

DRAFT ACCESS TO INFORMATION POLICY

| QUALITY CONTROL | | | |
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| EDRMS REFERENCES | D12/11825 – 12/14 | | |
| RESPONSIBLE POSITION | Director Corporate | | |
| APPROVED BY | Council | | |
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| 11 April 2006 | Adopted | 41743 | |
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INTRODUCTION

The purpose of this policy is 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 Council's Agency Information Guide and Access to Information Procedure.

The policy reflects Council's commitment to open and transparent government by setting out how it intends to meet the requirements of legislation.

1. POLICY OBJECTIVE

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

2. POLICY SCOPE

This policy applies to the provision of access to information held by Council under the terms of the *Government Information (Public Access) Act 2009*.

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.

3. POLICY STATEMENT

3.1 LEGISLATIVE CONTEXT

- 3.1.1** Public access documents and information held by Council is facilitated by the GIPA Act, GIPA Regulation and the *Local Government Act 1993*, subject to certain restrictions as set out in the Acts and Regulation.
- 3.1.2** 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.
- 3.1.3** 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.
- 3.1.4** The *Local Government Act 1993* contains provisions that confer rights of access on members of the public information and documents.
- 3.1.5** 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.
- 3.1.6** 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.
- 3.1.7** 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. 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*

3.2 PRINCIPLES

- 3.2.1** 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.
- 3.2.2** 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 (EDRMS).
- 3.2.3** Council is not obliged to provide access to documents or government information that are not in Council's possession or control.

- 3.2.4** Some documents may not be able to be provided unless with the consent of a third party.
- 3.2.5** To comply with Council's obligations under copyright laws, and unless copyright clearance has been obtained, generally no copied 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.
- 3.2.6** To comply with Council's obligations under the *Privacy and Personal Information Protection Act 1998* and GIPA Act, documents that contain the personal information of third parties or other sensitive information may have this information redacted.
- 3.2.7** 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.
- 3.2.8** 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.

4. IMPLEMENTATION

4.1 Roles and Responsibilities

The Public Officer is responsible for assisting the public to gain access to Council's public documents.

All staff and elected representatives have responsibilities under the *State Records Act 1998* as detailed in the Records Management Policy.

4.2 Communication

This policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council, the Policy will be made available on Council's website.

4.3 Associated Documents

The following documentation is to be read in conjunction with this policy:

- Privacy Management Framework
- Privacy Management Plan
- Agency Information Guide
- Access to Information Procedure
- Collection and Disclosure of Personal Information Procedure
- Informal and Open Access Application Form
- Formal Access Application Form

5. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be within each term of Council following the Local Government Elections, or as required to ensure that it meets legislation requirements and the needs of the community and Council. The responsible Council officer will be notified of the review requirements three months prior to the expiry of this policy.

The Director Corporate is responsible for the review of this policy.

6. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009*
- *Government Information (Public Access) Regulation 2009*
- *Privacy and Personal Information Protection Act 1998*
- *Health Records and Information Privacy Act 2002*
- *State Records Act 1996*
- *Local Government Act 1993*
- *Environmental Planning and Assessment (EPA) Act 1979*
- *Companion Animals Act 1998*

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Access to Information. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

7 DEFINITIONS

"Access application" shall mean an application for access to government information under Part 4 of the GIPA that is a valid access application under that Part.

"Customer request" shall mean 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.

"Document" shall mean any instrument such as a letter, facsimile, memorandum, form, report, policy, certificate and the like.

"GIPA Act" shall mean *Government Information (Public Access) Act 2009*

"GIPA Regulation" shall mean *Government Information (Public Access) Regulation 2009*

"Redacted" shall mean having had personal or sensitive information removed.