



17 February 2023



**Government Information (Public Access) Act 2009 (NSW)
Notice of Decision: Information not held**

1. Summary of access application

I refer to your access application made under the *Government Information (Public Access) Act 2009 (NSW)*, (GIPA Act) which made the following request:

In the NSW constitution, specifically s5 it provides the following...

CONSTITUTION ACT 1902 - SECT 5

General legislative powers

5 General legislative powers

The Legislature shall, subject to the provisions of the Commonwealth of Australia Constitution Act, have power to make laws for the peace, welfare, and good government of New South Wales in all cases whatsoever--

This is the Constitution Act (The 9 clauses) not the 128 sections of Clause 9... so laws written are subject to Clause 2, within the sovereignty of the UK.

Background Information

The NSW Constitution Act 1902 at section 5 prescribes that the Legislative powers of the State are subject to the provisions of the Commonwealth of Australia Constitution Act, which are the 9 clauses of the Act. Clause 2 specifically provides that the Heirs and Successors of Queen Victoria are to be within the Sovereignty of the United Kingdom. The oath found within the Police Act 1990 and Regulations of 1899, are also subject to clause 2 by application of section 5 of the NSW Constitution and can therefore only have application to the current heir and successor within the sovereignty of the United Kingdom and no other.

The Request

As section 5 of the NSW Constitution Act 1902 prescribes that the Legislative powers

InfoLink / PoliceLink Command

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of the State are subject to the provisions of the Commonwealth of Australia Constitution Act, which are the 9 clauses of the Act. Clause 2 specifically provides that the Heirs and Successors of Queen Victoria are to be within the Sovereignty of the United Kingdom. I seek the document, instrument or information confirming that our Sovereign Lady the Queen found in the Police oath within the Police Act 1990 & Regulations of 1899 is subject to Clause 2 and the Monarch's identity is within the Sovereignty of the United Kingdom consistent with the binding effect of section 5 of the NSW Constitution Act 1902 on the legislator of NSW.

2. Processing Charges

A processing charge has been imposed for dealing with your access application at a rate of \$30 per hour in accordance with section 64 of the GIPA Act.

I have reviewed the processing time spent across this agency in dealing efficiently with your access application and confirm that the total amount of time spent was 2 hours. In accordance with section 62 of the GIPA Act, a breakdown of how the processing charges have been calculated is detailed in the attached table.

The total processing charge calculated is \$60.

Your \$30.00 application fee counts towards the processing charge. As such you are only required to pay processing charges for the balance - a total of \$30.

Accordingly, please respond to this notice, giving authorisation to the NSW Police Force to charge your credit card for the amount due. The NSW Police Force will charge the same card that was used to pay the application fee for this application.

The following applicants are entitled to a 50% discount in processing fees if they can provide evidence that they are:

- (a) the holder of a Pensioner Concession card issued by the Commonwealth that is in force;
- (b) a full-time student;
- (c) a non-profit organisation (including a person applying for or on behalf of a non-profit organisation).

If you believe you are an applicant of one of the above-mentioned types and you wish to have your processing charges discounted by 50%, please respond to this notice with evidence that demonstrates this, and I will review these charges accordingly.

3. Searches for Information

Section 53(2) of the GIPA Act requires the NSW Police Force (NSWPF) to conduct reasonable searches to locate the government information you seek. Accordingly, searches were conducted to identify all government information falling within the scope of your application. The Office of the Commissioner, the Legislation & Policy Branch and the Office of the General Counsel assisted with these searches which included searches of the Record Management System.

4. Decision

I am authorised by the New South Wales Commissioner of Police to determine applications made under Section 9(3) of the GIPA Act.

The searches conducted did not locate any of the information requested in your application. I have therefore decided under section 58(1)(b) of the GIPA Act, that the information is not held

by this agency.

5. Review rights

If you are not satisfied with any of the decisions in this notice that are reviewable, you may exercise your review rights under Part 5 of the GIPA Act by requesting:

- an internal review of the decision which must be lodged within 20 working days of the date of this notice, or
- an external review of the decision by the Information Commissioner or the NSW Civil and Administrative Tribunal (NCAT) which must be lodged within 40 working days from the date of this notice.

For further information on your review rights, please visit: <https://www.ipc.nsw.gov.au>

If you have any enquiries in relation to this decision, please contact me on (02) 8835 6888. In any return correspondence, please quote the InfoLink reference number stated at the top of this notice.

Yours sincerely

Tina M

Tina M
Review Officer
InfoLink

**Total Processing Time
GIPAA-2023-0295616**

<p>Processing time:</p> <p><u>Work undertaken by InfoLink:</u></p> <ul style="list-style-type: none">- Consideration of the application (scope, where the information could be found);- Sending and receiving requests and instructions to the relevant sections of the NSW Police Force that might hold the information requested;- Drafting a Notice of Decision. <p><u>Work Undertaken by other NSWPF areas:</u></p> <ul style="list-style-type: none">- Receipting request for information and allocating tasks;- Searching for, Retrieving and collating the requested records;- Recording searches undertaken and certifying that reasonable searches were made;- Consideration of whether or not to release the information requested and drafting relevant instructions accordingly.	<p><u>Calculations</u></p> <p>1 hour</p> <p>1.25 hours</p> <p>TOTAL: 2.25 HOURS</p> <p>(uncharged 15 mins)</p>
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