

Document Name	Document Version Number	Review Date
Access to Information Policy	1.0.4	October 2023
Date Adopted	Minute Number	Status
23 October 2019	5431	Revised

Purpose

Greater Hume 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.

Greater Hume Council is committed to the following principles regarding public access to information:

- open and transparent government;
- consideration of the overriding public interest in relation to access requests;
- proactive disclosure and dissemination of information;
- respect for the privacy of individuals.

The objective of this policy is to explain Council's principles regarding access to Council held information and Council documents together with facilitating the timely processing of request for such access. This policy is to be read in conjunction with Councils Publication Guide.

Scope

This policy applies to all members of the public wishing to access Council information, Councillors and Council employees.

Definitions

Record has the meaning given to that term in GIPA being:

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.

Documents in the context of this policy refer to any information held on an official Council file or database, as well as informal files or databases maintained by Council Officers or Councillors.

Personal information has the meaning given to that term in PPIPA being:

personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

Personal information does not "include information about an individual that is contained in a publicly available publication". Personal information, once it is contained in a publicly available publication, ceases to be covered by PPIPA.

Policy Content

On 1 July 2010, Section 12 of the Local Government Act 1993 (LGA) and Freedom of Information Act 1989 (FOI) were replaced with the Government Information (Public Access) Act 2009 (GIPA) to provide a general right of access to information held by Council.

The introduction of the GIPA Act brings local authorities fully under the provisions of open government information access and Privacy and Personal Information Protection Act 1998 (PPIPA).

Documents required by law to be available for public inspection will be posted on the website, unless internet access poses an unacceptable risk of interference with privacy through potential data gathering and matching techniques or unless to do so would impose unreasonable additional costs on Council.

Other Council documents not posted on the website will be available for inspection unless disclosure on balance is contrary to the public interest.

Any member of the public may also lodge a formal application under the GIPA Act, which will be dealt with in accordance with the Act's provisions. Formal applications will not be required where documents are otherwise available in accordance with this policy.

Any individual has a lawful right to know what personal or health information Council holds about him or her, to access that information in accordance with the provisions of the Privacy and Personal Information Protection Act and the Health Records and Information Privacy Act, and to amend that information in certain circumstances.

Council has developed a Publication Guide to assist members of the public in understanding the types of information that is available from the council and how that information is made available.

The Publication Guide is available at Councils Offices and from the council's website.

The Publication Guide also lists the categories of documents not available because of legislative restrictions or because disclosure is likely to be contrary to the public interest. Documents of this kind include those that contain information about the personal affairs of other ratepayers, commercially sensitive information, or information which if disclosed would have an adverse effect on Council's law enforcement or other functions, such as the identifying particulars of complainants.

What Documents are freely available?

Council will promote disclosure and dissemination of information about its operations, plans and decisions and information that promotes community advancement. There are 4 ways to access government information as they are described as mandatory, proactive, informal and formal release.

Members of the public may inspect, free of charge, the current version of a document(s) listed in Schedule 5 Part 2 GIPA Regulations – Open access information of local authorities. The public may also inspect, free of charge, preceding versions of these documents, if those versions are reasonably accessible. Other Council held documents are also accessible, free of charge, other than those that are exempt from disclosure under Section 14 of the GIPA Act, which may include the following:

- a) where access to the information would, on balance, be contrary to the public interest
- b) any part of a document dealing with personnel matters concerning particular individuals (other than Councillors)
- c) any part of a document that can reveal an individual's personal information
- d) any part of a document that could diminish the competitive commercial value of any information
- e) information which would, if disclosed, prejudice the maintenance of law
- f) matters affecting the security of the Council, Councillors, Council staff or property
- g) that part of a draft or adopted Plan of Management which applies to the location of places and items of Aboriginal significance and is the subject of a resolution of confidentiality
- h) a matter the disclosure of which would constitute an offence against an Act or found an action for breach of confidence

- i) plans and specifications contained in development applications for any residential parts of a proposed building, other than plans that merely show its height and its external configurations in relation to the site on which it is erected, except where the applicant is the owner or the owner's consent has been obtained to view the plans and specifications
- j) commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret
- k) information which would, if disclosed, confer a commercial advantage on a person with whom Council is conducting or proposes to conduct business
- l) any part of a document that contains advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege

What Documents are not freely available?

For the purposes of this policy, Council has determined that it would be contrary to the public interest to allow access to the following categories of documents:

- a) name and address of a person who has made a complaint to Council regarding the activities of another person or organisation (in this case, only the nature of the complaint will be made available)
- b) tenders and expressions of interest lodged with Council with the exception of the name and amount of the successful tenderer, the name only of the unsuccessful tenderer and those tenders required to be listed on the register of government contracts that are established and maintained under Section 27 of the GIPA Act.
- c) except so much of the tender as is required to be made available under the Local Government (Tendering) Regulation 1993 ie. the name and amount of the successful tenderer and the names of the unsuccessful tenderers and register of government contracts that are established and maintained under Section 27 of the GIPA Act.
- d) Documents containing financial or commercial information regarding a person or organisation, including Council, the disclosure of which, in the opinion of Council's Public Officer, if released could have an unreasonable adverse effect on the person or organisation, may jeopardise Council's position in any future negotiations or could jeopardise Council's ability to obtain such information in the future
- e) The name and address of property owners and property sales information except where:
 - the property owner is the person requesting the information
 - an adjoining owner is requesting the information for fencing or other purposes allowed by statute
 - the information is contained on a public register which Council is required to maintain and make available for inspection in accordance with PPIPA
 - the information is provided in accordance with Section 603 of the LGA (rating information)
 - the information is given out in the course of processing an application before Council
 - the information is required by another government agency to carry out a legitimate function of that agency
 - the information is obtained by inspecting a Council document under this policy.
- f) Other documents, the release of which, in the opinion of Council's Public Officer, would, on balance, be contrary to the public interest or would cause an unreasonable diversion of Council resources.

None of the documents defined in this policy requires Council to retain documents for any period beyond that specified in the General Records Disposal Schedule for Local Government under the State Records Act.

How will Council protect Access to Information?

Information which is exempt will be removed from the file prior to viewing. The applicant will be advised of the nature of the documents removed and the reason for removal. Where the document has been removed, the reason why release of the document is not considered to be in the public interest will be provided.

What Documents will not be Copied

Copies of documents are available on request for a fee, except for the following documents, which cannot be copied:

- residential roll of electors
- resumes of candidates for election
- plans of buildings and developments, unless the approval of the copyright owner has been obtained, or where the plans of a proposed building show only its height and external configuration in relation to the site
- bulk property information such as development consent registers, sales registers etc unless the information is required by a government agency for statistical or other purposes consistent with the legitimate functions of that agency

Documents defined in this policy e.g. complaints, tenders and legal advice, which are more than 15 years old may be released at the discretion of the Public Officer.

Handling of Personal Information

Where Council invites or requests any person or organisation to provide information to Council including applications, submissions, comments or objections, the person or organisation must be advised of the existence of this policy, the purpose for which the information is being collected by Council and the possibility that the information they provide to Council may be made available to a third party, subject to the public interest.

Applicants may not alter documents in any way. However, an applicant may request that a document containing their personal information be altered in accordance with Section 15 of the PPIPA or Division 4 of the HRIPA.

In addition to the exemptions contained within Section 14 of GIPA Act, Council has determined that it is not in the public interest to supply the personal information of complainants (as defined under Complaints Handling Policy), however, the subject of the complaint will be released unless such release would breach Section 14 of the GIPA Act subject to:

- a) this exemption relates to 'complainants' only and does not cover submissions to development applications
- b) this is intended to protect the identity of complainants but allow access to the nature of the complaint. Where release of the nature of the complaint may also provide information, which would be protected under the Privacy Act, the details of the complaint will not be released.

Applications for access to personal information in accordance with Sections 13 and 14 of the PPIPA, shall be dealt with as applications under this policy.

The name and address of a person who has lodged an objection or submission to a development application is available for access under this policy.

Refusal of Applications

Applications for access to Council held information will generally be limited to 2 applications per matter in any 6 month period. The Public Officer has the right to refuse access to information, should the quantity of applications exceed the quantity specified or no new information has been received

and placed on the file since the previous application. Any rejection of subsequent applications in the period may be subject of an appeal to the General Manager.

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests or performing other Council functions, may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavour to assist in defining the request to a more manageable one.

The refusal of access to a record in accordance with informal access under the GIPA Act, does not prevent the applicant from applying for formal access to the record under the Government Information (Public Access) Act 2009.

Where access to information is restricted in accordance with this policy, the applicant will be advised in writing of the nature of the restricted information and the reason for the restriction. In accordance with GIPA, Council may review reasons for any restrictions imposed on access to information, every 3 months.

Links to Policy

Privacy Management Plan
Records Management Policy

Links to Procedure

Records Management Procedure
GIPA Applications Procedure

Links to Forms

Government Information (Public Access) Act 2009 – Access Application

References

Nil

Responsibility

Corporate Services

Document Author

Manager Corporate Services

Relevant Legislation

The Government Information (Public Access) Act 2009 (GIPA) The Privacy and Personal Information Protection Act 1998 (PPIP) The Health Records and Information Privacy Act 2000(HRIP) Local Government Act 1993
State Records Act 1998
Environmental Planning and Assessment Act 1979

Associated Records

Nil