



15 November 2023

Our ref: GIPA23/ [REDACTED]

[REDACTED]
By email [REDACTED]

Dear [REDACTED]

Formal Access Application - Notice of Decision

I refer to your Formal Access Application under the *Government Information (Public Access) Act 2009* (GIPA Act) that you lodged with the Department of Communities and Justice (the Department).

Summary of your access application

On 19 September 2023, you clarified the scope of your access application to a copy of the following information:

For the period 1 January 2022 to 20 September 2023:

- 1. Ministerial briefing notes (including attachments) regarding damage by public housing tenants and the cost to repair the damage caused by public housing tenants in NSW;*
- 2. Ministerial briefing notes (including attachments) regarding tenants producing drugs and the cost to repair the damage caused by the drug production in NSW;*
- 3. Total substantiated cost of damage incurred by public housing tenants for each year in NSW;*
- 4. A summary of the number of vacates following action taken for Illegal Use of Premises (IUP) in NSW;*
- 5. A summary of the top ten substantiated claims of damage to public housing properties for Sydney Metropolitan Area (all suburbs bordered by Hornsby, Waterfall, Campbelltown and Penrith) which includes the suburb, of the damaged property and the substantiated cost to repair the damage;*
- 6. Audio visual (AV) matter only regarding the top five houses in point 5 above. Limited to any video and five (5) photos of each of the properties in different parts of the house showing damage (to exclude people and house number).*

Decision

I am authorised by the principal officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application.

Department of Communities and Justice

Postal address: Locked Bag 5000, Parramatta NSW 2124

W www.dcj.nsw.gov.au

T (02) 8346 1388

I have decided:

- Under section 58(1)(a) of the GIPA Act, to provide access to some of the information sought in your access application, specifically information pertaining to Points 3, 4, 5 and part of 6.
- Under section 58(1)(b) of the GIPA Act that some of the information sought is not held by the Department, specifically information pertaining to Points 1, 2 and part of 6.

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

The public interest test

The Applicant has a legally enforceable right to access the information requested, unless there is an overriding public interest against disclosing the information (section 9(1) of the GIPA Act). The public interest balancing test for determining whether there is an overriding public interest against disclosure is set out in section 13 of the GIPA Act.

The general public interest consideration in favour of access to government information set out in section 12 of the GIPA Act means that this balance is always weighted in favour of disclosure. Section 5 of the GIPA Act establishes a presumption in favour of disclosure of government information.

Before deciding whether to release or withhold information, the Department must apply the public interest test and decide whether or not an overriding public interest against disclosure exists for the information.

Public interest considerations in favour of disclosure

Section 12(1) of the GIPA Act sets out a general public interest in favour of disclosing government information, which must always be weighed in the application of the public interest test. The Department may take into account any other considerations in favour of disclosure which may be relevant (s12(2) GIPA Act).

The following are a number of public interest factors I considered which favour disclosure of the information requested:

- The statutory presumption in favour of the disclosure of government information.
- 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.
- Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.
- Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.

Personal factors of the application

I can also take into account any personal factors of your application under section 55 of the GIPA Act; but I have not identified any personal factors relevant to your application.

Public interest considerations against disclosure

The only public interest considerations against disclosure that can be considered are those in schedule 1 and section 14 of the GIPA Act.

I have not identified any public interest factors against disclosure of the information requested in your application.

Searches for Information

In processing your application, I have taken into account 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 above, I liaised with the following business units:

- Briefings and Correspondence Allocations Management (BCAM) in relation to Points 1 and 2 of your access application, where they conducted searches of the Department’s records management system, Content Manager 9 (CM9).
- Customer Service & Business Improvement Unit (CSBI) in relation to Points 3 to 6 of your access application, where they extracted information from the Department’s tenancy management database (HOMES) and CM9.

I will now respond to each point of your request in turn:

For the period 1 January 2022 to 20 September 2023:

- 1. Ministerial briefing notes (including attachments) regarding damage by public housing tenants and the cost to repair the damage caused by public housing tenants in NSW;***

2. Ministerial briefing notes (including attachments) regarding tenants producing drugs and the cost to repair the damage caused by the drug production in NSW;

BCAM conducted a range of 'title word' and 'any word' searches in CM9, using the following search terms:

- *damage**
- *drug**

Please note that the asterisk indicates a wildcard search was conducted.

BCAM confirmed that the above searches were restricted to the following MiniApp record types in CM9:

- MiniApp Folder
- MiniApp Folder – Transitioned
- MiniApp Ministerial
- MiniApp Ministerial – Transitioned.

The above search terms returned limited records in relation to Point 1 that I reviewed individually, but I can confirm that no information was located that falls within the scope of Points 1 of your access application. The above search terms returned no records relating to Point 2. In accordance with section 58(1)(b) of the GIPA Act, I confirm that the Department does not hold any ministerial briefing notes within scope of Points 1 and 2 of your request for the period 1 January 2022 to 20 September 2023.

For the period 1 January 2022 to 20 September 2023:

- 3. Total substantiated cost of damage incurred by public housing tenants for each year in NSW;***
- 4. A summary of the number of vacates following action taken for Illegal Use of Premises (IUP) in NSW;***
- 5. A summary of the top ten substantiated claims of damage to public housing properties for Sydney Metropolitan Area (all suburbs bordered by Hornsby, Waterfall, Campbelltown and Penrith) which includes the suburb, of the damaged property and the substantiated cost to repair the damage;***

I have taken into consideration section 75 of the GIPA Act, which provides that although there is no obligation to provide access to government information by way of creating a new record or document, an agency is not prevented in doing so.

Therefore, I have used my discretion on this occasion to create a new record pursuant to section 75 of the GIPA Act to respond to this specific aspect of your access applicant. This information has been provided to you at the end of this notice and is titled 'Attachment A'.

For the period 1 January 2022 to 20 September 2023:

6. Audio visual (AV) matter only regarding the top five houses in point 5 above. Limited to any video and five (5) photos of each of the properties in different parts of the house showing damage (to exclude people and house number).

CSBI conducted an extensive search of CM9 for photos relating to the top five instances of substantiated damage in Point 5 of your access application, which has been paginated 1 to 16.

CSBI advised that searches for photos relating to the top instance of substantiated damage, 'Property 1', returned no records. In accordance with section 58(1)(b) of the GIPA Act, I confirm that the Department does not hold any photos relating to Property 1 in relation to the top substantiated claims of damage in Point 5.

Processing Charges

In my letter dated 23 October 2023, you were advised that the estimated total processing charges to complete your application was \$870.00 and you were requested to pay an advance deposit of 50% of the total amount. Your advance deposit of processing charges in the amount of \$435.00 was paid on 30 October 2023.

Upon completion of your request, I calculated that it took 24 hours to finalise your request. Therefore, processing charges have been calculated at a total of \$690.00. You are now required to pay the remaining \$255.00

Payment is accepted by credit or debit card, please contact our office on (02) 9716 2662 or by email at infoandprivacy@dcj.nsw.gov.au and a unique link will be sent to you, which will direct you to our online payment system.

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 top 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

Heidi Martin

Heidi Martin
A/OGIP Advisor
Open Government, Information and Privacy Unit
Department of Communities and Justice

Attachment A

For the period 1 January 2022 to 20 September 2023:

3. Total substantiated cost of damage incurred by public housing tenants for each year in NSW;

Answer: 1 January 2022 – 31 December 2022: \$485,973.00
1 January 2023 – 20 September 2023: \$358,308.00

4. A summary of the number of vacates following action taken for Illegal Use of Premises (IUP) in NSW;

Answer: 16

Reason - IUP	Total #
Manufacture/supply/trafficking of drugs	12
Storage of Illegal Firearms	3
Other Unlawful Serious ASB	1
TOTAL # OF VACATES FOLLOWING ACTION TAKEN FOR IUP IN NSW	16

5. A summary of the top ten substantiated claims of damage to public housing properties for Sydney Metropolitan Area ... which includes the suburb, of the damaged property and the substantiated cost to repair the damage

Answer:

#	Suburb	Substantiated Cost
1	LALOR PARK	\$15000.00
2	MARAYONG	\$15000.00
3	MERRYLANDS	\$14994.14
4	SEVEN HILLS	\$12242.00
5	SHALVEY	\$9303.00
6	BLACKTOWN	\$8935.00
7	SHALVEY	\$7462.77
8	BLACKTOWN	\$6630.88
9	BLACKTOWN	\$5500.00
10	MALABAR	\$5326.48
Total Substantiated Cost		\$100,394.27







Photo Property Damage – Property 3





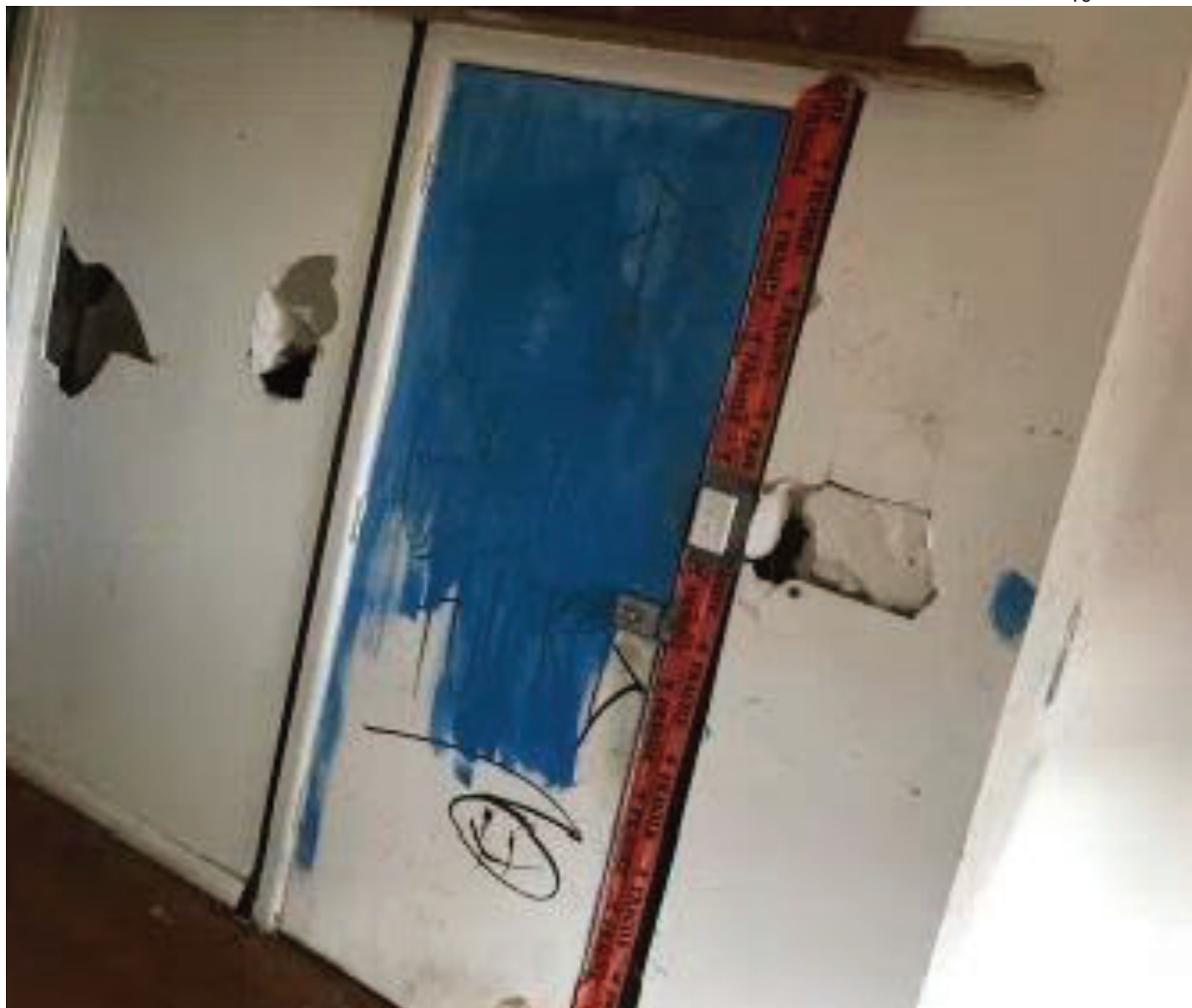






Photos Property 4











Property 5 Photos



