

RECEIVED

20 OCT 2016

NSW  
CIVIL & ADMINISTRATIVE  
TRIBUNAL

## NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

### STATEMENT OF CLARINDA CAMPBELL

#### ADMINISTRATIVE AND EQUAL OPPORTUNITY DIVISION

List: Administrative Review

File Number: 1610484

#### PARTIES

Applicant: Philip Walker

Respondent: Roads and Maritime Services

On 20 October 2016,

I, Clarinda Campbell, of 33 James Craig Road, Rozelle, NSW affirm:

1. I am the Manager, Information and Privacy Unit within the Government and Information Service Branch at Roads and Maritime Services (**Roads and Maritime**). I have delegation from the Chief Executive of Roads and Maritime to make decisions responding to *Government Information (Public Access) Act 2009 (GIPA Act)* applications. I have held this position for approximately 2 years.
2. On 1 July 2016 the GIPA Act application from Phillip Walker (**Application**) was received by the Resource and Compliance Unit (**RCU**) at Transport for New South Wales (**TfNSW**). The RCU is responsible for the initial processing and acknowledgment of GIPA Act applications across the transport cluster (Roads and Maritime, TfNSW, Sydney Trains, NSW Trains and State Transit Authority). A copy of the Application is at **Annexure 1**. The Application sought:  
  
*Conclusions of design and costing for overpass proposal (c/- Member Rob Stokes) Mona Vale Road East Upgrade, at intersection with Samuel St and Ponderosa Pde (estimated at \$50 million)*
3. The Application was acknowledged by the RCU and was provided to the Information and Privacy Unit at Roads and Maritime.
4. Upon receipt of the Application, the matter was allocated by me to Janet Bak who is a Senior Access and Compliance Officer within the Information and Privacy Unit at Roads and Maritime.

5. Roads and Maritime is split into eight Divisions, each responsible for an area of Roads and Maritime's functions. I determined that any documents responding to the Application were likely to only be held in the Infrastructure Development Division because:
  - a. This is the Division responsible for the Mona Vale Road East Upgrade;
  - b. This is the Division largely responsible for major infrastructure projects (noting some that maintenance projects are completed by the Asset Maintenance Division);
  - c. Other areas of Roads and Maritime are unlikely to be involved in assessing proposals of this nature;
  - d. This Division had previously provided documents in response to a similar application relating to the same Project; and
6. The above view is based on the knowledge I have gained of Roads and Maritime's functions in the last 2 years, and the evident link between the Application and the work of the Infrastructure Development Division.
7. On Monday 4 July 2016, Ms Bak sent an email to Jeff McCarthy, the Director of Roads and Maritime's Infrastructure Development Division. On 4 July 2016, Mr McCarthy's Executive Assistant asked Ms Bak to liaise with Michael Tansey, the then Acting General Manager Greater Sydney Program Office. A copy of this email chain is **Annexure 2**.
8. On 4 July 2016, Ms Bak emailed Mr Tansey requesting that he have searches undertaken to respond to the Application. A copy of that email is **Annexure 3**.
9. On 8 July 2016, Ms Bak emailed Mr Tansey to confirm the terms of the Application. A copy of that email is **Annexure 4**.
10. On 8 July 2016, Ms Bak received an email from Mr Tansey which attached a Record of Searches. A copy of that email and attachment are **Annexure 5**.
11. The Record of Searches was signed by Mr Tansey and Mr Matty Mathivanar, Project Manager. The document indicated to me that Mr Mathivanar had taken five hours to complete searches for documents responding to the Application. Mr Mathivanar had also made the following comment in the document:

*There was no consideration given for grade separation of Mona Vale Road and Ponderosa Parade/Samuel Street intersection.*

*During the preparation of the REF, the Applicant requested and [sic] alternative alignment for the road upgrade that went through Ingleside. This option is addressed in the REF.*
12. REF is an acronym for 'Review of Environmental Factors' which I understand is a document produced in the course of obtaining approvals for infrastructure projects. I understood that the reference to the REF related to a separate suggestion put forward by the Applicant and that document was not relevant to the Application.
13. In light of the searches carried out by Mr Mathivanar as documented in the search certificate, I was satisfied that reasonable searches had been conducted and there were no documents responding to the Application.

14. Consequently, on 18 July 2016, I exercised my delegation to determine the Application and, based on the outcome of the searches conducted by others, decided that the requested information was not held by Roads and Maritime. A copy of the decision is at **Annexure 6**.

Signature: *eml ampbell*

Filed By: Roads and Maritime Services  
20-44 Ennis Road  
MILSONS POINT NSW 2061

On behalf of: Respondent

# ANNEXURE 1



Transport  
for NSW

## Access Application Government Information (Public Access) Act 2009

You may use this form to apply for access to government information under the *Government Information (Public Access) Act 2009* (GIPA Act). If you need help filling out this form, contact the Information Officer on 8202 3768 or email [Information@transport.nsw.gov.au](mailto:Information@transport.nsw.gov.au).

### Applicant details

Title: Mr	Given names: Philip [REDACTED]	Surname: WALKER
Company name: _____		
Postal address: [REDACTED]		
[REDACTED] Mana Vale		State: NSW
[REDACTED]		Postcode: 2103
Email address: [REDACTED]		Daytime phone number: [REDACTED]
<input type="checkbox"/> I prefer to receive correspondence at the above email address <i>No.</i>		

### Identification documents

When seeking access to your own personal information, we will need to establish your identity before providing you with any information. If this applies to you, and you are not lodging the form in person at a Motor Registry or with Service NSW where your identity will be verified, please attach a certified\* copy of one of the following:

- Australian driver licence
- Current Australian passport
- Other photo identification

If you are completing this form on behalf of someone else, please attach evidence of your authorisation to do so.

\*Certified means that the document has been verified, signed and dated by an authorised person (JP, doctor, teacher, pharmacist, legal practitioner, Postmaster Australia Post).

### Transport agency from which you are seeking information

Transport for NSW centrally administers all information requests made to the transport agencies listed below. If you require information from a particular agency, please choose from the agencies below. Otherwise please leave blank. The GIPA Act requires payment of a \$30 application fee. If you tick multiple boxes below you are making separate applications to each agency, which each require a \$30 fee.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Transport for NSW                      | <input type="checkbox"/> Sydney Trains | <input type="checkbox"/> WestConnex Delivery Authority |
| <input checked="" type="checkbox"/> Roads and Maritime Services | <input type="checkbox"/> NSW Trains    | <input type="checkbox"/> State Transit Authority       |

### Terms of your request

Please describe the information you would like to access.

Conclusions of design & costings for overpass proposal (cf- Member Rob Stokes) Mana Vale Road East Upgrade, at intersection with Samuel St. + Penderosa Pde, (estimated at \$50 million).

NOTE: Please be as precise as possible. If you do not give enough detail about the information you are looking for we may not be able to find it. You can only apply for access to information that is already held by the agency. Attach to this form any additional information that you feel will support your claim for access to the documents/information.



**Service  
NSW**

**RECEIPT/TAX INVOICE**

Service NSW  
L2 66 Harrington St  
The Rocks, NSW 2000

ABN:37 552 837 401  
DATE:JUNE 29 2016  
RECEIPT NO:10000695373  
OFFICE:HORNBSBY SERVICE CENTRE

To PHILIP WALKER

**Purchase Details**

ITEM	QTY	GST	TOTAL
APP-0001948459 - GiPA Fee - SNSW	1	\$ 0.00	\$ 30.00
APP-0001948470 - GiPA Fee - SNSW	1	\$ 0.00	\$ 30.00
<b>TOTAL DUE</b>		<b>\$ 0.00</b>	<b>\$ 60.00</b>

**Payment Details**

TYPE	REFERENCE NO.	AMOUNT PAID
EFTPOS(DEBIT CARD 560265...783)	743252	\$ 60.00
	<b>TOTALPAID</b>	<b>\$ 60.00</b>



Making access to your government transactions easier.

For NSW Government transactions call our 24 hour phone service on 13 77 88 or visit [www.service.nsw.gov.au](http://www.service.nsw.gov.au)

### Processing fee discount

You may be asked to pay a charge for processing the application (\$30 / hour). Some applicants may be entitled reduction in their processing charges. If you wish to apply for a discount, please indicate the reason:

- Financial hardship - please attach supporting documentation (eg a pension or Centrelink card) AND / OR  
 Special benefit to the public.

### Access to Information

How do you wish to access the information?

- Inspect the document/s  
 Be provided with a copy of the document/s  
 Access in another way (please specify): \_\_\_\_\_  
 If possible, I wish to receive information by email at the above email address

### Consultation

The Agency may be required to consult with third parties before deciding your application. If the information you are seeking contains information about another person, business or government agency, we are required by law to ask whether they have an objection to the disclosure of their information. For the purposes of such consultation, please indicate in the boxes below whether you consent to the release of the following information to any third parties.

Your name and/or company name:  Yes  No      Your reason for making this application:  Yes  No

### Disclosure log

If the information sought is released to you and would be of interest to other members of the public, details about your application (excluding your personal information) may be recorded in the agency's 'disclosure log'. This is published on the agency's website.

Do you object to this?  Yes  No

NOTE: You will be contacted and given a further chance to object before the information is placed on the Disclosure Log.

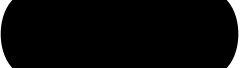
### Application fee

I attach payment of the \$30 application fee by: (select one)

- Cheque (enclose a cheque made payable to Transport for NSW)  
 Money order (enclose a money order made payable to Transport for NSW)

There may be additional processing charges in relation to your application – we will notify you if this is required. Please do NOT send cash through the post.

NOTE: This application can be lodged in person at a NSW motor registry or Service NSW Office. Credit card and cash payments can be made at these offices.

Applicant's signature: 

Date: 29 / 6 / 16  
          day       month       year

### Where to send your application

Mail to:  
Information and Privacy Unit  
Transport for NSW  
PO Box K659  
Haymarket NSW 1240

### Privacy notice

Transport for NSW and the Transport agencies are subject to the *Privacy and Personal Information Protection Act 1998* in respect of your personal information. Your personal information is being collected to process your application for information under the *Government Information (Public Access) Act 2009*. The provision of personal information is voluntary, however if you do not provide it we may not be able to process your application. Transport for NSW and the Transport agencies may use and disclose your personal information for the purposes of processing your application. Otherwise, we will not disclose your personal information without your consent unless authorised or required by law. Your personal information will be held by Transport for NSW at 18 Lee Street, Chippendale NSW 2008, which is where all applications are initially received. If your application is for information held by one of the Transport agencies, it will also be held by the relevant agency at:

- NSW Trains at 470 Pitt Street, Sydney NSW
- Sydney Trains at Level 21, 477 Pitt Street, Sydney, NSW
- Roads and Maritime Services at 101 Miller Street, North Sydney, NSW
- State Transit Authority at Level 4, 15 Bourke Road, Mascot, NSW
- WestConnex Delivery Authority at Level 18, 101 Miller Street, North Sydney, NSW

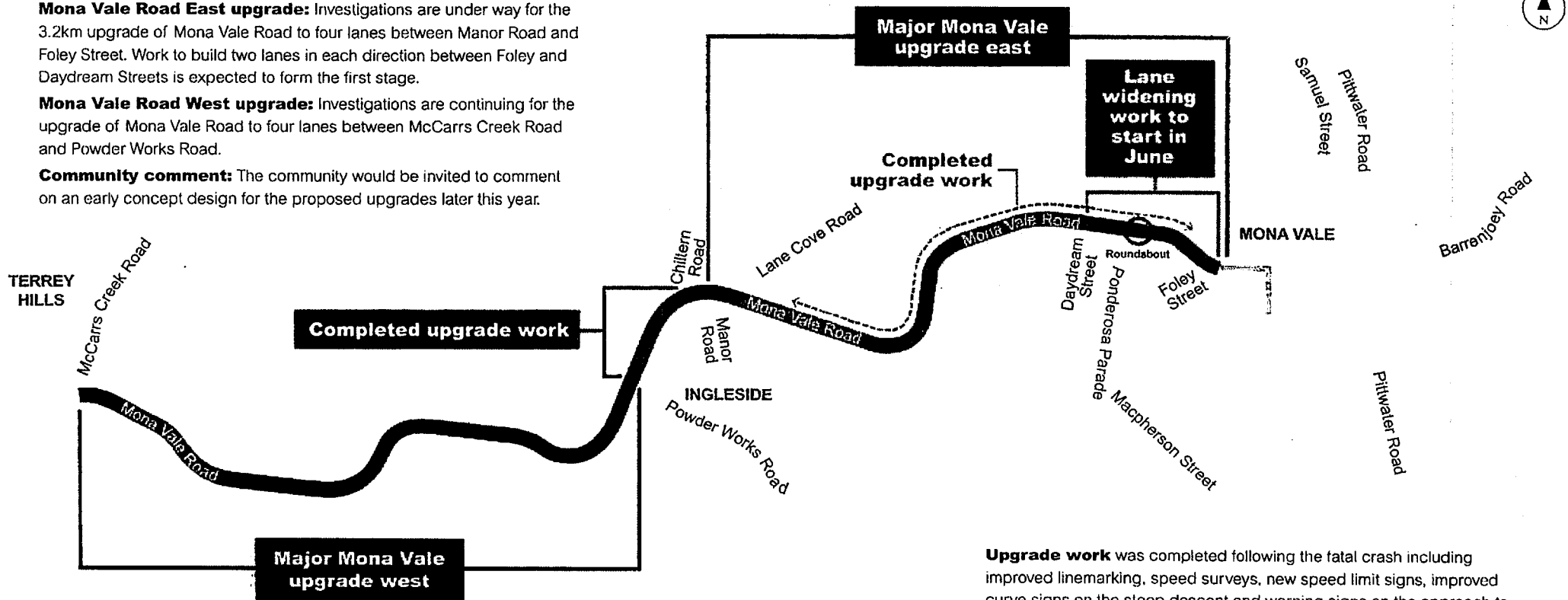
Generally, you have the right to access and correct the information if you believe that it is incorrect. If you wish to do so please telephone the Transport for NSW Privacy Officer on 8202 3768 or email [privacy@transport.nsw.gov.au](mailto:privacy@transport.nsw.gov.au) and we will provide you with the details of the relevant agency privacy officer.

# Mona Vale Road upgrade work

**Mona Vale Road East upgrade:** Investigations are under way for the 3.2km upgrade of Mona Vale Road to four lanes between Manor Road and Foley Street. Work to build two lanes in each direction between Foley and Daydream Streets is expected to form the first stage.

**Mona Vale Road West upgrade:** Investigations are continuing for the upgrade of Mona Vale Road to four lanes between McCarrs Creek Road and Powder Works Road.

**Community comment:** The community would be invited to comment on an early concept design for the proposed upgrades later this year.



**Upgrade work** was completed following the fatal crash including improved linemarking, speed surveys, new speed limit signs, improved curve signs on the steep descent and warning signs on the approach to the **Ponderosa Parade / Samuel Street roundabout**. Roads and Maritime plans to improve traffic flow by widening Mona Vale Road to two lanes westbound from **Foley Street through the Ponderosa Parade roundabout** and to two lanes eastbound through the roundabout and install an additional safety barrier.

# ANNEXURE 2

---

**From:** CHILLARI Catherine  
**Sent:** Monday, 4 July 2016 2:38 PM  
**To:** BAK Janet  
**Cc:** TANSEY Michael C; BALAKRISHNAN Kalyanaraman  
**Subject:** RE: RWC-001604 GIPA Act Application- Response Required

Hi Janet,

Please liaise directly with Michael Tansey, A/General Manager, GSPO.

Regards,

**Catherine Chillari**  
Executive Assistant to the Director of  
Infrastructure Development

T 02 9462 6501  
[catherine.chillari@rms.nsw.gov.au](mailto:catherine.chillari@rms.nsw.gov.au)

*Every journey matters*



EnSafe4 [1300 131 469](tel:1300131469) | InjuryNET [1300 307 418](tel:1300307418)  
EAP & Critical Incident Counselling [1300 360 364](tel:1300360364)  
Roads and Maritime Services  
20 – 44 Ennis Rd, Milsons Point NSW 2061



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---

**From:** BAK Janet  
**Sent:** Monday, 4 July 2016 2:03 PM  
**To:** MCCARTHY Jeff P  
**Cc:** CHILLARI Catherine; BALAKRISHNAN Kalyanaraman  
**Subject:** RWC-001604 GIPA Act Application- Response Required



Dear Mr McCarthy

Roads & Maritime Services has received a GIPA Act application from Mr Philip Walker, for the following information:

***Conclusions of design and costings for overpass proposal (c/- member Rob Stokes) Mona Vale Road exit upgrade, at intersection with Samuel Street and Ponderosa Parade (estimated at \$50 million).***

Can you please advise whether your Division holds any information in respect of this application and if so, nominate the General Manager/s or Regional Manager within your Division that would hold information to respond to this request.

In order for us to comply with the strict timeframes contained within the GIPA Act, I need your nominations by **COB Tuesday, 5 July 2016**.

Kind regards

Janet Bak  
Senior Access and Compliance Officer  
Information & Privacy | Customer Engagement & Planning  
T 02 9563 8571  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)  
***Every journey matters***

**Roads and Maritime Services**  
33 James Craig Road Rozelle NSW

# ANNEXURE 3

---

**From:** BAK Janet  
**Sent:** Monday, 4 July 2016 3:25 PM  
**To:** TANSEY Michael C  
**Subject:** RWC-001604 Search Request- GIPA Application  
**Attachments:** RWC-001604 Search Request Table.docx

Dear Michael

Your area has been nominated as one possibly relevant area to conduct a search in relation to a GIPA Application.

The Information & Privacy Unit has received the following GIPA Application:

**Applicant: Mr Philip Walker**  
**GIPA Reference No.: RWC-001604**

The GIPA Act requires that all necessary searches to be conducted to locate all the information an applicant has requested.

Please conduct a search for the following information:

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1. Table A: **Record of Search Undertaken for GIPA Application**
2. Table B: **Records/Documents Located** listing all the records identified as falling within the scope of the application and noting any concerns your business area may have about releasing each record to the applicant. At the end of this Table is a "Certification" section which must be completed by the searching officer and appropriate manager.

Due to strict timeframes, please undertake this search and return the attached forms to me within **5 working days (11 July 2016)**.

If you are unable to meet this timeframe, please contact the Information and Privacy Unit within 2 working days.

Kind regards

Janet Bak  
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**Roads and Maritime Services**  
33 James Craig Road Rozelle NSW

# ANNEXURE 4

---

**From:** BAK Janet  
**Sent:** Friday, 8 July 2016 10:06 AM  
**To:** TANSEY Michael C  
**Subject:** RE: RWC-001604 Search Request- GIPA Application

Dear Michael

Further to my email to you on Monday, the applicant has clarified that he is seeking information regarding the "Mona Vale Road East upgrade", not the "Mona Vale Road Exit upgrade".

Thank you.

Kind regards  
Janet

---

**From:** BAK Janet  
**Sent:** Monday, 4 July 2016 3:25 PM  
**To:** TANSEY Michael C  
**Subject:** RWC-001604 Search Request- GIPA Application

Dear Michael

Your area has been nominated as one possibly relevant area to conduct a search in relation to a GIPA Application.

The Information & Privacy Unit has received the following GIPA Application:

**Applicant: Mr Philip Walker**  
**GIPA Reference No.: RWC-001604**

The GIPA Act requires that all necessary searches to be conducted to locate all the information an applicant has requested.

Please conduct a search for the following information:

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Detailed records of searches done are important for the agency to be able to account to the applicant for the steps it has taken to locate the documents. Please complete the following attached Tables:

1. Table A: **Record of Search Undertaken for GIPA Application.**
2. Table B: **Records/Documents Located** listing all the records identified as falling within the scope of the application and noting any concerns your business area may have about releasing each record to the applicant. At the end of this Table is a "Certification" section which must be completed by the searching officer and appropriate manager.

Due to strict timeframes, please undertake this search and return the attached forms to me within **5 working days (11 July 2016)**.

If you are unable to meet this timeframe, please contact the Information and Privacy Unit within 2 working days.

Kind regards

Janet Bak  
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**Roads and Maritime Services**  
33 James Craig Road Rozelle NSW

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Hi Janet,

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Regards,

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**Roads and Maritime Services**  
33 James Craig Road Rozelle NSW

# ANNEXURE 5

---

**From:** TANSEY Michael C  
**Sent:** Friday, 8 July 2016 2:51 PM  
**To:** BAK Janet  
**Subject:** RE: RWC-001604 Search Request- GIPA Application  
**Attachments:** IGA\_8\_7\_2016\_14\_48\_58\_237.pdf

Hi Janet,

Please find the attached Record of Search Undertaken for the subject GIPA application.

Regards

Michael Tansey  
Principal Program Manager  
Greater Sydney Program Office  
T 02 9352 9544 M 0411 258 807  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)  
*Every journey matters*

**Roads and Maritime Services**  
71-79 Pyrmont Bridge Road | PO Box 609 | Pyrmont NSW 2009

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**Subject:** RE: RWC-001604 Search Request- GIPA Application

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**GIPA Reference No.:** RWC-001604



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Executive Assistant to the Director of  
Infrastructure Development

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[catherine.chillari@rms.nsw.gov.au](mailto:catherine.chillari@rms.nsw.gov.au)

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Roads and Maritime Services  
20 – 44 Ennis Rd, Milsons Point NSW 2061



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**From:** BAK Janet  
**Sent:** Monday, 4 July 2016 2:03 PM  
**To:** MCCARTHY Jeff P  
**Cc:** CHILLARI Catherine; BALAKRISHNAN Kalyanaraman  
**Subject:** RWC-001604 GIPA Act Application- Response Required

Dear Mr McCarthy

Roads & Maritime Services has received a GIPA Act application from Mr Philip Walker, for the following information:

***Conclusions of design and costings for overpass proposal (c/- member Rob Stokes) Mona Vale Road exit upgrade, at intersection with Samuel Street and Ponderosa Parade (estimated at \$50 million).***

Can you please advise whether your Division holds any information in respect of this application and if so, nominate the General Manager/s or Regional Manager within your Division that would hold information to respond to this request.

In order for us to comply with the strict timeframes contained within the GIPA Act, I need your nominations by **COB Tuesday, 5 July 2016** .

Kind regards

Janet Bak  
Senior Access and Compliance Officer  
Information & Privacy | Customer Engagement & Planning  
T 02 9563 8571  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)  
*Every journey matters*

**Roads and Maritime Services**  
33 James Craig Road Rozelle NSW



**Table A: Record of Search Undertaken for GIPA Application**

Detailed records of searches done are important for the agency to be able to account to the applicant for the steps it has taken to locate the documents.

Record of Searches Undertaken for GIPA Application							
Date:	Name of officer:	Position/Business Unit	Location searched	Description of Searches, including search terms used	No. of records located & estimated number of pages	Time taken to conduct search:	Comments/reasons why not located:
07/07/16	Matty Mathivanar	Project Manager, Greater Sydney Program Office	Program Offices in Parramatta and Pymont	Project Development Managers worked on the project during the preparation of the REF were consulted	None	5 hours, from 9am to 2 pm	There was no consideration given for grade separation of Mona Vale Road and Ponderosa Parade/Samuel Street intersection.  During the preparation of the REF, the Applicant requested and alternate alignment for the road upgrade that went through Ingleside. This option is addressed in the REF.



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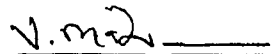

**Table B: List of Documents**

Records/Documents Located		
Item No:	Description of Item:	Concerns about Public Release:
N/A	None	NO

**CERTIFICATION**

**1. Searching Officer**

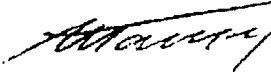
I certify that I conducted a reasonable search to locate all information that is relevant to the information requested under the *Government Information (Public Access) Act 2009*.

Signature:   
Date: 8<sup>th</sup> July 2016

Name: Matty Mathivanar  
Position: Project Manager

**2. General Manager, Principal Manager or Regional Manager**

I certify that I am aware that information has been provided to the I&P Unit and am satisfied that a reasonable search has been conducted for all relevant information in my Division..

Signature:   
Date: 8/7/2016

Name: Michael Tansy  
Position: Principal Program Manager



18 July 2016  
RWC-001604

Mr Philip [REDACTED] Walker  
[REDACTED]  
[REDACTED]

By email: [REDACTED]

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

**Applicant:** Mr Philip [REDACTED] Walker  
**File reference:** RWC-001604  
**Decision maker:** Clarinda Campbell  
**Due date:** 29 July 2016  
**Date of decision:** 18 July 2016

**1. Your access application**

- 1.1 On 1 July 2016 we received your access application under the GIPA Act for the following information:

*Conclusions of design and costings for overpass proposal (c/- Member Rob Stokes) Mona Vale Road East Upgrade, at intersection with Samuel St and Ponderosa Pde (estimated at \$50 million).*

**2. Searches for information**

- 2.1 Under the GIPA Act agencies must conduct reasonable searches to locate the requested government information. We requested information from the Roads and Maritime Infrastructure Development Division.

**3. Decision**

- 3.1 I am authorised by the Principal Officer for purposes of section 9(3) of the GIPA Act to decide your access application.
- 3.2 Under section 58(1)(b) of the GIPA Act I decided that Roads and Maritime does not hold the requested information.

#### 4. Reasons for Decision

- 4.1 Under section 9(1) of the GIPA Act you have a legally enforceable right to access the requested information, unless there is an overriding public interest against its disclosure.
- 4.2 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.
- 4.3 The Infrastructure Development Division has provided the following comments in response to searches for the information you have requested:

*"There was no consideration given for grade separation of Mona Vale Road and Ponderosa Parade/Samuel Street intersection.*

*During the preparation of the REF, the Applicant requested an alternate alignment for the road upgrade that went through Ingleside. This option is addressed in the REF".*

#### 5. Review rights

If you disagree with my decision, you may apply for it 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 NCAT.

#### 6. More information

For your information and assistance I enclose a fact sheet explaining your rights to have our decision reviewed.

More information about the GIPA Act is also available by contacting the NSW Information and Privacy Commission on 1800 472 679 or via [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

Please do not hesitate to contact Janet Bak on 02 9563 8571 or by email at: [janet.bak@rms.nsw.gov.au](mailto:janet.bak@rms.nsw.gov.au) if you have any questions about this letter.

Yours sincerely



**Clarinda Campbell**  
Manager  
Information & Privacy Unit