

COUNCIL POLICY:	ACCESS TO INFORMATION POLICY
Ref:	S4.14.5/01 & S16.3.1/01

Contact Officer	General Manager
Approval Date	September 2010
Approval Authority	Management Team
Reviewed	September 2012
Date of Next Review	September 2016

1 Policy statement

Inverell Shire Council is committed to the following principles regarding public access to documents and information:

- Open and transparent government;
- **Authorising and encouraging proactive release of information;**
- Providing access to information, restricting access to information *only* if there is an overriding public interest against disclosure; and
- Respect for the privacy of individuals in accordance with the
 - *Government Information (Public Access) 2009 Act;*
 - *Privacy and Personal Protection Act 1998;*
 - *Environmental Planning & Assessment Act 1979;*
 - *Health Records and Information Privacy Act 2002;* and
 - *Companion Animals Act 1998.*
- Release of Complainant details.

Related Legislation, Circulars or Guidelines:

Local Government Act 1993, No. 30 and Regulation

Government Information (Public Access) Act 2009

2 Background

The aim of the *Government Information (Public Access) Act 2009 (GIPA)* is to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective. The objective of the Act is to open Government Information, held by State Government Departments, State Ministers, Courts, Public Authorities and Local Authorities, to the public by:

- Authorising and encouraging the proactive public release of Government information by agencies;
- Giving members of the public an enforceable right to access Government information;
- and

- Providing that access to Government information is restricted only when there is an overriding public interest against disclosure.

3 Objective

The objective of this policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests for such access.

4 Principles

Inverell Shire Council is committed to the following principles regarding public access to documents and information:

- Open and transparent government;
- Consideration of the public interest in relation to access requests;
- Proactive disclosure and dissemination of information; and
- Respect for the privacy of individuals.

5 Scope

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

6 Key Responsibilities

Position	Responsibility
Mayor	To lead Councillors in their understanding of, and compliance with, this policy and Guidelines.
General Manager	<p>To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this policy and guidelines.</p> <p>To approve resources to develop, implement and review this policy and guidelines.</p>
Responsible Officer	<p>As the "principle officer" under the Government Information (Public Access) Act (GIPA), the General Manager has delegated his responsibility to other Council Staff as outlined below.</p> <p>The GIPA Officer is responsible for making initial decisions regarding release of information within the time periods stipulated in the GIPA Act. In this function, the GIPA Officer may deal with prospective applicants and liaise with organisation units regarding access to information.</p> <p>The Director Corporate and Economic Services, as Review Officer, is responsible for formal internal reviews of decisions made by the GIPA Officer, if requested by the applicant, or directed by the Information Commissioner.</p>

Directors	To communicate, implement and comply with this Policy and related Guidelines.
Director of Corporate and Economic Services	To ensure (directly through delegation) the distribution and communication of the Policy and Guidelines to specified person. To ensure (directly or through delegation) the approved Policy and Guidelines are available in hard copy and electronically on Council's website.
Executive and Managers	Facilitate the provision of regular training to all Council officials on their role and responsibilities in relation to this Policy, Guidelines and related procedures. To implement this Policy, Guidelines and related procedures. To lead staff in their understanding of, and compliance with, this Policy and Guidelines.
Chief Information Officer	To assist with the development of systems to support public access to this Policy, Guidelines and related information. To ensure IT requirements are available to facilitate compliance with the Act.
All Council Officials	To comply with this Policy, Guidelines and related procedures.

7 Implementation

- a) This policy identifies the documents and types of information that are available for public access and restrictions that may apply.
- b) Council will assess all requests for access to documents and information in a timely manner and in accordance with this policy and relevant legislation.
- c) Depending upon the nature of the request and the form of access requested charges may be applied in accordance with Council's Schedule of Fees and Charges and relevant legislation.

Council will assess requests for access to information in accordance with:

- *Government Information (Public Access) Act 2009 (GIPA);*
- *Privacy and Personal Information Protection Act 1998 (PIPPA);*
- *Environmental Planning & Assessment Act 1979 (EPA Act);*
- *Health Records and Information Privacy Act 2002 (HRIPA);*
- *Companion Animals Act 1998;*
- *State Records Act 1998;* and
- Other relevant legislation and guidelines as applicable.

8 Policy Guideline

1) Accessing Information

Inverell Shire Council is subject to NSW legislation that requires it to be open and accountable in the exercise of its functions, and to handle personal and health information in a fair and reasonable manner. Council will seek to ensure that legitimate requests for access to information are handled promptly and that members of the public are able to access information, subject to the need to protect the privacy of others, commercially sensitive information and information the disclosure of which would not be in the public interest.

This policy sets out the documents and types of information that are available to members of the public as a matter of routine, and those that will not generally be available for inspection and copying. Where practicable, Council will deal with requests to inspect documents in accordance with the *Government Information (Public Access) Act 2009* free of charge but a reasonable photocopying fee may be payable under the Act. These charges are detailed in Council's Schedule of Fees and Charges.

There is a right of access under the *Government Information (Public Access) Act 2009* to documents held by Council.

Under the *NSW Privacy and Personal Information Protection Act (PIPPA) 1998* and *NSW Health Records and Information Privacy Act (HRIPA) 2002*, an individual also has a right to access and amend records held by Council which contain their personal details, matters related to their business affairs and any records containing information about their health. Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the GIPA Act. The Act provides for consultation with other affected parties prior to disclosure of information concerning their personal or business affairs.

2) Documents Available

A number of documents are available for public access in accordance with the *Government Information (Public Access) Act 2009*, "open access" documents include but are not limited to:

- The Council's current publication guide
- The Council's policy documents
- The Council's register of government contracts
- The Council's record of any open access information that it does not make publicly available on the basis of an overriding public interest against disclosure.
- The model code prescribed under Section 440 (1) of the Local Government Act (LGA) and the code of conduct adopted under Section 440 (3) of the LGA.
- The code of meeting practice
- Annual Report
- Annual financial reports
- Auditor's report
- Management Plan
- EEO Management Plan

- Policy concerning the payment of expenses incurred by, and the provisions of facilities to Councillors
- Annual Reports of bodies exercising functions delegated by the local authority
- Any codes referred to in the LGA

Information contained in the current version of the following is open access information:

- Land Register
- Register of investments
- Register of delegations
- Register of graffiti removal
- Register of current declarations of disclosures of political donations
- Register of Voting on Planning matters

Information contained in the following records (where created) is also considered public access information:

- Returns of interests of Councillors, designated persons and delegates
- Agendas and business papers for any meeting of the local authority or any committee of the local authority (but not including business papers for matters considered when part of a meeting is closed to the public)
- Minutes of any meeting of the local authority or any committee of the local authority, but restricted (in the case of any part of a meeting this is closed to the public) to the resolutions and recommendations of the meeting
- Departmental representative reports presented at a meeting of the local authority in accordance with Section 433 of the LGA.

Some documents are available to be viewed but cannot be copied under State legislation. These include:

- The Residential Roll of Electors (as of the last election)
- The resumes of candidates for election
- Building Certificates (without building owner's consent)
- Plans of buildings and developments, unless the copyright owner approves or the applicant signs to acknowledge copyright obligations and agrees not to use the documents provided for any other purpose without first gaining the copyright owners approval
- 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 and in accordance with Council's Privacy Management Plan.

Government Information (Public Access) Act 2009 allows inspection of documents in addition to those referred to above unless inspection is deemed by Council to be contrary to the public interest. Other documents available for view and copy under this clause may include but are not limited to:

- Home owner warranty insurance documents;
- Building essential certification documents;
- Construction certificates;
- Occupational certificates
- Structural certification documents;
- Town Planners reports and Development Application reports;
- DA submission letters (excepting where submitter requests confidentiality on the basis of personal safety);
- DA Heritage consultants report;
- DA traffic consultants reports;
- Tree inspection consultants reports;
- Acoustics consultants reports and
- Consultants' Land Contamination Reports.

Copies of documents provided are given for information purposes only and are provided by Council to meet its requirements under relevant legislation. Copyright laws still apply to each document. The copyright-owner's consent is required if any part of the document is used for any other purpose.

3) Exemptions to Access

Under the *Government Information (Public Access) Act 2009*, access to some documents and information held by Council may be restricted if the document or part thereof contains the following types of information:

- Personnel matters concerning particular individuals (other than Councillors);
- The personal hardship of any resident or ratepayer;
- Trade secrets;
- A matter the disclosure of which may:
 - Be contrary to law, or
 - Give rise to action for breach of confidence;
- That part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under Section 36DA; or

- Documents which were submitted to or are to be submitted to a 'Closed Committee' of Council or Committee Meeting.

The *Government Information (Public Access) Act 2009* restricts access to internal configurations of residential developments but allows access to the height and external configurations of a building and other plans such as shadow diagrams and landscape plans.

While each application for access to information will be assessed on its merits, access to some documents may be contrary to the public interest under the *Government Information (Public Access) Act 2009* or may otherwise be specifically exempt from access. Examples of such documents may include:

- Legal advice – legal professional privilege applies to communications between Council and its legal advisers for the purpose of obtaining legal advice, or third parties for the purpose of obtaining legal advice relating to pending or threatened legal action by or against Council.
- Personnel (individual staff) matters;
- Complaints – Council will not release the name and/or address of complainants, or the details of any complaint that might identify the complainant(s), as a result of a request for information from Council's records. However documents detailing complaints will be released following a Formal application under GIPA but will have material identifying the complainant(s) deleted.
- Individual's details on DA submissions where they claim personal safety issues;
- Insurance claims.

4) Public Registers

Council also maintains public registers that are available for inspection by members of the public in consultation with the Customer Service staff. Registers that contain personal information can be inspected on Council premises but prior to any copies being made Council is required to ensure that any person seeking the information is doing so for a purpose consistent with the purpose for which the register was created. Council will require a statutory declaration from a person regarding the purpose for which access is sought.

In accordance with the Privacy Management Plan 2006, Council may also allow (without a specified reason) the inspection of any part of the register, the copying of a single entry from the register or the copy of part of the register as long as personal information is removed.

5) Handling Personal Information

Where Council invites or requests any person to provide information to Council including applications, submissions, comments or objects, the person must be advised of 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 including members of the public.

Applicants may request that a document containing their personal information be updated/corrected in accordance with Section 15 PIPPA or Division 4 HRIPA. The application must not alter the documents themselves in any way.

6) Complainant Information

Council will not release the personal details or identifying information of any person making a complaint. This does not cover submissions to applications for development and these details will be made available subject to the applicant having been provided with the pre collection privacy statement.

7) Making an Application

To request access to information under the *Government Information (Public Access) Act 2009*, please complete the 'Application for Access to Information' form. Applications can be lodged as either "informal" – no fee, no timeframe or "formal" which requires a \$30 fee and a 20 day processing time.

All fees for photocopying for *Informal* applications made under the GIPA Act are listed in Council's Schedule of Fees and Charges.

To request access to information under a *Formal* application, a request for information form needs to be completed along with the payment of the specified application fee. Additional processing charges may be required as specified in the *Government Information (Public Access) Act 2009* and Council's Fees and Charges.

8) Rights of Review and Appeal

If access to any document(s) is refused the applicant will be advised of the reasons for the refusal and, where appropriate, other means of access will be suggested (in the case of an informal request, a formal request can be made).

Where a member of the public is refused access under the *Government Information (Public Access) Act 2009*, staff will provide details of the reasons for refusal to the member of the public in writing. In a formal application the applicant has the option of seeking an internal review of the refusal or going direct to the Administrative Decisions Tribunal (ADT).

9 Definitions/Related Information –

- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009*
- *Privacy and Personal Information Protection Act 1998*
- *Privacy and Personal Information Protection Regulation 2000*
- *Health Records and Personal Protection Act 2000*
- *Environmental Planning and Assessment Act 1979*
- *Copyright Act 1968*
- *State Records Act 1998*
- *Practice Note No. 7 – Freedom of Information (LGSA)*

- *Companion Animals Act 1998*

10 Contact –

For further information relating to this policy please contact Council's Public Officer.

11 Review –

The Policy will be reviewed within 12 months of the election of a new Council.