

Access to Council documents

Policy, procedure, protocol	Policy
Document version	V 4.0
Date adopted by Council	18 August 2015
Minute number	14.144/15
File reference number	ECM 1554290
Due for review	April 2020
Documents superseded	V2.0 – 20/04/2010 – 13.050/10 V3.0 - 16/04/2013 – 13.059/13
Related documents	Privacy Management Plan & Procedures
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Section / Department	Organisation Performance & Governance
Linkage to Our Community Plan	5 Our Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.4 Provide open, accountable and transparent decision making for the community

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1. Purpose

To provide guidance to both staff and the public on those Council documents that the public may access and the manner in which Council will make them available.
To ensure that decisions on public access to Council's documents are consistent.
To provide a practical framework for consistent and efficient consideration of applications received by Council under the Government Information (Public Access) Act (GIPA Act) for access to documents.

2. Definitions

Formal Access Application for access to documents under Part 4 of the GIPA Act

Informal Application is application for access to documents under section 8 of the GIPA Act

Open Access Information is the information set out in section 18 of the GIPA Act and listed in Schedule 1 of this Policy

Personal information is defined in both the Privacy and Personal Information Protection Act 1998 (PPIPA) and the Health Records and Information Privacy Act 2002 (HRIPA) as '*information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion*' but does not include information about an individual who has been dead for more than 30 years or information about an individual that is contained in a generally available publication

Record is defined in the Government Information (Public Access) Act 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.'

Copies are also included as 'records' but the knowledge of a person is specifically excluded from the definition of record.

3. Background/legislative requirements

Access by the public to records held by Council is governed by the following legislation:

- The Government Information (Public Access) Act (GIPA),
- The Privacy and Personal Information Protection Act (PPIP)
- The Health Records and Information Privacy Act (HRIP)
- The Environmental Planning and Assessment Regulations (EP&A Regs)

The GIPA Act provides for two categories of records, those that Council is required to make available to the public (Open Government Information) and those that Council may make available on application.

The PPIP Act and the HRIP Act both place restrictions on access to personal or health information that Council may hold relating to individuals but permit access to an individual's own records in certain circumstances.

The EPA Regulation permits public access to certain documents and registers, subject to certain restrictions.

4. Policy, protocol or procedure statement

4.1 Council's philosophy on access to its documents

Council is committed to providing public access to its documents, subject to any relevant legislation. Its preferred position is to provide access in a timely and cost effective manner in accordance with the relevant legislation and wherever possible Open Access Information will be posted on its website to ensure that this information is readily available at all times.

4.2 What Council documents are available to the public?

Members of the public have a right to access all **Open Access Information** held by Council. A list of this information is set out in Schedule 1 to the Policy. This information may be accessed free of charge in Council's offices in Prince St Grafton and River St Maclean and, wherever possible, it shall also be placed on Council's website (www.clarence.nsw.gov.au)

The balance of Council's records may be accessed via written application to Council, either by way of an informal or a formal application under the GIPA Act or by way of access under the PPIP Act or the HRIP Act or the EP&A Regulations. Each application must be accompanied by the applicable application fee as set out in Council's Schedule of Fees and Charges.

If an **Informal Application** for a record is made under the GIPA Act, Council has a discretion whether or not to provide access.

If a **formal Access Application** for a record is made under the GIPA Act, then Council may only refuse to provide access on the grounds set out in that Act. These Applications will be processed in accordance with the Act.

Application may also be made under either the **PIPP Act** or the **HRIP Act** for access to personal information relating to the applicant that is held by Council. On receipt of any such application and subject to Council being satisfied as to the identity of the applicant, Council will advise:

- (a) whether it holds any personal information relating to that person,
- (b) if it holds any such personal information:
 - (i) the nature of that information,
 - (ii) the main purposes for which the information is used, and
 - (iii) that person's entitlement to gain access to that information.

Under clause 268 of the **EP&A Regs** Council is required to provide access to certain registers and documents relating to development applications and consents and to complying development certificates. These are set out in sections 264-267 of the Regulations.

Application to view these registers and documents may be made via an informal application under the GIPA Act.

4.3 Public Registers (Listed in Schedule 2)

Notwithstanding the access arrangements set out above, Council is required by the PIPP Act to restrict access to Public Registers in the following manner:

Public registers fall into two categories

- Category A registers have restricted access
- Category B registers have unrestricted access for inspection.

Access to Category A registers is restricted to one page (or a single entry, if more than one page) unless the person wanting access first provides Council with a Statutory Declaration setting out their reason for wanting access and those reasons are for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.

Access to inspect Category B registers is unrestricted.

4.4 Amendment of records

Any person to whom access has been granted to any of Council's documents may apply to Council for an amendment to any of those documents provided that:

- (a) the document contains information regarding the applicant's personal affairs; and
- (b) the information is available for use by Council in relation to its administrative functions; and
- (c) in the applicant's opinion, the information is misleading, out of date, incorrect or incomplete.

Any application for amendment should be made on Council's application form or a similar form. There is **no fee** for this application.

The application shall be determined by Council either:

- (a) agreeing to amend the document(s) as requested; or
- (b) refusing the application.

Council may refuse to amend its records if:

- (a) it is satisfied that they are not incomplete, incorrect, out of date or misleading in a material respect; or
- (b) it is satisfied that some aspect of the application is incorrect or misleading in a material respect; or
- (c) the amendment of the particular document sought to be altered is governed by another Act.

5. Attachments

Schedule 1	Open Government Information
Schedule 2	Public Access Registers

Schedule 1

Open Access Information

Relevant GIPAA reference	Document/information
s18(a)	Information Guide
s18(b)	Information about Council contained in any document tabled in Parliament
s18(c)	Policy Documents
s18(d)	Disclosure Log of Access Applications
s18(e)	Register of Government Contracts
s18(f)	Record of the open access information that Council does not make available on the basis of an overriding public interest against disclosure
Sch 1(1)(a)	Model Code of Conduct and adopted Code of Conduct
Sch1(1)(b)	Code of Meeting Practice
Sch1(1)(c)	Annual Report & State of the Environment (SOE) Report
Sch1(1)(d)	Annual Financial Statements
Sch1(1)(e)	Auditors Report (with Annual financial Statements)
Sch1(1)(f)	Management Plan
Sch1(1)(g)	EEO Management Plan
Sch1(1)(h)	Policy Councillors Expenses and the Provision of Facilities to Councillors
Sch1(1)(i)	Annual reports of bodies exercising functions delegated by Council
Sch 1(2)(a)	Declaration of Interest Returns
Sch 1(2)(b)	Agendas and business papers for Council and Committee meetings
Sch 1(2)(c)	Minutes of Council and Committee meetings
Sch 1(2)(d)	Section 433 LGA Department reports relating to Council
Sch 1(3)(a)	Council's Land Register
Sch 1(3)(b)	Council's Register of Investments (this is reported to each Council meeting cycle)
Sch 1(3)(c)	Council's Register of Delegations
Sch 1(3)(d)	Council's Register of Graffiti Removal Work
Sch 1(3)(e)	Council's Register of Declarations of disclosures of political donations – s328A LGA
Sch 1(3)(f)	Council's Register of voting on planning matters – s375A LGA
Sch 1.2(a)	Local Approvals Policy
Sch 1.2(b)	Plans of Management for Community Land
Sch 1.2(c)	Council's LEP, DCPs and Contribution Plans
Sch 1.3(1)(a)	Development Applications and associated documents, including: (i) home warranty insurance documents

	<ul style="list-style-type: none"> (ii) construction certificates (iii) occupation certificates (iv) structural certification documents (v) town planner reports (vi) submissions received (vii) heritage consultant reports (viii) tree inspection consultant reports (ix) acoustics consultant reports (x) land contamination consultant reports
Sch 1.3(1)(b)	Development Application decisions (including decisions on appeal)
Sch 1.3(1)(c)	Development Application documents excluded from public access because they are: <ul style="list-style-type: none"> (i) plans and specifications for the residential part of a building (other than height and external configuration plans), or (ii) commercial-in-confidence.
Sch 1.4(a)&(b)	Applications for approvals together with supporting documentation
Sch 1.4(c)	Records of approvals granted or refused
Sch 1.4(d)	Orders given under Part 2 Ch7 LGA and any reasons given under s136
Sch 1.4(e)	Orders given under any other legislation
Sch 1.4(f)	Records of building certificates
Sch 1.4(g)	Plans of land proposed to be compulsorily acquired by Council
Sch 1.4(h)	Compulsory acquisition notices
Sch 1.4(i)	Leases and licences for use of public land classified as community land

Schedule 2

(a) *Public Access Registers*

Category A Registers

Restricted Access

<p>Property Register (Rates Data Base)</p>	<p>Ownership details can be released on individual basis only – no need for a reason to be given.</p> <p>No release on bulk basis (See DLG Circular 00/75) – however, it has been determined that the following are consistent with the purposes of the PPIP Act.</p> <p>Release of information to:-</p> <ul style="list-style-type: none"> • Electoral Commission (DLG letter 13/7/00) • Telecommunication carriers and other bodies required to discharge statutory obligations LGSA (WC 37/00 & WC 38/00) • Registered valuers LGSA (WC 50/00)
<p>Sales Data</p>	<p>Sourced from LTO Public Register – therefore can be released with/without names on individual basis only</p> <p>No release on bulk basis except to:</p> <ul style="list-style-type: none"> • Registered valuers LGSA (WC 50/00)
<p>Register of Development Applications and Consents (cl. 264 EPA Regs)</p>	<p>Public document available for inspection and copying under s.100 EPA Act but if they wish to inspect or copy more than one page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act. Sale of bulk information not permitted.</p> <p>Note – right to inspect does not extend to internal plans nor to commercial-in-confidence information.</p>
<p>Register of Complying Development Applications (cl. 265 EPA Regs)</p>	<p>Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act. Sale of bulk information not permitted.</p>
<p>Construction Certificate Register (cl.109B EPA Regs)</p>	<p>Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act. Sale of bulk information not permitted.</p>
<p>Section 94 Contributions</p>	<p>Public document available for inspection (see cl.36, 37 EPA Regs.) but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act.</p>
<p>Register of Impoundings</p>	<p>Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the</p>

	purpose is consistent with the purpose of the Act requiring the register.
Register of Caravan Park Licences	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of On-Site Effluent Disposal	Public document available for inspection but if they wish to inspect or copy more than a page they need to submit a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Leases of Community Land	Public document available for inspection and copying but if inspection or copies of more than one page required then a statutory declaration is required stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.

Category B Registers

Unrestricted access

Electoral Roll	Public document available for inspection only – no copies permitted. Any request for copies should be referred to the Electoral Office, King Arcade, King St, Grafton
Disclosures by Councillors and Designated Persons Returns	Public document available for inspection and copying but if copies of more than one entry are required then a statutory declaration is required stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Register of Delegations	Full unrestricted public access and copying.
Graffiti Removal Register S67C LGA	Full unrestricted public access and copying.
Council's Register of Declarations of disclosures of political donations – s328A LGA	Full unrestricted public access and copying.
Council's Register of voting on planning matters – s375A LGA	Full unrestricted public access and copying.
Register of Council Contracts with value > \$150,000	Full unrestricted public access and copying.
Cemetery Register	Unrestricted public access and copying.
Roads Register	Unrestricted public access and copying.
Register of Public Gates/Ramps	Unrestricted public access and copying
Council Land Register (Community, Operational and Crown Land)	Unrestricted public access and copying.
Register of Council investments	Unrestricted public access and copying.