



7 August 2017

Our ref: TRA-000417

Mr Richard Smith
4 High Street
KENSINGTON NSW 2052

Dear Mr Smith,

**Notice of decision on your access application under the
Government Information (Public Access) Act 2009 (GIPA Act)**

Applicant:	Mr Richard Smith
File reference:	TRA-000417
Decision maker:	Wayne Kosh
Received date:	19 April 2017
Due date:	18 May 2017
Extended due date:	27 June 2017
Date of decision:	7 August 2017

1 Your access application

1.1 On 19 April 2017 we received your access application under the GIPA Act for the following information:

'a) Documents relating to assessments, observations or inspections made by TfNSW (either on a regularly scheduled or ad-hoc basis) of public transport passenger numbers, journey times and waiting times on bus services stopping at Central Station and UNSW (and vice-versa), for the period 1 Jan 2016 to 1 April 2017; and

b) Documents produced by TfNSW or commissioned by TfNSW relating to mitigation measures put into place to correct any negative impacts to public transport passenger numbers, journey times and waiting times on bus services stopping at Central Station and UNSW, for the period 1 Jan 2016 to 1 April 2017.'

- 1.2 On 30 May 2017 we advised that your request in its current terms would likely amount to a substantial and unreasonable diversion of the agency's resources. The period within which the application is required to be decided stopped running while you were given the opportunity to amend the application.
- 1.3 On 7 June 2017, you agreed to narrow the scope of your request to:
- a) Documents being either Draft Final Reports or Final Reports produced by TfNSW or commissioned by TfNSW describing public transport passenger numbers, journey times and waiting times on bus services stopping at Central Station and UNSW (and vice-versa), for the period 1 Jan 2016 to 1 April 2017; and
 - b) Documents being either Draft Final Reports or Final Reports produced by TfNSW or commissioned by TfNSW relating to mitigation measures put into place to correct any negative impacts to public transport passenger numbers, journey times and waiting times on bus services stopping at Central Station and UNSW, for the period 1 Jan 2016 to 1 April 2017.
- 1.4 On the same day, you also agreed to extend the due date for deciding your application to 15 June 2017.
- 1.5 On 15 June 2017, the due date was further extended by agreement to 27 June 2017.
- 1.6 On 22 June 2017, we requested an extension for deciding your application to 30 June 2017. On 26 June 2017, we followed up on our request for an extension.
- 1.7 As at 28 June 2017, we did not receive a response from you agreeing to grant an extension for deciding your application. On the same day, we wrote to you advising that your application is considered to have been refused (a deemed refusal). In the same letter, you were advised that we would continue to make a late decision and the \$30 application fee would be refunded to you.

2 Searches for information

- 2.1 Under the GIPA Act, we must conduct reasonable searches to locate the government information for which you have applied. The following areas of this agency have conducted searches:
- CBD Coordination Office
- 2.2 Information has been identified as falling within the scope of your application.

3 Decision

- 3.1 I am authorised by the Principal Officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application.
- 3.2 Please see below a summary of my decision:

Information	Act Ref.	Access
96 Excel Worksheets – Weekly report outlining bus travel times by corridor	N/A	Full

- 3.3 The business area has advised me that no information is held relating to your request for public transport passenger numbers and waiting times on bus services stopping at Central and UNSW. The business area has also advised there no information is held relating to “...mitigation measures put into place to correct any negative impacts to public transport passenger numbers, journey times and waiting times on bus services stopping at Central Station and UNSW.” I have therefore decided in accordance with s58(1)(b) of the GIPA Act that the information subject to this part of your application is not held by Transport for NSW.

4 Reasons for Decision

Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you asked for, unless there is an overriding public interest against its disclosure.

Under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

4.1 Public interest test

To decide whether or not there is an overriding public interest against disclosure of the information you asked for, I applied the public interest test, which is set out in section 13 of the GIPA Act.

I applied the public interest test by:

- a. identifying any public interest considerations in favour of disclosure;
- b. identifying any relevant public interest considerations against disclosure;
- c. attributing weight to each consideration for and against disclosure; and
- d. deciding where the balance between them lies.

4.2 Public interest considerations in favour of disclosure

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

I find the following considerations in favour of disclosure are relevant to your application:

- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.

4.3 Public interest considerations against disclosure

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act.

I have not identified any public considerations against disclosure as being relevant to your application.

4.4 Balancing the public interest considerations

I have considered the relevant public interest considerations in favour of and against disclosure of the information that you have requested.

I have decided that there is no overriding public interest against disclosure of the information.

5 Access

5.1 Form of access

You will be provided with a copy of the information that has been identified for release. This information is contained on the CD attached with this letter. I have placed the information on this CD as the information is too large to send in paper format and too large to send by email.

6 Disclosure Log

If information that would be of interest to other members of the public is released in response to a formal access application, an agency must record certain details about the application in its 'disclosure log' (under sections 25 and 26 of the GIPA Act).

In the letter acknowledging receipt of your application, you were told about the disclosure log. You were also advised of your right to object to the inclusion of details about your access application in the disclosure log.

I note that you have not objected to such disclosure.

I have decided to include details about your access application in the disclosure log.

7 Review rights

If you disagree with my decision, you may apply for this decision to be reviewed by seeking:

- an internal review by another officer of this agency, who is no less senior than me;
- an external review by the NSW Information Commissioner; or
- an external review by the NSW Civil and Administrative Tribunal (NCAT).

You have 20 working days from the date of this letter to apply for an internal review and 40 working days to apply for an external review by the NSW Information Commissioner or the NCAT.

8 Further information

For your information and assistance, I have enclosed a fact sheet explaining your rights to have my decision reviewed.

Please do not hesitate to contact me by phone on 8202 3258 if you have any questions about this letter

Yours sincerely,



Wayne Kosh
A/Principal Manager, Information and Privacy



information
and privacy
commission
new south wales

Your review rights under the GIPA Act

Fact sheet

June 2014

The right to information system in NSW aims to foster responsible and representative government that is open, 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** after the notice of a decision has been posted 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 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 **15** 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, you must seek an internal review before applying for review by the Information Commissioner. However, if an internal review cannot be sought (if a Minister or their personal staff, 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 being notified of the decision 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 NSW Civil and Administrative Tribunal (NCAT).

3. External review by the NSW Civil and Administrative Tribunal (NCAT)

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

You have **40 working days** from being notified of the decision to apply to NCAT 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 NCAT.

For more information

Contact the Information and Privacy Commission NSW (IPC):

Freecall: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au