

Ms Telina Webb
3 Sapphire Court
RAYMOND TERRACE NSW 2324

Enquiries: Tony Wickham
Our ref: PSC2012-05342

Dear Ms Webb

Your application for access to government information

We received your access application under the *Government Information (Public Access) Act 2009 (GIPA Act)* dated and received 20th December 2012 at Council's front counter seeking a copy of "all objections to DA16 – 483-2011-1 and 82A Review from Mrs Genevieve Espinola, including attachments". Please find attached Council's Notice of Decision in respect of this request.

If you have any questions, please contact Tony Wickham on 4980 0187.

We also attach Council's receipt no. 01776829 dated 29th January 2013 for your records and look forward to the balance owing of \$60.00 in respect of this application. Council will forward an invoice in respect of this under separate cover.

Yours faithfully

Tony Wickham
Executive Officer

Date: 7th February 2013

Government Information (Public Access) Act 2009

NOTICE OF DECISION

Applicant:	TELINA WEBB
File Ref:	PSC2012-05342
Decision-maker:	TONY WICKHAM
Date of decision:	7 TH FEBRUARY 2013

Table of Contents

1.	Summary of access application.....	2
2.	Processing of application	2
2.1	Searches conducted	2
2.2	Consultation	2
3.	Decision to refuse access	2
3.1	Notice of decision	2
3.2	Statement of Reasons	3
4.	Your rights of review	3
	Schedule of Documents	4

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

1. Summary of access application

On 20TH December 2012 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:

"Copy of all objections to DA16 – 483-2011-1 and 82A Review from Mrs Genevieve Espinola, including attachments."

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. A search of the physical file as well as Council's electronic records system (TRIM) was undertaken.

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 information, it was therefore 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

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

- (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 the Table under Section 14 and have assessed that 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"). Attached to this notice is a brochure published by the Office of the Information Commissioner, entitled "External review by the Information Commissioner" which details your rights of review under 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.

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Tony Wickham
Executive Officer, Port Stephens Council

Schedule of Documents

No.	Description of record	Location of record in agency	Format of record	Public interest(s) against disclosure	GIPA Act sections
1.	Letter and pictures dated 8 th August 2011	Physical File	Hard copy	Section 55(1) of the GIPA Act – Consideration of Personal Factors of Application. Also Council has given consideration to the relationship and history of this matter and believes this is an overriding public interest against disclosure of the information; Section 14, Table 3(a) - reveal an individual's personal information; Section 14, Table 3(b) - contravene an information protection principle under the Privacy and 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 55(1) and Section 14

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

2.	Email dated 31 st August 2012	Physical	Hard copy	Section 55(1) of the GIPA Act – Consideration of Personal Factors of Application. Also Council has given consideration to the relationship and history of this matter and believes this is an overriding public interest against disclosure of the information; Section 14, Table 3(a) - reveal an individual's personal information; Section 14, Table 3(b) - contravene an information protection principle under the Privacy and 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 55(1) and Section 14

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

3.	Email dated 9 th September 2012	Physical	Hard copy	Section 55(1) of the GIPA Act – Consideration of Personal Factors of Application. Also Council has given consideration to the relationship and history of this matter and believes this is an overriding public interest against disclosure of the information; Section 14, Table 3(a) - reveal an individual's personal information; Section 14, Table 3(b) - contravene an information protection principle under the Privacy and 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 55(1) and Section 14
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