

ACCESS TO INFORMATION POLICY

June 2020

PREPARED BY:

INFORMATION MANAGEMENT & TECHNOLOGY UNIT



4-20 Eton Street,
Sutherland NSW 2232
T 02 9710 0333
sutherlandshire.nsw.gov.au

SUTHERLAND SHIRE

1. BACKGROUND

The Government Information (Public) Access Act 2009 (GIPA Act) replaced the Freedom of Information Act 1989 and Section 12 of the Local Government Act.

2. PURPOSE

The purpose is to outline Council's principles and commitment in providing public access to information in accordance with the GIPA Act.

3. 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.

4. PRINCIPLES

In providing access to information it holds, Council is committed and guided by the following principles:-

- Openness and transparency.
- A presumption in favour of disclosure unless there is an overriding public interest against disclosure.
- Respect for the privacy of individuals.
- Assessment of requests for information in a timely manner and in accordance with relevant legislation at the lowest reasonable cost.

5. ACCESS TO INFORMATION

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.

5.1. 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 make a decision to disclose information proactively to support the public's right to information.

5.2. 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 via Council's website by completing an online form, by email to ssc@ssc.nsw.gov.au, by completing a hard copy form available on Council's website by post or lodging in person at Council's Customer Service Centre.

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

5.3. 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 you are seeking:

- Involves a large volume of information.
- Requires extensive research.
- Relates to third party personal/business information;
- Requires Councils to consider your 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 in processing a formal application. The \$30 application fee paid counts towards 1 hour of processing charges.

Applications can be lodged via Council's website by completing an online form by downloading and completing a hard copy form from Council's website and submitting by email to ssc@ssc.nsw.gov.au, lodging by post or in person at Council's Customer Service Centre.

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

6. REVIEW RIGHTS

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

6.1. 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 a statutory internal review fee of \$40.00 paid. An internal review will be undertaken by a senior officer who is independent from the original decision.

6.2. 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.

6.3. 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.

7. 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.

8. RESPONSIBILITIES

The Chief Executive Officer has delegated responsibilities to relevant staff to determine applications under the GIPA Act.

9. 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.

10. PRIVACY STATEMENT

When requesting access to information held by Council, applicants must provide personal information such as their name, address and phone number. Council will only collect personal information for the purpose of assessing and contacting the applicant regarding the status of their information request. Further information regarding privacy is contained in the *Privacy Management Plan* available on Council's website.

APPENDIX 1

11. POLICIES AND OTHER LEGISLATION

Policies and legislation affecting the processing of information and related to this policy include:

Policies

- 11.1. Agency Information Guide
- 11.2. Code of Conduct for Council Staff
- 11.3. Code of Conduct for Councillors
- 11.4. Council's Code of Meeting Practice
- 11.5. Privacy Management Plan
- 11.6. Enterprise Content Management Determination
- 11.7. Enterprise Content Management Principles and Standards
- 11.8. Workplace Surveillance Policy (Overt Surveillance)
- 11.9. Computer Resource Usage Policy

Legislation

- 11.10. Government Information (Public Access) Act 2009 (NSW)
- 11.11. Government Information (Public Access) Regulation 2018 (NSW)
- 11.12. Privacy and Personal Information Protection Act 1998 (NSW)
- 11.13. Health Records and Information Privacy Act 2002 (NSW)
- 11.14. State Records Act 1998 (NSW)
- 11.15. State Records Regulation 2010 (NSW)
- 11.16. Local Government Act 1993 (NSW)
- 11.17. Companion Animals Act 1998 (NSW)
- 11.18. Children (Education and Care Services National Law Application) Act 2010 (NSW)
- 11.19. Education and Care Services National Regulations (NSW)
- 11.20. Environmental Planning & Assessment Act 1979 (NSW)
- 11.21. Public Interest Disclosures Act 1994 (NSW)

UNCONTROLLED COPY WHEN PRINTED - For up to date copy please refer to Sutherland Shire Council Intranet / Website			
Document Name: Access to Information Policy		Policy Accountability: Manager Information Management	
Version: # 7	Approved by: Council	Minute No: 124	Date approved: 29 June 2020
Original: June 2007	Last Revision: March 2014	Next Revision: June 2022	