

## Public Access to Information held by Council Policy

### DOCUMENT PROFILE

<b>Title</b>	<b>Public Access to Information held by Council Policy</b>
<b>Summary</b>	This policy outlines Council's commitment to promoting openness and transparency through the release of information held by Council to the public, in accordance with relevant legislative requirements.
<b>Background</b>	This policy complies with the requirements of the <i>Government Information (Public Access) Act 2009</i> .
<b>Policy Type</b>	Council
<b>Relevant Strategic Plan Objective</b>	Strategic Direction 5: Progressive Local Leadership
<b>Relevant Council References</b>	<ul style="list-style-type: none"> <li>• <i>Council's Code of Meeting Practice</i></li> <li>• <i>Council's Agency Information Guide</i></li> <li>• <i>Council's Inclusion Action Plan for People with a Disability 2017- 2021</i></li> <li>• <i>Code of Conduct</i></li> <li>• <i>Schedule of Fees and Charges</i></li> </ul>
<b>Main Legislative Or Regulatory References</b>	<ul style="list-style-type: none"> <li>• <i>Government Information (Public Access) Act 2009 (GIPA Act)</i></li> <li>• <i>Government Information (Public Access) Regulation 2009</i></li> </ul>
<b>Applicable Delegation Of Authority</b>	Delegation 2.1 Access to Information: to exercise any function under the <i>Government Information (Public Access) Act 2009</i> and / or the <i>Privacy and Personal Information Protection Act</i>
<b>Other External References</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act, 1993</i></li> <li>• <i>Local Government Regulations 2005</i></li> <li>• <i>Privacy and Personal Information Protection Act 1998</i></li> <li>• <i>Health Records and Information Privacy Act 2002</i></li> <li>• <i>Copyright Act 1968</i></li> <li>• <i>Environmental Planning and Assessment Act, 1979</i></li> <li>• <i>Ombudsman Act 1974</i></li> <li>• <i>Independent Commission Against Corruption Act, 1988</i></li> <li>• <i>Roads Act 1993</i></li> <li>• <i>State Records Act 1998</i></li> <li>• <i>Companion Animals Act 1998</i></li> </ul>
<b>Attachments</b>	Nil
<b>Record Notes</b>	Externally available document

<b>Document:</b>	Council Policy
<b>Custodian:</b>	Business Information Services Unit
<b>Approved By:</b>	Group Manager Information and Communications Technology
<b>Adopted By:</b>	Council - TBA
<b>Adopted Date and Minute #:</b>	TBA
<b>Version #</b>	2.0
<b>TRIM Ref #</b>	P 44182.18
<b>Publish Location</b>	Internet
<b>Next Review Date</b>	June 2019


**Public Access to Information held by Council Policy**
**1. PURPOSE**

This policy outlines Council's commitment to promoting openness and transparency through the release of information held by Council to the public, in accordance with relevant legislative requirements.

**2. OBJECTIVES**

Council will:

- facilitate access to Council information for persons with disabilities in accordance with the objectives of Council's *Inclusion Action Plan for People with a Disability 2017- 2021*;
- inform the community about their right to information and will ensure the process of applying for access is readily understood by the community;
- respect the privacy of individuals when making determinations about releasing information; and
- proactively release information of interest to the public;
- make information readily accessible to the community and will respond to applications for information within the timeframes indicated;
- apply fair and reasonable charges for access to information;
- consider the overriding public interest test when responding to public access to information requests; and
- promote staff awareness of Council's information access responsibilities.

**3. SCOPE**

This Policy applies to requests received from the public to access information held by Council. All staff employed by Council have obligations under the GIPA Act. Delegated staff have additional responsibilities under the GIPA Act (*refer to Section 7 – Responsibilities*).

**4. DEFINITIONS**

GIPA Act:	<i>Government Information (Public Access) Act 2009</i>
Government Information:	Government Information is defined in Section 4 of the <i>GIPA Act</i> as meaning "information contained in a record held by an agency".
Record	A record is defined in Schedule 4 of the <i>GIPA Act</i> as "...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".

**5. POLICY STATEMENT**

Council is committed to promoting openness and transparency in the conduct of Council's public functions, decision making, initiatives, operations and plans. Council acknowledges that the information held by Council provides a high level of interest within the community and to individuals on a personal level.

Council is committed to a presumption in favour of the disclosure of information unless there is an overriding public interest against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.

Council is committed to complying with relevant regulatory requirements such as the *Government Information (Public Access) Act 2009 (GIPA Act)* and the *Privacy and Personal Information Protection Act 1998* when releasing Council held information, either proactively or in response to requests for information. If withholding information (in full, or in part), Council will document the reasons for withholding the requested information.

## **6. POLICY**

### **Right to Access Information**

A person may access Council's information in accordance with the *GIPA Act*, the *Agency Information Guide* and other relevant legislation. Councillors have the same right of access as any other person under this Policy, as well as additional rights in relation to information which is necessary for Councillors to access to carry out their civic duties.

Council exercises its discretion when determining the format in which requested information is released and when determining whether an informal or a formal access application is required when requesting information from Council.

### **Information held by Council**

In accordance with the requirements of s20 of the *GIPA Act*, Council's *Agency Information Guide* provides the public with an understanding of the type of information held by Council and how this information can be accessed. The policy is to be read in conjunction with Council's *Agency Information Guide*.

### **How can Council Information be Accessed?**

Under the *GIPA Act*, information can be accessed in the following ways:

1. **Mandatory proactive release / open access information** – Council must publish certain information on its website free of charge or make it available in another way free of charge. This is known as open access information. A list of open access information is provided in Council's *Agency Information Guide*.
2. **Authorised proactive release** – Council may choose to make information (in addition to mandatory release) available on its website or by other means free of charge. For example: frequently requested information or information of public interest.
3. **Informal release** – if Council information is not publicly available (such as on the website) but can be quickly and easily collated and does not include other's personal or business information, it will generally be released informally upon request. There may be a cost associated with informal release as provided in Council's Fees and Charges.
4. Release subject to a **formal access application** – in limited circumstances a formal application will need to be made to access information held by Council, usually where the information contains the personal or business affairs of third parties. Council is not required to release information where the public interest against release outweighs the public interest for release.

### **Informal Access Applications**

Council may release information in response to an informal access application when the information sought:

- is information that is classified as mandatory or authorised proactive release;
- is information for which there is conclusive presumption of overriding public interest in favour of disclosure;
- does not affect the personal or business affairs of a third party; or
- does not require a significant amount of Council resources to process.

Council is committed to releasing to the public as much information as possible informally. There is no charge for making an informal access application. However, in accordance with Clause 4 of the *Government Information (Public Access) Regulation*, Council may charge a fee for the reasonable cost of copying the requested information. Fees are listed in Council's *Pricing Policy and Fees and Charges*. Council's service standard for processing informal access requests is up to 20 business days.

### Formal Access Applications

Council retains the discretion to require a formal access application in certain circumstances such as where requests are for sensitive information, for ambiguous requests, requests requiring Council to consult with third parties over their personal or business affairs, or for requests that require a significant diversion of Council resources.

Formal access applications are acknowledged and determined within the statutory periods prescribed by Section 57 of the *GIPA Act*. Formal access applications will be assessed in accordance with the public interest test (Division 2 of the *GIPA Act*). Where there are public interest considerations, Council carries out consultation with relevant third parties before making a determination, in accordance with Section 54 of the *GIPA Act*.

Processing charges, as prescribed in Division 5 of the *GIPA Act*, apply to formal public access applications. Initial and additional processing charges are applied in accordance with Section 64 of the *GIPA Act*. Applicants will be advised of the charges likely to be applied to their application at the time Council acknowledges receipt of the application.

Council will provide access to information in a form that complies with Sections 72 and 73 of the *GIPA Act*. Where it is determined that access to information is not to be given, details will be provided in writing (including reasons) to the person requesting the information.

### Public Interest Test

Providing access to government information is restricted only when there is an overriding public interest against disclosure. Schedule 1 of the *GIPA Act* lists the conclusive considerations against disclosure. In addition, Section 14 of the *GIPA Act* lists the discretionary considerations against disclosure.

### Right of Review and Appeal of Council's Decisions

If a member of the public is dissatisfied with Council's determination of their application, and it falls within the scope of reviewable decisions under the *GIPA Act*, they may seek to have Council's decision reviewed in accordance with the provisions contained within Part 5 of the *GIPA Act*.

## 7. RESPONSIBILITIES

Delegation 2.1 Access to Information: to exercise any function under the *Government Information (Public Access) Act 2009* and / or the *Privacy and Personal Information Protection Act 1998*.

Delegated Officers: Group Manager Information and Communications Technology (*proposed*)  
Business Information Services Manager  
Right to Information Coordinator

## 8. ASSOCIATED PROCEDURES

- *Agency Information Guide*
- *Council's Inclusion Action Plan for People with a Disability 2017- 2021*

### Version Control - POLICY HISTORY:

Version	Amended By	Changes Made	Date	TRIM #
1	Governance Group	Harmonised IWC Policy	March 2017	74655.17
2	Business Information Services	Reviewed prior to adoption by Council. Service standard for 'informal' requests changed to 20 business days.	27 June 2018	P 44182.18