



CITY OF PARRAMATTA

ACCESS TO INFORMATION POLICY

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Scope

This policy applies to all members of the public wishing to access Council information, and includes Councillors and Council employees

Purpose

The purpose of this policy is to facilitate public access to Council information held in documents in accordance with the provisions of:

- *Government Information (Public Access) Act 2009 (GIPAA)*
- *Government Information (Public Access) Regulation 2009 (GIPAR)*
- *Privacy and Personal Information Protection Act 1998 (PPIPA)*
- *Health Records and Information Privacy Act 2002 (HRIPA)*

The 'City of Parramatta Council Information Guide' associated with this policy, specifies the documents and types of information that are available for public access and any restrictions that may apply.

Council will assess all requests for access to documents and information in a timely manner and in accordance with the relevant legislation.

Depending upon the nature of the request and the form of access requested, charges may be applicable in accordance with Council's Schedule of Fees and Charges and any relevant legislation.

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Policy

The GIPAA introduces the presumption in favour of the disclosure of government information, with Council and other government agencies encouraged to proactively release government information and to make information more accessible.

Council is committed to the following values regarding public access to documents and information:

- Open and transparent government
- Public access to information held by Council, having regard to the PPIPA, HRIPA and GIPAA
- Consideration of 'public interest' in the assessment of all requests
- Community focus and customer service
- Respect for the privacy of individuals
- Proactive disclosure and dissemination of information

Objectives of this Policy

This policy details the process for public access to information held by Council and the responsibilities of Council in providing access to such information.

This policy is to be read in conjunction with Councils 'Information Guide', which is updated at least annually and more regularly as new documents are made publicly available, Councils Access to Information FAQs and Council's Privacy Management Plan.

What Documents are freely available?

Council will actively promote disclosure and dissemination of information about its operations, plans and decisions and information that promotes community advancement. There are 4 ways to access government information; they are described as **mandatory, proactive, informal and formal release**. Council regularly releases information on matters of interest to the public and is committed to continually identify further opportunities to pro-actively release Council information to support our commitment to open and transparent government. These are on our website and are listed on our Access to Information Guide.

Members of the public may inspect, free of charge, the current version and the most recent previous version listed in Schedule 1 of the GIPAR – *Additional open access information – local authorities*.

Many other Council held documents are also accessible free of charge, including on our website. The exception are those documents that are covered by exemptions under Section 14 of the GIPAA, which may include the following:

- (a) where access to the information would, on balance, be contrary to the public interest

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- (b) any part of a document dealing with personnel matters concerning particular individuals (other than Councillors)
- (c) any part of a document that can reveal an individual's personal information
- (d) any part of a document that could diminish the competitive commercial value of any information
- (e) information which would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the Council, Councillors, Council staff or property
- (g) that part of a draft or adopted Plan of Management which applies to the location of places and items of Aboriginal significance and is the subject of a resolution of confidentiality
- (h) a matter the disclosure of which would constitute an offence against an Act or found an action for breach of confidence
- (i) plans and specifications contained in development applications for any residential parts of a proposed building, other than plans that merely show its height and its external configurations in relation to the site on which it is erected, except where the applicant is the owner or the owner's consent has been obtained to view the plans and specifications
- (j) commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret
- (k) information which would, if disclosed, confer a commercial advantage on a person with whom Council is conducting or proposes to conduct business
- (l) any part of a document that contains advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege

What Documents are not freely available?

For the purposes of this policy, Council has determined that it would be contrary to the public interest to allow access to the following categories of documents:

- (a) Name and address of a person who has made a complaint to Council regarding the activities of another person or organisation (in this case, only the nature of the complaint will be made available).
- (b) Tenders and expressions of interest lodged with Council except so much of the tender as is required to be made available under the Local Government (Tendering) Regulation 1993 ie. the name and amount of the successful tenderer and the names of the unsuccessful tenderers and register of government contracts that are established and maintained under Section 27 of the GIPAA.
- (c) Documents containing financial or commercial information regarding a person or organisation, including Council, the disclosure of which, in the opinion of Council's Public Officer, if released could have an unreasonable adverse effect on the person or organisation, may jeopardise Council's position in any future negotiations or could jeopardise Council's ability to obtain such information in the future.
- (e) The name and address of property owners and property sales information except where:

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- the property owner is the person requesting the information
 - an adjoining owner is requesting the information for fencing or other purposes allowed by statute
 - the information is contained on a public register which Council is required to maintain and make available for inspection in accordance with PPIPA
 - the information is provided in accordance with Section 603 of the Local Government Act 1993 (LGA) (rating information)
 - the information is given out in the course of processing an application before Council
 - the information is required by another government agency to carry out a legitimate function of that agency
 - the information is obtained by inspecting a Council document under this policy
- (f) Other documents, the release of which, in the opinion of Council's Public Officer, would, on balance, be contrary to the public interest or would cause an unreasonable diversion of Council resources.

None of the documents defined in this policy requires Council to retain documents for any period beyond that specified in GA39 General Retention and Disposal Authority: Local Government Records under the Local Government Act 1993.

How will Council protect Access to Information?

Information which is exempt, will be removed from the file prior to viewing. The applicant will be advised of the nature of the documents/information removed and the reason for removal. Where the whole document has been removed, the reason why release of the document is not considered to be in the public interest will be provided.

What Documents will not be copied

Copies of documents are available on request for a fee, except for the following documents, which cannot be copied:

- residential roll of electors
- resumes of candidates for election
- plans of buildings and developments, unless the approval of the copyright owner has been obtained, or where the plans of a proposed building show only its height and external configuration in relation to the site
- bulk property information such as development consent registers, sales registers etc unless the information is required by a government agency for statistical or other purposes consistent with the legitimate functions of that agency

Documents defined in this policy eg. complaints, tenders and legal advice, which are more than 15 years old may be released at the discretion of the Right to Information Officer.

Handling of Personal Information

Where Council invites or requests any person or organisation to provide information to Council including applications, submissions, comments or objections, the person or organisation must be advised of the existence of this policy, the purpose for which the information is being collected by Council and the possibility that the information they provide to Council may be made available to a third party, subject to the public interest.

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Applicants may not alter documents in any way. However, an applicant may request that a document containing their personal information be altered in accordance with Section 15 of the PPIPA or Division 4 of the HRIPA.

In addition to the exemptions contained within Section 14 of the GIPAA, Council has determined that it is not in the public interest to supply the personal information of complainants (as defined under Council's Privacy Management Plan), however, the subject of the complaint will be released unless such release would breach Section 14 of the GIPAA subject to:

- (a) this exemption relates to 'complainants' only and does not cover submissions to development applications
- (b) this is intended to protect the identity of complainants but allow access to the nature of the complaint. Where release of the nature of the complaint may also provide information, which would be protected under the PPIPA, the details of the complaint will not be released.

Applications for access to personal information in accordance with Sections 14 and 15 of the PPIPA, shall be dealt with as applications under this policy.

Refusal of Applications

Applications for access to Council held information will generally be limited to 2 applications per matter in any 6 month period. The Right to Information Officer has the right to refuse access to information, should the quantity of applications exceed the quantity specified or no new information has been received and placed on the file since the previous application. Any rejection of subsequent applications in the period may be subject of an appeal to the Interim General Manager.

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests or performing other Council functions, may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavour to assist in defining the request to a more manageable one.

The refusal of access to a record in accordance with informal access under the GIPAA does not prevent the applicant from applying for formal access to the record under the GIPAA.

Fees and Charges

The Council is likely to require a formal request to be made for information in cases where it is required to consult with third parties prior to release, or where the request is likely to require significant Council resources or time to prepare a response. In such cases a fee may be charged to cover the costs of processing the request in accordance with Council's Schedule of fees and charges.

If it is proposed to charge a fee, other than an application fee, the Council will provide a quote for the likely fees and may require an advance deposit prior to processing the application under the provisions of Division 5 of the GIPAA.

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Definitions

Record has the meaning given to that term in GIPA being:

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.

Documents in the context of this policy refer to any information held on an official Council file or database, as well as informal files or databases maintained by Council Officers or Councillors.

Personal information has the meaning given to that term in PPIPA being:

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

Personal information does not "include information about an individual that is contained in a publicly available publication". Personal information, once it is contained in a publicly available publication, ceases to be covered by PPIPA.

Health Information has the meaning given to that term in HRIPA being:

- (a) *information that is information or an opinion about:*
- (i) *the physical or mental health or a disability (at any time) of an individual, or*
 - (ii) *an individual's express wishes about the future provision of health services to him or her, or*
 - (iii) *a health service provided, or to be provided, to an individual, or*
 - (b) *other personal information collected to provide, or in providing, a health service, or*
 - (c) *other personal information about an individual collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances, or*
 - (d) *other personal information that is genetic information about an individual arising from a health service provided to the individual in a form that is or could be predictive of the health (at any time) of the individual or of a genetic relative of the individual, or*
 - (e) *healthcare identifiers*

Associated documents

Government Information (Public Access) Act 2009
City of Parramatta Council Information Guide
Privacy Management Plan

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Legislation and References

Anti-Discrimination Act 1977
Copyright Act 1968
Environmental Planning and Assessment Act 1979
Government Information (Public Access) Act 2009 (GIPAA)
Government Information (Public Access) Regulation 2009 (GIPAR)
Health Records and Information Privacy Act 2002 (HRIPA)
Local Government Act 1993
Privacy and Personal Information Protection Act 1998 (PPIPA)
Privacy and Personal Information Protection Regulation 2000
Protected Disclosures Act 1994
State Records Act 1998
Workplace Surveillance Act 2005

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