

COPY

Ref: A5943344

6 February 2024

Mr Peter Mellander  
28 Lidco Street  
ARNDELL PARK NSW 2148

Email: pe [REDACTED]

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

Dear Mr Mellander,

On 8 January 2024, we received your access application under the *Government Information (Public Access) Act 2009 (GIPA Act)* requesting access to:

*"I am researching the validity of Constitution of the Commonwealth of Australia.*

*The Parliament of New South Wales confirms His Majesty King Charles The Third is Constitutional Monarch of Australia and the existence of the Constitution of the Commonwealth of Australia. I am searching for the specific instrument that rescinded or repealed the Constitution of the Commonwealth of Australia. My search confirms the Constitution of the Commonwealth of Australia was signed off as law by Her Majesty Queen Victoria on July 27,1900 and assented as law on January 1, 1901 being date of Federation which gave rise to the Commonwealth of Australia. My detailed research is not able to locate the specific instrument that rescinded or repealed the Constitution of the Commonwealth of Australia under the authority of Her Majesty Queen Victoria and all heirs and successors including Queen Elizabeth The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.*

*Specifically, I request from The Cabinet Office the instrument that rescinded or repealed the Constitution of the Commonwealth of Australia that looks to for it's head of power under the Constitution of the Commonwealth of Australia for it's valid creation by the Commonwealth Parliament or, a valid instrument outside of those power set out in section 128 of the Constitution of the Commonwealth of Australia. The instrument is mandatory to establish the instrument is lawfully qualified in the exercise of the executive powers in the Commonwealth of Australia.*

*The information sought is not available on the Parliament of New South Wales website.*

*The information sought is not available in the public domain."*

## 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 Federal Government is responsible for the *Commonwealth of Australia Constitution Act (the Constitution)* and any amendments to it, and
- The Constitution remains in force and has not been rescinded or repealed.

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:

- "Commonwealth Constitution" and "rescind"
- "Commonwealth Constitution" and "repeal".

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.

### Further information

I note that the Constitution remains in force and is publicly available on the Federal Register of Legislation at: <https://www.legislation.gov.au/C2004Q00685/latest/text>.

I also note that a formal request for information relating to the Constitution may be made under the *Commonwealth Freedom of Information Act 1982 (FOI Act)* and directed to the Federal Attorney-General's Department.

Further information on how to make a formal request to the Federal Attorney-General's Department under the FOI Act is available to you at: [Freedom of information | Attorney-General's Department \(ag.gov.au\)](#).

## 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**

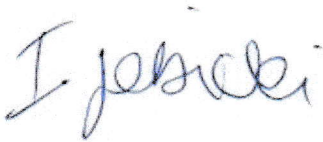
The GIPA Act entitles the Department to charge for the processing of an application, even in circumstances where a decision is made that the Department does not hold any information falling within the scope of the application.

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 Chloe Malolo, Legal Officer, by email at [Infoandprivacy@tco.nsw.gov.au](mailto:Infoandprivacy@tco.nsw.gov.au), if you have any questions in relation to the application.

Sincerely



**Isabelle Gebicki**

Principal Legal Officer