

PUBLIC ACCESS INFORMATION POLICY

Approval Date:	8 August 2012
Review Date:	August 2013
Responsible Officer:	Director Corporate & Community Services

Purpose

The purpose of this policy is to outline principles regarding access to information held by Council and to facilitate the processing of requests for such access by the public.

1. Principles

Council is committed to the following principles regarding access to documents and information:

- a) Open and transparent government
- b) Consideration of the overriding public interest in relation to access requests
- c) Proactive disclosure and dissemination of information
- d) Respect for the privacy of individuals

2. Policy Statement

Council publishes specific open access information on our website which is free of charge unless to do so would impose unreasonable additional costs to Council. Other information may also be publicly available if sought in an appropriate manner, and this is listed on our website under the GIPA Act disclosure log. Such information will be provided free of charge or at the lowest reasonable cost if photocopying or Council resources are required.

Councillors also have a right to access Council information that is reasonably necessary for exercising the function of their civic office, including communicating Council policy and decisions to the community, excising community leadership and representing the views of residents and ratepayers to Council.

Council is governed by legislation that requires operations to be open and accountable, and to handle personal information in a fair and reasonable manner. Council will ensure that legitimate requests for access to information are handled promptly and in a manner that enables members of the public and Councillors to access information which is in the public's interest. It is also recognised that privacy of others, legal and commercially sensitive information, will be handled in a responsible manner.

The Right to Information Officer will deal with requests to inspect documents in accordance with the Government Information (Public Access) Act 2009 (GIPA Act) free of charge but reasonable photocopying fees may apply under the Act.

PROCEDURE:

Applications for documents must be assessed in accordance with the Government Information (Public Access) Act 2009, in a timely manner and in accordance with the 'Access to Information Guidelines' and relevant legislation. Depending on the nature of a request, and the form of access requested, charges may apply in accordance with Council's Schedule of Fees and Charges and relevant legislation.

Council's Right to Information Officer will assess requests concerning Council's information and will assist the public and Councillors to gain access to information held by Council, determine applications requested and / or amend records in accordance with legislation. Council will assess requests for access to information with reference to relevant legislation including:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from operational needs may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will pursue ways to assist in defining the request to become more manageable and Council will endeavour to release alternate information that may sufficiently respond to the informal request.

Where information is released to an applicant under a formal access application, and Council considers that it will be of interest to other members of the public, the information may be provided for future inspection by the public and Councillors, free of charge. The GIPA Act 2009 promotes openness, accountability and transparency, It allows Council to be proactive in providing information to the public and Councillors.

1. Open Access Information

Council publishes open access and mandatory release information on its website unless there is an overriding public interest against disclosure, or do so would impose an unreasonable additional cost on Council. Should costs be deemed unreasonable Council will make the information available to the applicant in another suitable format such as viewing a hard copy at the Administration Office.

Information identified as 'Open Access Information' and is available on Council's website and includes a publication guide with information about the Council's structure and functions, and listing the type of information that is publicly available.

In addition, Schedule 1 of the GIPA Act Regulations requires certain documents be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the Administration Office of Council during normal office hours. Copies may be supplied for reasonable copying charges as shown in Council's adopted Fees and Charges.

Copies of documents provided to the public and Councillors are done so for information purposes only and are provided by Council to meet its requirements under relevant legislation. Copyright laws still apply to each document and the copyright / owner's consent is required if any part of the document is used for any other purpose.

Council may include 'other' documents on the website which are frequently requested and deemed to be in the public's interest as a result of a previous request under the GIPA Act. Council will endeavour to release this information in response to an informal request, subject to any reasonable conditions as Council sees fit to impose. However, notwithstanding the lodgement of an informal application, Council may require an individual or Councillor to submit a formal access application for the information sought if the information:

- is of a sensitive nature that requires careful weighing of the considerations in favour of and against disclosure, or
- contains personal or confidential information about a third party that requires consultation, or
- would involve an unreasonable amount of time and / or resources to produce.

2. Exemptions to Access

Council may refuse a request for information if there is an overriding public interest against disclosure or if searching for the requested information would require unreasonable and substantial diversion of the Council's resources. Council will always explain, to the applicant, being a member of the public or a Councillor, the reason / s for applying an exemption.

Council will not classify information as exempt unless there are clear reasons for doing so. If documents partly contain exempt information, this information will be withheld and the remaining information will be available under the Act. In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.

The GIPA Act provides an exhaustive list of public interest considerations against disclosure. These are the only considerations against disclosure that Council will consider in applying the public interest test.

Council will consider any submissions made by an individual or a Councillor in relation to public interest considerations, as well as particulars personal to the applicant. Under the GIPA Act there are 12 categories of information, 8 of which affect local government, for which there is a conclusive presumption of an overriding public interest against disclosure.

Local Government categories are:

1. Information subject to an overriding secrecy law (26 specifically named Acts).
2. Information subject to the direction or order of a court or other body with the power to receive evidence on oath.
3. Information subject to legal professional privilege.
4. 'Excluded information' (judicial and prosecutorial information, information about complaints handling and investigative functions, competitive and market sensitive information and information in relation to specific functions of the Public Trustee).
5. Documents affecting law enforcement and public safety.
6. Specific information relating to transport safety.
7. Specific reports concerning the care and protection of children.
8. Specific information relating to Aboriginal and environmental heritage.

Generally under the GIPA Act, Council cannot publish, and must refuse requests to disclose information in the above categories. Formal applications for 'excluded information' are invalid under the Act. In dealing with informal applications Council will apply a similar decision making framework.

3. Accessing Information

The public and Councillors may obtain access to information as follows:

- Council's website
- A written request to Council which will be determined and a reply provided as to whether the information requested:
 - is *open access*, or *mandatory release* information that is readily available and where and how to get the information
 - can be disclosed through an *informal release*, for example where no third party personal information is involved
 - Requires a *formal access application*, accompanied by the required fee and photocopying charges.

To make an informal request for access to information Council will require the public and / or Councillors to complete an 'Informal Access to Information Request' form but no fee is required with this application.

To make a formal request for access to information, a 'Formal Access to Information' Request Form must be completed. The Formal Application fee is defined in the GIPA Act and does not include GST.

If a fee for photocopy is required the applicant will be notified of the amount payable and this amount will include GST. Charges will be calculated as per Council's current Schedule of Fees and Charges, applicable at the time of lodgement of the application.

4. Rights of Review and Appeal

Where a member of the public or a Councillor is refused access of a formal application, the Right to Information Officer will provide details of the reasons for refusal to the applicant in writing. An applicant who has been refused access by Council to a formal access application has three options of review available:

1. Internal Review:

Applicants have 20 working days from the date they are notified that their original application has been refused to ask for an internal review. A request for an internal review must be submitted to Council on a completed application form and payment of the appropriate fee under GIPA Act. This review will be conducted by the General Manager.

2. Review by the Information Commissioner

If an applicant is not satisfied with the internal review, or does not wish one to be conducted, they can ask for a review by the Information Commissioner. Applicants have 8 weeks from the notification that their original application was refused to ask for a review.

3. Review by the Administrative Decisions Tribunal (ADT).

If an applicant is not satisfied with the decision of the Information Commissioner, or an internal review by Council, or they do not want to take these options they can apply to the Administrative Decisions Tribunal (ADT).

If the applicant has already had a review by the Information Commissioner they have 4 weeks from notification of the decision to make this application. If they haven't had a review by the Information Commissioner they have 8 weeks from notification of the decision to make this application.

There are no rights of review in respect of informal applications, but the applicant may wish to make a formal application to Council.

Policy Review History

Date	Changes Made	Approved By
July 2012	Policy developed	.General Manager
8 th August 2012	On Public Exhibition – 15/8/2012 – 14/9/2012	Council Min No 0024
10 October 2012	Formally Adopted by Council	Council Min No 0141