

COPY

Ref: A5994729

10 April 2024

Mr Peter Mellander
28 Lidco Street
ARNDELL PARK NSW 2148

Email: pet [REDACTED]

Re: Notice of Decision – your GIPA application – Australian Constitution

Dear Mr Mellander,

On 11 March 2024, we received your access application under the *Government Information (Public Access) Act 2009 (GIPA Act)* requesting access to:

“I am searching for the specific instrument that searches for it's head of power under the Constitution of the Commonwealth of Australia Chapter III and Covering Clause 2 and Covering Clause 5 and Queen Victoria's Letter's Patent 1900 enabling the Supreme Court of NSW and Local Courts of NSW to sit, preside and determine under the Civil Procedure Act 2005 (NSW) and UCPR 2005 (NSW) where the Supreme Court of NSW and Local Courts of NSW are not obliged to be part of the integrated judicial court system where the States are free to legislate as they please.

Specifically, I request from The Cabinet Office a copy of the Proclamation signed off as law by the Governor-General confirming Royal Assent of the Civil Procedure Act 2005 (NSW), and

Specifically, I request from The Cabinet Office a copy of the Proclamation signed off as law by the Governor-General confirming Royal Assent of UCPR 2005 (NSW),

Specifically, my detailed research is not able to locate either Proclamation that searches for their head of power under the Constitution of the Commonwealth of Australia and under the authority of Her Majesty Queen Victoria and all heirs and successors including Queen Elizabeth The Second and His Majesty King Charles The Third as Constitutional Monarch's of Australia or having acquired the absolute majority of each House of Representatives of Parliament or by the absolute authority of electors in each State qualified to vote to make alteration to the Constitution of the Commonwealth of Australia. Copies of both Proclamation is mandatory to establish the Supreme Court of NSW and Local Courts of NSW are lawfully qualified in the exercise of the executive powers in the Commonwealth of Australia”.

Decision

I have today decided your application by:

- deciding that information is not held by the Department (section 58(1)(b) of the GIPA Act).

Statement of reasons

Searches conducted

Section 53(2) of the GIPA Act requires that agencies must undertake such reasonable searches as may be necessary to find any of the government information applied for that was held by the agency when the application was received.

Section 53(3) of the GIPA Act states that the obligation of an agency to undertake reasonable searches extends to searches using any resources reasonably available to the agency including resources that facilitate the retrieval of information stored electronically.

I note that the Governor of NSW, rather than the Governor-General, assents to legislation in NSW.

However, searches for information relating to your application were undertaken by Legal Branch to ensure that no documents falling within the scope of your application exist.

Legal Branch undertook searches in Objective, the Department's document management system, using the following search terms:

- "Civil Procedure Act 2005" and "instrument" and "constitution"
- "Section 51 Constitution Act"
- "Royal Assent of UCPR 2005 (NSW)"
- "Royal Assent of the Civil Procedure Act 2005 (NSW)."

I am advised that no government information falling within the scope of your application has been identified.

I have therefore decided under section 58(1)(b) of the GIPA Act that the information sought is not held by the Department.

Rights of review

This decision is reviewable under section 80(e) of the GIPA Act. If you are aggrieved by the decision that the information sought is not held, you may seek review under Part 5 of the GIPA Act.

There are three forms of review:

- internal review by a senior officer of the Department,
- external review by the Information Commissioner, or
- external review by the NSW Civil and Administrative Tribunal.

Your review rights are summarised in the enclosed fact sheet. You have four weeks from the date of this letter to apply for an internal review, and eight weeks to apply for an external review.

Fees and charges

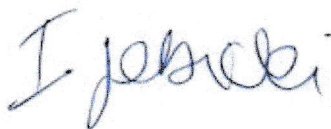
The GIPA Act entitles the Department to charge for the processing of an application, even in circumstances where a decision is made that the Department does not hold any information falling within the scope of the application.

Although 8 hours have been spent by the Department processing your application, I have decided that no further charges should be imposed for this application.

Inquiries

Please contact Sandra Scacciotti, Senior Project Officer, Information and Privacy Unit, on telephone (02) 9228 3168, or by email at: infoandprivacy@tco.nsw.gov.au, if you have any questions in relation to the application.

Sincerely

A handwritten signature in blue ink, appearing to read 'I. Gebicki'.

Isabelle Gebicki

A/Director