

**ITEM 4. ACCESS TO INFORMATION POLICY REVIEW**

**FILE NO: S093563.005**

**SUMMARY**

This report presents a minor update of the 2011 Access to Information Policy for approval. The City initiated a review of the Policy in June 2017 to ensure that it remains fit for purpose and aligns with the Government Information Public Access Act 2009 (GIPA Act) and City practice. Changes were proposed to various sections of the Policy to bring the document up to date and to enhance clarity. The updates provide alignment with the standard City policy template and consistency with messages in the recent information access eLearning content delivered to City staff.

Following the review the policy outcomes are unchanged. The revisions are, in brief:

- (a) sections of the original policy have been renamed, moved and expanded to align with the current City policy template;
- (b) the 'Scope' section was modified to clarify that the Policy applies to all staff, Councillors and contractors.
- (c) 'Context' information has been updated to align closely with statements in new e-learning training for staff about the value of the City's information, the public interest in that information, and the City's commitment to making it available where possible;
- (d) a principle has been added relating to the City's customer service goals;
- (e) the City's digital first approach to accessing information has been stated and technical information relating to State Records legislation has been summarised and simplified;
- (f) a paragraph has been added about the GIPA Act's proactive disclosure requirements and the City's active participation in that process;
- (g) changes have been made to align more accurately with current online services and digital processes;
- (h) the City's practice of dealing with requests informally wherever possible has been added;
- (i) the changed titles of the external review bodies have been updated, and the review periods have been aligned with amendments to the GIPA Act subsequent to the original policy.

The draft reviewed Policy was passed to the Independent Commission Against Corruption (the Commission) for comment, arising from a resolution of Council on 27 March 2017.

The Commission provided advice on the draft reviewed Policy in August 2017. The Commission concluded that *"As it now reads, the draft policy is thorough, requiring only limited comment and advice from the Commission."*

Their advice was to:

- (a) clarify that access is available to hardcopy information where access in digital form is not possible;
- (b) include a hyperlink from the Policy to the open access information page on the City's website, and to consider listing open access information categories unable to be published due to there being an overriding public interest against disclosure, and
- (c) expand the list of Laws and standards in the reference section of the Policy.

Changes were made to the draft reviewed Policy to address this advice.

The post-Commission updated version with all changes is at Attachment B. The current 2011 version with changes tracked is at Attachment C.

The Policy supports the City's aims of transparency and openness.

### **RECOMMENDATION**

It is resolved that Council endorse the revised Access to Information Policy, as shown at Attachment B to the subject report.

### **ATTACHMENTS**

**Attachment A:** Access to Information Policy adopted by Council on 14 February 2011

**Attachment B:** Draft Access to Information Policy - 2017 (clean copy)

**Attachment C:** Draft Access to Information Policy - 2017 (all changes tracked)

**BACKGROUND**

2. The City holds valuable and diverse information and there is strong public interest in the information it holds. Council's policy covering access to that information is delineated in the Access to Information Policy (the Policy), which was adopted by Council on 14 February 2011 (Attachment A).
3. The Access to Information Policy was introduced subsequent to the commencement of the Government Information (Public Access) Act 2009 (GIPA Act), which replaced the Freedom of Information Act 1989.
4. The Policy covers informal and formal methods of information disclosure, including those authorised by the Government Information (Public Access) Act 2009 (GIPA Act). Council is an agency under the GIPA Act.
5. The City initiated a review of the 2011 Policy in June 2017 to ensure that it remains fit for purpose and aligns with the GIPA Act and City practice. Following this internal review the policy outcomes are unchanged.
6. Minor changes to the current 2011 version were made to bring the document up to date and to enhance clarity. The updates provide alignment with the standard City policy template and consistency with messages in the recent information access eLearning content delivered to City staff. The resulting draft revised policy was submitted to the Independent Commission Against Corruption (the Commission) for further review, arising from a resolution of Council on 27 March 2017.
7. The revisions prior to submission to the Commission were, in brief:
  - (a) Sections of the original policy were renamed, moved or expanded to align with the current City policy template. For example:
    - (i) 'Purpose' now introduces the Policy
    - (ii) 'Background' becomes 'Context'
    - (iii) 'Procedures' heading removed and 'Proactive disclosure' was added to 'Open Access Information' heading
    - (iv) paragraphs were added explaining 'Responsibilities' and 'Consultation'
    - (v) 'Approval history' was added.
  - (b) The 'Scope' section was modified to clarify that the Policy applies to all staff, Councillors and contractors, as they have responsibility for managing information that may be the subject of requests for information and working within the principles and processes of the Policy.
  - (c) 'Context' information was updated to:
    - (i) remove outdated information about the commencement of the GIPA Act;
    - (ii) align closely with statements in new e-learning training for staff about the value of the City's information, the public interest in that information, and the City's commitment to making it available where possible.

- (d) the 'Principles' section was expanded by adding a principle relating to the City's customer service goals of timely, equitable and impartial processing of reasonable requests at the lowest reasonable cost;
  - (e) the 'Accessing information' section was updated to include a 'digital first' approach to provision of copies of information. Information relating to State Records legislation was summarised and simplified by removing technical information about access directions under that legislation, and explaining what process applies if information restricted under the State Records Act is requested under the GIPA Act. This change reflects an improved understanding of how the two Acts work together.
  - (f) in the 'Open Access Information and Proactive disclosure' section a paragraph was added about the GIPA Act's proactive disclosure of information requirements and the City's active participation in that process. The Policy now refers to each of the GIPA Act's four information disclosure pathways of formal access, informal access, open access and proactive disclosure.
  - (g) in the 'Informal Access to Information' section changes were made to align more accurately with current online services and digital processes.
  - (h) in the 'Formal Access to Information' section the City's practice of dealing with requests informally wherever possible was added.
  - (i) in the 'Review Rights' section the changed titles of the external review bodies were updated, and the review periods were aligned with amendments to the GIPA Act subsequent to the original policy.
8. The draft reviewed Policy was passed to the Commission for comment, arising from a resolution of Council on 27 March 2017.
9. The Commission provided advice on the Policy in August 2017. The Commission concurred with the City's internal review and suggested only minor additional changes, concluding that "*As it now reads, the draft policy is thorough, requiring only limited comment and advice from the Commission.*"

The Commission's suggestions were to:

- (a) clarify that access is available to hardcopy information where access in digital form is not possible.
- (b) include a hyperlink from the Policy to the open access information page on the City's website and to consider listing open access information categories unable to be published due to there being an overriding public interest against disclosure, and
- (c) expand the list of Laws and standards in the reference section of the Policy:

The draft Policy as submitted to the Commission has been amended as follows in response to the Commission's suggestions:

- (a) the 'Access to Information' section was expanded to state "Where copies cannot be made available in digital form, information may be available for viewing in the Town Hall House viewing room

- (b) a hyperlink to the open access information page on the City's website has been included in the Policy, and a listing as suggested will be placed on the open access page on the website after completion of a current review of its content;
  - (c) the 'References' section has been updated with the five suggested legislative references.
10. The post-Commission updated version of the draft Policy with all changes is at Attachment B. The current 2011 version of the Policy with changes tracked is at Attachment C.

## **KEY IMPLICATIONS**

### **Strategic Alignment - Sustainable Sydney 2030 Vision**

11. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This Policy is aligned with the following strategic direction and objective:
- (a) Direction 10 - Implementation through Effective Governance and Partnerships - Objective 10.5.2 - Action 2 of the City's Delivery Program 2017-2021 states: *Public access to information - Provide clear, accurate and accessible information about our operations, policies, projects and programs to the community.* The Policy sets out the principles by which the City intends to achieve this objective.

### **Organisational Impact**

12. The minor changes to the Policy do not impact present information access procedures.

### **Risks**

13. The adoption, publication and application of the revised policy will support transparency and consistency in the exercise of Council's information access functions and will consequently reduce risks arising from the exercise of those functions.

## **BUDGET IMPLICATIONS**

14. The implementation of this Policy will not require any additional resources.

## **RELEVANT LEGISLATION**

15. The policy relates to the following legislation:
- (a) Government Information (Public Access) Act 2009;
  - (b) Government Information (Public Access) Regulation 2009;
  - (c) State Records Act 1998;
  - (d) Privacy and Personal Information Protection Act 1998;
  - (e) Health Records and Information Privacy Act 2002;

- (f) Environmental Planning and Assessment Act 1979; and
- (g) Local Government Act 1993.

**OPTIONS**

- 16. As a portion of the Policy restates what is in the GIPA Act and includes some procedural content, there has been consideration over some time as to whether the Policy is, in fact, required. However, as a public-facing policy previously publicly exhibited and adopted by Council, a review and update was considered the preferred course of action.

**PUBLIC CONSULTATION**

- 17. Given the minor nature of changes to the current Policy, which was publicly exhibited, it is not considered that further public consultation is required.
- 18. The Independent Commission Against Corruption has reviewed the Policy.

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