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23 August 2019



Your Ref: [REDACTED]
Our Ref: GIPA [REDACTED]

Dear [REDACTED]

Formal Access Application - Notice of Decision

I refer to your Formal Access Application under the *Government Information (Public Access) Act 2009* (the GIPA Act), that you lodged with the Department of Communities and Justice (DCJ). In your revised access application dated 7 June 2019, you requested a copy of the following information for the period since 1 January 2018:

1. *“Ministerial briefing notes and attachments and reports relating to substantiated damage by public housing tenants and the cost to repair the damage caused by public housing tenants in Sydney;*
2. *Ministerial briefing notes and attachments and reports relating to tenants producing drugs and the cost to repair the substantiated damage caused by the drug production in NSW;*
3. *A summary of cost of substantiated damage incurred by public housing tenants for each year in Sydney;*
4. *A summary of cost of substantiated damage incurred by public housing tenants who used the property to produce drugs for each year in NSW;*
5. *A list of substantiated claims of damage to public housing properties which includes the suburb, or city, or town of the damaged property and the substantiated cost to repair the damage for each incident where drug production was involved.*
6. *For each of the substantiated claims of damage to public housing properties captured in point two, I also seek a copy of any breach of duty notice issued or possession order as a result of the damage and copies of related AV material including photos/CCTV/body worn camera footage of the damage and a document which describes the damage.”*

Please be advised that I have liaised with Customer Service and Business Improvement (the CSBI Unit), within DCJ, who were able to extract the relevant information from the department's information technology systems. I further confirm that the CSBI Unit provided information relating to the “Sydney metropolitan area” which includes all suburbs bordered by Hornsby, Waterfall, Campbelltown and Penrith.

I have carefully considered your request 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. Further, I have also considered the requirements of section 74 of the GIPA Act, which provides that an agency may delete information from a record to which access is provided if the deleted information is not relevant, or within the scope of the information applied for, or an agency has decided to refuse access to that information.

In deciding which information to withhold in full or in part, 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. The following are a number of public interest factors I considered which 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.
- 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 ensure effective oversight of the expenditure of public funds.
- Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.
- Disclosure of the information could reasonably be expected to advance the fair treatment of individuals in accordance with the law in their dealings with agencies.
- 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.
- Disclosure of the information could reasonably be expected to contribute to the administration of justice generally, including procedural fairness.

I have decided to provide you with a copy of the information requested in your access application in accordance with section 58 of the GIPA Act, with the exception of particular information that is subject to an overriding public interest consideration against disclosure under the GIPA Act. The decision schedule attached, lists the information where there is an overriding public interest consideration against disclosure. In the decision schedule, (P) means that a document has been withheld in part from disclosure.

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

- 1. Ministerial briefing notes and attachments and reports relating to substantiated damage by public housing tenants and the cost to repair the damage caused by public housing tenants in Sydney;**
- 2. Ministerial briefing notes and attachments and reports relating to tenants producing drugs and the cost to repair the substantiated damage caused by the drug production in NSW;**

Answer to Points 1 and 2:

In processing Points 1 and 2 of your access 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 in section 53 of the GIPA Act, I confirm that the CSBI Unit has conducted extensive searches of the department’s records management system (CM9). CSBI used a range of specific title word searches to locate information that falls within the scope of Points 1 and 2 of your access application, including:

- Ministerial briefing note.
- Ministerial tenant damage.
- Ministerial damage.
- Ministerial hoarding.
- Ministerial squalor.
- Ministerial property care.
- Ministerial repair.
- Illegal activities.
- Drug production.
- Drugs.

The CSBI Unit confirm that there were in excess of 3,521 ministerial containers for the period 1 January 2018 to 7 May 2019, however, they were unable to identify any ministerial briefing notes that fall within the scope of Points 1 and 2 of your access application. The CSBI Unit reviewed all ministerial containers containing the title words ‘illegal activities’, ‘drug production’ and ‘drugs’, but were unable to identify any specific information relating to substantiated damage caused by the production of drugs.

I have attached the Rechargeable Repairs Account transaction report for the period 1 January 2018 to 7 May 2019, which falls within the scope of Point 1 of your access application.

When DCJ Housing conduct an assessment of repair costs to properties, we determine what if any costs should be passed onto the tenant as a charge. These charges are referred to as ‘Substantiated Tenant Damage Charges’.

Tenants have an obligation to maintain property in good condition. Repair costs are determined by assessing necessary repairs against the condition of the property, which is documented at the commencement of the tenancy. Factors considered in determining what is 'Substantiated Tenant Damage' include the age of property elements and what constitutes fair, wear and tear. Any costs deemed chargeable to the tenant need to be first ratified by the NSW Civil and Administrative Tribunal (NCAT) before being placed on the tenant's repair account as a debt to be paid.

The Rechargeable Repairs Account transaction report has been partially withheld from disclosure in accordance with clause 3(a) of the table to section 14 of the GIPA Act as it contains information that would reveal the personal information of multiple tenants, including their residential address and personal departmental identifiers.

All our clients have the right to reside in public housing within our community without their residential address being made public knowledge. Unfortunately, if street addresses were disclosed our clients may be stigmatised within the community because of their inability to reside in private rental accommodation. Therefore, I am of the view that there is an overwhelming public interest against disclosing information that reveals an individual's personal information.

3. A summary of cost of substantiated damage incurred by public housing tenants for each year in Sydney;

Answer to Point 3:

The table below provides a summary of the substantiated cost of damage by public housing tenants for the period 1 January 2018 to 7 May 2019, as derived from the Rechargeable Repairs Account transaction report. You will note the table below provides you with a monthly breakdown of the Rechargeable Repairs Account transaction report.

Month	Total cost of substantiated damage
January 2018	\$ 5,427.35
March 2018	\$ 14,684.14
May 2018	\$ 121.22
June 2018	\$220.00
July 2018	\$ 660.00
August 2018	\$ 28,555.49
September 2018	\$ 16,649.97
October 2018	\$ 43,311.46
November 2018	\$ 11,891.08
December 2018	\$ 8,738.97
January 2019	\$ 11,144.85
March 2019	\$ 11,069.00
TOTAL	\$ 152,473.53

4. **A summary of cost of substantiated damage incurred by public housing tenants who used the property to produce drugs for each year in NSW;**
5. **A list of substantiated claims of damage to public housing properties which includes the suburb, or city, or town of the damaged property and the substantiated cost to repair the damage for each incident where drug production was involved.**

6. *For each of the substantiated claims of damage to public housing properties captured in point two, I also seek a copy of any breach of duty notice issued or possession order as a result of the damage and copies of related AV material including photos/CCTV/body worn camera footage of the damage and a document which describes the damage."*

Answer to Points 4 to 6:

The CSBI Unit confirm that they were unable to locate any information that fell within the scope of Points 4 to 6 as they were unable to locate any information at Point 2 of your access application. Therefore, in accordance with section 58(1)(b) of the GIPA Act, I confirm that DCJ does not hold any information outlined in Points 4 to 6 of your access application.

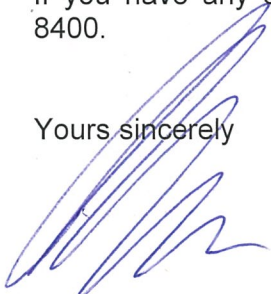
If you are aggrieved by any of the reviewable decisions in this notice of decision, you may seek a review under Part 5 of the GIPA Act, by requesting any one of the following:

- 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.

Further attached are receipts for the amount of \$30, and a further two receipts for the amounts of \$450, which represent the fees for processing your Formal Access Application.

If you have any questions regarding this notice, please contact me on telephone (02) 8753 8400.

Yours sincerely



Peter Bazzo
Senior Right to Information Officer
Open Government, Information and Privacy
Department of Communities and Justice

Decision Schedule

ACCESS APPLICANT'S NAME	[REDACTED]	DECIDING OFFICER	Peter Bazzo
DCJ REFERENCE	GIPA19/861	INTERNAL REVIEW OFFICER	

INFORMATION THAT WAS NOT DISCLOSED

PAGE NUMBER	PUBLIC INTEREST CONSIDERATIONS AGAINST DISCLOSURE				DESCRIPTION OF FOLIO / REASON FOR NON-DISCLOSURE
	Schedule 1 information	Table to Section 14 of the GIPA Act 2009			
Rechargeable Repairs Account transaction report	Clause 10	Clause 1(d)	Clause 3(a)	Clause 4(a)	Rechargeable Repairs Account transaction report that reveals an individual's personal information, specifically their names, residential street address and departmental identifiers.
			P		

Rechargeable Repairs Account transaction report - 1 January 2018 to 7 May 2019

Property Reference	Tenancy Reference	Payment Reference	Tenant Name	Unit Number	Street Number	Street	Suburb	Transaction Subtype	Total Credit Amount
							SURRY HILLS	REPAIR CHARGE	\$157.16
							SURRY HILLS	REPAIR CHARGE	-\$794.96
							SURRY HILLS	REPAIR CHARGE	\$409.51
							DOONSIDE	REPAIR CHARGE	\$292.27
							DOONSIDE	REPAIR CHARGE	\$8,276.23
							SEVEN HILLS	REPAIR CHARGE	\$1,985.27
							SEVEN HILLS	REPAIR CHARGE	\$3,293.48
							BIDMILL	REPAIR CHARGE	\$321.96
							BIDMILL	REPAIR CHARGE	\$321.96
							SEVEN HILLS	REPAIR CHARGE	\$2,563.82
							LALOR PARK	REPAIR CHARGE	-\$1,104.11
							LALOR PARK	REPAIR CHARGE	\$1,104.11
							LALOR PARK	REPAIR CHARGE	\$1,019.20
							LALOR PARK	REPAIR CHARGE	\$431.62
							LALOR PARK	REPAIR CHARGE	\$1,589.36
							DOONSIDE	REPAIR CHARGE	\$1,174.45
							DOONSIDE	REPAIR CHARGE	-\$500.00
							DOONSIDE	REPAIR CHARGE	\$500.00
							DOONSIDE	REPAIR CHARGE	\$500.00
							LETHBRIDGE PARK	REPAIR CHARGE	-\$3,459.05
							LETHBRIDGE PARK	REPAIR CHARGE	\$3,459.05
							LETHBRIDGE PARK	REPAIR CHARGE	\$3,459.05
							DOONSIDE	REPAIR CHARGE	\$1,272.08
							QUAVERS HILL	REPAIR CHARGE	\$1,999.00
							BLACKTOWN	REPAIR CHARGE	\$3,999.00
							BLACKTOWN	REPAIR CHARGE	\$3,999.00
							BLACKTOWN	REPAIR CHARGE REVERSAL	-\$3,999.00
							QUAVERS HILL	REPAIR CHARGE	\$7,507.64
							BLACKTOWN	REPAIR CHARGE	\$4,800.00
							BLACKTOWN	REPAIR CHARGE	\$9,452.60
							LALOR PARK	REPAIR CHARGE	\$797.67
							LALOR PARK	REPAIR CHARGE REVERSAL	-\$767.67
							DOONSIDE	REPAIR CHARGE	\$4,416.97
							BIDMILL	REPAIR CHARGE	\$3,967.24
							AMBARVALE	REPAIR CHARGE REVERSAL	-\$601.40
							ASHCROFT	REPAIR CHARGE	\$14,694.14
							HECKENBERG	REPAIR CHARGE	\$5,014.42
							SOUTH PENRITH	REPAIR CHARGE	\$14,815.15
							GRANBROOK	REPAIR CHARGE	\$11,691.08
							NORTH ST MARYS	REPAIR CHARGE	\$7,660.83
							BIDMILL	REPAIR CHARGE	\$11,069.00
							CAMPBELLTOWN	REPAIR CHARGE	-\$4,893.20
							PENRITH	REPAIR CHARGE	\$3,782.77
							QUAVERS HILL	REPAIR CHARGE	\$541.00
							BLACKTOWN	REPAIR CHARGE	\$2,371.90
							BLACKTOWN	REPAIR CHARGE	\$1,210.72
							SEVEN HILLS	REPAIR CHARGE	\$2,439.92
							GLENMORE PARK	REPAIR CHARGE	\$1,106.11
							BLACKTOWN	REPAIR CHARGE	\$3,044.32
							MELROSE PARK	REPAIR CHARGE	\$220.00
							GULDFORD	REPAIR CHARGE	\$3,999.83
							QUAVERS HILL	REPAIR CHARGE	\$12,000.00
							LECHHARDT	REPAIR CHARGE	\$660.00
Total									\$152,473.53