

**NOTICE OF DECISION
(s. 58 of the GIPA Act)**

Applicant:	Anna Kerr, Save Balickera Incorporated
File Ref:	GIPA2024-15 (Internal Review)
Decision-maker:	Joanna Bodley, Manager Corporate Affairs
Date of decision:	29 July 2025

Summary of access application

On 20 November 2024, Forestry Corporation of NSW received your valid access application under the *Government Information (Public Access) Act 2009 (GIPA Act)*, in which you sought access to the following:

“We are requesting a copy of the Deed of Agreement between the Forestry Corporation of NSW (FCNSW) and Australian Resource Development Group (ARDG) related to the Stone Ridge Quarry project. This document, reportedly signed in or around November 2018, governs the terms under which ARDG is permitted to develop a quarry in the Wallaroo State Forest.

In particular, we are seeking details on the financial terms, including but not limited to:

- The fees to be paid by ARDG to FCNSW for the rights to extract materials from the Wallaroo State Forest.
- Any percentage of profits or revenue from the quarry venture that FCNSW is entitled to receive.
- Any additional payments or royalties related to the extraction or use of natural resources on Forestry Corporation-managed land.

Additionally, we request information regarding the government officials, ministers, or politicians who were responsible for authorizing or approving this agreement, including:

- Any government decisions or ministerial approvals related to the agreement.
- Correspondence or briefing notes that mention the involvement or authorization of any politicians, including but not limited to the Minister for Forestry, Minister for Planning, or the Premier of New South Wales at the time of the agreement's negotiation.

Please include any appendices, schedules, or associated documents that clarify these financial and decision-making aspects.

If parts of the document are exempt from disclosure under the GIPA Act, we request access to all non-exempt portions, including any summary or redacted version.”

On 15 January 2025, a notice of decision was issued in relation to this information request, which identified four relevant documents.

On 31 January 2025, you applied to the Information and Privacy Commission (IPC) for an external review pursuant to Section 13 of the *GIPA Act*.

On 24 June 2025, the IPC issued a notice of decision in relation to this request for review. The reviewer recommended under Section 93 of the GIPA Act that the agency's decision in relation to documents 1 and 4 were justified but that the agency should make a new decision in relation to documents 2 and 3 by way of internal review.

Processing of internal review

Under the *GIPA Act*, an internal review is to be done by making a new decision, as if the decision being reviewed (the **original decision**) had not been made, with the new decision being made as if it were being made when the access application to which the review relates was originally received.

The documents being considered in this internal review are documents 2 and 3 identified in the attached schedule.

Under s. 54 of the *GIPA Act* third party consultation was required and no objections regarding the release of requested information have been received.

Decision to provide access

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

The Operation of the Government Information (Public Access) Act 2009

Under s. 9(1) of the *GIPA Act*, you have a legally enforceable right to be provided with access to the information sought, unless there is an overriding public interest against disclosure of the information.

Under s. 5 of the *GIPA Act*, there is a presumption in favour of the disclosure of government information to which you seek unless there is an overriding public interest against disclosure.

In making my decision, I am required to apply the public interest test under s. 13 of the *GIPA Act*, which provides that there will only be an overriding public interest against disclosure where public interest considerations in favour of disclosure are on balance, outweighed by those against disclosure.

The public interest test requires a three-step process:

- i. identifying public interest in favour of disclosure;
- ii. identifying public interest against disclosure; and
- iii. determining where the balance lies

Public Interest In favour of Disclosure

Section 12 (1) of the *GIPA Act* provides that there is a general public interest in favour of disclosing information.

The applicant has submitted the following public interest considerations in favour of release:

“Disclosure of the requested Deed of Agreement would serve the public interest by promoting transparency and accountability in government decision-making. As this agreement involves the use of public land and natural resources, it is vital that the public understands the financial terms and any government involvement, including the fees paid to the Forestry Corporation and any profit-sharing arrangements.

The public has a right to know how taxpayer-funded resources are being managed, particularly in relation to projects that have significant environmental and economic implications, such as the Stone Ridge Quarry. Given the concerns about the impact on native ecosystems and the role of government agencies in overseeing these operations, disclosing this information would allow the public to evaluate whether the terms of the agreement align with the government's environmental and financial responsibilities.

Moreover, as the Forestry Corporation is a state-owned entity, the transparency of its dealings is essential to ensure public trust and scrutiny over how natural resources are being extracted and managed. The requested information will also help foster informed public discourse on important matters such as land use, climate change, and biodiversity preservation.

While there may be certain commercial sensitivities in the agreement, these should not outweigh the broader public interest in understanding the full terms of government negotiations and their potential consequences for the environment and the community.”

I consider the disclosure of the information could inform the public about operations of agencies and could reasonably be of interest to the public in understanding the management of activities on public land. I consider the information could assist the public in understanding the operations of agencies and that disclosure of the information could reasonably be expected to promote open discussion of public affairs and enhance Government accountability.

I consider that strong public interest considerations in favour of release have been identified.

Public Interest against Disclosure

In the initial notice of decision in relation to this application, the following public interest considerations against disclosure were identified in relation to these documents:

- prejudice the effective exercise by Forestry Corporation of its functions (section 14 table 1f)
- reveal commercial-in-confidence provisions of ARDG’s contract with Forestry Corporation (section 14 table 4b)
- diminish the competitive commercial value of information to Forestry Corporation and ARDG (section 14 table 4c)
- prejudice Forestry Corporation and ARDG’s legitimate business, commercial, professional and financial interests by revealing both commercial and operative provisions of commercial agreements (section 14 table 4d)

These considerations against public interest are discussed in detail in the following section.

Balancing competing submissions about public interest

Pursuant to Section 13 of the GIPA Act, I am required to balance competing submissions about public interest.

Clause 1(f) of the table at section 14 states: There is a public interest consideration against disclosure if disclosure of the information could reasonably be expected to prejudice the effective exercise by an agency of the agency's functions.

Section 11 of the *Forestry Act 2012* sets out the principal functions of Forestry Corporation of NSW, which include to take or authorise the taking of forest materials from State forests or land owned by the Corporation.

In its review of Forestry Corporation’s decision the Information and Privacy Commission (IPC) was not satisfied that the decision to rely upon consideration 1(f) in relation to this document was justified. Having reviewed the document, I note that the document directly relates to the delivery of Forestry Corporation’s functions as well as its objectives under Section 10 of the *Forestry Act*. However having regard to the decision of the IPC I do not consider that this public interest consideration outweighs the public interest considerations in favour of release of these two documents.

Clause 4(b) of the table to section 14 of the GIPA Act provides:

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a government contract.

Clause 4(c) of the table to section 14 of the GIPA Act provides:

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to diminish the competitive commercial value of any information to any person.

Clause 4(d) of the table to section 14 of the GIPA Act provides:

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to prejudice any person's legitimate business, commercial, professional or financial interests.

The document contains commercial-in-confidence provisions as defined under the GIPA Act, including details of fees payable.

The commercial-in-confidence information is of competitive commercial value to both ARDG and Forestry Corporation. The release of information about fees payable could reasonably be expected to diminish the competitive commercial value of this information and prejudice the interests of the parties to the agreements. In the case of Forestry Corporation, the release of specific information about fees payable would reasonably be expected to set a benchmark that reduces the ability of Forestry Corporation to negotiate competitive rates when entering into different agreements with other private companies for similar forest resources having regard to the individual circumstances and terms of those arrangements. In the case of ARDG, the release of information about the rates payable would be sensitive information not normally revealed to competitors in a commercial market.

I note that the above considerations were previously endeavoured to be established in relation to the entirety of the documents. However, I consider that there is specific information within each document to which the above considerations have been clearly established, being any information that quantifies rates, payments or investment made by any parties.

Section 74 of the GIPA Act provides that an agency can delete information from a copy of a record to which access is to be provided in response to an access application (so as to provide access only to the other information that the record contains) either because the deleted information is not relevant to the information applied for or because (if the deleted information was applied for) the agency has decided to refuse to provide access to that information.

In applying the public interest test, I consider that the public interest considerations in favour of release outweigh those against release in general. However I accept that there are strong public interest considerations set out at 4b, 4c and 4d above against the release of specific commercial information outweigh the release of that information. I consider that a balance can be met by redacting the specific commercial information in the documents to allow for the remainder to be released.

Decision on All Documents

A decision on each document subject to this internal review is set out in Schedule 1.

Form of Access

Parties have **four weeks** from the date of this letter to apply for an internal review, and **eight weeks** to apply for an external review. This decision is reviewable under s. 80 of the *GIPA Act*.

Disclosure log

If information is released under a formal access application that would be of interest to other members of the public, an agency must record certain details about the application in its 'disclosure log' (under ss. 25 and 26 of the *GIPA Act*).

Please be advised that I have decided that this information could be of interest to other members of the public and certain details will be recorded in the disclosure log for Forestry Corporation of NSW. Those details to be included are;

- Date application was decided,
- Description and amount of information provided,
- Details of how this information can be accessed.

This decision is reviewable under s. 80 of the *GIPA Act*.

Your rights of review

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*. See the attached fact sheet for information on your review rights.

If you have any queries about this notice or require further information on your rights of review, please contact me on 9872 0105 or 0427 939 543



Joanna Bodley
Manager, Corporate Affairs

Schedule of Documents

Doc No.	Description of record	Format of Record Provided	Public interest(s) against disclosure	Document Released Yes / No / Partial
2.	Proposal to enter into deed of agreement	Digital	Section 14 Table 4b, 4c, 4d	Partial
3.	Proposal to enter into deed of agreement	Digital	Section 14 Table 4b, 4c, 4d	Partial