

POLICY NO: 73
POLICY TITLE: ACCESS TO COUNCIL DOCUMENTS POLICY
SECTION RESPONSIBLE: GOVERNANCE
MINUTE NO: 1535
REVIEW DATE: 30TH JUNE, 2010

OBJECTIVE:

Greater Hume Shire Council aims to provide the community as much access as possible to information held in its files consistent with its duties and obligations under:

- The Freedom of Information Act
- The Privacy and Personal Information Protection Act
- The Local Government Act.

ELIGIBILITY

This policy applies to all Councillors and employees of Greater Hume Shire Council.

This policy applies to all members of the public.

This policy does not relate to the notification of development applications and related issues. A separate Notification Policy prepared in accordance with the Local Government Act 1993 addresses those matters.

Definitions

Documents refer to:

- Files/correspondence
- Public Registers
- Any record that contains personal/private details or information.

"Personal/Private Information" means information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information.

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"Individual" means a person or any body that is at law a legal identity (eg company, registered body).

PROVISIONS

- Files And Correspondence

Whilst Council aims to allow access to all files either free or on payment of a prescribed fee, there may be information on file that is protected either under the Freedom of Information Act, or the Privacy and Personal Information Protection Act or the Local Government Act. This Policy recognises those restrictions.

As a general rule all files will be accessible to the public- free or on payment of a fee.

Access is not allowed to correspondence from third parties (if it contains information/details of a private/personal nature), staff matters, legal advice/opinion.

- Suppression of Information

Privacy and Personal Information Protection Act (PIPPA) Section 59(1) provides that a person about whom personal information is held may request the Council to have that information removed from any public register and not disclosed to the public.

The Council will suppress the information unless it is of the opinion that the public interest outweighs the individual's interest. Council will err on the side of caution in this respect.

- Limits on Disclosure of Personal Information contained in Correspondence to the Council - Section 18 PIPPA.

Personal Information contained in correspondence with the Council will not be disclosed to third persons unless:

The document has been presented in an open Council or Committee meeting, where all members are Councillors.

Information contained in the file about identifiable individuals is already publicly available from a readily accessible source, eg the White/Yellow Pages.

The individuals to whom the personal information relates were notified of the likelihood of disclosure.

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The purpose of the request for access is directly related to the purpose for which Council collected the information, and Council has no reason to believe that the individual would object.

It is established (without disclosing any personal information contained in the relevant documents) that the person seeking access already knows all of the personal information contained in the file.

The individual is reasonably likely to have been aware, or was made aware that information of that kind is usually disclosed to the person Council proposes to disclose it to eg. Council's "Open File" policies or pre-notification advice.

Council believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or someone else.

The individual has expressly consented to the disclosure.

- Freedom of Information Act

Section 31 of the Act provides that where a document contains information about the personal affairs of any person (living or deceased) Council shall not allow public access to the information without the consent of that person or their legal representatives.

- Local Government Act

Attached to this policy is a listing of documents held by Council that are available for public inspection free of charge in accordance with Section 12 of the *Local Government Act 1993*.

Any person may apply to the Council under Section 739 to suppress documents containing details of their "place of living".

Council will process any such application in accordance with Section 739 and advise the applicant of the outcome.

- Suppression of Personal/Private Information

Any person who provides personal information to the Council eg. name and address, telephone number, may require the Council to suppress those details from the public. Requests must be in writing and directed to the General Manager.

- Barred Access

Council will not provide unfettered access to documents and will not provide access to a document to the extent that:

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- o Council is satisfied that allowing access would, on balance, be contrary to the public interest;

eg Legal correspondence/advice from solicitors acting for Council, its insurers or their agents; or information that has been suppressed.
- o disclosure of the document would reveal personnel matters concerning particular individuals;
eg Personal disciplinary or contractual matters regarding staff
- o disclosure of the document would reveal information concerning the personal hardship of a resident or taxpayer;
- o disclosure of the document would reveal trade secrets or result in a breach of confidence;
eg. Details of contracts or sensitive business information.

disclosure of the document would constitute an offence.

- Open Access

To ensure equity of access by members of the public requesting perusals of property files, each file perusal appointment will be limited to one property address and scheduled file perusal appointments will be limited to one per individual or organisation per day, unless otherwise agreed to by the General Manager.

Subject to a fee for copying (refer Council's Fees and Charges Schedule), copies can be given of:

Documents that are "Public Documents" ie. they have been to a Council/Committee meeting and not deemed "Confidential". This includes third party correspondence that accompany reports to Council or Committee and go to Council as "Correspondence".

Matters that have been dealt with under Delegated Authority eg: DA's, CC's and other approvals.

Documents that could be obtained freely under the Freedom of Information Act ie. they don't involve a third party or are readily available to the public elsewhere, or Council documents that don't involve litigation or staff matters.

Documents otherwise exempted under the Freedom of Information Act and/or the Privacy Act and Personal Information Act.

- Applications for Access to Files

Applicants must complete an application form and provide precise details about the information they want to access. This form will be retained on the file accessed.

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If there is any uncertainty or doubt about the purpose stated the applicant may be required to make a Statutory Declaration. This may occur if the file contains sensitive personal information/details.

- Enquiries

If doubt exists as to whether access should be given to a particular document(s), a determination must be sought from the Public Officer.

Enquiries regarding the operation of this Policy should be directed to the Director of Corporate and Community Services or the General Manager

RESPONSIBILITY/ACCOUNTABILITY

Records Management staff are responsible for ensuring that files are available for perusal according to scheduled appointments and for removing documents from files which have been determined as exempt under the Freedom of Information Act or the Privacy and Personal Information Protection Act.

The Public Officer, or an officer under delegation from the Public Officer, is responsible for ensuring this policy is observed and for providing a determination on access to documents.

RELATED POLICIES

The Policy should be read in conjunction with:

- Local Government Act 1993
- Freedom of Information Act 1989
- Privacy and Personal Information Protection Act 1998
- Greater Hume Shire Council Policies/Plans
- Privacy Management Plan
- Freedom of Information Policy
- Fees and Charges Schedule

Access to Information held by Greater Hume Shire Council under Section 12 of the Local Government Act 1993

The following documents are available for inspection by members of the public free of charge.

- The Council's Code of Conduct.
- The Council's Code of Meeting Practice.
- Annual Report.
- Annual Financial Reports.
- Auditors Report.
- Management Plan.
- EEO Management Plan.
- The Council's policy concerning the Payment of Expenses incurred by, and the Provision of Facilities to, Councillors.
- The Council's Land Register.
- Register of Investments.
- Returns of the Interest of Councillor's, Designated Persons and Delegates.
- Returns as to Candidates' Campaign donations.
- Agenda and Business Papers for Council and Committee Meetings (but not including business papers for matters considered when part of a meeting is closed to the public).
- Minutes of Council and Committee Meetings, but restricted (in the case of any part of a meeting that is closed to the public), to the resolutions and recommendations of the meeting.
- Any Codes referred to in this Act.
- Register of Delegations.
- Annual Reports of bodies exercising delegated Council functions.
- Applications under Part 1 of Chapter 7 for approval to erect a building, and associated documents.
- Development Applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents.
- Local Policies adopted by the Council concerning approvals and orders.

APPENDIX 1

- Records of approvals granted, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals.
- Records of building certificates under the Environmental Planning and Assessment Act 1979.
- Plans of land proposed to be compulsorily acquired by the Council.
- Environmental Planning Instruments, Development Control Plans and Plans made under section 94AB of the Environmental Planning and Assessment Act 1979 applying to land within the Council's area.
- The Statement of Affairs, the Summary of Affairs and the Register of policy documents required under the Freedom of Information Act 1989.
- Department Representatives' reports presented at a meeting of the Council in accordance with Section 433.

A person entitled to inspect a document under Section 12 (1) is also entitled to take away a copy of the document. However, Section 12B (4) of the Local Government Act 1993 does not allow the copying of building certificates. Upon inspection of a document a person can make a request to Council staff for the document to be copied. A photocopying charge may be payable in accordance with Council's adopted 'Fees and Charges'.

POLICY DOCUMENT CONTROL

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| GHS Access To Council Documents Policy | First adopted | 29 Sep 2005 Min 378 |
| GHS Access To Council Documents Policy | First Revision | 25 Jun 2008 Min 1535 |