

POLICY: PUBLIC ACCESS TO INFORMATION

DATE ADOPTED: Director Corporate Services & Finance’s Report #8.1.1
Policy 3 July 2024
Resolution No. POL2024-23

Director Corporate Services & Finance’s Report #1
Policy 5 December 2012
Council 6 February 2013
Minute Book No. 11477

Director Corporate Services & Finance’s Report #2
Policy 7 September 2011
Council 21 September 2011
Minute Book No 11192

ORIGINAL ADOPTION: Director Corporate Services Report #1
Policy 1 December 2004
Council 8 December 2004
Minute Book No 9416

FILE REFERENCE: 11.00006, 11.00003, 11.00059

OBJECTIVE: To describe Council’s principles regarding public access to information and to facilitate the processing of requests for such access. This policy is to be read in conjunction with the Agency Information Guide.

Principles

Council is committed to the following principles regarding public access to information and the processing of requests for information:

- open and transparent government
- proactive disclosure of information
- a presumption in favour of disclosure of information unless there is an overriding public interest against disclosure
- respect for the privacy of individuals.

How to Access Information

Members of the public have the right to request access to the information we hold. We release information under the Government Information (Public Access) Act 2009 (the GIPA Act) and the Government Information (Public Access) Regulation 2009 (the GIPA Regulation).

1. Information that is publicly available

Council’s Agency Information Guide identifies the information that we make publicly available. We review our information periodically to determine if it can be proactively published.

Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation lists the information that is open access information that is required to be made publicly available.

This information is progressively published on our website or is made available upon request.

2. Informal request to access information

Most requests for information that has not been published on our website, can be satisfied on an informal basis. We will provide access to information, unless there is an overriding public interest against disclosure as defined by section 14 of the GIPA Act.

We do not charge an application fee, however we may charge processing fees for search time, photocopying and written responses in line with Council's Revenue Policy.

Examples of these types of documents include previous versions of financial statements, strategic plans, operational plans, annual reports and the like.

3. Formal request to access information

A formal application to access information will be required for information that may be commercially or legally sensitive, personal information or information that is restricted due to security concerns.

An application fee of \$30 is payable and a further charge for processing the application may also apply. We will assess requests for information in line with the GIPA Act and the Privacy and Personal Information Protection Act 1998.

Formal requests will be determined by our Right to Information Officer and a response will be provided within 20 working days. In line with the GIPA Act we may extend the decision time by up to 15 working days, where consultation with a third party is required or we need to retrieve an archived record.

4. Requests for information to be in writing

Applications for information can be made by completing our informal or formal application to access information forms, which can be found on our website via our 'access to our information' page or available at the Civic Centre.

Exemption To Access

In considering what information may be restricted Council officers will consider Table 1 of Section 14 of the Government Information (Public Access) Act 2009. 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:

- Personnel matters concerning particular individuals (other than Councillors);
- The personal hardship of any resident or ratepayer;
- 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 under section 36DA of the Local Government Act 1993; or
- Documents which were submitted to or are to be submitted to a 'Closed Session' of a Council or Committee Meeting (as delivered by S10(2) of the Local Government Act).

Access to some documents may be considered to be contrary to the public interest under the GIPA Act 2009 and may require lodgment of a formal GIPA Application and third party consultation. These documents include:

- Legal advice*;
- Personnel (individual staff) matters;
- Complaints;
- Individual's details on DA submissions where they claim personal safety issues;
- Council Lease documents;

- Council Contracts;
- Council Tenders; and
- Insurance claims.

* Legal professional privilege may apply to communications between Council and its legal advisers for the purpose of obtaining legal advice, or third parties for the purpose of obtaining legal advice relating to pending or threatened legal action by or against Council. If so, it is not normally available to be inspected or copied.

Review rights

If we refuse access to information under a formal application, we will provide details of the reason(s) for refusal in writing. There are 3 options to review our decision:

1. an internal review by a senior person in Council. This request will review the decision to reject or limit the access to information. Applicants have 20 working days from received notice of a decision to ask for this review and has a prescribed GIPA \$40 fee.
2. an external review by the Information Commissioner. If applicants are not satisfied with the internal review, or do not want one, they can apply to the Information Commissioner. Applicants have 40 working days from receiving notice of a decision to ask for this review
3. a review by the NSW Civil and Administrative Tribunal (NCAT). Applicants have 20 days from the date of notification from the Information Commissioner or 40 days from the date of the original decision to ask for this review.

Amending Personal Detail Records

Under the NSW Privacy and Personal Information Protection Act (PPIPA) 1998 and the Health Records and Information Privacy Act (HRIPA) 2002, an individual also has a right to access and amend 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. The Act provides for consultation with other affected parties prior to disclosure of information concerning their personal or business affairs.