

## **PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA) POLICY**

---

### **POLICY OBJECTIVE**

This Official Council Policy deals with the public's right to access government information under the Government Information (Public Access) 2009 (NSW) (GIPA Act).

### **1. POLICY STATEMENT**

The intent of this policy is to facilitate the public's right to access government information under the GIPA Act. Members of the public have a legally enforceable right to access government information held by the Wentworth Shire Council. The GIPA Act extends the right to the community to have access to information held by State Government departments, local and public authorities with a view to achieving more open, accountable, fair and transparent government.

This Policy sets out the documents and types of information that are available to members of the public as a matter of routine (open access information), and information not made publicly available which may be requested via the formal access application process. It establishes an internal process for processing formal access applications and informal requests for access to Council records, and aims to demonstrate Council's commitment to the principles of the GIPA Act.

### **2. POLICY COVERAGE**

This policy applies to Councillors and all members of Council staff.

### **3. STRATEGIC PLAN LINK**

Objective: 4.0 Wentworth is a caring, supportive and inclusive community that is informed and engaged.

Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery.

### **4. DEFINITIONS AND ABBREVIATIONS**

Term/Word	Definition
<b>Council</b>	Wentworth Shire Council
<b>GIPA Act</b>	<i>Government Information (Public Access) Act 2009 (NSW)</i>
<b>Formal Access Application</b>	Valid application for access to government information under Part 4 of the GIPA Act.
<b>Open Access Information</b>	Records containing government information which is publicly available
<b>Government Information</b>	The information contained in a record held by Council: <ul style="list-style-type: none"><li>• Any paper or other material on which there is writing.</li><li>• Any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them,</li><li>• Any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device)</li></ul>

## PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA) POLICY

---

<b>Contracts Register</b>	Is a register of government contracts that records information about each government contract to which Council is a party that has a value of \$150,000 or more
---------------------------	---

### 5. POLICY CONTENT

The following is the policy of this Council:

#### Legislative Requirements

Council is committed to providing, as far as possible, an open, accountable and transparent environment, which enables members of the public access to Council records which do not require recourse to formal procedures. 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.

#### Access to Information

Accessing Personal Information and Amendment of Council Records:

- The GIPA Act recognises privacy as a key principle against disclosure – Section 14 (2). Where an application for access to personal information involves the disclosure of personal information about another person, Council must consult with that other person before providing the applicant with access to the information requested.
- The GIPA Act transfers the right for amendment of personal information held in Council's records from Part 4 of the previous Freedom of Information Act to the new Part 6A of the Privacy and Personal Information Protection Act 1998 (PPIPA) – Schedule 3, Part 2, Section 4. All applications for amendment of Council's records will be dealt with under PPIPA.

#### Ways to Access Government Information

Under the GIPA Act, a person seeking access to Council information has a legally enforceable right to be provided with access unless there is an overriding public interest against disclosure of the information.

In accordance with Part 2, Division 1 of the GIPA Act, access to government information may be exercised in four ways:

- Mandatory proactive release of certain government information. Council publishes open access information, defined in Section 18 of the GIPA Act, on its website at [www.wentworth.nsw.gov.au](http://www.wentworth.nsw.gov.au). The following publications constitute open access information:
  - Publication guide – described in Part 3, Division 2 of the GIPA Act
  - Policy documents – described in Part 3, Division 4 of the GIPA Act
  - Register of government contracts – described in Part 3, Division 5 of the GIPA Act
  - Additional open access information – described in Part 3, Division 1 (Section 18 (b), (f) and (g)) of the GIPA Act.
- Authorised proactive release of government information, which must be exercised in an appropriate manner by or with the authority of Council's Information Access officer, free of



## PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA) POLICY

---

charge (or at the lowest reasonable cost), unless there is an overriding public interest against disclosure of the information – Part 2, Section 7 of the GIPA Act.

- Informal release of government information via release of the information to a person in response to an informal request unless there is an overriding public interest against disclosure of the information. This may only be exercised by or with the authority of Council's Information Access officer – Part 2, Section 8 of the GIPA Act.
- Formal access application. According to Part 2, Section 9 of the GIPA Act, in some limited circumstances, people seeking access to government information will need to make a formal request for that information (eg. Where consultation with other agencies or third parties is required, or where the scope of request means that it will take significant agency resources to provide information).

### Making a Formal Access Application

In some limited circumstances, when the government information is not open access information published on the website or available from the Customer Service Counter, and when releasing of the information requires previous consultation with third parties, this information may be accessed through a formal access application process.

In accordance with Part 4, Division 1, Section 41 of the GIPA Act, a valid formal access application must:

- Be in writing;
- Specify that it is made under the GIPA Act;
- Provide an email address for receipt of request information;
- Be accompanied by a \$30 fee; and
- Provide sufficient detail to enable the Council to identify the requested information

In making an application, a person may include any other additional information they think is relevant to the public interest test, which should be taken into account in determining whether or not there is an overriding public interest against disclosure of the information. Access application may be amended or withdrawn by the applicant at any time.

The application form for access information is available from Council's website, at Council's Customer Service section, or by calling the Information Access Officer on (03) 5027 5027.

### Processing access application

The Information Access Officer is to decide whether the application is a valid access application (made in accordance with Part 4, Division 1, Section 41) or not (falls outside the scope of the Act), and notifies the applicant about the decision within 5 working days after the application is received – Part 4, Division 3, Section 51 of the GIPA Act.

The notification that the application is not valid must include – according to Part 4, Division 3, Section 52 of the GIPA Act – a statement of the reason why it is not valid, and provide an assistance to the applicant to provide such information as may be necessary to enable the applicant to make a valid access application.

According to Part 4, Division 4, Section 57 of the GIPA Act, the Information Access Officer must decide a valid access application and give the applicant a notice of the decision within 20 working days after receiving an application.

If consultation with a third party is required and/or records are required to be retrieved from the archive – the decision period can be extended by up to 10-15 working days.

## PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA) POLICY

---

In accordance with Part 4, Division 4, Section 58 of the GIPA Act – to respond to valid access applications, the Information Access Officer may make the following types of decision:

- Decision that information is already available to the applicant;
- Decision to refuse to deal with application;
- Decision to refuse to provide access to information; or
- Decision to provide access to government information

### Granting Access to Government Information

In accordance with Part 4, Division 6, Section 72 of the GIPA Act the access to the information in response to access information may be exercised by:

- Providing opportunity to inspect a record
- Providing a copy of a record
- Providing written transcript of the information

Council must provide access in the way requested by the applicant. Exceptions to that rule are described in Part 4, Division 6, Section 72 (2) of the GIPA Act.

The applicant has a period of 6 months to access the information. The access period starts from when notice of decision to grant access is given to the applicant.

### Review of the Decision

In accordance with Part 5, Division 1 of the GIPA Act, any member of the public who is dissatisfied with Council's decision for access to information, may lodge a request for review of Council's decision.

There are three ways of review of Council decision:

- *Internal review by a Senior Officer of Council* – an application for internal review must be made within 20 working days of receiving the decision, and accompanied by a \$40 fee – Part 5, Division 2 of the GIPA Act. Council must complete its internal review within 15 working days of receiving the application, which may be extended by up to 10 working days if further consultation is required.
- *External review by the Information and Privacy Commissioner* – an application for Information and Privacy Commissioner's review must be made within eight weeks of the person receiving notice of the council's decision – Part 5, Division 3 of the GIPA Act.
- *External review by the Civil and Administrative Tribunal* – an aggrieved person may seek review by the NCAT within eight weeks of the decision or four weeks after the Information Commissioner's review – Part 5, Division 4 of the GIPA Act.

### Other Provision

The GIPA Act abolishes the access to information regime under the *Local Government Act 1993* (NSW). Section 12 of LGA now falls under the open access information – Schedule 5, Part 2, Section 3 of the GIPA Act.

The GIPA Act does not affect the operations of the *State Records Act 1998* (NSW).

Published and released Council records are intended for general use and information. Information and files may be downloaded, stored, displayed and printed. Content must not be modified, copied, reproduced, or republished except with the written authorisation of the Wentworth Shire Council.



## PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA) POLICY

---

Copyright laws apply to all copies of documents provided for information purposes by Council, where the documents are used for any other purposes.

Personal information about employees of Council is not available to the general public unless it is subpoenaed or required by law.

Information about the name and price of successful tenders, and also information about contracts that have a value of \$150,000 or more, is publicly available from the Council's Contract Register, published on Council's website – Part 3, Division 5 of the GIPA Act. Accessing any further information about tenders will be processed on receipt of formal access application for information access.

Information held by Council concerning companion animals must be handled in accordance with the *Companion Animals Act 1998* (NSW) and cannot otherwise be disclosed to the public. The details of a registered owner may be disclosed in response to a formal access application, made under the GIPA Act.

### 6. RELATED DOCUMENTS & LEGISLATION

#### Legislation

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2021*
- *Public Interest Disclosure Act 1994* (NSW)
- *Government Information (Public Access) Act 2009* (NSW)
- *Privacy & Personal Information Protection Act 1998* (NSW)
- *Health Records & Information Privacy Act 2002* (NSW)
- *State Records Act 1998* (NSW)
- *Companion Animals Act 1998* (NSW)

#### Council Policies

- GOV004 – Internal Reporting Policy
- GOV007 – Privacy Management Policy
- GOV008 – Public Access to Information Held by Council Policy
- GOV020 – Code of Conduct Policy
- GOV022 – Legislative Compliance Policy

#### Council Document

- Legislative Compliance Framework
- Governance Framework
- Privacy Management Plan
- Records & Information Management Policy (Operational)

### 7. ATTACHMENTS

Nil.

**PUBLIC ACCESS TO INFORMATION HELD BY COUNCIL (GIPA)  
POLICY**

---

**8. DOCUMENT APPROVAL**

This document is the latest version of the official policy of the Wentworth Shire Council, as adopted by Council on 29 June 2022. All previous versions of this policy are null and void.

This policy may be amended or revoked by Council at any time.

A PDF copy of the signed document can be accessed from Council's record management system and Reliansys.

Signed: ..........

**General Manager Wentworth Shire Council**

30 June 2022

**Date**