

Unreasonable and substantial diversion of resources

Who is this information for?

If you are NSW public sector staff deciding requests for information access.

Why is this information important?

This checklist, and the [Fact Sheet – Unreasonable and substantial diversion of agency resources](#), will assist you with the process for advising and consulting an access applicant where you form a view that the access application is potentially an unreasonable and substantial diversion of resources.

GIPA Act reference	Issues/Actions/Questions	Status	Comments
Application received			
Section 41 Section 16 Section 51 Section 51A	Is the access application valid?	☐ YES ☐ NO	If application is not valid you should advise the applicant it is not valid, including reasons and identify or assist to make the application a valid application.
	Have you acknowledged the application?	☐ YES ☐ NO	Your decision on the validity of an access application must be provided to the applicant as soon as practicable and within five days of the receipt of the access application: s 51(2). If on first consideration the application appears very wide, consider discussing the scope of the request with the applicant to clarify the scope of the request and whether it can be narrowed.
Obtaining the information to inform the request being potentially too wide			
Section 53	Have you searched for information captured by the request?	☐ YES ☐ NO	You need to show what informed your assessment that the request is potentially too wide and this step will assist in informing how the scope of the application could be amended. For more information see IPC Fact Sheet: Reasonable searches under the GIPA Act. If you have not conducted any searches, you need to be able to explain how you have conducted the assessment process and to show how your view may be formed that the application is potentially too wide.

GIPA Act reference	Issues/Actions/Questions	Status	Comments
Assessment of the application on breadth and size of the request			
Section 60(1)(a) Section 60(2) Section 60(3)	Has the applicant made two or more related applications for this information previously or has another person or persons made applications in concert in connection with those applications	☐ YES ☐ NO	If there are a number of applications for the same or related information by the applicant or by another person or persons acting in concert in connection with that application you are entitled to consider this as part of your assessment of whether the application may be an unreasonable and substantial diversion of resources: s 60(3). If the applicant has agreed to an extension of time for dealing with the access application this is not to be taken into consideration when assessing whether dealing with the access application would require an unreasonable and substantial diversion of resources (s 60(2)).
	Does the application seek information over several years/several dates?	☐ YES ☐ NO	
	Would a smaller date range be manageable?	☐ YES ☐ NO	
	Is the application itemised or organised with several items of information sought Can this be grouped together, narrowed or dealt with in stages by agreement?	☐ YES ☐ NO	
	Is any of the information sought publicly available?	☐ YES ☐ NO	
	Has the applicant provided any file references to assist in locating the information?	☐ YES ☐ NO	
	Can the application be reduced by not providing information that the access applicant has provided to the agency?	☐ YES ☐ NO	
	Does the application seek personal information of third parties?	☐ YES ☐ NO	
	Can information about other people ('third party' information) be excluded?	☐ YES ☐ NO	
	Are there any suggestions that may assist an applicant to narrow the request which may help the applicant in identifying the most important information and narrowing the scope? For example: Can some of the information be released to the applicant informally? What is the question the applicant wants answered from the information? Is some information already available?	☐ YES ☐ NO	

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Have the following considerations been taken into account when deciding whether dealing with an application would require an unreasonable and substantial diversion of resources?			
Section 60 (3A)	The estimated volume of information involved in the request	☐ YES ☐ NO	Where you take into account a consideration listed in s 60(3A) in deciding that an application involves an unreasonable and substantial diversion of resources, this must on balance outweigh: a) the general public interest in favour of the disclosure of government information, and b) the demonstrable importance of the information to the applicant, including whether the information: i) is personal information that relates to the applicant, or ii) could assist the applicant in exercising any rights under any Act or law. (s 60(3B))
	Your agency's size and resources	☐ YES ☐ NO	
	The decision period under s 57	☐ YES ☐ NO	
Request to applicant to amend scope			
Section 60(4)	Approaching applicant on amending the scope	☐ YES ☐ NO	What needs to be amended in an application will depend on the information sought and the reasons identified that the application request is an unreasonable and substantial diversion of resources. You can assist an applicant to reduce the scope of an application or reframe it by providing some guidance on the relevant types of information your agency holds and how your agency's records are kept. Agency Information Guides can also assist an applicant in understanding the information an agency may hold. For more information see IPC Guideline 6: Agency Information Guides . Keep a record of any discussions with the applicant about the scope of the application. In approaching the applicant about the scope of the access application you should include a timeframe for the applicant to respond to that request. Note the period for which an application is to be decided stops running while the applicant is given an opportunity to amend the application: s 60(4).
	Has the applicant agreed to amend scope?	☐ YES ☐ NO	

GIPA Act reference	Issues/Actions/Questions	Status	Comments
Actions following opportunity to amend application			
Section 60(5) Section 60(6)	Did the applicant amend the scope?	☐ YES ☐ NO	If the scope was amended, then confirm new scope in writing with the applicant and include the new decision date so that the applicant is informed when they may expect your decision and then continue to deal with the access application. If the scope of the application was not amended, then confirm this in writing with the applicant including in the notification the reasons for refusal as required by s 60(5) and take action as appropriate. If you decide to refuse to deal with the application, the applicant is not entitled to a refund of the application fee (s 60(6)).

General comments

There is a positive duty on agencies to provide assistance to applicants ([s 16](#)).

Prompt communication to clarify the scope of an access application will facilitate an understanding of what information is being sought and how best you can assist the applicant to obtain that information – unless there is an overriding public interest consideration against the disclosure of the information.

Applicants may not be sure how to explain what information they seek or may not be familiar with your agency's record-keeping practices. Discussion with the applicant may help them to articulate the particular information they seek access to, and information they do not need.

For more information

Contact the Information and Privacy Commission NSW (IPC):

Freecall: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au

NOTE: The information in this fact sheet is to be used as a guide only. Legal advice should be sought in relation to individual circumstances.