



information  
and privacy  
commission  
new south wales

## Review report under the *Government Information (Public Access) Act 2009*

Applicant: Paul Macpherson  
Agency: Office of Environment and Heritage  
Report date: 07 August 2014  
IPC reference: IPC14/R000439  
Keywords: Government information – proof of identity –personal  
information – valid – invalid application

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## Background

1. Paul Macpherson (the Applicant) applied for information from the Office of Environment and Heritage (the Agency) under the *Government Information (Public Access) Act 2009* (GIPA Act).
2. The Applicant applied under the GIPA Act to the Agency for access to the following information:
  - a. all information relating to the issuing of parking infringement notice 3105987666 issued by the Royal Botanic Gardens on 9 June 2014. The information I seek includes, but is not limited to, all notes, images, emails, reports, records of data entry, records of telephone conversations and records of discussions by "Officer Number 17" or by any other person involved in issuing the notice.
  - b. all information relating to the subsequent review of that notice undertaken at the request of the State Debt Recovery Office. The information I seek includes, but is not limited to: all correspondence and emails between the Royal Botanic Gardens and the State Debt Recovery Office all notes, images, emails, reports, records of data entry, records of telephone conversations and records of discussions by the person or persons undertaking the review all information provided by other persons to the person or persons undertaking the review all notes, emails, reports, records of telephone conversations and records of discussions by the person supervising the person or persons undertaking the review
3. The Agency decided that the application is invalid because the applicant has not provided enough detail about the information they are seeking, as required by section 41(1)(e) of the GIPA Act.
4. The Agency's decision states:

*'You did not advise to whom the infringement notice 3105987666 was issued. If the infringement notice was issued to you, then the information requested is personal information sought on your behalf. If that is the case, please provide a form of proof of identity. Proof of identity may be provided by a certified copy of your driver's licence (with photograph, signature and current address), a current Australian passport, or other proof of signature and current address.'*
5. The Information Commissioner is not satisfied that the agency's decision is justified and recommends the Agency reconsider the matter under section 93 of the GIPA Act.

## Formal requirements of access applications

6. A request for government information is valid if it meets the formal requirements set out in section 41 of the GIPA Act.
  - (a) It must be in writing sent to or lodged at an office of the agency concerned,
  - (b) It must clearly indicate that it is an access application made under the Act,
  - (c) It must be accompanied by a fee of \$30,
  - (d) It must state a postal address as the address for correspondence in connection with the application,

- (e) It must include such information as is reasonably necessary to enable the government information applied for to be identified.
7. The agency decided that the application is invalid because the applicant did not provide enough detail about the information they were seeking.
  8. The application for access to information complies with section 41(1)(e) and meets the criteria of a valid application. The information provided by the applicant is adequate to enable the information applied for to be identified. It is, in summary all information relating to the issuing of infringement notice 3105987666, and the subsequent review of that notice.

### **Request for proof of identity (guidance)**


9. The Agency asked the applicant to provide a form of proof of identity, to ascertain whether the information the applicant was seeking was in fact their own personal information. The Agency sought this in the form of certified copy of identification, containing a photograph, signature and current address.
10. This additional information may be helpful to the Agency when it applies the public interest test however not essential to enable the Agency to identify the information applied for.
11. Proof of identity is not required to determine if an access application is a valid application, but it is not unreasonable to ask for proof of identity where personal information is included in information requested.
12. This is because regardless of which legislation a request is made under, an agency has an obligation to protect personal information against unauthorised access, use, modification or disclosure.
13. For this reason proof of identity showing a signature and/or current address with or without a photo may be sought prior to releasing the personal information. Under the GIPA Act, the agency may request the applicant to provide proof of his or her identity under section 55(5) of the GIPA Act.

### **Recommendations**

14. The Information Commissioner recommends under section 93 of the GIPA Act that the agency make a new decision, by way of internal review within 15 working days from the date of this report.
15. In making a new decision the Agency should, have regard to the matters raised and guidance given in this report.
16. We ask that the Agency advise the Applicant and us by **22 August 2014** of the actions to be taken in response to our recommendations.

### **Review rights**

17. Our reviews are not binding and are not reviewable under the GIPA Act. However a person who is dissatisfied with a reviewable decision of an agency



may apply to the NSW Civil and Administrative Tribunal (NCAT) for a review of that decision.

18. The Applicant has the right to ask the NCAT to review the Agency's decision.
19. An application for a review by the NCAT can be made up to 20 working days from the date of this report. After this date, the NCAT can only review the decision if it agrees to extend this deadline. The NCAT's contact details are:

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

Phone: 1300 006 228  
Website: <http://www.ncat.nsw.gov.au>
20. If the Agency makes a new reviewable decision as a result of our review, the Applicant will have new review rights attached to that new decision, and 40 working days from the date of the new decision to request an external review at the IPC or NCAT.

#### **Completion of this review**

21. This review is now complete.
22. If you have any questions about this report please contact the Information and Privacy Commission on 1800 472 679.

Elizabeth Tydd  
**Information Commissioner**