



**ACCESS TO
INFORMATION
POLICY
P3.0186.2**

ACCESS TO INFORMATION

DIVISION: Customer and Corporate Strategy

BRANCH: Legal and Governance

CATEGORY: 2

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 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 personal or sensitive information 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* and Council's Privacy Management Plan relating to the management of personal 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 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) contains provisions which require Council to make development applications and accompanying information, including plans, publicly available, and provides a right for people to inspect and make copies of the plans during the submission period.
- 5.7 The *Environmental Planning and Assessment Regulation 2000* provides that councils and other persons using the development application plans and documents in accordance with the EPA Act are entitled to claim an indemnity from the person who applied for the development application to cover costs they incur arising from claims they have infringed copyright in the plans and the development application, where these materials were being used in accordance with the EPA Act.
- 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
 - *Privacy and Personal Information Protection Act 1998*
 - *Health Records and Information Privacy Act 2002*
 - *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, in its discretion, agree to provide copies of documents containing government information.

- 6.2 Information accessible under this policy includes any record of government 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 copyright laws, and unless copyright clearance 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 may have this information redacted.
- 6.7 Some documents can be inspected without any formal application. These include 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 disclosures log on Council's website in accordance with the GIPA Act and Regulation.

7. RESPONSIBILITIES

- 7.1 The Public Officer is 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 Information Management Policy.

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RELEVANT LEGISLATIVE INSTRUMENTS: *Government Information (Public Access) Act 2009*
Government Information (Public Access) Regulation 2018
Local Government Act 1993 Copyright Act 1968 (Cth)
Environmental Planning and Assessment Act 1979
Privacy and Personal Information Protection Act 1998
Health Records and Information Privacy Act 2002
State Records Act 1998

RELATED POLICIES, PLANS AND PROCEDURES: Information Management Policy
Privacy Management Plan
Guidelines for Councillor Access to Information and Advice

RESPONSIBLE DIRECTOR: Customer and Corporate Strategy

APPROVAL: Council

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	Council	New	27/03/2018	18/94411
2	ELG	Minor changes only	23/04/2020	18/94411