



31 May 2023

Our ref: GIPA23 [REDACTED]

[REDACTED]
Via email: [REDACTED]

Dear [REDACTED]

Formal Access Application - Notice of Decision

I refer to the Formal Access Application under the *Government Information (Public Access) Act 2009* (GIPA Act) lodged with the Department of Communities and Justice (the Department) on 15 February 2023.

Summary of application

On 15 February 2023, you requested the following information:

- 1. A map of the present NSW District Court jury districts/catchment areas. If no such map exists, then a list of which electoral districts are allocated to which courthouse.*
- 2. The present number of jury capable courtrooms in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*
- 3. The present number of courtrooms with a single secure dock in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*
- 4. The present number of courtrooms with two secure docks in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*
- 5. The present number of jury capable courtrooms with full AVL capabilities for offsite remote witness testimony in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*
- 6. The present number of jury capable courtrooms with full AVL capabilities for onsite remote witness testimony in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*
- 7. The present number of on premises remote AVL witness rooms for vulnerable witnesses in each of the 30 NSW courthouses with NSW District Court criminal division sitting dates.*

8. *The present courthouse in NSW that tries the largest number of matters in which the alleged events occurred outside the jury district/catchment area. (I assume this is the Downing Centre but need confirmation of that.)*

Searches

The Department is required under section 53 of the GIPA Act to conduct reasonable searches for the information requested in your application. My Office arranged for searches to be conducted by the NSW Sheriff's Office and Courts, Tribunals and Service Delivery business unit within the Department (Sheriff's Office). The Sheriff's Office's searches of internal databases, including the Jury Management System, were unable to locate any records responsive to your application, however, the Department has created new records to respond to some of your application. This information has been provided to you at the end of this notice and is titled '**Attachment A**'.

Decision

I am authorised by the Principal Officer of the Department, for the purposes of section 9(3) of the GIPA Act, to decide your Application.

I have made the following decisions on your application:

1. In respect of items 1, 2, 5, 6, 7 and 8, pursuant to ss 58(1)(a) and 75(1) of the GIPA Act, provide you access to the requested information by way of the creation of a new record; and
2. In respect of items 3 and 4, that, pursuant to s 58(1)(b) of the GIPA Act, the information is not held by the Department.

These are reviewable decisions under section 80 of the GIPA Act.

Reasons for decision

Items 1, 2, 5, 6, 7 and 8: grant access to information by way of the creation of a new record

Following searches on your application, the Sheriff's Office advised that it did not hold any government information in the form requested in your application. Despite this, the Sheriff's Office has created new records to respond to items 1, 2, 5, 6, 7 and 8. In this regard, I note that section 75(1) of the GIPA Act provides that an agency is not prevented from providing access in response to an access application for government information held by the agency by making and providing access to a new record of that information.

I have carefully considered this new information in view of the objectives of the GIPA Act where you have a legally enforceable right to obtain information, unless there is an overriding public interest against disclosure of the subject information.

In considering this information, I was required to conduct a "public interest test" where the public interest considerations favouring disclosure of government information were weighed against those factors that do not favour disclosure. I considered the following public interest factors favour disclosure of the information requested:

- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.

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Public interest considerations against disclosure

I can only consider the public interest consideration against disclosure contained in Schedule 1 and the Table to section 14 of the GIPA Act (“Table”). I do not consider that any of the considerations in Schedule 1 nor any clauses within the Table to section 14 apply. As no considerations against disclosure apply, I have decided that the public interest lies in releasing this information to you.

Items 3 and 4: Information not held

I have decided that the information requested in items 3 and 4 of your application is not held by the Department.

In processing your application, I have considered the obligations referred to in section 53 of the GIPA Act which states:

“53 Searches for information held by agency

- (1) The obligation of an agency to provide access to government information in response to an access application is limited to information held by the agency when the application is received.*
- (2) An agency 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. The agency’s searches must be conducted using the most efficient means reasonably available to the agency.*
- (3) 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.*
- (4) An agency is not required to search for information in records held by the agency in an electronic backup system unless a record containing the information has been lost to the agency as a result of having been destroyed, transferred, or otherwise dealt with, in contravention of the State Records Act 1998 or contrary to the agency’s established record management procedures.*
- (5) An agency is not required to undertake any search for information that would require an unreasonable and substantial diversion of the agency’s resources.”*

In accordance with the obligations outlined in section 53 of the GIPA Act, searches were conducted by the Sheriff’s Office. As noted above, the Sheriff’s Office advised that reasonable searches were conducted on your application and that it did not hold any government information in the form requested in your application. The Sheriff’s Office originally conducted searches on a slightly incorrect construction of items 3 and 4. On noting this incorrect construction, I directed the Sheriff’s Office to conduct further searches for the information requested in items 3 and 4. In response, the Sheriff’s Office confirmed that it does not hold a record of information detailing the number of docks in court rooms across NSW.

Accordingly, the correct position remains that the Department would need to create a new record to answer items 3 and 4 of your application.

Although the Sheriff's Office created new records to answer items 1, 2, 5, 6, 7 and 8 of your application, I note that it was not required to do so. Relevantly, section 75 of the GIPA Act provides:

"75 Providing access by creating new record

(1) An agency is not prevented from providing access in response to an access application to government information held by the agency by making and providing access to a new record of that information.

(2) An agency's obligation to provide access to government information in response to an access application does not require the agency to do any of the following –

(a) make a new record of information held by the agency,

(b) update or verify information held by the agency,

(c) create new information, or produce a new record of information, by deduction, inference or calculation from information held by the agency or by any other use or application of information held by the agency".

Accordingly, I have decided that the information requested in items 3 and 4 of your application is not held by the Department, as the Department does not hold any government information in the form requested and would be required to create a new record to respond to your application.

Review rights

If you are aggrieved by any of the reviewable decisions in this notice of decision, you may seek a review under Part 5 of the GIPA Act, by requesting any one of the following:

- An internal review that must be lodged with Open Government, Information and Privacy within 20 working days of this notice of decision. You must lodge your internal review at the address shown at the bottom of the first page and must be accompanied by the appropriate application fee of \$40.
- Alternatively, a request for an external review may be lodged with either the Information and Privacy Commission, or the NSW Civil and Administrative Tribunal. Please note that you must lodge your request for an external review within 8 weeks of this notice of decision.

If you have any questions or concerns in relation to this matter, please contact the department on telephone (02) 9716 2662.

Yours sincerely

Jonathan Franklin

Solicitor

**Open Government, Information and Privacy Unit
Department of Communities and Justice**

Attachment A

Question 1: A map of the present NSW District Court jury districts/catchment areas. If no such map exists, then a list of which electoral districts are allocated to which courthouse.

Court house	Electoral districts
Albury Court	Albury
Armidale Court	Northern Tablelands
Bathurst Court	Bathurst
Bega Court	Bega
Port Kembla Court	Wollongong
Bourke Court	Barwon
Broken Hill Court	Barwon
Campbelltown Court	Campbelltown
Coffs Harbour Court	Coffs Harbour
Coonamble Court	Barwon
Dubbo Court	Dubbo
Gosford Court	Gosford
Goulburn Court	Goulburn
Grafton Court	Grafton
Griffith Court	Murray
Katoomba Court	Blue Mountains
Lismore Court	Lismore
Moree Court	Northern Tablelands
Newcastle Court	Newcastle
Nowra Court	South Coast
Orange Court	Orange
Parkes Court	Orange
Parramatta Court	Parramatta
Penrith Court	Penrith
Port Macquarie Court	Port Macquarie
Queanbeyan Court	Monaro
Downing Centre Court	Sydney
King St Court	Sydney
Darlinghurst Court	Sydney
Coroners Court	Auburn
City Coroner Court	Sydney
Tamworth Court	Tamworth
Taree Court	Myall Lakes
Wagga Wagga Court	Wagga Wagga
Wollongong Court	Wollongong

Questions 2, 5, 6 and 7

Location	Q2. Jury Capable Courtrooms	Q5, Q6. RW Capable (On and Offsite) Jury Courts	Q7. RW Rooms
Sydney	20	20	6
Campbelltown	3	3	1
Parramatta	10	10	4
Penrith	3	3	3
Albury	1	1	3
Armidale	1	1	1
Bathurst	1	1	3
Bega	1	1	1
Bourke	1	1	1
Broken Hill	1	1	1
Coffs Harbour	2	2	1
Coonamble	1	1	1
Dubbo	2	2	3
Gosford	2	2	3
Goulburn	1	1	1
Grafton	1	1	1
Griffith	1	1	1
Katoomba	1	1	2
Lismore	2	2	3
Moree	1	1	1
Newcastle	5	5	5
Nowra	2	2	1
Orange	1	1	1
Parkes	1	1	1
Port Macquarie	1	1	2
Queanbeyan	1	1	2
Tamworth	1	1	1
Taree	1	1	3
Wagga Wagga	2	2	3
Wollongong	3	3	3

Question 8: *The present courthouse in NSW that tries the largest number of matters in which the alleged events occurred outside the jury district/catchment area.*

Answer: The Downing Centre, Sydney.