

NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

AFFIDAVIT

ADMINISTRATIVE AND EQUAL OPPORTUNITY DIVISION

List: Administrative Review List

File Number: 2017/226200

PARTIES

Applicant: Philip Charles Walker

Respondent: NSW Department of Premier and Cabinet

AFFIDAVIT DETAILS

Name: Catherine Yu Chung Chang

Occupation: Director, Legal Branch, Department of Premier and Cabinet

On 12 February 2018

I, Catherine Yu Chung Chang

of Level 14, 52 Martin Place, Sydney NSW 2000

affirm:

1. I am a Director within the Legal Branch of the Department of Premier and Cabinet (the "Department").
2. I was previously a Director within the Local Government Reform ("LGR") branch of the Department. The LGR branch was established specifically to carry out work relating to local government reform involving the amalgamations of local government areas.
3. I worked in the LGR branch of the Department from September 2015 until it was disbanded in late 2017. I took leave from May 2016 to April 2017.

Organisation of documents held by the Department

4. Before the LGR branch was disbanded, documents held by the Department relating to the amalgamations of local government areas were held by that branch and Legal Branch.
5. Since the LGR branch was disbanded, its records have been held by the Resources and Land Use Branch of the Department.
6. Under the Department's record management policy, all corporate records of the Department are to be captured in the Department's electronic document and records management system, called "Objective".

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7. Cabinet documents are kept in a separate electronic document management system.

Application by Philip Charles Walker

8. I have reviewed the following documents held by the Department:

- a. application under the *Government Information (Public Access) Act 2009 (GIPA Act)* received 11 May 2017, by which Mr Philip Charles Walker (applicant) sought access to "[r]eport by consultancy KPMG – analysis and modelling on council mergers" (the "Access Application");
- b. DPC decision of 7 June 2017 with respect to the Access Application (the "Decision");
- c. application for review of aspects of the Decision lodged with this Tribunal on 17 July 2017 (the "Review Application");
- d. letter from the Crown Solicitor to the applicant dated 28 November 2017, enclosing additional documents (including 20 KPMG "Options Analysis" documents) in accordance with an order made on 21 November 2017.

9. I am informed by Mr Matt Richards, Director, Legal Branch of the Department and believe that:

- a. In January 2018, the applicant amended his Review Application to, in effect, challenge the adequacy of the Department's searches;
- b. the original review of documents which formed the basis of the Decision was conducted by an employee who no longer works for the Department; and
- c. he has become aware that the Department holds a further 27 KPMG "Options Analysis" documents which fall within the scope of the Access Application, which he anticipates will be provided to the applicant.

Further searches

10. I have conducted the following further searches to determine whether the Department holds any other records within the scope of the Access Application, in addition to those identified in the Decision and at paragraph 9.c above:

- a. manual review of hard copy folders of documents previously provided to me by the policy team within the LGR branch in response to a request, made for the purposes of litigation, to be provided with documents (including any Cabinet documents) prepared by KPMG for the Government containing analysis or modelling regarding council mergers;
- b. manual review of a bundle of documents provided to me by Mr Dennis Smith, another solicitor who was employed within the LGR branch and Legal Branch of the Department, at the time he ceased working for the Department;
- c. keyword searches, using the term "KPMG", of electronic folders in Objective titled "Legal Branch/Local Government/Fit for Future Reforms" and "Legal Branch/Local Government/Fit for Future Reforms Transitional and Implementation Issues"; and



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- d. keyword searches, using the term "KPMG", of my own "Inbox", "sent" and "Local Government" email folders.
11. I did not identify any additional documents within the scope of the Access Application through the searches described at paragraph 10.a-10.d above.
12. Searches were also conducted by the Resources and Land Use Branch of the Department to determine whether the Department holds any other records within the scope of the Access Application, in addition to those identified in the Decision and at paragraph 9.c above. I am informed by Danielle Woolley, Executive Director of that Branch and believe that the following searches were conducted:
 - a. a keyword search of Objective using the search terms "KPMG" and "council", so as to pick up any document which contained both those words, which produced 7,641 'hits';
 - b. a manual scan of those 'hits' to exclude those which:
 - i. had file names that were irrelevant to council mergers;
 - ii. had file names that indicated that they were not reports;
 - iii. had 'draft' in the file name;
 - iv. were located in folders unrelated to local government reforms;
 - v. were emails;
 - vi. were Excel spreadsheets containing data; or
 - vii. were Taskforce papers such as briefs or minutes.
 - c. a manual review of the remaining documents to exclude:
 - i. presentations;
 - ii. drafts;
 - iii. project plans;
 - iv. documents prepared by DPC;
 - v. project status update papers; and
 - vi. proposals to undertake work.
13. I am informed by Ms Woolley and believe that the Resources and Land Use Branch did not identify any additional documents within the scope of the Access Application through the searches described at paragraphs 12.a-12.c above.
14. Through my work in the LGR branch and Legal Branch, I am aware that:
 - a. between early 2016 and the present, multiple local councils commenced litigation against the Minister for Local Government and other State parties;
 - b. in the context of that litigation, some of those councils sought access to documents prepared by KPMG containing analysis and modelling relating to the proposed amalgamation of local government areas; and

c. the Department has also received multiple previous applications under the *GIPA Act* in broadly similar terms to the Access Application.

15. To the best of my knowledge, information and belief, the Department holds no other documents within the scope of the Access Application aside from those identified in the Decision and at paragraph 9.c above.

I make this affidavit on oath conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

AFFIRMED at

SYDNEY

On

12 February 2018

Signature of deponent

[Handwritten signature]

Name of witness

MATTHEW RICHARDS

Address of witness

52 MARTIN PLACE SYDNEY NSW 2000

Capacity of witness

~~Justice of the Peace Solicitor Barrister Commissioner for affidavits Notary Public~~

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**): ~~//*please delete whichever option is inapplicable//~~

- 1. ~~*I saw the face of the person, and OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~
- 2. ~~*I have known the person for at least 12 months OR *I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was..... [describe identification document relied on - (document relied on may be original or certified copy)]-~~

Signature of witness

[Handwritten signature: MR Richards]

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T01 Sasha Lowes

On behalf of: applicant/respondent

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