

ACCESS TO INFORMATION POLICY

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PREPARED BY:

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SUTHERLANDSHIRE



1. PURPOSE

The purpose is to outline Council's principles and commitment in providing public access to information in accordance with the *Government Information (Public) Access Act 2009* (GIPA Act).

2. APPLICATION

Who can apply for access to information?

- Members of the public, all Council staff, Councillors and contractors of Sutherland Shire Council.
- Staff unions and the SSC Social Club are independent for the purpose of requests for information.

Councillors have a right to access Council information that is reasonably necessary for exercising their functions of their civic office.

Requests for information are handled by the Information Management & Technology Unit. Applications are processed in the order they are received. Exceptions to prioritise applications can only be granted by the Chief Information Officer or Director of Corporate Support.

3. PRINCIPLES

3.1 Application of Principles

No one principle should be applied to the detriment of another. Principles must be collectively considered and applied to the extent that is reasonable and practicable in the circumstances.

3.2 Openness and Transparency

Objectives of the GIPA Act:

To open Government Information to the public by:

- Encouraging the proactive public release of government information by agencies.
- Giving the public an enforceable right to access government information.
- Providing that access to government information is restricted only when there is an overriding public interest against disclosure.

3.3 A Presumption in Favour of Disclosure

There is a general public interest in favour of disclosure of information unless there is an overriding public interest against disclosure of information.

Public interests in favour of disclosure include:

- Promote open discussion of public affairs.
- Enhance Government accountability.
- Contribute to positive and informed debate on issues of public importance.
- Reveal a risk to public health and safety.
- Assist a person to pursue a legal remedy.



3.4 Public Interest Against Disclosure

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects described in Schedule 1 of the GIPA Act.

Public interests consideration against disclosure include:

- Prejudice the effective exercise by an agency of the agency's functions.
- Reveal or tend to reveal the identity of an informant or prejudice the future supply of information from an informant.
- Reveal an individual's personal information.
- Prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings

3.5 Assessment of requests for information in a timely manner and in accordance with relevant legislation at the lowest reasonable cost

Any member of the public has a legal right to make an application to Council for access to information it holds. Council also publishes information on its website and makes information available to members of the public on request.

4. RESPONSIBILITIES

Responsible Officer

The Chief Information Officer is the Responsible Officer for this Policy and is responsible for keeping this Policy current.

Chief Executive Officer

The Chief Executive Officer has delegated responsibilities to relevant staff to determine applications under the *Government Information (Public Access) Act 2009*.

Directors

Directors are responsible for ensuring their Division adheres to the requirements of this Policy and provide guidance in respect of the *Government Information (Public Access) Act 2009* within their division and the organisation.

Employees

Employees must adhere to the requirements of this Policy and operate within its authorities.

5. POLICY COMPLIANCE

Compliance of this Policy will be carried out in line with the *Government Information (Public Access) Act 2009* and *Government Information (Public Access) Regulation 2018* together with any other relevant legislation.



6. RECORD KEEPING, CONFIDENTIALITY AND PRIVACY

Council adheres to and complies with the *NSW State Records Act 1998* and *Privacy and Personal Information Protection Act 1998* through its Access to Information Policy and Privacy Management Plan.

7. BREACHES OF POLICY

Breaches of this Policy will be dealt with in accordance with relevant legislation and will be advised to the Chief Executive Officer and/or Director Corporate Support via the Chief Information Officer where appropriate.

8. RELATED DOCUMENTS

- Agency Information Guide
- Code of Conduct for Council Staff
- Code of Conduct for Councillors
- Council's Code of Meeting Practice
- Privacy Management Plan
- Customer Feedback and Complaints Management Policy
- Workplace Surveillance Policy (Overt Surveillance)
- Publishing Written Returns Determination

9. RELEVANT LEGISLATION AND REGULATIONS

- *Government Information (Public Access) Act 2009 (NSW)*
- *Government Information (Public Access) Regulation 2018 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Health Records and Information Privacy Act 2002 (NSW)*
- *State Records Act 1998 (NSW)*
- *State Records Regulation 2010 (NSW)*
- *Local Government Act 1993 (NSW)*
- *Companion Animals Act 1998 (NSW)*
- *Children (Education and Care Services National Law Application) Act 2010 (NSW)*
- *Education and Care Services National Regulations (NSW)*
- *Environmental Planning & Assessment Act 1979 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *Data Sharing (Government Sector) Act 2015 (NSW)*
- *Copyright Act 1968*



End of Document

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Accessing Council Information by way of a GIPA Information Request

1. Open Access and Proactive Release

Council makes 'open access information' publicly available in accordance with the GIPA Act. Information under Part 3 of the GIPA Act and listed in Schedule 1 of the GIPA Regulation 2018 is "open access information".

Council can decide to disclose information proactively to support the public's right to information.

2. Informal Access to Information

A member of the public may request access to information that is not available on Council's website. A request for information can be lodged by:

- An online form available on Council's website.
- Lodging a form in person at Council's Customer Service Centre.

An application fee does not apply to an informal information request, but fees may apply for processing and scanning. Fees are disclosed in Council's *Schedule of Fees and Charges* available on Council's website.

3. Formal Access to Information

If information cannot be accessed by way of an informal request, a formal access application may be necessary if the information the applicant is seeking:

- Involves a large volume of information.
- Requires extensive research.
- Relates to third party personal/business information.
- Requires Council to consider the application in depth and by applying the Public Interest Test.

Applications must be in writing with payment of a statutory \$30 application fee. Processing charges of \$30 per hour may also apply. The \$30 application fee paid counts towards 1 hour of processing charges.

Applicants can complete an online form on Council website. Applicants will then be contacted by a Council Officer to arrange online payment of the application fee.

Formal requests are processed within 20 working days of receipt of payment of the application fee. This timeframe may be extended by up to an additional 15 working days if consultation with a third party is required, or if records need to be retrieved from Council's archives.

SCHEDULE TO ACCESS TO INFORMATION POLICY



4. Review Rights

A formal application entitles the applicant to review rights and these are detailed in Part 5 of the GIPA Act. If Council has decided to refuse to provide access to information, the applicant can seek a review of Council's decision by:

4.1 Internal Review by Council

An application for an internal review must be made within 20 working days of the Notice of Decision being given to the applicant. An application for an Internal Review Form available on Council's website must be completed with an internal review fee of \$40.00 paid. An internal review will be undertaken by a senior officer who is independent from the original decision.

4.2 An External Review by the Information and Privacy Commission NSW (IPC NSW)

Applicants have 40 working days from the date of the original decision given to ask for a review by the IPC NSW.

4.3 An External Review by the NSW Civil and Administrative Tribunal (NCAT).

If the applicant has already had a review by IPC NSW, they have 20 working days from the date of when IPC NSW completed their review to make an application to NCAT.

5. Agency Information Guide

Council has published an *Agency Information Guide* which includes information about Council, its structure, functions policies and Council information that is made available to the public.

6. Copyright

Plans and reports lodged with development applications are subject to the *Copyright Act 1968 cth*. Copyright issues may arise when requests are made for copies of documents held by Council. Access to documents subject to copyright will be available to the applicant to view. Copies of copyright documents will not be provided unless the copyright owner's written consent is provided.

End of Document

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