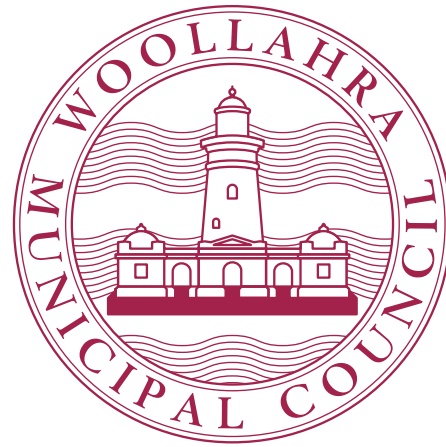




Annual Report 2010/2011
Part 8— Government Information (Public Access) Act Annual Report



Woollahra Municipal Council
Government Information (Public Access) Act
Annual Report 2010/2011

Background

The Government Information (Public Access) Act 2009 (GIPA Act) commenced on 1 July 2010 and introduced a new "Right to Information" regime to NSW. The GIPA Act replaced the Freedom of Information Act and the other main legislative provision for access to Council information, which was section 12 of the Local Government Act. The GIPA Act is supported by the Government Information (Public Access) Regulation 2009 (GIPA Regulation).

The new regime is designed to maintain and advance a system of responsible and representative democratic government that is open, accountable, fair and effective. The GIPA Act provides for disclosure of information through the following processes:

1. mandatory proactive release of "open access information" free of charge on Council's website, (unless to do so would impose unreasonable additional costs on Council),
2. authorised proactive release of information (unless there is an overriding public interest against disclosure of the information),
3. informal release of information (unless there is an overriding public interest against disclosure of the information),
4. formal access applications (unless there is an overriding public interest against disclosure of the information).

Note: Section 18 of the GIPA Act and Schedule 1 of the GIPA Regulation defines what constitutes "open access information".

Council is required to prepare an annual report in accordance with the requirements of section 125 of the GIPA Act and clause 7 of the GIPA Regulation. The annual report is also required to include statistical information on formal access applications in the form required by Schedule 2 of the GIPA Regulation.

This report is Council's GIPA Act Annual Report for the period 1 July 2010 to 30 June 2011.

Report

Details of the review carried out by Council under section 7(3) of the GIPA Act during the reporting year and the details of any information made publicly available by Council as a result of the review. (clause 7(a) GIPA Regulation)

In preparation for the new "Right to Information" regime Council staff undertook a complete review of the new Act's access requirements and compared those requirements to the Council's long established practice of openness and accountability in terms of providing access to the community to Council information.

The review resulted in the following key findings:

- although all of the “open access information” was freely available from Council, due to insufficient technological capability it was not possible to provide all of that information on Council’s website,
- the majority of Council’s policy documents were available from Council’s website however it was identified that it was not as easy as it could be for a member of the public to find those policy documents on the website,
- access to Council’s web based documents was, in most cases, limited to the current version of those records whereas the GIPA Act and GIPA Regulation required Council to provide access for some categories of “open assess information” to the current version and the most recent previous version of the record and for other categories of “open access information” access to the record whenever created,
- access to the “open access information” that was not on Council’s website, whether it be for the current version, previous version or all versions of the record whenever created, was facilitated through written application to Council.

As a result of the new legislation and the review of Council’s practices the following actions were undertaken to ensure that Council fulfils its obligations to the community under the new “Right to Information” regime, the GIPA Act and GIPA Regulation:

- Council’s Access to Information Policy and accompanying Procedures were rewritten in the terms of the GIPA Act and GIPA Regulation requirements,
- all staff were advised of the new legislative requirements and invited to discuss access requests with Council’s Governance Department staff,
- Customer Service staff, Management and targeted other staff were given briefings on the new legislative requirements,
- Governance Department’s staff responsible for implementation of the GIPA Act attended external training courses,
- a new “Access to Council Information” web page was created,
- one revised access application form was created for informal requests and formal access applications,
- Council identified a number of corporate, as distinct from policy, records that could be proactively made available to the public and these corporate records were added to Council’s web page,
- a “Plans, Policies and Reports” page was created on Council’s website which provided an easy access point to all of Council’s corporate/policy documents,
- Policy documents not previously available on Council’s web page were added to the web page,
- where required, previous versions of open access information records were added to Council’s web page,
- new GIPA statutory publications, such as the Publication Guide and Register of Council Contracts were created and made available on Council’s website,

Council will make available as much “open access information” and other records that it considers of interest to the public, subject to the public interest considerations for a particular record, under the authorised proactive release provisions of the GIPA Act on the Council website

as its technology platform will permit. For access to information that is not available on Council's website the Council will maintain the same openness regime through the informal release and formal access application provisions of the GIPA Act

The total number of access applications received by Council during the reporting year (including withdrawn applications but not including invalid applications). (clause 7(b) GIPA Regulation)

Council received 33 access applications during the reporting year 1 July 2010 to 30 June 2011.

The total number of access applications received by Council during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 of the GIPA Act (information for which there is a conclusive presumption of overriding public interest against disclosure) (clause 7(c) GIPA Regulation)

Council refused one (1) access application on the grounds of legal professional privilege during the reporting year 1 July 2010 to 30 June 2011.

Information, as set out in the form required by the tables in Schedule 2 of the GIPR Regulation, relating to the access applications made to Council during the reporting year. (clause 7(d) GIPA Regulation)

This information is shown in the following Tables A – H.

Government Information (Public Access) Act 2009

Statistical information about access applications to be included in annual report

Table A Number of applications by type of applicant and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	8	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	1	4	0	0	0	0	0	0
Members of the public (other)	3	17	0	0	0	0	0	0
Total	4	29	0	0	0	0	0	0

* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision.

Table B Number of applications by type of application and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications**	1	0	0	0	0	0	0	0
Access applications (other than personal information applications)	3	29	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0
Total	4	29	0	0	0	0	0	0

- * More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision.
- ** A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual)

Table C Invalid applications

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Table D Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	1
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0
Total all considerations	1

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such application is to be recorded (but only once per application).

Table E Other public interest considerations against disclosure: matters listed in table to section 14 of Act.

	Number of occasions when application not successful*
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	29
Business interests of agencies and other persons	0
Environmental, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0
Total all considerations	29

* More than one public interest consideration may apply in relation to a particular access application and, if so, each such application is to be recorded (but only once per application).

* The 29 occasions identified above relate to applications for access to development applications for residential properties by a third party not representing the owner of the property. Council refused access to internal floor plans and the list of private addresses of other parties that Council had notified of the development application during the DA public notification period. All other information relating to the development applications were released to the access applicants.

Table F Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	33
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
Total	33

Table G Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	0	0
Total	0	0	0

- The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0
Total	0