

People, Culture & Business

Contact: David Watson
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Our ref: GIPAA 2013/14-001

Mr John Holman
PO Box 125
BELROSE NSW 2085
president@warringahurbanfringeassociation.org.au

Dear Mr Holman

I refer to your application, under the *Government Information (Public Access) Act 2009* (*GIPA Act*), to obtain the following information:

1. The names and qualifications of the people on the Project Control Group
2. A copy of all of the submissions that were considered by the Project Control Group
3. Maps of each of the attributes that make up the Primary Environmental Constraints Assessment and Weightings used by the study (ie Riparian, Significant Vegetation, Wetland Buffers, Slope , Designated Wildlife Corridor or Core Habitat, Flooding, Acid Sulfate Soils, Threatened Species Habitat)
4. Maps of each of the Secondary Infrastructure and Environmental Constraints Assessment and Weighting used by the study (ie Cultural heritage, Bushfire , Proximity to centres , Proximity to public transport , Availability to connect to water and sewer and electricity , Telecommunications Buffer , Riparian Corridor , Significant Vegetation , Wildlife Corridor and Core Habitat , Threatened Species , Flooding , Wetland Buffers) and the final category score received for all areas of land covered by the Review
5. Any independent scientific verification that has been carried out on the accuracy of the above maps (ie items 3 & 4 above)
6. *Middle Creek Flood Study* prepared by Worley Parsons, 2009 (referenced on page 69 of the report)
7. A copy of the completed Site Analysis form for each parcel of land that was visited in the December 2012 site visits

Your application is due for decision by 31 July 2013.

Under section 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 section 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 section 5 of the *GIPA Act*, there is a presumption in favour of disclosing government information. It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in Schedule 1 to the *GIPA Act*.

The information covered by the terms of your application is not information described in Schedule 1 of the *GIPA Act*.

In a phone conversation on 15 July we discussed the possibility of providing you with documents about which there was no question of need for third party consultation by Friday 19 July. I have identified such documents. Of this subset, some contain sensitive information about aboriginal heritage.

I have decided the best way to process your application in order to meet this timetable is to make two decisions, the second dealing with information that requires 3rd party consultation regarding personal information or may otherwise suggest an overriding public interest against disclosure. Before I proceed to a second decision however I will ring you and discuss the scope and nature of the information with a view to narrowing the scope considerably because of its extensive size. I will deliver an account for this application with the second decision.

The table below details the terms of your application and how each point will be dealt with:

Terms of application 13/14-001	First Decision	Second decision, subject to negotiations on extensive size and possible overriding public interest against disclosure
1. The names and qualifications of the people on the Project Control Group	Position names within organisations provided – agreed in conversation of 15 July that this would be sufficient.	
2. A copy of all of the submissions that were considered by the Project Control Group		To be decided after negotiations
3. Maps of each of the attributes that make up the Primary Environmental Constraints Assessment and Weightings used by the study (ie Riparian, Significant Vegetation, Wetland Buffers, Slope , Designated Wildlife Corridor or Core Habitat, Flooding , Acid Sulfate Soils, Threatened Species Habitat)	All maps provided, except for those already on website or containing aboriginal heritage information - see below.	To be decided - those maps containing aboriginal heritage information.

4. Maps of each of the Secondary Infrastructure and Environmental Constraints Assessment and Weighting used by the study (ie Cultural heritage, Bushfire , Proximity to centres , Proximity to public transport , Availability to connect to water and sewer and electricity , Telecommunications Buffer , Riparian Corridor , Significant Vegetation , Wildlife Corridor and Core Habitat , Threatened Species , Flooding , Wetland Buffers) and the final category score received for all areas of land covered by the Review	All maps provided, except for those already on website (s.s 58(1)(c)&59(1)) or containing aboriginal heritage information – see below. Final category score – two tables provided.	To be decided - those maps containing aboriginal heritage information.
5. Any independent scientific verification that has been carried out on the accuracy of the above maps (ie items 3 & 4 above)	The Department does not hold such a document - No independent scientific verification has been carried out on the above maps.	
6. <i>Middle Creek Flood Study</i> prepared by Worley Parsons, 2009 (referenced on page 69 of the report)	The Department does not hold a copy of this document because the Draft Oxford Falls Valley and Belrose North Strategic Review is a joint publication with Warringah Council and Council authored the content on flooding.	
7. A copy of the completed Site Analysis form for each parcel of land that was visited in the December 2012 site visits	Copies with personal information deleted provided	Personal information – to be decided after negotiations

Maps already on website

Please go to <http://www.planning.nsw.gov.au/planning-reviews-and-panels> and then to the “Oxford Falls and Belrose North strategic review, Warringah” heading. You can access the following maps under the “Additional Maps” sub-heading, or on the electronic version of this letter Ctrl+click on the title to follow the link:

- [Acid Sulfate Soils Constraints Land Map](#) 
- [Bushfire Constraints Land Map](#) 
- [Core Habitat Constraints Land Map](#) 
- [Flood Planning Level Constraints Land Map](#) 
- [Proximity to Public Transport Infrastructure Map](#) 
- [Riparian Constraints Land Map](#) 
- [Significant Vegetation Constraints Land Map](#) 
- [Slope Constraints Land Map](#) 
- [Threatened Species Habitat Constraints Land Map](#) 
- [Wetland Buffers Constraints Land Map](#) 

I have decided under s.58(1)(c) and s.59(1)(b) that the above maps are already available to you.

Other maps

Please note that the Department used the maps emailed to you today as internal working documents. The Department did not prepare them for publication on its website. You will notice the difference between them and the maps published on the website. These maps were used to assist in providing scores during the analysis of constraints.

Decision

Under section 12 of the GIPA Act, I have considered the public interest considerations in favour of disclosure of those of the documents listed in Column Two above which are held by the Department. They include, but are not limited to, there being reasonable expectations that disclosure of the information would enhance Government accountability, contribute to positive and informed debate on an issue of public importance, and inform you about the operations of the Department. It is a right of citizens to monitor the Government, and in a free and democratic society, a Government agency should be open, accountable and responsible.

Public interest considerations against disclosure are provided in the table to section 14(2) of the GIPA Act. I do not consider there are any public interest considerations against disclosure of this information.

On balance therefore there are no overriding public interests against disclosure. Consequently you have a legally enforceable right to be provided with access to those of the documents listed in Column Two above which are held by the Department. Under section 58(1) of the GIPA Act I have decided to provide you with access to that information. It is attached to the same email to which this letter is attached, and perhaps to subsequent emails, depending on file size.

As to the information described at points 5 and 6 of your application I have decided under s.58(1)(b) that the information is not held by the Department.

Cost

Under section 64(1) of the GIPA Act I have decided to impose a processing charge for dealing with this application. I will provide an account detailing the charge, to meet the requirements of section 62 of the GIPA Act, in my second decision.

Your rights of review

If you are aggrieved by my decision, you may have a right of review under Part 5 of the GIPA Act. Before you do seek a review, I would encourage you to call me and discuss your concerns.

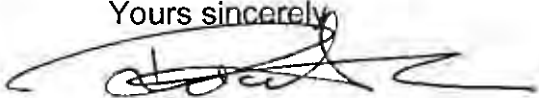
For your information, there are three avenues of review: internal review by another officer who is not less senior than myself, external review by the Information Commissioner or external review by the Administrative Decisions Tribunal ("Tribunal").

Attached to this notice is a brochure published by the Information and Privacy Commission, entitled *Your review rights under the GIPA Act* which details your rights of review under the GIPA Act.

You should note that the time for seeking an internal review is 20 working days or, for external review, 40 working days, from 19 July 2013, the day this decision was posted to you by email. Further information about your rights under the GIPA Act is available by contacting the Information and Privacy Commission on freecall 1800 INFOCOM (1800 463 626) or at the following website: www.ipc.nsw.gov.au.

If you have any queries about this notice or require further information, please do not hesitate to contact David Watson on 9228 6116.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Watson', with a long horizontal flourish extending to the right.

David Watson
Manager
Public Access to Information & Privacy
19 July 2013



information
and privacy
commission
new south wales

Your review rights under the GIPA Act

fact sheet

May 2013

The right to information system in New South Wales aims to foster responsible and representative government that is open, accountable, fair and effective.

You have the right to request a review of certain decisions made by government agencies about the release of information under the *Government Information (Public Access) Act 2009* (GIPA Act):

- a) a decision that an application is not a valid access application
- b) a decision to transfer an access application to another agency, as an agency-initiated transfer
- c) a decision to refuse to deal with an access application (including such a decision that is deemed to have been made)
- d) a decision to provide access or to refuse to provide access to information in response to an access application
- e) a decision that government information is not held by the agency
- f) a decision that information applied for is already available to the applicant
- g) a decision to refuse to confirm or deny that information is held by the agency
- h) a decision to defer the provision of access to information in response to an access application
- i) a decision to provide access to information in a particular way in response to an access application (or a decision not to provide access in the way requested by the applicant)
- j) a decision to impose a processing charge or to require an advance deposit,
- k) a decision to refuse a reduction in a processing charge
- l) a decision to refuse to deal further with an access application because an applicant has failed to pay an advance deposit within the time required for payment

- m) a decision to include information in a disclosure log despite an objection by the authorised objector (or a decision that the authorised objector was not entitled to object).

You generally have three review options.

1. Internal review

You have **20 working days** from the time the decision is sent to you to ask for an internal review by the agency that made the decision.

If a Minister or their personal staff, or the principal officer of an agency made the decision, you cannot ask for an internal review, but you can ask for an external review (see below).

The review must be carried out by an officer who is no less senior than the person who made the original decision. The review decision must be made as if it was a fresh application.

There is a \$40 fee for an internal review application. No fee applies for an internal review if the decision is a 'deemed refusal' because the agency did not process your application in time; or if the internal review is conducted because the Information Commissioner has recommended the agency reconsider its decision under section 93 of the GIPA Act. In this case, you cannot be charged any review fee.

The agency must acknowledge your application within **five** working days of receiving it. The agency must decide the internal review within **20** working days (this can be extended by **10** working days if the agency has to consult with a third party, or by agreement with you).

2. External review by the Information Commissioner

If you disagree with any of the decisions listed above, you can ask for a review by the Information Commissioner.

If you are the person applying for access to information, you do **not** have to have an internal review of the decision before asking the Information Commissioner to review it.

If you are not the access applicant, the decision must be internally reviewed before you can apply for review by the Information Commissioner. However, if an internal review cannot be sought (if a Minister or their personal staff,

information and privacy commission new south wales

www.ipc.nsw.gov.au | 1800 IPC NSW (1800 472 679)

Your review rights – November 2012

or the principal officer of an agency made the decision), you can seek a review by the Information Commissioner.

You have **40 working days** from the time the decision is sent to you to ask for a review by the Information Commissioner.

On reviewing the decision, the Information Commissioner can make recommendations about the decision to the agency.

Note: You cannot ask the Information Commissioner to review a decision that has already been reviewed by the Administrative Decisions Tribunal.

3. External review by the Administrative Decisions Tribunal

If you disagree with any of the decisions listed above, you can ask for a review by the Administrative Decisions Tribunal (ADT). You do not have to have the decision reviewed internally, or by the Information Commissioner before applying for review by the ADT.

You have **40 working days** from the time the decision is sent to you to apply to the ADT for review. However, if you have applied for review by the Information Commissioner, you have **20 working days** from being notified of the Information Commissioner's review outcome to apply to the ADT.

For more information

Contact the Information and Privacy Commission:

freecall: 1800 472 679

email: ipcinfo@ipc.nsw.gov.au

website: www.ipc.nsw.gov.au