

ACCESS TO INFORMATION POLICY

POLICY ADMINISTRATION

Dates	Policy approved 18/05/2021 (Version 2) This policy is effective upon its approval. Policy is due for review May 2024.
Approved by	Executive Team 18/5/2021
Exhibition Period	Not applicable
Policy Owner	Manager Governance and Risk Management, Business and Corporate Services
Related Documents	Information Guide Informal Access Application Form Formal Access Application Form Privacy Management Plan Code of Conduct
References & Legislation	Government Information (Public Access) Act 2009 Government Information (Public Access) Regulation 2018 Local Government Act 1993 Local Government (General) Regulation 2005 Privacy and Personal Information Protection Act 1998 Privacy Code of Practice (Local Government) Health Records and Information Privacy Act 2002 Environmental Planning and Assessment Act, 1979 Copyright Act 1968 State Records Act 1998 Companion Animals Act 1998
Document Identifier	Policy #: Pol-038.02 Doc #: D17/161558
Breaches of Policy	Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.
Record Keeping	All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.

PURPOSE

The purpose of this policy is to outline Council's commitment towards public access to information, in accordance with the provisions of the *Government Information (Public Access) Act 2009* (GIPA Act) and *Government Information (Public Access) Regulation 2018*, and to facilitate the processing of requests for such access.

SCOPE

This policy applies to members of the public, Council staff and Councillors wishing to access Council information under the GIPA Act.

This policy should be read in conjunction with Council's Information Guide and Council's Privacy Management Plan and any supporting procedures and guidelines.

DEFINITION OF TERMS

Term	Meaning
Government Information	Information contained in a record held by Council.
Record	Any document or other source of information compiled, recorded or stored in written form or by electronic process or in any other manner or by any other means.
Formal Access Application	A valid application for access to government information under Part 4 of the GIPA Act. A formal access application must be accompanied by a \$30 fee along with meeting other requirements.
Open Access Information	Records containing government information which is required to be made publicly available. Part 3 of the GIPA Act prescribes what constitutes open access information. Schedule 1 of the GIPA Regulation contains additional open access information of Councils.
Disclosure Log	A register listing information that has been released under a formal application, and that Council determines may be of interest to the general public.
Contracts Register	A register of government contracts that records information about each government contract to which Council is a party that has a value of \$150,000 or more.
Information Guide	A document that provides information concerning the structure and functions of Council, public participation in decision making and promotes access to information available from Council.
Personal Information	Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (definition from <i>Privacy and Personal Information Protection Act 1998</i>).

POLICY STATEMENT

1. General Principles

- 1.1. Any member of the public has a legally enforceable right to make an application to Council for access to information that it holds.
- 1.2. There is a general presumption in favour of the disclosure of government information unless there is an overriding public interest against disclosure.
- 1.3. A person's right to access government information in NSW is regulated under the GIPA Act and Regulations, and also other legislation, such as the *Privacy and Personal Information Protection Act 1998* (PPIPA) and *Health Records and Information Privacy Act 2002* (HRIPA).
- 1.4. Council will assess all requests for access to information in a timely manner and in accordance with relevant legislation.
- 1.5. Council will apply fair and reasonable charges for access to information in accordance with relevant legislation and Council's Schedule of Fees and Charges.
- 1.6. Council is committed to the following principles in facilitating public access to information:
 - Openness and transparency
 - Consideration of the 'public interest' in the assessment of all requests
 - Proactive disclosure and dissemination of information
 - Respect for the privacy of individuals

2. Accessing Government Information

- 2.1. There are four ways to obtain access to information held by Council:

Mandatory Proactive Release (open access)

- 2.1.1. Under the law Council must release certain information unless there is an overriding public interest against doing so.
- 2.1.2. Council's website is the central reference point where members of the public can search for this information.
- 2.1.3. This type of information includes Council policies, meeting agendas and minutes, media releases, annual reports, register of government contracts and disclosures log of access applications.

Authorised proactive release

- 2.1.4. Council proactively releases information with a commitment to providing as much information as possible for free on Council's website, or in another appropriate manner and by the amount specified in Council's current [Adopted Fees and Charges](#).

Informal Access Applications

- 2.1.5. Information that is not available by mandatory or authorised proactive release may be provided through informal release, subject to any reasonable conditions that Council may wish to impose, including deleting matter that would otherwise result in there being an overriding public interest against disclosure.
- 2.1.6. Applications for informal release can be made in writing by completing an [Informal Access Application Form](#) which is available on Council's website. There is no application fee or processing charge incurred for informal applications.
- 2.1.7. Informal requests will be processed in a timely manner and as soon as practicable. Turnaround times will also depend on the volume of information sought and whether documents need to be retrieved from hard copy files.

Formal Access Applications

- 2.1.8. A formal access application may be required where the information requested is not available by proactive or authorised release or informal access, and the information sought:
- Is of a sensitive nature that requires careful consideration of the public interest test;
 - Contains confidential information;
 - Contains personal information of third parties who must be consulted;
 - Contains business information of third parties who must be consulted;
- or
- Would involve a significant diversion of Council resources
- 2.1.9. Formal access applications must be made in writing by completing a [Formal Access Application Form](#) which is available on Council's website. An application fee of \$30 must accompany lodgement of a formal application. Payment options are detailed on the application form.
- 2.1.10. Processing charges as outlined in Division 5 of the GIPA Act apply to formal access applications.
- 2.1.11. Formal access applications will be acknowledged and determined within the statutory periods prescribed by section 57 of the GIPA Act, which includes making a determination and notifying the applicant of the decision within 20 working days, unless the applicant agrees to extend the time. The decision period can be extended by up to 15 working days when mandatory consultation with a third party is required or if Council needs to retrieve records from archives.

3. Copyright Restrictions

3.1. Information held by Council is subject to the Copyright Act 1968. The Copyright Act does not permit materials covered by copyright (e.g. development application architectural plans or specialist reports) to be copied or published unless the owner of the copyright has given consent. Council may determine to make documents available for inspection, but without the written consent of the copyright owner, Council cannot provide electronic or hard copies of copyright materials.

4. Public Interest Test

4.1. Providing access to government information is restricted only when there is an overriding public interest against disclosure. Schedule 1 of the GIPA Act lists the conclusive considerations against disclosure. In addition, section 14 of the GIPA Act lists the discretionary considerations against disclosure.

5. Review of Decisions

5.1. Where an applicant is refused access to information by way of a formal application under the GIPA Act, Council will provide details of the reasons for refusal in writing. If the applicant is dissatisfied with Council's determination of their application they may seek to have the decision reviewed either by:

- Internal review - this is a review by a Council officer more senior than the original decision maker. Applicants have 20 working days from receiving notice of a decision to ask for a review, and a \$40 fee is payable by the applicant. Note: Internal review of a decision is not available if the decision has been made by the Principal Officer.
- External Review by the Information Commissioner - the applicant has 40 working days from receiving notice of a decision to ask for a review.
- External Review by NSW Civil Administration Tribunal – the applicant has 40 working days from receiving notice of a decision from Council to ask for a review, or 20 working days after the completion of a review by the Information Commissioner.

6. Third party Consultation

6.1. In accordance with section 54 of the GIPA Act, Council must consult with a third party where the information requested concerns that party's:

- Personal information;
- Business interests;
- Research that has been carried out; or
- The affairs of another state or the Commonwealth government

6.2. Consultation must take place if the information is such that the person may have reasonable concerns about disclosure and those concerns are relevant to the public interest test.

7. Councillor Access to information

7.1. Council's Code of Conduct outlines Councillors' right to access information.

7.2. The Code of Conduct states that Councillors must be provided with information sufficient to enable them to carry out their civic office functions.

7.3. Further, the Code states that Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights as any other person, and such requests for access to information by Councillors should be made in accordance with this Policy.

RESPONSIBILITIES

Position	Responsibility
<i>Director Business and Corporate Services</i>	<ul style="list-style-type: none">• Duties of the Public Officer, which includes assisting people to gain access to public documents held by Council (s343 LGA).
<i>Manager Governance and Risk Management</i>	<ul style="list-style-type: none">• Implementation, application and review of the Access to Information policy.
<i>Governance and Risk Specialist</i>	<ul style="list-style-type: none">• Processing and making decisions about formal information access applications.• Providing assistance to applicants with invalid applications.• Maintaining Council's disclosure log of access applications.• Assisting with the routine publication of open access information.• Maintaining and updating Council's Information Guide• Completing necessary GIPA reporting functions / obligations.
<i>Customer Service Staff</i>	<ul style="list-style-type: none">• Receiving incoming informal and formal applications.• Sending all incoming informal and formal applications received at the customer service counter to Information Management for registration and allocation.• Answering any enquiries regarding submitting of information applications.• Assisting applicants with locating open access information on Council's website.• Releasing information held by Council through mandatory or authorised proactive release.
<i>Information Management Staff</i>	<ul style="list-style-type: none">• Processing and making decisions / responding to informal requests for information.• Registering incoming informal and formal applications in CM9 and allocating to the relevant officer for processing / response.
<i>All staff</i>	<ul style="list-style-type: none">• Referring any informal or formal GIPA requests to Information Management for registration and allocation to the appropriate officer for response.• Searching for and providing requested information to Governance or Information Management in response to an informal or formal request for information, in a timely manner.

VERSION CONTROL AND CHANGE HISTORY

Version	Amendment Details	Policy Owner	Period Active
KCC	Former Kogarah Council Policy discontinued	Kogarah Governance	01/07/2014 – 23/10/2017
HCC	Former Hurstville Council Policy discontinued	Hurstville Governance	23/06/2010 – 23/10/2017
1.0	Complete new Georges River Council Access to Information Policy Council Resolution CCL221-17 (which included public exhibition period 10/08/17 – 6/09/17)	Manager Governance and Risk Management	23/10/2017 – 18/05/2021
2.0	Minor updates to terminology, position titles and responsibilities. Also, third party consultation requirements added to reflect existing requirements of the GIPA Act.	Manager Governance and Risk Management	18/05/2021 – ongoing