



Services,
Technology &
Administration

RELEASE OF GOVERNMENT
INFORMATION UNDER THE
*GOVERNMENT INFORMATION
(PUBLIC ACCESS) ACT 2009*

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1 Policy Statement

The *Government Information (Public Access) Act 2009* (GIPA Act) aims to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective. This policy enables the Department of Services, Technology and Administration to promote and implement the general principles of open government information to the public by:

- Authorising and encouraging the proactive release of government information;
- Restricting access to government information only when there is an overriding public interest against disclosure; and
- Giving members of the public an enforceable right to access government information.

1.1 Objectives

The key objectives of this policy are:

- Ensuring DSTA guidelines are clearly defined to enable compliance with the GIPA Act;
- Implementing transparent and practical processes and procedures to promote efficiencies when releasing information in accordance with the GIPA Act; and
- Ensuring accountability and ethical behaviours.

1.2 Scope

1.2.1 Related entities within scope

This policy applies to all officers, consultants and contractors undertaking work for the Department of Services, Technology & Administration (DSTA).

This policy also applies to the following related bodies:

- Building Insurers Guarantee Corporation
- Consumer, Trader and Tenancy Tribunal
- Co-operatives Council
- Electrical Equipment Safety Advisory Committee
- Fair Trading Administration Corporation



- Fair Trading Advisory Council
- Financial Counselling Trust Fund
- Home Building Advisory Council
- Motor Vehicle Industry Advisory Council
- Motor Vehicle Repair Industry Authority
- NSW Government Telecommunications Authority
- Products Safety Committee
- Property Services Advisory Council
- Rental Bond Board
- Teacher Housing Authority

1.2.2 Related entities out of scope

This policy will not apply to the following related bodies (note their principal officers):

- Government & Related Employees Appeal Tribunal, Senior Chairperson
- Internal Audit Bureau, Chief Executive
- NSW Architects Registration Board, President
- State Contracts Control Board, Chairperson
- State Records Authority, Director
- Transport Appeal Board, Chairperson

Where information relates to these out of scope DSTA related entities, refer to part 9 of this policy.

1.3 Ethical Conduct

All activities must be conducted in an ethical and transparent manner and comply with the values, principles and articles in the [Code of Conduct](#).

Staff will ensure they do not have, or are not perceived to have a conflict of interest with any government information that is requested or released. Those staff who have, or may be perceived to have, a vested interest in the outcome of any form of release of information should disclose such conflict to their manager and discuss whether they should exclude themselves from any role in the release of government information.



2 Definitions

Access applicant	Refers to the person (member of the public or otherwise) who submits an access application under the GIPA Act. The abbreviation used in this policy is 'applicant'.
Access application	Refers to the formal application to access government information under the GIPA Act.
Determining officer(s)	Refers to DSTA officer(s) who have a delegation under the Director General's Delegation Instrument.
Disclosure log	Is a document that records information about successful access applications to DSTA that DSTA considers may be of interest to other members of the public.
Division heads	Refers to members of the DSTA Executive and principal officers of related entities that are within scope under this policy.
DSTA Internet	This refers to the DSTA corporate website located at www.services.nsw.gov.au .
Government information	Means information contained in a record held by an agency. Government Information is held by DSTA if: <ul style="list-style-type: none">• It is contained in a record held by DSTA.• It is held by a private sector entity and DSTA has a right of immediate access to it.• It is held by the State Records Authority and DSTA has a right of immediate access to it (note that a record held by the State Records Authority that was originally created or received by another agency is taken to be held by that other agency).• It is in the possession or under the control of a person in their capacity as an officer or member of DSTA.
<i>Government Information (Public Access) Act 2009</i>	Refers to the <i>Government Information (Public Access) Act 2009</i> No 52. The abbreviation used in this policy is 'GIPA Act'.



Informal release register	Provides details about information that is released by DSTA without requiring an access application. This register will be hosted on the DSTA Intranet website (refer to part 4.3 of this policy).
Information Commissioner	Means the Information Commissioner under the <i>Government Information (Information Commissioner) Act 2009</i> .
Manager of business units	Refers to DSTA officers who manage or supervise other DSTA officers. This also refers to officers within related entities that are within scope under this policy.
Overriding Public Interest Against Disclosure (OPIAD)	Occurs where public interest considerations against disclosure, on balance, outweigh the public interest considerations in favour of disclosure. The abbreviation used in this policy is 'OPIAD'. Information for which there is a conclusive presumption of OPIAD is defined in Annexure 1 of the GIPA Act.
Proactive release register	Provides details about information that is proactively released by DSTA. This register will be hosted on the DSTA Internet website (refer to part 4.2 of this policy).
Record	Refers to any document or other source of information compiled, recorded or stored in written form by electronic process, or in any other manner or by any other means.
Right to Information Officer (RIO)	Refers to specific DSTA officer(s) within NSW Industrial Relations, Policy, Ministerial and Executive Services as well as DSTA related entities who process formal access applications for access to information and such other responsibilities in relation to both the proactive and informal release of information. The title RIO replaces the title FOI Co-ordinator.



3 Responsibilities

All officers, consultants and contractors undertaking work for DSTA must comply with this policy.

Each of the following parties has specific assigned responsibilities under this policy:

- Director General
- Division heads
- Managers of business units
- Right to Information Officers (refers to specific officers within NSW IR and PMES)
- Officers

Each of the following divisions have specific assigned responsibilities under this policy:

- Government Chief Information Office
- Government Services
- Policy, Ministerial and Executive Services

3.1 Director General

The Director General as the principal officer of DSTA is responsible for:

- Ensuring compliance with the GIPA Act and other relevant legislation.
- Promoting the open government objectives of the GIPA Act.
- Delegating responsibility and functions under the GIPA Act to appropriate officers (refer to part 4.1 of this policy).

3.2 Division heads

Division heads are responsible for:

- Ensuring that their division identifies government information that is appropriate for or is required to be proactively or informally released to the public in accordance with the GIPA Act.
- Making decisions and/or recommendations as required in relation to the release of government information (with the exception of releasing government information in response to formal access applications) within a timely manner (in accordance with statutory deadlines).



- Ensuring that their division complies with disclosure of Government contracts requirements.
- Ensuring that their staff, including consultants and contractors comply with this policy.
(Refer to parts 5.1.2, 5.2.1, 5.3, 5.4.1, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 6.3, 6.5, 7.5, 8.3 and 9.4 of this policy.)

3.3 Managers of business units

Managers are responsible for:

- Ensuring that their business unit identifies government information that is appropriate for or is required to be proactively or informally released to the public in accordance with the GIPA Act.
- Ensuring that their business unit provides a timely response (in accordance with statutory deadlines) to requests for information to enable the efficient processing of formal access applications under the GIPA Act.
- Ensuring that their business unit publishes information about government contracts (with a value of \$150,000 or more) to which DSTA is a party with the private sector. Refer to part 5.6 of this policy for further details.
- Ensuring that their staff, including consultants and contractors, comply with this policy.

(Refer to parts 6.3 and 7.5 of this policy.)

3.4 Right to information officers

RIOs are responsible for:

- Planning, organising, controlling and monitoring the flow of formal access applications and informal releases of government information, reviews of determination and liaison concerning external review within DSTA in accordance with the GIPA Act.
- Complying with this policy.

(Refer to parts 5.5, 8.1, 8.3, 8.4 and 9.4 this policy.)

3.5 Officers

All officers (including consultants and contractors undertaking work for DSTA) are responsible for following this policy and related procedure manuals.



(Refer to parts 5.2.1, 5.6, 6.3, 6.5, 7.2, 7.2.1, 7.3, 7.5, 7.5.2 and 8.1 of this policy.)

3.6 Government Chief Information Office

This division is responsible for providing the NSW Government Data Catalogue (data.nsw.gov.au) which allows agencies and DSTA divisions to list their data sets and if required provide a repository service for their data sets. The NSW Government Data Catalogue also provides an online repository service to allow agencies and DSTA divisions to store their publications with a permanent identifier (i.e. provides a permanent URL to which an agency can provide links from their websites). Refer to part 4.4 of this policy.

3.7 Government Services

This division is responsible for managing the NSW Government eTendering website (located at <https://tenders.nsw.gov.au/nsw/>) which provides the facility for all NSW Government Departments and other entities to publish tender and contract information (Refer to part 5.6 of this policy).

3.8 Policy, Ministerial and Executive Services

This division is responsible for:

- Maintaining records of and reporting on information that is released (refer to 5.1.1, 5.1.2, 5.3, 7.5, 7.5.1, 7.8 and 9.4 of this policy)
- Maintaining the integrity of mandatory open access information and reporting (refer to part 5.1.2 of this policy)
- Coordinating annual reviews of the mandatory release information, as well as proactive and informal releases of information (refer to part 5.2.1, 5.7, 5.8, 5.9, 5.10, 5.11, 6.3 and 6.5 of this policy)



4 How is government information made available?

Under the GIPA Act, there are four ways that government information can be released:

- Mandatory open access information (refer to part 5 of this policy)
- Proactive release (refer to part 6 of this policy)
- Informal release (refer to part 7 of this policy)
- Formal release (refer to part 8 of this policy)

4.1 Officer Delegations

The Director General (principal officer of DSTA) will make appropriate delegations to allow officers in specified positions to decide which form of release of information is appropriate on a case by case basis, except in relation to mandatory open access information.

4.2 DSTA Internet

DSTA Internet website will host a series of webpages for the purpose of compliance with the GIPA Act. It will make mandatory open access information and proactive releases of information publicly available.

In addition to the record of open access information that DSTA does not make publicly available because there is an OPIAD (as cited in part 5.7 of this policy), DSTA will host a webpage that will contain a proactive release register to provide an overview of information that is proactively released by DSTA (refer to part 6.3.1 of this policy).

4.3 DSTA Intranet

DSTA Intranet website will host a webpage containing an informal release register to provide an overview of information that is informally released by DSTA (refer to part 7.5.2 of this policy).

4.4 NSW Data Catalogue Internet

DSTA through the Government Chief Information Office, host the NSW Data Catalogue, providing an entry point for the public to discover data and other information held by NSW agencies, including DSTA. The service will support agencies in making available government information in the categories of mandatory open access and proactive and informal release.



5 Mandatory open access information

5.1 What is mandatory open access information?

The GIPA Act requires every agency to make certain government information publicly available. This information is called 'mandatory open access information'.

Mandatory open access information includes the following DSTA documents:

- Publication guide (refer to part 5.2).
- Information about DSTA contained in any document tabled in Parliament by or on behalf of DSTA (excluding documents tabled by order of either House of Parliament) (refer to part 5.3).
- Policy documents (refer to part 5.4).
- Disclosure log of access applications (refer to part 5.5).
- Register of government contracts (NSW eTenders) (refer to part 5.6).
- Record of the open access information (if any) that DSTA does not make publicly available on the basis of an OPIAD (refer to part 5.7).
- DSTA major assets and major acquisitions (refer to part 5.8)
- Properties disposed of by DSTA (refer to part 5.9)
- Guarantee of service (refer to part 5.10)
- Code of Conduct (refer to part 5.11)

5.1.1 Making mandatory open access information publicly available on DSTA Internet website

Mandatory open access information must be publicly available free of charge from DSTA's Internet website.¹

Policy, Ministerial and Executive Services will review proposed revisions to, and arrange to upload amended mandatory open access information onto the DSTA Internet website, as appropriate.

¹ GIPA Act 2009, section 6(2).



5.1.2 Maintaining integrity of mandatory open access information

All division heads are responsible for ensuring the integrity of the mandatory open access information.

Policy, Ministerial and Executive Services will provide a summary report of open access information that is revised and amended (if any) on a quarterly basis to the Director General. This will become part of the DSTA Corporate Compliance framework that is subject to annual review.

5.2 Publication Guide

The publication guide describes DSTA's structure and functions, and ways that the public may participate in the formulation of DSTA's policies and the exercise of its functions.²

It also details the kinds of information held by DSTA and the manner in which DSTA makes information available including any applicable charges.

5.2.1 Annual review of the publication guide

DSTA will adopt a new publication guide annually,³ ideally by 30 September of each calendar year.

The new publication guide will incorporate:

- Any updates to DSTA's structure and functions and ways that the public may participate in the formulation of DSTA's policies and the exercise of its functions.
- Proactive release information that has been progressively made publicly available throughout the preceding year.

Staff responsibilities under the annual review are as follows:

- Officers will assist their division head to conduct a thorough review of the publication guide, as requested.
- Division heads will review the publication guide (as relevant to their division) and provide appropriate updates in a timely manner.
- The Director General (or delegate) will approve any amendments to the publication guide, as appropriate.

² GIPA Act 2009, section 20.

³ GIPA Act 2009, section 21.



- Policy, Ministerial and Executive Services will coordinate annual reviews of the publication guide and notify the Information Commissioner as to any amendments.
- Once the Information Commissioner approves the amended publication guide, Policy, Ministerial and Executive Services will forward the publication guide to the Strategic Communications and Government Advertising division to upload onto the DSTA Internet website.

5.3 Information about DSTA contained in documents tabled in Parliament

Information about DSTA contained in any document tabled in Parliament by or on behalf of DSTA is mandatory open access information.

Staff responsibilities include:

- Division heads will notify Policy, Ministerial and Executive Services of any new documents which contain information about DSTA that will or have been tabled in Parliament.
- Policy, Ministerial and Executive Services will maintain and update the table of documents tabled in Parliament.

5.4 Policy documents

Policy documents are documents used by DSTA in connection with the exercise of its functions that affect or are likely to affect members of the public.⁴ Only policy documents that are outward or public facing are classified as mandatory open access information.

Examples include a document:

- containing interpretations, rules, guidelines, practices, precedents or statements of policy
- containing particulars of any administrative scheme
- containing a statement of the manner of administration of any legislative instrument
- describing procedures to be followed in investigating any contravention of any legislative instrument or administrative scheme

For a current list of policy documents, refer to DSTA's Internet website. Some examples include:

- Aboriginal Participation in Construction Guidelines

⁴ *GIPA Act 2009*, section 23.



- Business Ethics Statement November 2005
- Claim and Dispute Resolution
- Government Advertising Guidelines
- Guidelines for Intervention by the Minister or Director General Fair Trading under Fair Trading Legislation
- Legal Assistance Guidelines
- Media Policy
- Natural Disasters Relief and Recovery Program
- NSW Corporate Logo Guidelines
- NSW Fair Trading Procedures for Obtaining Injunctions under Statutes Administered by the Minister for Fair Trading
- NSW Fair Trading Prosecution Policy & Guidelines
- NSW Government Environmental Management System Guidelines Edition 2 (September 2009)
- NSW Government Information & Communications Technology (ICT) Strategies – People First, June 2006
- NSW Government ICT Guidelines for Agencies, various (e.g. Information Security)
- NSW Government Occupational Health and Safety Management Systems Guidelines
- NSW Government Tendering Guidelines
- Practice Note: Witness Expenses in Criminal Matters
- Prequalification Scheme: Performance and Management Services
- Subpoena Procedures – (Process Served on NSW Fair Trading)

5.4.1 Lodging policies

Division heads (or delegated officers) will upload a policy document (as outlined in part 5.4 of this policy) onto the Internet as soon as practicable once it comes into effect, ideally within 30 working days.



Policies should be lodged in accordance with the guidelines set out on the DSTA Intranet located at
http://intranet.commerce.nsw.gov.au/Business_tools/Intranet_toolbox/Lodging_policies.html

5.5 Disclosure log of formal access applications

A disclosure log is mandatory open access information. It records information about successful formal access applications made to DSTA that DSTA considers to be of interest to other members of the public.⁵

RIOs are responsible for maintaining and updating the disclosure log as soon as practicable after a formal access application is decided.

5.6 Register of government contracts with the private sector

A register of government contracts records information about each government contract to which DSTA is a party with the private sector and that has a value of \$150,000 or more. The register is mandatory open access information.

The NSW Government eTendering website located at <https://tenders.nsw.gov.au/nsw/> is DSTA's register of government contracts.

In order to ensure the integrity of the register, officers must act in accordance with the Procurement of Goods and Services Policy (DP0026) (21 December 2009) and the Tendering Manual (PWM-0633).

5.7 Record of open access information that DSTA does not make publicly available because there is an OPIAD

It is mandatory under the GIPA Act to proactively release open access information (as cited in part 5.2 to 5.11 of this policy).

However, if any open access information (as cited in part 5.2 to 5.11 of this policy) has an OPIAD, then this is to be stipulated in a record maintained by DSTA. The record will list open access information that DSTA does not make publicly available on the grounds that there is an OPIAD.

The record will be maintained by Policy, Ministerial and Executive Services, and the record will be reviewed annually to ensure that the grounds of OPIAD are current and valid. Division heads may be required to assist with the review.

⁵ GIPA Act 2009, section 25.



5.8 DSTA major assets and major acquisitions

A list of DSTA's major assets, other than land holdings, must be made publicly available to highlight major acquisitions made during the previous financial year.

Policy, Ministerial and Executive Services will coordinate annual reviews to update this information. Division heads or their delegates will provide accurate information to facilitate the timely review and update of information.

5.8.1 What constitutes a major asset and major acquisition?

This is to be determined in accordance with annual reporting requirements within the *Annual Reports (Departments) Act 1985* and the *Annual Reports (Departments) Regulation 2005*.

5.9 Properties disposed of by DSTA

The total number and total value of properties disposed of by DSTA during the previous financial year must be made publicly available.

Policy, Ministerial and Executive Services will coordinate annual reviews to update this information informed by advice from Corporate Services.

5.10 Guarantee of service

DSTA's guarantee of service will be made publicly available. There are Guarantees of Service for NSW FT and NSW IR.

Policy, Ministerial and Executive Services will annually review the guarantee of service to ensure that the information is current and accurate. Division heads or their delegates will provide information to facilitate the timely review and update of information, as required.

5.11 Code of Conduct

DSTA's code of conduct will be made publicly available.



6 Proactive release of information

6.1 What is proactive release of information?

DSTA will proactively identify government information that it holds and consider whether such information should be proactively released.

DSTA should proactively release government information, unless there is an OPIAD.

6.2 Information that should be proactively released

When assessing whether information should be proactively released, the public interest test must be applied. Refer to Annexure 1 for how to apply the public interest test.

Examples of information that may be considered for proactive release include:

- Corruption prevention awareness material
- Contact details of funded services (NSW Fair Trading)
- DSTA Audit charter
- DSTA Corporate Contracts Register Policy
- Factual information and reports
- Gifts and Benefits Policy
- Information and forms for licence and registration (NSW Fair Trading)
- Legal Services Policy
- Program summaries, guidelines and forms (NSW Fair Trading)
- Practice Note: Civil Litigation Costs
- Raw or summary data. Data should be released subject to an accompanying metadata and quality statement.

Data should generally only be released in relation to personal information where privacy principles can be maintained.

Data should generally not be released where:

- It pertains to business interests of agencies and other persons.



- Any aggregation of the data may enable the identification of a person or organisation.
- It may enable the identification of a person or organisation due to a small sample size or uncommon combination of variables.

(This is not intended to restrict the release of information which identifies individuals where the information is already public information, for example, prosecution information).

Staff may wish to consult with the Government Chief Information Office as appropriate on metadata issues.

- Submissions received in relation to public policy reviews

Information that is incomplete, 'work in progress' or subject to a pending decision, should not generally be proactively released. This is not intended to restrict the release of 'work in progress' designed for public comment which has received Director General or Ministerial approval for release.

6.3 Obtaining approval for proactive release of information

Where an officer identifies government information that might be considered for proactive release, the information should be brought to the business unit manager's attention for review and consideration.

The business unit manager should apply the public interest test (as cited in Annexure 1) and, where appropriate, submit a proposal to the division head recommending for or against proactive release of the government information or category of information.

The division head is required to decide whether to proactively release the information or category of information and make it publicly available (as cited in part 6.4 of this policy). If a division head has decided to proactively release a category of information, they may delegate individual release decisions within that category to officers.

In certain cases, the proactive release of information will require a careful balancing of the public interest test. Release of information, although in the public interest, may raise sensitivities or be considered controversial (for example, a decision to release details of persons issued with a penalty notice for breaches of legislation). In these cases, consultation should take place with Policy, Ministerial and Executive Services prior to release which will consider appropriate escalation to the Director General.



Policy, Ministerial and Executive Services must provide a summary report of information that is proactively released (if any) on a quarterly basis to the Director General and maintain statistics on the information that is proactively released.

6.3.1 Complete the proactive release register

Where information is proactively released, the officer who releases the information (or is directed to do so by their business unit manager or division head) must complete the proactive release register located on the DSTA Internet prior to the release of information.

6.4 Making proactive release of information publicly available

Where possible, information that DSTA decides to proactively release should be made publicly available free of charge on DSTA's Internet website, in a format appropriate to the nature of the information.

The majority of information will be uploaded onto the DSTA Internet website. However, where the information cannot be made publicly available on DSTA's Internet website, then a hard copy of the information should be made publicly available at the lowest reasonable cost. For example, where the information may be provided in hard copy or on a CD(s), compare the cost of both options and provide the information using the method which involves the lowest cost. Costs will vary depending on the nature of the information.

The cost of producing the hard copy will reside with the division that authored the government information, including the cost of postage.

6.5 Annual review of proactive release of information

DSTA will conduct an annual review of the proactive release of information and include details of the review in the annual report to the Minister, by:

- Verifying that the information being proactively released is current and valid.
- Removing any information that is no longer valid.
- Transferring the proactive release information to the Publication Guide to form part of the section that details the kinds of government information held by DSTA and that DSTA makes publicly available.

Staff responsibilities under the annual review are as follows:

- Officers will assist their division head to conduct a thorough review of information being proactively released.



- Division heads will review the proactive release of information and provide appropriate updates in a timely manner.
- Policy, Ministerial and Executive Services will coordinate the annual reviews and include details of any information that should be and/or have been made publicly available by DSTA, in an annual report to the Minister (refer to part 9.4 of this policy).



7 Informal release of information

7.1 Informal requests for information

An informal request for information generally arises when a member of the public makes a request for government information over the telephone, in person or in an email or letter.

7.2 Maintain current practices for informal releases of information

This policy does not intend to alter appropriate current practices undertaken by divisions in relation to releasing information to the general public on request.

Divisions should maintain their current practices, which include:

- Releasing architectural and engineering plans and drawings created or received by NSW Public Works, subject to authorisation from client departments owning the built assets, and with certain conditions imposed on use of the information.

However, officers must complete the informal release register whenever information is released informally (refer to 7.5.1 of this policy).

Divisions should advise Policy, Ministerial and Executive Services of any changes to current practices on an ongoing basis.

7.2.1 Initial response to informal requests outside current practices

Where the informal request concerns information that may raise OPIAD considerations (for example, personal information about another person), the officer who received the informal request should inform that member of the public that the public interest test (as cited in Annexure 1) will be used to determine whether the information will be informally released.

7.3 Information that should be informally released upon request

When assessing whether information should be informally released, the public interest test must be applied. Refer to Annexure 1 for how to apply the public interest test.

Examples of information that may be considered for informal release include:

- Factual information and reports.



- Personal information that relates to the person requesting the information provided there are no other OPIAD considerations (for example mental health issues or safety concerns for third parties).
- Statistical or summary data. Data should be released subject to an accompanying metadata and quality statement. Refer to part 6.2 of this policy on guidelines for dealing with data.
- Copies of Home Building Service procedures and policies.

Information that is incomplete, 'work in progress' or subject to a pending decision, should not be informally released. This is not intended to restrict the release of 'work in progress' designed for public comment which has received Director General or Ministerial approval for release.

Officers should direct any queries arising under this section to their business unit manager and/or division heads.

7.4 Informal requests for information by the media

Where information is sought by the media, all enquiries and requests must be managed in accordance with the DSTA procedures for dealing with media enquiries.

7.5 Obtaining approval for informal release of information

When officers receive an informal request for information:

- Officers should consider whether the information sought is of a kind that is released within their current practices (refer to part 7.2 of this policy.) If so, officers should release the information in accordance with current practices.

Where the request is outside current practices for informal release (as cited in part 7.2):

- Officers should follow the procedure set out in Annexure 2 and discuss the matter with the business unit manager:
 - To identify whether DSTA holds the information requested.
 - To conduct a preliminary assessment as to whether the information should be informally released having regard to part 7.3 of this policy.
- Business unit managers must notify (by email) Policy, Ministerial and Executive Services of the informal request and their business unit's preliminary assessment. Policy, Ministerial and Executive Services will provide quick and informal advice as to



whether similar information has been previously released and whether the information should be informally released according to the public interest test (as cited in Annexure 1).

- Business unit managers must draft a proposal to the division head for consideration, incorporating advice from Policy, Ministerial and Executive Services and applying the public interest test (as cited in Annexure 1).
- Divisions heads or their delegates will decide whether to support informal release of the information and prior to release, forward the proposed information for release to Policy, Ministerial and Executive Services for consideration. Policy, Ministerial and Executive Services will quickly assess the request and provide clearance to the division or escalate it to the Director General, if relevant.
- Policy, Ministerial and Executive Services will provide a summary report of information that is informally released (if any) on a quarterly basis to the Director General and maintain statistics on the information that is informally released.

7.5.1 Cost of informal release

Informal release of information should generally be processed free of cost.

Where divisions propose to charge for the informal release, Policy, Ministerial and Executive Services must decide whether the proposed charges are appropriate or whether consideration should be given to suggesting that a formal application be submitted.

7.5.2 Complete the informal release register

Where information is informally released, the officer who releases the information (or is directed to do so by a business unit manager or division head) must complete the informal release register located on the DSTA Intranet prior to the release of information.

7.6 Making informal release of information available

The manner in which information will be released under an informal request will depend on the nature of the information.

Provided there is no OPIAD, informal release of information may be subject to any conditions that DSTA thinks fit (refer to part 7.6.1 of this policy).



7.6.1 Conditions that may be applied to informal release

Conditions may include (but are not limited to):

- “This information is subject to change”.
- Receiving an undertaking that the information will not be used for commercial gain or to advance an unlawful intent.

7.7 Timeframe to decide informal release for information

A decision on whether to approve an informal release of information must be delivered to the informal release applicant as soon as possible, but no later than 20 working days from the date of request.

7.8 Annual review of informal release of information

DSTA will conduct an annual review of the informal release of information by assessing the number of informal requests for similar information and determine whether such information ought to be proactively released.

As a benchmark, where more than 4 informal requests for the same information are received within 12 months then it ought to be proactively released.

Policy, Ministerial and Executive Services will oversee the annual review to encourage the proactive release of information, where appropriate.



8 Formal access applications

8.1 Receipt of formal access applications

Where an officer receives a formal access application, the application should be forwarded to the appropriate RIO immediately. Refer to part 8.2 of this policy.

8.2 Procedure for dealing with formal access applications

Formal access applications must be dealt with in accordance with the Procedure for Dealing with Formal Access Applications under the *Government Information (Public Access) Act 2009*.

8.2.1 Unreasonable additional costs and unreasonable diversion and substantial diversion of resources

When processing a formal access application, consideration should be given to whether it would incur unreasonable additional costs or unreasonable and substantial diversion of resources.

As a benchmark, it takes approximately 1 hour to review and examine 100 pages of information. Where it would take in excess of 40 hours to process an application (i.e. 4,000 pages of information), then it may constitute an unreasonable diversion of resources. If so, refer to part 8.2 of this policy for how to deal with the formal access application.

8.3 Search for information

RIO(s) will issue a Notice to Produce Documents/Information to divisions to facilitate a reasonable and thorough search for information in response to formal access applications.

Division heads must provide a response to the RIO on all aspects of the Notice to Produce Documents/Information in a timely manner, including search certificates, identification of third party interests and resource cost implications. All information falling within scope of the access application must be identified and provided to the RIO. Division heads should not withhold information on the basis that there is an OPIAD.

8.4 Reporting of formal access applications received by DSTA

RIO(s) will provide a summary report of formal access applications that are or have been processed on a monthly basis to the Assistant Director General, Policy. RIO(s) will facilitate compliance with annual reporting requirements as specified in part 9.4 of this policy.



9 Other matters

9.1 Information that relates to DSTA's related entities

This policy does not apply to DSTA related entities where the principal officer is an officer other than the person also holding the position of Director General, DSTA. Refer to part 1.2.2 of this policy for a list of DSTA related entities that operate outside this policy.

Where information relates to DSTA related entities listed in part 1.2.2 of this policy, then the related entity should be consulted or the matter should be transferred to the principal officer of the related entity to determine in accordance with the GIPA Act.

- Mandatory open access information – consult with the related entity.
- Proactive release – consult with the related entity.
- Informal release – consult with or transfer the informal request to the related entity.
- Formal release – refer to part 8.2 of this policy.

9.2 Information provided by other agencies

Where DSTA holds information that has been provided by other agencies, the information will not be released as part of mandatory open access information, proactive release or informal release.

However, where information has been provided by other agencies to DSTA and access to the information is sought under a formal access application, DSTA must deal with the request in accordance with the Procedure for Dealing with Formal Access Applications under the *Government Information (Public Access) Act 2009* (refer to part 8.2 of this policy).

9.3 Information created or collected by DSTA for other agencies or private clients

Where DSTA creates or collects information for other agencies or private clients, the information will not be released as part of mandatory open access information, proactive release or informal release.

However, where access to the information is sought under a formal access application, DSTA must deal with the request in accordance with the Procedure for Dealing with Formal Access Applications under the *Government Information (Public Access) Act 2009* (refer to part 8.2 of this policy).



9.4 Annual report to Minister and the Information Commissioner

In addition to current compliance with annual reporting requirements under *Annual Reports (Departments) Act 1995* and the *Annual Reports (Statutory Bodies) Act 1984*, DSTA will include the following information:

- Details of the annual review of proactive release of information, including details of any information made publicly available by DSTA following the annual review.
- Statistical information about formal access applications in the format provided in Schedule 2 of the *Government Information (Public Access) Amendment Regulation 2010*. This includes information on the following:
 - Number of applications by type of applicant and outcome
 - Number of applications by type of application and outcome
 - Invalid applications
 - Conclusive presumption of OPIAD: matters listed in Schedule 1 to the GIPA Act (refer to Annexure 1 of this policy).
 - Other public interest considerations against disclosure: matters listed in table to section 14 of the GIPA Act (refer to Annexure 1 of this policy).
 - Timeliness
 - Number of applications reviewed under Part 5 of the GIPA Act (refer to the Procedure for Dealing with Formal Access Applications under the *Government Information (Public Access) Act 2009*).
 - Applications for review under Part 5 of the GIPA Act (refer to the Procedure for Dealing with Formal Access Applications under the *Government Information (Public Access) Act 2009*).

DSTA will provide a copy of the annual report to the Information Commissioner.



10 Related Policies & Documents

Issuer	Reference	Document Name
NSW Government	26 June 2009	<i>Government Information (Public Access) Act 2009</i> No 52
NSW Government	18 June 2010	<i>Government Information (Public Access) Amendment Regulation 2010</i> No 252
Department of Services Technology & Administration		Procedure for Dealing with Formal Access Applications under the <i>Government Information (Public Access) Act 2009</i>
Department of Services Technology & Administration	November 2009	Code of Conduct DP 0019
Department of Services Technology & Administration	April 2010	DSTA Contracts Register Policy
NSW Government	July 2008	Procurement Practice Guide – Government contract disclosure
Department of Services Technology & Administration		Authority for Release of Government Information under the <i>Government Information (Public Access) Act 2009</i> (Director General Delegation Instrument)
Department of Services Technology & Administration		DSTA Corporate Compliance Framework Policy
Department of Services Technology & Administration	1 November 2006	Interim Records Management Policy DP0049
Department of Services Technology & Administration		DSTA Privacy Management Plan



11 Document Control

Document Approval

Name & Position	Signature	Date
Assistant Director General, Policy	Signed by Anthea Kerr	29 June 2010
Director General	Signed by Peter Duncan	29 June 2010

Document Version Control

Version	Status	Date	Prepared By	Comments
1.0	Final	28 June 2010	Camellia Chan & Phil Havenstein	

12 Review Date

This policy will be reviewed in July 2011.

It may be reviewed earlier in response to post-implementation feedback from Divisions.



Annexure 1 – Public Interest Test

The public interest test involves three steps:

1. Identify the relevant public interest considerations for disclosure

Section 12 of the GIPA Act - Public interest considerations in favour of disclosure

(1) There is a general public interest in favour of the disclosure of government information.

(2) Nothing in this Act limits any other public interest considerations in favour of the disclosure of government information that may be taken into account for the purpose of determining whether there is an overriding public interest against disclosure of government information. The following are examples of public interest considerations in favour of disclosure of information:

(a) Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.

(b) Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.

(c) Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.

(d) The information is personal information of the person to whom it is to be disclosed.

(e) Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

(3) The Information Commissioner can issue guidelines about public interest considerations in favour of the disclosure of government information, for the assistance of agencies.

2. Identify any relevant public interests against disclosure

Section 14 of the GIPA Act - Public interest considerations against disclosure

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in Schedule 1.

(2) The public interest considerations listed in the Table to this section are the only other considerations that may be taken into account under this Act as public interest considerations against disclosure for the purpose of determining whether there is an overriding public interest against disclosure of government information.

(3) The Information Commissioner can issue guidelines about public interest considerations against the disclosure of government information, for the assistance of agencies, but cannot add to the list of considerations in the Table to this section.

TABLE

1 Responsible and effective government

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):

(a) prejudice collective Ministerial responsibility,

(b) prejudice Ministerial responsibility to Parliament,



- (c) prejudice relations with, or the obtaining of confidential information from, another government,*
- (d) prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions,*
- (e) reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency,*
- (f) prejudice the effective exercise by an agency of the agency's functions,*
- (g) found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence,*
- (h) prejudice the conduct, effectiveness or integrity of any audit, test, investigation or review conducted by or on behalf of an agency by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).*

2 Law enforcement and security

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):

- (a) reveal or tend to reveal the identity of an informant or prejudice the future supply of information from an informant,*
- (b) prejudice the prevention, detection or investigation of a contravention or possible contravention of the law or prejudice the enforcement of the law,*
- (c) increase the likelihood of, or prejudice the prevention of, preparedness against, response to, or recovery from, a public emergency (including any natural disaster, major accident, civil disturbance or act of terrorism),*
- (d) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any person,*
- (e) endanger the security of, or prejudice any system or procedure for protecting, any place, property or vehicle,*
- (f) facilitate the commission of a criminal act (including a terrorist act within the meaning of the Terrorism (Police Powers) Act 2002),*
- (g) prejudice the supervision of, or facilitate the escape of, any person in lawful custody,*
- (h) prejudice the security, discipline or good order of any correctional facility.*

3 Individual rights, judicial processes and natural justice

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- (a) reveal an individual's personal information,*
- (b) contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002,*
- (c) prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings,*
- (d) prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness,*
- (e) reveal false or unsubstantiated allegations about a person that are defamatory,*
- (f) expose a person to a risk of harm or of serious harassment or serious intimidation,*
- (g) in the case of the disclosure of personal information about a child--the disclosure of information that it would not be in the best interests of the child to have disclosed.*



4 Business interests of agencies and other persons

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- (a) undermine competitive neutrality in connection with any functions of an agency in respect of which it competes with any person or otherwise place an agency at a competitive advantage or disadvantage in any market,*
- (b) reveal commercial-in-confidence provisions of a government contract,*
- (c) diminish the competitive commercial value of any information to any person,*
- (d) prejudice any person's legitimate business, commercial, professional or financial interests,*
- (e) prejudice the conduct, effectiveness or integrity of any research by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).*

5 Environment, culture, economy and general matters

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- (a) endanger, or prejudice any system or procedure for protecting, the environment,*
- (b) prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge,*
- (c) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any animal or other living thing, or threaten the existence of any species,*
- (d) damage, or prejudice the ability of the Government or an agency to manage, the economy,*
- (e) expose any person to an unfair advantage or disadvantage as a result of the premature disclosure of information concerning any proposed action or inaction of the Government or an agency.*

6 Secrecy provisions

- (1) There is a public interest consideration against disclosure of information if disclosure of the information by any person could (disregarding the operation of this Act) reasonably be expected to constitute a contravention of a provision of any other Act or statutory rule (of this or another State or of the Commonwealth) that prohibits the disclosure of information, whether or not the prohibition is subject to specified qualifications or exceptions.*
- (2) The public interest consideration under this clause extends to consideration of the policy that underlies the prohibition against disclosure.*

7 Exempt documents under interstate Freedom of Information legislation

- (1) There is a public interest consideration against disclosure of information communicated to the Government of New South Wales by the Government of the Commonwealth or of another State if notice has been received from that Government that the information is exempt matter within the meaning of a corresponding law of the Commonwealth or that other State.*
- (2) The public interest consideration under this clause extends to consideration of the policy that underlies the exemption.*
- (3) In this clause, a reference to a corresponding law is a reference to:*
 - (a) the Freedom of Information Act 1982 of the Commonwealth, or*
 - (b) a law of any other State that is prescribed by the regulations as a corresponding law for the purposes of this clause.*



3. Assess whether the public interest against disclosure outweighs the public interest in favour of disclosure.

The fact that one or even several public interest considerations against disclosure have been identified is not, in itself, sufficient justification for a decision to refuse to publish or disclose. Any decision must be made after balancing any relevant considerations for and against disclosure.

In each case, DSTA must consider a range of factors, including:

- The nature and context of the information.
- In the case of an informal or formal request for information, any factors special to the applicant.
- The relative weight of public interest considerations for and against disclosure.

DSTA should refuse to disclose information where, on balance, there is an OPIAD.

However, certain kinds of information will have a conclusive presumption of an OPIAD and DSTA must not publish and must refuse requests to disclose information in relation to the following categories:

Schedule 1 of the GIPA Act - Information for which there is conclusive presumption of overriding public interest against disclosure

1 Overriding secrecy laws

It is to be conclusively presumed that there is an overriding public interest against disclosure of information the disclosure of which is prohibited by any of the following laws (which are referred to in this Act as "overriding secrecy laws"), whether or not the prohibition is subject to specified qualifications or exceptions and whether or not a breach of the prohibition constitutes an offence:

Assisted Reproductive Technology Act 2007 --Part 3 (Central ART donor register)

Bail Act 1978 --section 36C (Certain information not to be published or broadcast)

Biofuel (Ethanol Content) Act 2007 --section 21 (Secrecy)

Casino, Liquor and Gaming Control Authority Act 2007 --section 17 (Secrecy)

Charter of Budget Honesty (Election Promises Costing) Act 2006 --section 14 (Confidentiality of information or documents relating to Treasury costing of election promises)

Child Protection (Offenders Registration) Act 2000 --section 21E (Prohibited disclosure of information concerning registrable persons)

Crimes (Administration of Sentences) Act 1999 --regulations under section 256 (Victims Register)

Crimes (Forensic Procedures) Act 2000 --section 109 (Disclosure of information)

Crimes (Sentencing Procedure) Act 1999 --sections 51B (Certain information not to be published or broadcast) and 100H (Certain information not to be published or broadcast)

Criminal Procedure Act 1986 --regulations under section 351 (Regulations with respect to the provision or disclosure of information in connection with intervention programs)



Criminal Records Act 1991 --section 13 (Unlawful disclosure of information concerning spent convictions)

Dust Diseases Tribunal Act 1989 --section 32I (Information about claims)

Education Act 1990 --provision made by or under section 18A (Publication of results of certain tests and other matters) or Division 2 of Part 5A (Health and safety risks at schools arising from student behaviour)

Health Administration Act 1982 --Divisions 6B (Quality assurance committees) and 6C (Root cause analysis teams) of Part 2, and section 23 (Specially privileged information)

Health Care Complaints Act 1993

Independent Commission Against Corruption Act 1988

Jury Act 1977

Police Act 1990 --section 169A (Identity of complainant not to be disclosed)

Police Integrity Commission Act 1996

Police Regulation 2008 --clause 53 (Secrecy as to complaints about conduct)

Protected Disclosures Act 1994 --section 22 (Confidentiality guideline)

Public Lotteries Act 1996 --section 80 (Secrecy)

Royal Commission (Police Service) Act 1994

State Records Act 1998 --section 73 (Authority's duty of confidentiality) but only in respect of information to which a person gains access in the exercise of functions under that Act as a result of the information having been acquired in the course of the administration of another Act mentioned in this Schedule

Totalizator Act 1997 --section 105 (Secrecy)

Witness Protection Act 1995

2 Cabinet information

*(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information (referred to in this Act as "**Cabinet information**") contained in any of the following documents:*

(a) a document that contains an official record of Cabinet,

(b) a document prepared for the dominant purpose of its being submitted to Cabinet for Cabinet's consideration (whether or not the document is actually submitted to Cabinet),

(c) a document prepared for the purpose of its being submitted to Cabinet for Cabinet's approval for the document to be used for the dominant purpose for which it was prepared (whether or not the document is actually submitted to Cabinet and whether or not the approval is actually given),

(d) a document prepared after Cabinet's deliberation or decision on a matter that would reveal or tend to reveal information concerning any of those deliberations or decisions,

(e) a document prepared before or after Cabinet's deliberation or decision on a matter that reveals or tends to reveal the position that a particular Minister has taken, is taking, will take, is considering taking, or has been recommended to take, on the matter in Cabinet,

(f) a document that is a preliminary draft of, or a copy of or part of, or contains an extract from, a document referred to in paragraphs (a)-(e).

(2) Information contained in a document is not Cabinet information if:

(a) public disclosure of the document has been approved by the Premier or Cabinet, or

(b) 10 years have passed since the end of the calendar year in which the document came into existence.

(3) Information is not Cabinet information merely because it is contained in a document attached to a document referred to in subclause (1).



(4) Information is not Cabinet information to the extent that it consists solely of factual material unless the information would:

- (a) reveal or tend to reveal information concerning any Cabinet decision or determination, or
- (b) reveal or tend to reveal the position that a particular Minister has taken, is taking or will take on a matter in Cabinet.

(5) In this clause, "**Cabinet**" includes a committee of Cabinet and a subcommittee of a committee of Cabinet.

3 Executive Council information

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information (referred to in this Act as "**Executive Council information**") contained in any of the following documents:

- (a) a document that contains an official record of the Executive Council,
- (b) a document prepared for the purpose of being submitted to the Executive Council (whether or not that is the only or the dominant purpose for which it was prepared and whether or not the document is actually submitted to the Executive Council),
- (c) a document prepared after the Executive Council's deliberation or advice on a matter that would reveal or tend to reveal information concerning that deliberation or advice,
- (d) a document that is a preliminary draft of, or a copy of or part of, or contains an extract from, a document referred to in paragraphs (a)-(c).

(2) Information contained in a document is not Executive Council information if:

- (a) public disclosure of the document has been approved by the Governor or the Premier, or
- (b) 10 years have passed since the end of the calendar year in which the document came into existence.

(3) Information is not Executive Council information merely because it is contained in a document attached to a document referred to in subclause (1).

(4) Information is not Executive Council information to the extent that it consists solely of factual material unless the information would reveal or tend to reveal information concerning any deliberation or advice of the Executive Council.

4 Contempt

It is to be conclusively presumed that there is an overriding public interest against disclosure of information the public disclosure of which would, but for any immunity of the Crown:

- (a) constitute contempt of court, or
- (b) contravene any order or direction of a person or body having power to receive evidence on oath, or
- (c) infringe the privilege of Parliament.

5 Legal professional privilege

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that would be privileged from production in legal proceedings on the ground of client legal privilege (legal professional privilege), unless the person in whose favour the privilege exists has waived the privilege.

(2) An agency in whose favour legal professional privilege exists is required to consider whether it would be appropriate for the agency to waive that privilege before the agency refuses to provide access to government information on the basis of this clause.

(3) A decision that an agency makes under subclause (2) is not a reviewable decision under Part 5.



6 Excluded information

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that is excluded information of an agency, other than information that the agency has consented to the disclosure of.

(2) Before an agency decides an access application by refusing to provide access to information on the basis that it is excluded information of another agency, the agency is required to ask the other agency whether the other agency consents to disclosure of the information.

(3) A decision that an agency makes to consent or to refuse to consent to the disclosure of excluded information of the agency is not a reviewable decision under Part 5.

7 Documents affecting law enforcement and public safety

It is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in any of the following documents:

(a) a document created by the former Information and Intelligence Centre of the Police Service or the former State Intelligence Group,

(b) a document created by the Counter Terrorism and Special Tactics Command of the NSW Police Force, the former Counter Terrorist Co-ordination Command of the NSW Police Force, the former Protective Security Group of the Police Service, the former Special Branch of the Police Service or the former Bureau of Criminal Intelligence,

(c) a document created by the State Crime Command of the NSW Police Force in the exercise of its functions concerning the collection, analysis or dissemination of intelligence,

(d) a document created by the Corrections Intelligence Group of the Department of Corrective Services in the exercise of its functions concerning the collection, analysis or dissemination of intelligence,

(e) a document created by the Drug Intelligence Unit of the Department of Juvenile Justice in the exercise of its functions concerning the collection, analysis or dissemination of intelligence.

8 Transport safety

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that would disclose:

(a) matter relating to an investigation or inquiry under section 65, 67 or 69 of the Rail Safety Act 2008, or

(b) matter relating to an investigation or inquiry into a transport accident or incident under section 46BA or 46BC of the Passenger Transport Act 1990.

(2) Despite subclause (1) (a) information about a matter referred to in that paragraph ceases to be covered by this clause:

(a) in the case of information relating to an inquiry under section 65 into a matter that is not also the subject of an investigation under section 67 or an inquiry under section 69, if the inquiry under section 65 is included in a list forwarded to the Minister under that section, or

(b) in the case of information relating to an investigation under section 67 or an inquiry under section 69, when the report into the investigation or inquiry is tabled before both Houses of Parliament.

(3) Despite subclause (1) (b), information about a matter referred to in that paragraph ceases to be covered by this clause when the report into the investigation or inquiry is tabled before both Houses of Parliament.

9 Adoption

It is to be conclusively presumed that there is an overriding public interest against disclosure of information that would disclose:

(a) matter relating to adoption procedures under the Adoption Act 2000, or



(b) matter relating to the receipt of an amended or original birth certificate or of prescribed information under the Adoption Act 2000.

10 Care and protection of children

It is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in a report to which section 29 of the Children and Young Persons (Care and Protection) Act 1998 applies.

11 Ministerial Code of Conduct

It is to be conclusively presumed that there is an overriding public interest against disclosure of information the disclosure of which would disclose information contained in the Register of Interests kept by or on behalf of the Premier pursuant to the Code of Conduct for Ministers of the Crown adopted by Cabinet.

12 Aboriginal and environmental heritage

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in a document that is the subject of a declaration referred to in section 161 of the National Parks and Wildlife Act 1974.

(2) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that is matter that the Director-General under the Threatened Species Conservation Act 1995 has determined should not be disclosed to the public under section 146 of that Act.

(3) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that is matter that the Scientific Committee under the Threatened Species Conservation Act 1995 has recommended to the Minister should not be disclosed to the public under section 146A of that Act and the Minister has accepted that recommendation.

(4) It is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in a plan of management or draft plan of management for an area of community land under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993 that is the subject of a resolution of confidentiality referred to in section 36DA (2) of that Act (which relates to the disclosure of the nature and location of a place or an item of Aboriginal significance).



Annexure 2 – Informal Release Procedural Checklist

Applicant Name	
Date informal request received	

Working Day	Action (Tick the relevant boxes below)
Working Day 1 to 2	1. How did you receive the informal request for information? <input type="checkbox"/> By telephone <input type="checkbox"/> In person <input type="checkbox"/> By email <input type="checkbox"/> By letter <input type="checkbox"/> Other – if so, what were the circumstances? Go to Action 2 (below).
	2. Describe the information requested: (If a written informal request was received, attach copy to this checklist) Go to Action 3 (below).
	3. Did the informal request come from the media? <input type="checkbox"/> Yes If yes, immediately forward the enquiry to Public Affairs, DSTA. <input type="checkbox"/> No If no, go to Action 4 (below).
	4. Does DSTA hold the information? <input type="checkbox"/> Yes If yes, go to Action 5 (below). <input type="checkbox"/> No If no, advise the applicant that DSTA does not hold the information.



	<p>5. Does the information relate to other agencies / person / business?</p> <p><input type="checkbox"/> Yes If yes, advise the applicant to lodge a formal access application to DSTA.</p> <p><input type="checkbox"/> No If no, go to Action 6 (below).</p> <hr/> <p>6. Does your division normally release this kind of information informally?</p> <p><input type="checkbox"/> Yes If yes, proceed to release the information according to your division's current practices. It is recommended that you notify your business unit manager prior to the informal release.</p> <p><input type="checkbox"/> Not sure If you are not sure as to your divisions 'current practice' on informal release of information, liaise with your business unit manager or contact Policy, Ministerial and Executive Services for assistance.</p> <p><input type="checkbox"/> No If no, go to Action 7 (below).</p> <hr/> <p>7. Notify Policy, Ministerial and Executive Services (by email) that you have received an informal request for information. Go to Action 8 (below).</p> <hr/> <p>8. Does the information raise 'overriding public interest against disclosure' (OPIAD) issues? <i>For a complete list of OPIAD considerations, refer to Annexure 1 of this policy.</i></p> <p><input type="checkbox"/> Yes If yes, notify the applicant that the information may raise OPIAD issues and DSTA needs to decide whether to informally release it and you will notify him/her of the outcome once a decision has been made.</p> <p><input type="checkbox"/> No If no, go to Action 9 (below).</p>
<p>Working Day 3 to 19</p>	<p>9. Apply the public interest test. <i>Refer to Annexure 1 of this policy.</i> Go to Action 10 (below).</p> <hr/> <p>10. Liaise with your business unit manager to conduct a preliminary assessment as to whether the information should be informally released. Go to Action 11 (below).</p> <hr/> <p>11. Should conditions be applied to the informal release?</p> <p><input type="checkbox"/> Yes If yes, what conditions? <i>Refer to part 7.6.1 of this policy.</i></p> <p><input type="checkbox"/> No If no, go to Action 12 (below).</p>



	<p>12. Should there be a charge for the informal release of information?</p> <p><input type="checkbox"/> Yes If yes, consult with Policy, Ministerial and Executive Services which will decide whether the proposed charges are appropriate or whether consideration should be given to suggesting that a formal application be submitted.</p> <p><input type="checkbox"/> No If no, go to Action 13 (below).</p> <hr/> <p>13. Consult Policy, Ministerial and Executive Services for quick and informal advice as to whether the information should be informally released. Go to Action 14 (below).</p> <hr/> <p>14. Business unit manager (or their delegate) must draft a recommendation to the division head for consideration incorporating advice from Policy, Ministerial and Executive Services and applying the public interest test. Go to Action 15 (below).</p> <hr/> <p>15. Submit recommendation to the division head to decide whether to support informal release of the information. Does your division head support the informal release of the information?</p> <p><input type="checkbox"/> Yes If yes, go to Action 16 (below).</p> <p><input type="checkbox"/> No If no, notify the applicant that their informal request has been denied.</p> <hr/> <p>16. Forward the proposed information for release to Policy, Ministerial and Executive Services for consideration and escalation to the Director General, if required. Go to Action 17 (below).</p>
Day 20	<p>17. Does Policy, Ministerial and Executive Services support the informal release of the information?</p> <p><input type="checkbox"/> Yes If yes, complete the informal release register located on the DSTA Intranet and then release the information to the applicant.</p> <p><input type="checkbox"/> No If no, notify the applicant that their informal request has been denied.</p>