a presumption in favour of disclosing government information.

I have applied the public interest test and have determined that there is an overriding public interest against disclosure of the information sought.

Consideration was given to your request and also to the response of the third party consultation. I have applied the Section 3 (a), 3 (b) and 3 (f) of Table under Section 14. To disclose the information sought would be in breach of the Privacy & Personal Information Protection Act 1998.

4. Your rights of review

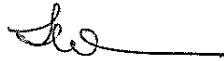
If you are aggrieved by the decision not to release any of the information sought, you may seek review under Part 5 of the *GIPA Act*. Before you do so, I would encourage you to speak with the officer responsible for your access application, whose contact details are below.

For your information, there are three avenues of review: internal review by a senior officer, external review by the Information Commissioner or external review by the Administrative Decisions Tribunal ("Tribunal").

Notice of Decision (s. 58 of the GIPA Act)

You should note that the time for seeking an internal review is four weeks or, for external review, eight weeks after the date you were notified of this decision. Further information about your rights under the GIPA Act is available by contacting the Office of the Information Commissioner on freecall 1800 INFOCOM (1800 463 626) or at the following website: www.oic.nsw.gov.au

If you have any queries about this notice or require further information on your rights of review, please contact Tony Wickham, on 4980 0187.



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Tony Wickham
Executive Officer

Schedule of Documents

No.	Description of record	Location record agency	Format of record	Public interest(s) against disclosure	GIPA Act sections
1	Customer Request System (CRM) dated 21 April 2011	CRM	Electronic	Section 14, Table 3 (a) of GIPA Act – reveal an individual's personal information. Section 14, Table 3 (b) of GIPA Act – contravene an information protection principle under the Privacy Personal Information Protection Act 1998. Section 14, Table 3 (f) – expose a person to a risk of harm or of serious harassment or serious intimidation.	Section 14

Notice of Decision (s. 58 of the GIPA Act)

2	Emails dated 1 May 2011, 2 May 2011, 14 May 2011, 18 May 2011, 23 May 2011, 15 June 2011, 12 July 2011, 26 June 2011 and 28 July 2011.	TRIM	Electronic file	Table 14, 3 (a) of GIPA Act – reveal an individual's personal information. Table 14, 3 (b) of GIPA Act – contravene an information protection principle under the Privacy Personal Information Protection Act 1998. Table 14, 3 (f) – expose a person to a risk of harm or of serious harassment or serious intimidation.	Section 14
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