

# **Attachment B**

**Access to Information Policy 2021 –  
with tracked changes**

# Access to Information Policy

## Purpose

The purpose of this policy is to describe the City of Sydney's principles regarding public access to information and the process of managing requests for such access.

## Scope

This policy applies to all staff, Councillors and contractors of the City of Sydney (City).

## Context

The City holds valuable and diverse information. Some information is recent and some extends back to Sydney's early development.

There is strong public interest in what the City does and the information it holds and the City is committed to making its information available to the community.

Good information is an asset for the City and the community and supports a robust democracy.

The City authorises the release of information under routine business arrangements. The City also authorises, or in some cases is required to, release information and under legislation such as the Environmental Planning & Assessment Act and the Government Information (Public Access) Act 2009 ('the GIPA Act'). The GIPA Act commenced in NSW in 2010. It replaced the Freedom of Information Act 1989. It gives all members of the public a legally enforceable right of access to information created, received and held by Government, including councils.

## Principles

The City of Sydney, in providing the public with access to information it holds, is guided by the following principles:

- open and transparent government
- a presumption in favour of disclosure unless there is an overriding public interest against disclosure
- a proactive approach to disclosure and dissemination of information
- timely, equitable and impartial processing of reasonable requests for information within relevant legislative and business frameworks, at the lowest reasonable cost
- respect for the privacy of individuals.

The majority of access requests have no associated costs. All charges that may be incurred are listed in the City's Schedule of Revenue Policy: Fees and Charges available on our website.

## Accessing Information

Any member of the public has a legal right to make application to the City for access to information that the City holds. The City also publishes a wide range of information on its

website and makes much information available to members of the public on request.

The City will provide copies of requested information in digital form wherever possible. Where copies cannot be made available in digital form, information may be available for viewing in the Town Hall House reading room.

Under Part 6 of the State Records Act 1998, the City is required to make Access Directions for all records over thirty years old (see Archives Collection Management Policy). Access directions are normally made for classes of records, not rather than individual records. Records that are open to public access under an access direction must be made available on request. The directions either allow full access after thirty years, or restrict access for further specified periods of time. Records that are closed under the State Records Act can still be requested under the GIPA Act. If access is refused under the GIPA Act—~~the GIPA Act~~, review rights, described below, apply.

## Open Access Information and Proactive Disclosure

The City must make its 'open access information' publicly available in accordance with the GIPA Act. Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation 2009 list the information that is 'open access information'.

The City's 'open access information' is made available to members of the public via the [Open access information](#) page on the City's website.

Proactive release supports the public's right to information and it demonstrates that the City is actively seeking ways to be transparent and accountable. In compliance with the GIPA Act the City seeks to identify information to disclose proactively and encourages staff to regularly assess whether the information created and collected in their business areas would be useful to publish proactively.

## Informal Access to Information

If a member of the public requests access to information that is not available on the City's website, they will be informed about how to make an informal information access ~~to information~~-request, either through the City's online services, by email or printable form.

~~The City of Sydney will allow access to information unless there is an overriding public interest against disclosure of the information.~~

There is no fee required for an informal information access request, but a scanning fee may be payable in accordance with the City's Schedule of Revenue Policy: Fees and Charges. Informal information access applications-requests will be processed as soon as practicable, generally within 10 working days.

Where necessary the City will seek to narrow the scope of large or complex requests.

Where the City refuses access to information in response to an informal information access request the person seeking access to the information will be informed of their right to make a formal access application under section 41 of the GIPA Act.

An applicant who is not given information in response to an Informal Access to Information Application will be informed of their right to make a Formal Access to Information Application under the GIPA Act.

## Formal Access to Information

Wherever possible the City will deal with access requests informally. However, if information cannot be accessed through an informal request, it may be necessary for a formal access application under section 41 of the GIPA Act to be lodged. It may also be necessary if:

- the information sought is of a sensitive nature such as described in the City's Sensitive and Security Classified Information Schema
- the processes required to locate the information sought are highly complex
- a large volume of information is sought
- providing access would involve an extensive search
- the information sought involves personal or business information about third parties who must be consulted before the information can be released.

Applications under section 41 (formal applications) must be in writing, and accompanied by a \$30 fee. Depending on the type and amount of information sought, processing charges, limited by the GIPA Act, may also be levied. The imposition of processing charges is regulated by the GIPA Act, depending on the type and amount of information sought.

A written acknowledgement of the receipt of an access formal application will be provided within 5 working days.

Formal requests Access applications will normally be processed within 20 working days. However, the decision period and may be extended by up to 15 working days where consultation with a third party is required or if records need to be retrieved. A request for an advance deposit may also extend the statutory time decision period.

The applicant will be notified of the decision in writing. Any decision to refuse access will include reasons for the decision. If charges are payable, access will be given to the information only when once the payment has been received.

## Review Rights for Section 41 (formal) Applications

### Review Rights

There are a number of review rights under the GIPA Act outlined in Part 5. If access to information

is refused as a result of an access application under section 41 of the GIPA Act, the applicant has to information, they have a number of options available under Part 5 of the GIPA Act, including seeking a review of the City's decision:

- seeking via an internal review by the City;
- seeking a review of the City's decision by the Information and Privacy Commission (IPC);
- seeking a review of the City's decision by the NSW Civil and Administrative Tribunal (NCAT).

Applications for internal review must be made within 20 working days of the notice of the

decision being given to the applicant and must be accompanied by ~~an Application for Internal Review and~~ a fee of \$40.00.

~~An internal~~The review will be undertaken by a senior officer who was not involved in making the original decision. ~~A~~The determination ~~from of~~ an internal review will be issued within 15 working days. This may be extended by up to 10 working days where there is a need to consult ~~with new third parties.~~

Alternatively, an applicant can apply ~~for review~~ directly to the ~~Information and Privacy Commission (IPC)~~ or ~~the~~ NCAT. Applicants have 40 working days from the date ~~of the~~ original decision ~~being was~~ given to them to ask for this review. If the applicant has already ~~had received~~ a review ~~decision from~~ by the IPC, they have 20 working days from the date that the decision was given to them to make an application to NCAT.

## Access to Information by How Councillors are to request access to information

Part 8 of the City's Code of Conduct addresses Councillors' general rights and responsibilities in relation to accessing Council information that is reasonably necessary for exercising their functions of their civic office, including roles which extend beyond decision making at formal meetings.

In furthering the principles explained in Part 8 of the Code of Conduct, this section sets out specifically how Councillors are to request access to such council information.

Councillors and their staff should direct all requests for information necessary for the exercise of the functions of their civic office to the Office of the Chief Executive Officer or relevant Director in writing using their official email address or letterhead.

Any such requests received by other business units should be transferred to the Office of the Chief Executive Office or relevant Director upon receipt.

When making a request for information, Councillors and their staff should ensure:

- draft their requests carefully clearly and preconcisely describetail the information they seek
- the size and scope of requests for, or the nature of the information , sought. It is expected that Councillors will act are within reasonable limits. y in making a request for information.

When dealing with a request by a Councillor for information, the Chief Executive Officer (CEO) or Director must act reasonably. Given that a Councillor may need the information to perform their public duty, if a request is to be denied, reasons for the refusal must be identified provided in writing.

Any information that is given to a particular Councillor in the pursuit of their civic duties should also be made available to any other Councillor who requests it.

The City's Code of Conduct states that "Councillors and administrators who have a private

~~interest only in council information have the same rights of access as any member of the public". Councillors and their staff should make it clear in each request whether the information sought relates to the functions of their position or only to a private interest. Councillors may request access to City information by providing a written request to the CEO or relevant Director.~~

~~Councillors may also apply for information by making a Formal Access to Information Application with payment of the associated fees and charges.~~

## Copyright

The intellectual property of a large amount of City information available for public access belongs to third parties and is the subject of copyright. Plans and reports submitted with development applications are an example. Access to this information is provided to members of the public in accordance with the GIPA Act and other relevant legislation, such as the Environmental Planning and Assessment Act 1979. Copyright laws apply to this information and applicants are advised to seek the consent of the copyright owner before reproducing the information in any way.

## Responsibilities

The CEO will delegate responsibilities to staff to determine applications under the GIPA Act, which is reflected in the City's ~~register of 'Delegations~~ [Register](#) ~~from the CEO to Directors and staff~~.

Staff, Councillors and contractors of the City of Sydney are responsible for upholding the principles and processes of this policy as required in their daily work.

The Information Access team provides services in support of this Policy.

## Consultation

~~This updated policy (2021) has been reviewed by Risk and Governance, Legal and the Office of the CEO.~~

~~The Access to Information Policy (adopted 14 February 2011) was placed on public exhibition from 1 December 2010 to 29 December 2010. No submissions were received. The revised policy has been reviewed by the Governance and Legal teams and by the ICAG.~~

## References

### Laws and Standards

- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2009
- State Records Act 1998
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993

**Laws and Standards**

**Policies, ~~and~~ procedures ~~and~~ guidelines**

- Access to Information web page
- Procedure - Access to Information Guideline for City Staff - October 2019
- Informal Access to Information Request – pdf and online forms
- Formal Access to Information Application – pdf and online forms
- Application for Internal Review – pdf and online forms
- Archives Collection Management Policy

**Review Period**

This policy will be reviewed every 4 years.

**Approval status**

The Chief Executive Officer / Council approved this policy on [DD MONTH YYYY].

The Council approved this policy on XXX.

Double-Click to insert Initials

Monica Barone, Chief Executive Officer

(To be completed by Office of CEO on approval or deleted if Council approved policy)

**Approval History**

Stage	Date	Comment	TRIM Reference
Original Policy	14 February 2011	Approved by Council	2010/267570
<u>Review</u> <del>ed</del>	Revision draft July 2017	Minor revisions to bring the document up to date and in line with current practice.	2017/277327
<u>Reviewed</u>	Revision draft October 2017	The revised policy was reviewed by ICAC in August 2017 and by Legal and Governance in September 2017 and recommended minor modifications have been incorporated.	2017/501626
<u>Next review</u> <u>Approval</u> <u>Due Date</u>	1 July 2021	<u>Minor revisions to bring the document up to date and in line with current practice, with focus on how councillors should make requests for information.</u>	<u>2021/221627</u>

Ownership and approval

Responsibility	Role
Author	Information Access <del>Team Leader</del> <u>Manager</u>
Owner	Manager Information <del>Management</del> <u>Services</u>
Endorser	City of Sydney Executive
Approver	City of Sydney Council