



**ACCESS TO  
INFORMATION  
POLICY  
P3.0186.3**

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## ACCESS TO INFORMATION

**DIVISION:** Customer and Corporate Strategy

**BRANCH:** Legal and Governance

**CATEGORY:** 2

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### PART 1 – INTRODUCTION

#### 1. BACKGROUND

- 1.1 Council is committed to being an open and accessible organisation. Managing and providing documents and information to the public is a complex issue having regard to the public interest and the obligations imposed upon Council by a range of legislation relating to privacy, open data and access to Council information.

#### 2. OBJECTIVE

- 2.1 To provide the public with a transparent process to access documents and information held by Council.
- 2.2 To provide direction to Council staff in managing and providing documents and information to the public having regard to the legislative framework.
- 2.3 To ensure applicants are advised of exemptions to access and the public interest considerations in determining requests for access to documents and information.

#### 3. SCOPE

- 3.1 This policy applies to Councillors, Council staff (including full or part time, permanent, temporary or casual), volunteers, consultants, contractors and their employees.

#### 4. DEFINITIONS

- 4.1 **Access application** means an application for access to government information under Part 4 of the *Government Information (Public Access) Act 2009* (GIPA Act) that is a valid access application under that Part.
- 4.2 **Customer request** means a log used to record information in Council's system which may have been received from a telephone call, an in-person request or in any other form where a 'true' document does not exist.
- 4.3 **Document** means any instrument such as a letter, facsimile, memorandum, form, report, policy, certificate and the like.
- 4.4 **Government information** means information held by Council.
- 4.5 **Redacted** means having had information (generally personal or sensitive in nature) removed.

## PART 2 - POLICY STATEMENT

### 5. LEGISLATIVE CONTEXT

- 5.1 Public access to documents and information held by Council is facilitated by the GIPA Act, *Government Information (Public Access) Regulation 2018* (GIPA Regulation) and the *Local Government Act 1993*, subject to certain restrictions as set out in the Acts and Regulation and summarised in this Policy.
- 5.2 Council is required to comply with the Information Protection Principles prescribed by the *Privacy and Personal Information Protection Act 1998*, Health Privacy Principles prescribed by the *Health Records and Information Privacy Act 2002* and Council's Privacy Management Plan relating to the management of personal and health information held by Council.
- 5.3 The GIPA Act and the GIPA Regulation provide rights of access to certain documents held by Council unless there is an overriding public interest not to do so.
- 5.4 The *Local Government Act 1993* contains provisions that confer rights of access on members of the public to certain information and documents.
- 5.5 The *Copyright Act 1968 (Cth)* governs the copying of information and contains provisions which confer exclusive rights to copyright owners which have the effect of prohibiting publication of copyright material on websites or provision of copies unless the copyright owner has expressly consented.
- 5.6 The *Environmental Planning and Assessment Act 1979* (EPA Act) at Schedule 1 Part 1 Divisions 1-2, and Council's Community Participation Plan, require Council to make certain information associated with strategic planning and development assessment matters available during a public exhibition period.
- 5.7 The *Environmental Planning and Assessment Act 1979* (EPA Act) at section 10.14 provides that a relevant person (for example, the applicant for a development application or the person preparing a planning proposal) who is not entitled to copyright in a document that is part of a planning matter is taken to have indemnified councils and other persons using the document for the purposes of the EPA Act against any claim or action in respect of a breach of copyright in the document.
- 5.8 Other forms of legislation or documents which have an impact upon access to documents include:
  - Privacy Code of Practice for Local Government
  - Privacy Management Plan
  - *State Records Act 1998*.

### 6. PRINCIPLES

- 6.1 Council will make available, upon application, any record of the Council for viewing by any person at the Administration Centre, during normal business hours, subject to the GIPA Act and Regulation. Council may also agree to provide copies of documents containing government information in accordance with the GIPA Act and Regulation.

- 6.2 Information accessible under this Policy includes any record of government information. As defined at clause 10(1) of Schedule 4 to the GIPA Act, this means “any document or other source of information compiled, recorded or stored in written form or by electronic process, or in any other manner or by any other means”. This includes any information stored in a physical (paper) file or as a document, email/web request, customer request, map, plan, drawing or photograph in Council's electronic document management system.
- 6.3 Council is not obliged to provide access to documents or government information that are not in Council's possession or control.
- 6.4 Some documents may not be able to be provided unless with the consent of a third party.
- 6.5 To comply with Council's obligations under the *Copyright Act 1968* (Cth.), and unless copyright permission has been obtained, generally no copies of documents subject to copyright will be provided or permitted to be taken and applicants will only be allowed to access those documents by viewing them.
- 6.6 To comply with Council's obligations under the *Privacy and Personal Information Protection Act 1998* and the GIPA Act, documents that contain the personal information of third parties or other sensitive information for which there is an overriding public interest against disclosure may have this information redacted before access is provided to the information.
- 6.7 Some documents can be inspected without any formal or informal application. These include information that is prescribed as open access information under the GIPA Act and Regulation, such as agendas and minutes of open Council and Committee meetings, policy documents, the Annual Report, publicly exhibited development applications and associated documents, other publicly exhibited items, and, subject to the Privacy Management Plan, Council's public registers. Most of these documents are available online at Council's website.
- 6.8 If Council considers it to be in the public interest, formal access applications will be published in a disclosure log on Council's website in accordance with the GIPA Act and Regulation.
- 6.9 Council will only make personal information available in accordance with the GIPA Act, *Privacy and Personal Information Protection Act 1998*, *Health Records and Information Privacy Act 2002* and Council's Privacy Management Plan.

## **7. RESPONSIBILITIES**

- 7.1 The Public Officer and other authorised officers are responsible for assisting the public to gain access to Council's public documents.
- 7.2 All staff and elected representatives have responsibilities under the *State Records Act 1998* as detailed in the Records and Information Management Policy.

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**RELEVANT LEGISLATIVE INSTRUMENTS:** *Copyright Act 1968 (Cth)*  
*Environmental Planning and Assessment Act 1979*  
*Environmental Planning and Assessment Regulation 2021*  
*Data Sharing (Government Sector) Act 2015*  
*Government Information (Public Access) Act 2009*  
*Government Information (Public Access) Regulation 2018*  
*Health Records and Information Privacy Act 2002*  
*Local Government Act 1993*  
*Privacy and Personal Information Protection Act 1998*  
Privacy Code of Practice for Local Government  
*State Records Act 1998*

**RELATED POLICIES, PLANS AND PROCEDURES:** Agency Information Guide  
Guidelines for Councillor Access to Information and Advice  
Open Data Policy  
Privacy Management Plan  
Records and Information Management Policy

**RESPONSIBLE DIRECTOR:** Customer and Corporate Strategy

**APPROVAL:** Council

**HISTORY:**

<b>Version</b>	<b>Approved by</b>	<b>Changes made</b>	<b>Date</b>	<b>EDMS Number</b>
1	Council	New	27/03/2018	18/94411
2	ELG	Minor changes only	23/04/2020	18/94411
3	Governance	Editorial amendments.	13/04/2023	18/94411