



6 November 2017

The Registrar  
Administrative and Equal Opportunity Division  
NSW Civil and Administrative Tribunal  
Level 10, John Maddison Tower  
86-90 Goulburn Street  
Sydney NSW 2000

**By email:** aeod@ncat.nsw.gov.au  
**CC:** Mr P Walker, Applicant  
Ms C McInnes, Information and Privacy Commissioner

Dear Registrar

**Walker v NSW Department of Premier and Cabinet (NCAT file:  
2017/226200)**

I act for the Respondent, the NSW Department of Premier and Cabinet, in the above proceedings.

The Respondent's submissions filed 20 October 2017 stated that:

- (a) the Respondent does not press its claim against disclosure in relation to Records 1-20 and 23-25; and
- (b) the Respondent will seek the Applicant's consent to orders providing for the disclosure of those documents to the Applicant.

By letter dated 25 October 2017, I sought the Applicant's consent to the Tribunal making the following order:

1. *The decision of the Respondent dated 7 June 2017 to refuse to provide access to information in response to an access application made by the Applicant under the Government Information (Public Access) Act 2009 is varied to provide access to the following documents, by reference to the documents described in Annexure B to the Respondent's decision:*
  - a. *Record 1 – KPMG Options Analysis.*
  - b. *Record 2 – KPMG Options Analysis.*
  - c. *Record 3 – KPMG Options Analysis.*

- d. Record 4 – KPMG Options Analysis.*
- e. Record 5 – KPMG Options Analysis.*
- f. Record 6 – KPMG Options Analysis.*
- g. Record 7 – KPMG Options Analysis.*
- h. Record 8 – KPMG Options Analysis.*
- i. Record 9 – KPMG Options Analysis.*
- j. Record 10 – KPMG Options Analysis.*
- k. Record 11 – KPMG Options Analysis.*
- l. Record 12 – KPMG Options Analysis.*
- m. Record 13 – KPMG Options Analysis.*
- n. Record 14 – KPMG Options Analysis.*
- o. Record 15 – KPMG Options Analysis.*
- p. Record 16 – KPMG Options Analysis.*
- q. Record 17 – KPMG Options Analysis.*
- r. Record 18 – KPMG Options Analysis.*
- s. Record 19 – KPMG Options Analysis.*
- t. Record 20 – KPMG Options Analysis.*
- u. Record 23 – Summary – metro options.*
- v. Record 24 – Summary – regional options.*
- w. Record 25 – KPMG Model Design Methodology Paper.*

The Applicant's letter to me dated 2 November 2017 (copy **enclosed**) stated:

"The Respondent's decision to vary the GIPA Refusal for Documents Records 1-20 and 23-25 is appreciated."

On that basis, I understand that the Applicant consents to the proposed order. I am instructed to request that the Tribunal make that order by consent.

Please do not hesitate to contact Sasha Lowes on (02) 9224-5249 if you have any queries in relation to this matter.

Yours faithfully



Sasha Lowes  
Solicitor

**for Crown Solicitor**

Encl.

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Mona Vale NSW 2103  
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Thursday, 2 November 2017

Sasha Lowes  
Solicitor  
For Crown Solicitor

[crownsol@csso.nsw.gov.au](mailto:crownsol@csso.nsw.gov.au)

**WALKER .V. N.S.W. DEPARTMENT OF PREMIER & CABINET  
NCAT FILE 2017/226200**

I refer to the above Proceedings.

Thank you for your letter 25<sup>th</sup> October 2017.

The Respondent's decision to vary the GIPA Refusal for Documents Records 1-20 and 23-25 is appreciated.

To complete my GIPA request to NCAT to Review the 7<sup>th</sup> June 2017 GIPA Decision, NCAT is requested to review the Refusal of access to the file Records 21 and 22.

As per Section 106 of the GIPA Act (Para 2), NCAT '....may require the information to be produced in evidence before it.'

It is requested that Records 21 and 22 be produced to NCAT, prior to the Hearing, to ensure adequate time for examination.

It is suggested that in addition to the production to NCAT of the complete Records 21 and 22, that a redacted version be provided as a possible alternative.

As per S.106 (3) NCAT '....may then proceed to make a decision as to the correct and preferable decision on the matter.'

As per S.106 (4) 'NCAT is not to reject the claim unless it has given the Premier a reasonable opportunity to appear and be heard in relation to the matter.'

It is of concern that, as in the *Bennison .v. N.S.W. Premier and Cabinet 2016*, "hearsay evidence" forms an important part of the Respondent's evidence, here the Affidavit of Karen Smith relies on "hearsay evidence" from John Clark and Dennis Smith.

It is requested that NCAT invites the Premier to appear at the Hearing.

Yours faithfully

Philip Walker

c.c. NCAT – Level 14, Civic Tower, 66 Goulburn Street, Sydney NSW 2000  
Information Commissioner – [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)