

CUSTOMER & COMPLIANCE

2022-23 Information Guide

This guide is published in accordance with the requirements of the Government Information (Public Access) Act 2009

01 July 2022

Council's Access to Information Officer can be contacted on (02) 9093 6748

Council's office hours are Monday to Friday 8:30am to 5:00pm (excluding public holidays)

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Preface

This Information Guide is produced in accordance with the requirements of the Government Information (Public Access) Act 2009. The purpose of this document is to provide members of the public with information concerning:

- structure and functions of Randwick City Council;
- ways in which the functions of Randwick City Council, including the decision-making functions, affect members of the public;
- specific arrangements in place to enable members of the public to participate in the formulation of Council policy and the exercise of Council functions;
- kinds of government information held by Randwick City Council;
- kinds of government information held by Randwick City Council that we make publicly available;
- the manner in which Council makes or will make government information publicly available; and
- kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.
- Ways in which members of the public may access records relating to their personal affairs to ensure they are not incomplete, incorrect, out of date or misleading.

1. Introduction

Under the *Government Information (Public Access) Act 2009* (GIPA Act) there is an underlying rationale to encourage greater accessibility to government information for members of the public. Council's objective is to comply with the GIPA Act by providing an open and transparent process for public access to Council information and to encourage the proactive release of Council information. There is a right of access under the GIPA Act to certain documents held by Council unless there is an overriding public interest against disclosure.

This Information Guide applies to all Council information. Government information is information in a record held by an agency, on behalf of an agency by a government contractor, or by the State Records Authority. A record can mean any document or source of information that is compiled, recorded or stored in printed or electronic form.

Where appropriate we have provided links to documents, reports, data and other information throughout this Information Guide.

2. About Randwick City Council

2.1. About us

Randwick was constituted under the Local Government Act on 22 February 1859 and is the oldest Municipality in New South Wales. Randwick celebrated its 150 year anniversary in 2009. On 1 July 1990, the former Municipality became the City of Randwick.

Located in the Eastern Suburbs of the Sydney Metropolitan Area, Randwick City Council has approximately 140,000 residents and covers an area of 36.55km². The City encompasses the suburbs of Clovelly, Randwick, Kensington, Kingsford, Coogee, South Coogee, Maroubra, Matraville, Chifley, Malabar, Little Bay, Phillip Bay and La Perouse.

The *Local Government Act 1993* details a set of principles that provide guidance to enable Councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous. The guiding principles are as follows:

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Randwick City Council actively engages with its local community, through the use of the integrated planning and reporting framework and other measures. See Part 4 of this Guide for further details in relation to ‘How we engage with the public and our stakeholders’.

2.2. Our functions

Under the *Local Government Act 1993*, Council's functions can be grouped into the following categories:

Service functions	Regulatory functions	Ancillary functions	Revenue functions	Administration functions	Enforcement functions
Include: Provision of community health, recreation, education & information services Environmental protection Waste removal & disposal Land & property, industry & tourism development & assistance Civil Infrastructure Planning	Include: Approvals Orders Building Certificates	Include: Resumption of land Powers of entry and inspection	Include: Rates Charges Fees Borrowings Investments	Include: Employment of staff Management plans Financial reporting Annual reports	Include: Proceedings for breaches of the Local Government Act & Regulations and other Acts & Regulations Prosecution of offences Recovery of rates & charges

Service functions	Regulatory functions	Ancillary functions	Revenue functions	Administration functions	Enforcement functions
Civil Infrastructure Maintenance & Construction					

As well as the *Local Government Act 1993*, Council has powers under a number of other Acts including, but not necessarily limited to:

Companion Animals Act 1998
 Contaminated Land Management Act 1997
 Environmental Planning and Assessment Act 1979
 Food Act 2003
 Government Information (Public Access) Act 2009
 Heritage Act 1977
 Impounding Act 1993
 Library Act 1939
 Noxious Weeds Act 1993
 Privacy & Personal Information Protection Act 1998
 Protection of the Environment Operations Act 1997
 Public Health Act 2010
 Roads Act 1993
 Rural Fires Act 1997
 State Emergency & Rescue Management Act 1989
 Strata Schemes Management Act 1996
 Swimming Pools Act 1992

Delegation of functions

Randwick City Council has, by resolution, delegated to the General Manager many of its functions. These are detailed in our [Delegations Register](#).

The General Manager has further delegated many of those functions to Council employees. Staff delegations can be found in our '[Delegations Register](#)' (which is available on our website).

The following functions of the Council are not able to be delegated and the Council itself must deal with these matters:

- (a) the appointment of a general manager,
- (b) the making of a rate,
- (c) a determination under section 549 as to the levying of a rate,
- (d) the making of a charge,
- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on its works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) the adoption of an operational plan under section 405,
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,

- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*,
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

3. Organisation structure

3.1. Mayor and Councillors

The *Local Government Act 1993* provides that the electors of the area shall elect Councillors to represent them on their local Council. In Randwick's case fifteen (15) Councillors are elected.

The Councillors, from within their number, elect, biennially, a Mayor and Deputy Mayor and appoint members to various Committees which deal with a variety of matters.

The Councillors have the function of determining the policies of Randwick City Council. In determining those policies, the Councillors must, as far as practicable, ensure that the activities of Council are carried out properly and efficiently and in accordance with the provisions of the *Local Government Act 1993* and other Legislation under which the Council has obligations.

The Mayor presides at meetings of the Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body politic, between its meetings, and performs any other functions that the Council determines.

3.2. Staff

The Principal Officer of the Council is the General Manager. The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council decisions.

The General Manager is also responsible for the day-to-day management of the Council, the exercise of any functions delegated by the Council, the appointment, direction and where necessary, the dismissal of staff, as well as the implementation of Council's Equal Employment Opportunity Management Plan. To assist the General Manager in the exercise of these functions, there are three (3) Directors.

The organisation structure under which Randwick City Council operates is set out below:



3.3. Our locations

We are located at 30 Frances Street, Randwick NSW 2031. Our office hours are 8.30am to 5pm, Monday to Friday (excluding public holidays).

3.4. Our contact details

For further information about us, you can contact the Council on the details below:

- Post:** Randwick City Council
30 Frances Street, RANDWICK NSW 2031
- Email:** council@randwick.nsw.gov.au
- Website:** www.randwick.nsw.gov.au
- Telephone:** Council's Call Centre can be contacted from 8.30am to 5pm, Monday to Friday (excluding public holidays) on **(02) 9093 6000 or 1300 722 542.**

4. How we engage with the public and our stakeholders

4.1. How our functions affect the public

As a service organisation, the majority of the activities of Council have an impact on the public. The following is an outline of how the broad functions of Council affect the public.

Service functions

Council provides a variety of services and facilities to the public. These include the provision of libraries and childcare services, halls and community centres, recreation facilities, sports fields, parks, local infrastructure, tree maintenance and the removal of garbage.

Regulatory functions

Regulatory functions place restrictions on developments and buildings to ensure that they meet certain requirements, affecting the amenity of the community, and do not endanger the lives and safety of any person. Members of the public must be aware of, and comply with, such regulations.

Ancillary functions

Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land.

Revenue functions

Revenue functions affect the public directly in that revenue from rates and other charges paid by the public are used to fund services and facilities provided to the community.

Administrative functions

Administrative functions do not necessarily affect the public directly but have an indirect impact on the community through the efficiency and effectiveness of Council services.

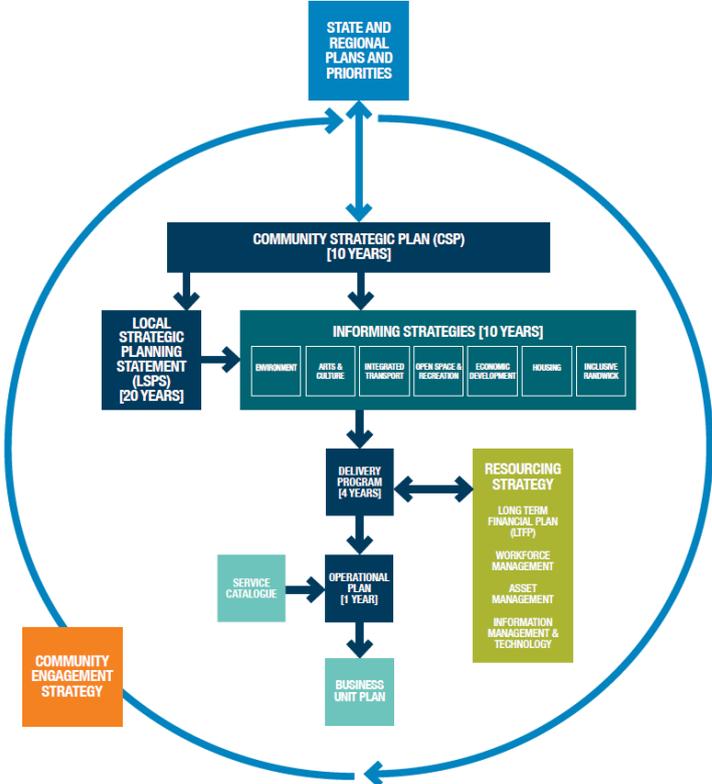
Enforcement functions

Enforcement functions affect those members of the public who are in breach of certain legislation. This includes matters such as the non-payment of rates and charges, unregistered dogs, parking offences, building and development compliance matters and other regulatory offences. These functions also help to ensure access to parking, safety and community amenity standards are upheld.

Integrated planning & reporting functions

Council's Integrated Planning and Reporting Framework comprises the Strategic Plan; combined Delivery Program and Operational Plan; and Budget which are all supported by the Resourcing Strategy. Our Integrated planning & reporting functions have a major effect on the community as these documents set Council's direction for the future and provide for the needs of our community into the future.

Our Integrated Planning and Reporting Framework is represented diagrammatically below:



4.2. Public participation

Council is committed to promoting public participation and engaging with our community. This includes informing and consulting on matters that affect the community, using active processes to involve the community and obtain their feedback and building relationships so that the community is connected to Council's decision making processes. Engagement, in this context, relates particularly to the two way relationship where Council and the community exchange information and feedback on projects, policies, issues, proposals or plans.

Our consultation approach is directed by our [Community Participation Plan](#). The aim of this plan is to:

- Outline when the community will be consulted and what the community can expect from consultations with Council
- Ensure that Council meets its legislative requirements regarding community consultation in service planning and delivery
- Set the policy context for the development of plans, guidelines and strategies for consultation and engagement projects, ensuring consistency in approach and appropriate use of relevant methodologies
- Create a platform for constructive dialogue between Council and all sections of the community
- Help Council make better decisions by using the community's collective knowledge.

4.3. Our channels of engagement

There are two broad ways in which the public can participate in the policy development and the general activities of the Council, either through representation and personal participation.

i) Representation

Local Government in Australia is based on the principle of representative democracy. This means that the people elect representatives to their local Council to make decisions on their behalf. In NSW, local government elections are held every four years. The last election for Randwick City Councillors was held in September 2012. The September 2016 election was been postponed as Randwick City Council is subject to a merger proposal by the State Government. The merger proposal is, however, subject to a lengthy and ongoing legal challenge and, as such, the State Government has determined that an election of Randwick City Council Councillors will be held in September 2017.

At each election, voters elect 15 Councillors for a four year term. All residents of the area who are on the electoral roll are eligible to vote. Voting is compulsory. Property owners who live outside the Council area and rate paying lessees can also vote, but must register their intention to vote on the non-residential roll.

Residents are able to raise issues with, and make representations to, the elected Councillors. The Councillors, if they agree with the issue or representation, may pursue the matter on the resident's behalf thus allowing members of the public to influence the development of policy.

Randwick City Council is represented, through Councillors or members of its staff, on a wide range of internal and external committees and regional organisations. With a view to keeping in touch with trends within the City area and in the industry generally, the Council is also a member of local business orientated organisations including Randwick City Tourism Inc, the Randwick Chamber of Commerce and the Eastern Suburbs Business Enterprise Centre, etc.

Members of the public are encouraged to discuss local community concerns with their elected representatives (or Councillors). The contact details for our Councillors are available on Council's website (use this link to access the [Councillors' details](#) page on our website).

ii) Personal Participation

There are multiple avenues for the public to engage with and/or interact with Council:

- Council website (www.randwick.nsw.gov.au)
- Council's smart phone App (MyRandwick)
- Your Say website (<http://yoursayrandwick.nsw.gov.au>)
- Social media – Facebook, Twitter, Instagram, Youtube and Pinterest

- Telephone surveys
- Panel discussions and community workshops
- Council and Council Committee meetings
- Community committees and advisory bodies
- Precinct Committees
- Public exhibition of proposed policies, plans and projects.

Council meetings

Council meetings are public meetings and members of the public are welcome to attend. [Business papers and minutes](#) of the meetings are published on our website and are available at our Customer Service Centres and Libraries. Members of the public are able to address Council meetings in relation to matters that are listed on the agenda.

Community Committees and advisory bodies

There are also avenues for members of the public to personally participate in policy development and other functions of the Council. Several Council Committees comprise or include members of the public. Some of these advisory committees or bodies are:

Access Committee
 Community Safety Committee
 Traffic Committee
 Local Precinct Committees
 Randwick Older Persons Advisory Committee
 Randwick Youth Committee
 Randwick Aboriginal Consultative Committee
 Cultural Advisory Committee
 Sports Committee
 Road Safety Steering Committee

Public exhibition of proposed policies, plans and projects

Council consults with its residents in relation to policy and other matters throughout the year. Policies that have an impact on the public and other matters of importance to the community (such as our Operational Plan and Budget, Light Rail and other major capital works projects) are exhibited for public comment prior to Council decisions. For information in relation to matters that are currently on public exhibition see the 'current consultations' page of our website or the 'Your Say' Randwick City website.

Public exhibitions are a key avenue for members of the community to participate in Council's decision making processes. Council acknowledges members of the community's right to advocate for what they want/need to ensure that Council makes sustainable and improved decisions.

Precinct meetings

In addition, residents and property owners can make a contribution to Council's decision making through their local precinct meetings. Council provides precinct meetings with details about proposed projects and plans and welcomes comments. Precinct meetings are also one way for local residents to raise community concerns with Council.

Precincts are convened by residents and supported by Council. Any resident or property owner can attend a precinct meeting in their area and take part in discussions, and vote on resolutions (use this link for further details in relation to Council's [Precincts](#)).

Data NSW

[Data NSW](#) brings together a list of NSW Government datasets available in one searchable website. The aim of Data NSW is to make data more accessible to the public and to industry in order to stimulate innovative approaches to service delivery.

Randwick City Council is committed to Open Data and transparency in government and supports the NSW Government's [Open Data Policy](#) (2016). Some Randwick City Council information, including Flood Studies, is available on the Data NSW website.

4.4. Feedback and complaints about us

We welcome input and feedback from the public regarding our services and publications. We receive a range of diverse correspondence and complaints through a variety of channels including our website, emails, letters, phone calls and social media. Members of the public are encouraged to provide feedback on our services and publications. This feedback is important to us and assists us to inform our policies and publications and improve our services.

We are committed to responding to feedback and complaints in accordance with our [Complaints Management Policy and Procedure](#). All feedback and complaints are dealt with confidentially and personal information is managed in accordance with our [Privacy Management Plan](#).

5. Information we hold

Council holds a range of information in various formats that relate to a number of different issues concerning the Council area, including, but not limited to:

- Policy documents and codes of practice
- Annual Report and Financial Reports
- Strategic, Management and Operational Plans
- Workforce Plan and other resourcing plans
- Business Papers and Minutes for Council meetings
- Various registers (including Land Register, Register of Investments, Register of Delegations, Register of Graffiti removal works, Register of current Declarations of Disclosures of Political donations, Register of Voting on Planning Matters)
- Land use planning documents (including Environmental Planning Instruments; Development Control Plans and Contribution Plans)
- Development applications and any associated documents
- Personal information held in our property and rating database and related to property matters, including investigations
- Applications for, and records of, approvals
- Information in relation to Council land
- General correspondence, customer requests

This information may be available on Council's website or via an informal or formal access application. Council will seek to ensure that legitimate requests for access to information are handled promptly and that members of the public are able to access information, subject to the public interest and, in some cases, other related legislation may also be considered, such as; the Privacy and Personal Information Protection Act and the Copyright Act (Cth).

This Information Guide sets out the documents and types of information that are available to members of the public as a matter of routine, and those that will not generally be available. Where information is not available on our website, we will deal with requests for information/documents, informally via our [Informal Request for Information](#), wherever possible. In some circumstances a [Formal Access Application](#) may be required (see details below). Both of these forms are online forms.

If a determination is made to refuse access to information Council will explain how it has reached that determination based on the public interest considerations contained in the GIPA Act.

Council may also provide access to information under other legislation. Under the *NSW Privacy and Personal Information Protection Act 1998* (PPIPA) and the *NSW Health Records and Information Privacy Act 2002* (HRIPA) an individual has a right to access records held by Council which contain their personal details, matters related to their business affairs and any records containing information about their health. Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the GIPA Act (ie. Formal Access Application), which provides for consultation with other affected parties prior to disclosure of information concerning personal or business affairs. Under the *State Records Act 1998* Council is required to give an access direction (as to whether records are open or closed) for all of its records that are at least thirty (30) years old in what is described as the "open access period".

Section 4 of the PPIPA Act defines 'personal information' as:

“Information or an opinion (including information or an opinion forming part of a database and whether or not in a recorded form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion”.

Personal information is information that identifies you. Personal information could be:

- a record which may include your name, address and other details about you
- photographs, images, video or audio footage
- finger-prints, blood or DNA samples.

There are some exemptions from the definition of personal information, for example the definition doesn't include personal information about a person who has been dead for more than 30 years.

6. How to access our information

6.1. Open Access information

Pursuant to Schedule 1 of the GIPA Regulation 2009, all of Council's 'Open Access' Information is required to be available to the public via its website (unless there is an unreasonable additional cost to Council to publish these documents on the website) and at the offices of the Council during ordinary office hours. In respect of some information, there may be an overriding public interest against publishing it on the website. Where this is the case, the information will be available for inspection at Council offices only. Any current (and the immediately preceding version of) documents of this type may be inspected by the public free of charge. Copies can be supplied electronically (where practicable) or by hardcopy, subject to reasonable charges (as detailed in our Schedule of Fees and Charges).

Visit the [Open Access Information](#) page on our website to access any of the following information:

- documents (if any) tabled in Parliament on behalf of Council (will be available on Council's website if and when any documents are tabled in parliament on behalf of Council)
- Council's policy documents
- Council's GIPA Disclosure Log
- Council's register of government contracts
- A record of open access information that is not made available to the public on the basis of an overriding public interest against disclosure.

1. Information about Council

- Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- Workforce Plan
- Policy concerning the Payment of Expenses Incurred by, and the Provision of Facilities to, Councillors and/or the Administrator
- Annual Reports of Bodies Exercising Functions Delegated by Council
- Returns of the Interests of Councillors, Designated Persons and Delegates (only available for viewing at Council's Customer Service Centres – in accordance with 'GIPA Act guidelines 1: local councils')
- Agendas/Business Papers and Minutes for Council meetings
- Departmental Representative Reports presented at a meeting of Council
- Land Register
- Register of Investments
- Register of Delegations
- Register of Graffiti removal works
- Register of current Declarations of Disclosures of Political donations
- Register of Voting on Planning Matters

2. Plans and Policies and Codes

- Local Policies adopted by Council concerning approvals and orders
- Plans of Management for Community Land

- Environmental Planning Instruments, Development Control Plans and Contribution Plans
- Other Council policies

3. Information about development applications

Development Applications and any associated documents received in relations to a proposed development, including:

- Applications forms
- Environmental Impact Statements
- Plans
- Determination notices
- Assessment reports
- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications
- Consultant Reports (such as Heritage, Traffic and Acoustic Reports) subject to copyright considerations
- Records of decisions on Development Applications including decisions on appeals
- Records describing general nature of documents that Council decides to exclude from public view including commercially sensitive information

4. Approvals, Orders and other documents

Applications for approvals under part 7 of the LGA, including:

- Applications for approvals under any other Act and any associated documents received
- Records of approvals granted or refused, any variation from Council Policies with reasons for the variation, and decisions made on appeals concerning approvals
- Orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA
- Orders given under the Authority of any other Act
- Records of Building Certificates under the Environmental Planning and Assessment Act 1979
- Plans of land proposed to be compulsorily acquired by Council
- Compulsory Acquisition Notices
- Leases and Licenses for use of Public Land classified as Community Land, excluding any commercially sensitive information
- Records describing general nature of documents that Council decides to exclude from public view including commercially sensitive information

6.2. Proactive release of information

Council will undertake the following in annually reviewing its Proactive Release Program:

- Identify and review accessibility of information repeatedly asked for, both formally and informally (and include this information in monthly GIPA statistical reports)
- Consider, throughout the year, those initiatives, developments or projects relevant to Council that it wants the public to know about
- Identify and consider for release, information Council has produced or acquired since the last review
- Review Council's disclosure log to identify patterns or themes in the type of information sought.

6.3. Informal access

If you are looking for information that is not available on our website you should submit Informal Request for Information - informal access applications can be submitted using our online form. Council will deal with as many information requests as possible, informally, subject to the public interest test. Documents will be provided to applicants free of charge, electronically (via email) wherever practicable.

Where Council approves the release of certain information, but part of the information is subject to an overriding public interest against disclosure, it may delete that part of the information that is subject to the overriding public interest against disclosure, from the copy of the information to be released.

Council will, where possible, provide access to (or copies of) appropriate documents within five (5) working days. It may, however, take longer to obtain access to some documents. For example, some files are stored off-site and others require research to locate the appropriate documents.

Access to information and the public interest

There is a right of access under the GIPA to certain documents held by Council unless there is an overriding public interest against disclosure. In deciding whether to release information, Council must decide whether it is in the public interest to disclose the information. Access, however, may be refused if the public interest against disclosure outweighs the public interest in favour of disclosure. Council can take into account personal factors of the applicant in applying the public interest test.

Under the GIPA Act, all government agencies must disclose or release information unless there is an overriding public interest against doing so. When choosing to release information, council staff must apply the public interest test.

The public interest test involves three steps:

- Identifying the relevant public interest considerations in favour of disclosing information
- Identifying any relevant public interests against disclosing information
- Assessing the weight of the public interest considerations in favour of and against disclosure and determining where the balance between those interests lies.

The factors that can be taken into consideration in favour of the public interest are unlimited. The factors that are able to be taken into consideration against the public interest, however, are as follows:

- Responsible and effective government
- Law enforcement and security
- Individual rights, judicial processes and natural justice
- Business interests of agencies and other persons
- Environment, culture, economy and general matters
- Secrecy provisions
- Exempt documents under interstate Freedom of Information legislation.

In applying the public interest test, Council must not take into account that disclosing the information may cause embarrassment to, or loss of confidence in the Council, that the information may be misinterpreted or misunderstood by members of the public.

Fees

Council will, where possible, respond to informal access requests free of charge, electronically (by email or our FileShare server). If hard copy documents are required or if documents are unable to be shared electronically, a photocopy fee is payable – for details, see Council's [Schedule of Fees and Charges](#).

6.4. Formal access applications

Notwithstanding the lodgement of an informal application, Council may require a [Formal Access Application](#) to be submitted when the information sought:

- is of a sensitive nature that requires careful weighing of the considerations in favour of and against disclosure; or
- contains personal or confidential information about a third party that requires consultation; or
- contains business (or commercial in confidence) information; or
- would involve a significant amount of time and/or resources to produce.

Any applications under GIPA will be processed in accordance with the Act's requirements and a determination made to release the documents or refuse access on the basis of the relevant considerations under the Act (see information below in relation to the public interest test). In all case Council will explain the reasons for its decision.

Documents may be provided electronically or in hard copy depending on the applicant's preference and, also, on the volume of documents being sought/provided.

A person seeking access to information from Council should check if the information being sought is already available or could be made available by Council informally. If information is not available through mandatory, proactive or informal release, a formal access application will need to be made.

Decisions in relation to formal access applications are reviewable (see Rights of Review and Appeals below).

Third party consultation

In accordance with section 54 of the GIPA Act, Council must consult with third parties, where the information requested includes;

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

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

Time Limits

In respect of formal applications, Council will notify applicants of its decision within 20 working days (this is a statutory timeframe), unless the applicant agrees to extend the time. Council may also extend the time by up to 15 working days where consultation with a third party is required or if Council needs to retrieve records from archives.

If access is deferred by Council, then Council will notify the applicant and include the reason for deferral and the date on which the applicant will be given access. A decision to defer access is reviewable (see Rights of Review and Appeals below). If Council does not make a determination on a formal access application within the above timeframes, it is deemed 'refused'. Council will refund the application fee and the applicant may seek an internal or external review (see Rights of Review and Appeals below) of this refusal. This will not apply if an extension of time has been arranged or payment of an advance deposit is pending.

Fees

Charges for formal applications are in accordance with the GIPA and include a \$30 application fee. A \$30 per hour processing charge may also be imposed for formal access applications where the processing time exceeds more than one hour. Council will advise the applicant if a processing fee is to be applied and how this amount has been calculated.

6.5. Excluded information

We are defined as an 'agency' under the GIPA Act. The GIPA Act prescribes that some information held by us, which forms part of our complaint handling, review and investigative functions and competitive and market sensitive information, is excluded information. This means that there is a conclusive presumption against the release of this information unless the release of the information has been consented to. An access application for this type of excluded information is considered an invalid access application under the GIPA Act.

Under GIPA there are 12 categories of information (eight of which appear to affect local government) for which there is a conclusive presumption of an overriding public interest against disclosure. These eight are:

1. Information subject to an overriding secrecy law (26 specifically named Acts)
2. Information subject to the direction or order of a court or other body with the power to receive evidence on oath
3. Information subject to legal professional privilege
4. 'Excluded information' (judicial and prosecutorial information, information about complaints handling and investigative functions, competitive and market sensitive information and information in relation to specific functions of the Public Trustee)
5. Documents affecting law enforcement and public safety
6. Specific information relating to transport safety
7. Specific reports concerning the care and protection of children
8. Specific information relating to Aboriginal and environmental heritage.

6.6. Disclosure log

We maintain a [disclosure log](#) under section 25 of the GIPA Act which documents the information we release in response to access applications, and that may be of interest to members of the public. Our disclosure log provides a mechanism to further proactively release information to the public. A regular review of our disclosure log provides a valuable opportunity to identify trends and documents that could be released proactively.

6.7. Our Access to Information Officer

Council's Access to Information Officer can be contacted on (02) 9093 6748 or via email at Information.access@randwick.nsw.gov.au.

Council's office hours are Monday to Friday 8:30am to 5:00pm (excluding public holidays).

6.8. Answers to common questions in relation to information access

Can I obtain access to development application submission letters?

It is Council's policy to make submissions received, including objections in respect of publicly exhibited development applications, available for public inspection. Persons making a submission in relation to a development application should keep this in mind and seek legal advice before making statements that could be adverse or defamatory to other persons.

Complete an Informal Request for Information form and place a tick next to 'DA submissions' and submit it to Council (following the instructions on the form).

Can I obtain property owners names and addresses?

Council will release property owners' details, if the owner is a business or corporation but does not release individual's details due to privacy constraints. The only exceptions to this rule are if the request is from a Federal or State Government Department or Agency and the information is validly permitted to be released under the legislation under which the Department/Agency operates or to neighbouring property owners for the purpose of resolving genuine neighbour issues (such as dividing fence or overhanging tree issues). In circumstances that fall outside of the above parameters, you should apply for ownership information through the NSW Government's Land & Property Information website – www.lpi.nsw.gov.au.

What Council registers can I view?

The following registers maintained by Council are available for public inspection, as required by law:

- Register of Section 94 Contributions (required in connection with approval of a development application);
- Register of Development Applications
- Register of Building Certificates
- Register of Development Consents
- Register of Construction Certificates
- Register of Complying Development Certificates
- Register of Subdivision Certificates
- Register of Council Land
- Register of Pecuniary Interests
- Delegations Register
- Roll of Occupiers & Rate paying Lessees & Non-Residential Roll
- Register of Skin Penetration Premises
- Register of voting on planning matters
- Register of political donations and gifts.

In the case of any register that contains personal or health information Council reserves the right to satisfy itself that access by any person is for a purpose consistent with the purpose for which the register was created.

Can I access details of a complaint?

Council will need to consider relevant privacy legislation and the public interest in deciding whether or not to provide any personal information about complainants. In most circumstances complainant personal details (or any material that would identify the complainant) will not be provided. Council will, however, outline the substance of the complaint so that applicants may fully understand the circumstances and concerns of other members of the public (in most cases this will involve Council providing a copy of the

complaint in question with the personal details of the complainant and any other details that would identify the complainant, deleted).

If a Formal Access Application is submitted, Council would be required to consult with the complainant prior to applying the public interest test and making a determination as to whether or not to provide any personal information about complainants.

How can Council assist those seeking historical information about a property?

Council provides a research and retrieval service involving detailed examination of files and databases which may contain information about particular properties where the information is not held in current files or information systems. The service is available, subject to the fees detailed in Council's Schedule of Fees and Charges.

The 'Request for Search' form is available on Council's website.

What documents are not generally available?

Under relevant legislation, access to some documents and information held by Council may be restricted if the document or part thereof, contains the following types of information:

- trade secrets
- a matter the disclosure of which may:
 - be contrary to law, or
 - give rise to action for breach of confidence
- that part of a draft or adopted plan of management that is the subject of a resolution of confidentiality.
- documents which were submitted to, or are to be submitted to a 'Closed Session' of a Council or Council Committee Meeting (If some time has passed since it was considered in Confidential Session or the reason for confidentiality no longer exists then the document/s may be released).

What documents will require lodgement of a formal GIPA Information Access Application?

Public access to the following documents may be available after lodgement of a formal GIPA Act Application form (and may require third party consultation):

- Legal advice;
- Personnel (individual staff) matters;
- Complainants details;
- Individuals details on DA submissions where the submitter has made a claim in relation to personal safety issues;
- Council Lease documents (due to business interests and/or competitive and market sensitive information)
- Council Contracts (due to business interests and/or competitive and market sensitive information)
- Council Tenders (due to business interests and/or competitive and market sensitive information)
- Insurance claims (personal information about particular individuals).

7. Review rights and the role of the Information Commissioner under the GIPA Act

7.1. Rights of review and appeals

Informal Access

There are no rights of review in respect of informal applications. If access is refused, under an informal access request, applicants will be advised of their right to make a Formal Access application.

Formal Access Applications

Where a member of the public is refused access under a Formal Access Application, Council will provide details of the reasons for refusal to the member of the public in writing. An applicant who has been refused access to information requested under a Formal Access Application has three options of review available:

1. Applicants can apply to Council for an **internal review**. This is a review by someone more senior than the original decision maker and there is a \$40 fee. Applicants have 20 working days from receiving notice of a decision to ask for an internal review.
2. If an applicant is not satisfied with the internal review, or does not want one, they can ask for a **review by the Information & Privacy Commissioner**. Applicants have eight weeks from being notified of a decision to ask for this review.
3. If an applicant is not satisfied with the decision of the Information & Privacy Commissioner or the internal reviewer or if they do not want to take these options they can **apply to the NSW Civil and Administrative Tribunal (NCAT)**. If the applicant has already had a review by the Information & Privacy Commissioner they have four weeks from notification of the decision to make this application. If they have not had a review by the Information & Privacy Commissioner they have eight weeks from notification of the decision to make this application.

7.2. Role of the Information Commissioner

The Information and Privacy Commission NSW promotes and protects privacy and information access rights in NSW.

Anyone can complain to the Information Commissioner about the conduct (including action or inaction) of an agency in the exercise of functions under an Information Act, including conduct that is alleged by the person to constitute a contravention of an Information Act.

A complaint may be made in one of the following ways:

Email	ipcinfo@ipc.nsw.gov.au
Phone	1800 472 679
Fax	(02) 8114 3756
Post	GPO Box 7011, Sydney NSW 2001
In-person	Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000

The Information Commissioner may decide to investigate, not to continue to investigate, or not investigate a complaint. More information regarding complaints about an agency's conduct is available on the IPC website - www.ipc.nsw.gov.au.

