

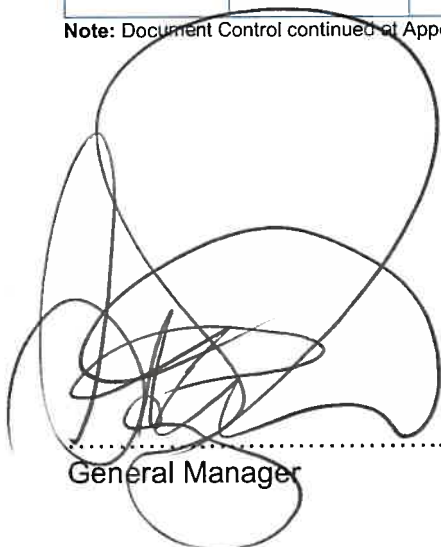


Councillor Access to Council Staff, Information and Premises Policy

DOCUMENT AUTHORISATION

RESPONSIBLE OFFICER:		MANAGER OF GOVERNANCE, RISK AND CORPORATE PLANNING (MGRCP)			
REVIEWED BY:		MANEX			
REVIEW DUE DATE:		September 2024			
VERSION NUMBER:		4			
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VERSIONS:	DATE:	RESOLUTION NO:	DESCRIPTION OF AMENDMENTS:	AUTHOR / EDITOR:	APPROVED / ADOPTED BY:
4	13/12/2021	NA	Minor administrative change: Page 5: <i>Information Technology (IT) Helpdesk enquiries must be lodged via email to the Executive Assistant using the appropriate Councillor Enquiry Form.</i>	MGRCP	Approved By: General Manager Remains an Adopted Policy of Council
3	23/09/2021	20.09/21	This Policy has been adopted into Council's new Policy Template. The title of the Policy has been amended to reflect the addition of part 3, Councillor Access to Council Information. A Background has been added. Three additional outcomes have been added and an amendment to Roles and Responsibilities.	MGRCP	Council
2	24/09/2020	7.09/20		General Manager	Council

Note: Document Control continued at Appendix A



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General Manager

15/12/21
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Date

BACKGROUND

Council's Code of Conduct for Councillors provides that Councillors (defined to include the Mayor) have a right to access information held by Council that is reasonably necessary for them to exercise their functions of civic office. This policy establishes procedures by which Councillors may access Council information and staff to undertake their statutory roles, to provide effective civic leadership and to represent the collective interests of residents, ratepayers and the local community.

PURPOSE

The purpose of this policy is to outline that Glen Innes Severn Council is committed to:

- Cooperation and collaboration between Council staff and its elected members; and
- Providing a clear distinction between enquiries of civic and personal nature.

APPLICABILITY

This policy applies to:

- The Mayor;
- Councillors; and
- All employees of Council (including contractors and volunteers working for and on behalf of Council).

OUTCOMES

The main outcomes of this Policy are:

- Provide a documented process for Councillors to access Council information;
 - Ensure Councillors have access to all information necessary for them to exercise their statutory role as a member of the governing body of Council;
 - Ensure that Councillors receive advice in an orderly manner to assist them in the performance of their civic duty;
 - Provide a clear and consistent framework through which breaches of this policy will be managed and reported in alignment with Council's Code of Conduct for Councillors, Code of Conduct for Council Staff, Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW;
 - The direction on Councillor right of access to Council buildings; and
 - The direction on Councillor interaction with Council officers for not only obtaining information but in general situations.
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ROLES AND RESPONSIBILITIES

This policy applies to all Councillors and all Council staff.

This policy will be communicated to all new Councillors and staff as part of their induction. Revised versions of the policy that contain significant changes will be communicated to all Councillors by the General Manager and all staff through the **Pulse Delegations and Policy Register (DPR)** by the MGRCP. Managers will be responsible for raising the revised Policy at team meetings for discussion and fielding any questions.

New versions that contain only minor or inconsequential changes will be distributed by the General Manager to Councillors, distributed to Directors for highlighting at team meetings and notified through the DPR by the MGRCP.

POLICY STATEMENT

1. COUNCILLOR INTERACTIONS WITH STAFF

1.1 Access to staff during Council and Committee meetings

Interaction between Councillors and Staff at Council meetings and Committee meetings is regulated by:

- Section 360 of the *Local Government Act 1993*;
- Part 10, Divisions 1 to 4 of the *Local Government (General) Regulation 2021*;
- Council's Code of Meeting Practice; and
- Council's Code of Conducts and associated procedures:
 - Code of Conduct for Councillors;
 - Code of Conduct for Council Staff;
 - Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers; and
 - Procedures for the Administration of the Code of Conduct.

The General Manager and Directors are highly accessible to Councillors and Councillors should not hesitate to contact them if they feel it necessary.

In Council meetings, Councillors can ask questions of other Councillors by going through the chairperson, ask questions of Council staff by going through the General Manager, and bring forward Notices of Motion and Matters of Urgency where relevant notice has been given and procedure followed.

As defined by Council's Code of Meeting Practice (the Code), at a Council Meeting, a Councillor may, through the General Manager, put a question to a Council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the General Manager at the direction of the General Manager. To allow proper attention and to prepare complete answers, most questions may be on notice in order that the question can be properly researched.

1.2 Access to staff outside of meetings

Council's Code of Conduct for Councillors, Code of Conduct for Council Staff and Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers requires all contact between Councillors and staff on official business of Council be made through the General Manager or in accordance with arrangements approved by the General Manager.

Councillors may interact with Council staff in the following ways:

- Councillors requiring advice or enquiring about anything in respective Directors or General Manager's portfolios are authorised to contact the respective member of the **Management Executive Team (MANEX)**. MANEX is made up of the General Manager and the three (3) Directors (Director of Corporate and Community Services, Director of Development, Planning and Regulatory Services, Director of Infrastructure Services);
- For all straightforward Councillor support and routine matters (e.g., dates of meetings etc.) Councillors should contact the Executive Assistant or the Personal Assistant of the relevant Director dependent on the nature of the enquiry; and
- Information Technology (IT) Helpdesk enquiries must be lodged via email to the Executive Assistant.

1.3 Appropriate Interactions

In prescribing the following appropriate interactions, Council promotes behaviours which support Council's values and create:

- A supportive workplace;
- A safe and trusting workplace; and
- A cooperative and collaborative team approach.

The following interactions are considered appropriate under this policy:

For Councillors

- Councillors accessing staff through the provisions of this policy;
 - Councillors promoting a positive supportive workplace in all dealings with staff;
 - Councillors always behaving courteously and respectfully when dealing with staff;
 - Councillors ensuring that decisions and advice received from staff are accurately recorded and such records retained;
 - Councillors who have, in their private capacity, a development application before Council, meeting with Planning and Strategic Development staff in relation to their application, such meetings having been approved and arranged according to the provisions of this policy; and
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- Councillors contacting Council's Customer Service Officers for standard works requests (for example: notification of potholes in roads, footpath obstructions, noise complaints, tree issues etc.) using the same processes as members of the public.

For Staff

- Staff always behaving courteously and respectfully when providing advice or information to Councillors;
- Staff promoting a positive supportive workplace in all dealings with Councillors;
- Staff ensuring that decisions and advice provided to Councillors is accurately recorded and stored in Council's records management system;
- Staff making available to all Councillors, information that has been provided to one (1) or more Councillors; and
- Staff dealing with Councillors in relation to the Councillors' private business with Council according to standard operational procedures which are used for any member of the public.

1.4 Inappropriate Interactions

This section relates to Clause 7.6 of the Council's Code of Conduct for Councillors, and Clause 7.5 of the Council's Code of Conduct for Council Staff.

You must not engage in any of the following inappropriate interactions:

For Councillors and Administrators

- Councillors approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters;
 - Councillors who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council;
 - Councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the Councillor or administrator has a right to be heard by the panel at the meeting;
 - Councillors and administrators being overbearing or threatening to Council staff;
 - Councillors and administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of Council's Code of Conduct for Councillors in public forums including social media;
 - Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make; and
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- Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the Council associated with current or proposed legal proceedings unless permitted to do so by the Council's General Manager or, in the case of the Mayor or Administrator, unless they are exercising their functions under section 226 of the *Local Government Act 1993*.

For Staff

- Council staff approaching Councillors and Administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters;
- Council staff refusing to give information that is available to other Councillors to a particular Councillor (subject to Clause 8.6 of Council's Code of Conduct for Council Staff);
- Council staff being overbearing or threatening to Councillors or Administrators;
- Council staff providing ad hoc advice to Councillors and Administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community; and
- Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals.

Council's *Code of Conduct* Clause 5.20 further states that:

"You may have reason to deal with Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment."

2. COUNCILLOR ACCESS TO COUNCIL PREMISES

As elected members of the Council, Councillors are entitled to have access to the Town Hall Foyer, Mayor's Office and public areas of the Council's buildings.

Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.

As with members of the public, a Councillor has no right to enter staff-only areas without authorisation of the General Manager or a Director, or by resolution of Council.

This section should be read in conjunction with Council's Code of Conduct for Councillors.

The Mayor and/or other Councillors needing to access the Executive Assistant in connection with the performance of their roles / functions as elected representatives, have access to the office area of the Executive Assistant for these mentioned purposes. "Councillors must ensure that when they are within a staff area, they avoid giving rise to the appearance that they may improperly influence Council staff decisions" (Clause 8.26 of Council's Code of Conduct for Councillors).

Councillors must not:

- direct Council staff other than by giving appropriate direction to the General Manager by way of Council or Committee resolution, or by the Mayor exercising their functions under section 226 of the *Local Government Act 1993*;
- in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate;
- contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager; and
- contact or issue instructions to any of Council's contractors, including the Council's legal advisers, unless by the Mayor exercising their functions. This does not apply to Council's external auditors or the Chair of Council's Audit Risk and Improvement Committee to provide information reasonably necessary for the external auditor or Audit Risk and Improvement Committee to effectively perform their functions.

3. COUNCILLOR ACCESS TO COUNCIL INFORMATION

3.1 Statutory Provisions

- a) The ***Government Information (Public Access) Act 2009*** (the **GIPA Act**) provides a list of documents, prescribed as “open access information”, which are required to be made available on Council’s website and to be made available for public access, free of charge. These documents include Council’s Codes of Conducts, Annual Report, register of delegations, development applications and leases of public land classified as community land;
- b) The GIPA Act, however, provides that there is an overriding public interest against public disclosure of a range of documents and information as set out in the Act under the following broad headings: Responsible and Effective Government, Law Enforcement and Security, Individual Rights, Judicial Processes and Natural Justice, Business Interests of Agencies and Other Persons, Environment, Culture, Economy and General Matters, and Secrecy Provisions; and
- c) The NSW Office of the Information Commissioner has advised the Office of Local Government that it is expected that General Managers (and Public Officers) will act in accordance with relevant law when providing information to Councillors.

3.2 Procedure for Councillors to Access Council Information

- a) Councillors wishing to access Council information, other than “open access information” as prescribed in the GIPA Act, must make application to the Public Officer via the General Manager’s Office, and be in writing. The Councillor Request should be drafted carefully and should precisely detail the information being sought. It is expected that Councillors will act reasonably in making Requests;
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- b) Councillor Requests relating to the exercise of a Councillor's functions of civic office will be processed as soon as possible and a response (or an interim response in the case of a complex Request) will be provided in accordance with the following guidelines:
- i) same day response – information is easily accessible, and no reference/investigation is required. Examples are:
 - copy of a Council document e.g., Development Consent; and
 - request for basic information relating to an Agenda Item on the day of a Council meeting.
 - ii) one (1) to five (5) working day response – information is on hand but needs to be processed for release. Examples are:
 - copy of submissions to an exhibited Development Application – documents are electronic and extra time required to extract and redact information where appropriate; and
 - request containing several questions which may relate to more than one Division and where responses need to be collated into a single reply.
 - iii) within 10 working days – investigation and research are required in order to provide the requested information. Examples are:
 - a comprehensive summary including Court Consent Orders for Planning Appeals;
 - copies of numerous Occupation Certificates where the files are stored offsite.

Where this investigation and research is extensive and/or complex and the 10-working day timeframe cannot be met, the Councillor lodging the request will be notified within five (5) working days and provided with an indication of when the information may be forthcoming;

- c) If the Request relates to a Councillor's interest, other than civic, the Request must be made pursuant to the GIPA Act, the forms for which are available on Council's website on the Access To Information page and will be processed in accordance with the timeframes relating to the type of application;
- d) Where it is believed that significant resources will be required to respond to a Councillor Request, or the number of Requests being submitted by a Councillor, the Public Officer will consider the time and/or costs that are likely to be incurred in providing the requested information and decide on granting access. An indication will also be given as to any other matters that will not be attended to because of compiling the requested information; and
- e) The Public Officer will maintain a Register of Councillor Requests and will be available for viewing by all Councillors upon request.

3.3 Right of Review

The Public Officer must act reasonably in considering a Request and, if a Councillor's Request is refused, reasons for the refusal must be provided. If a Request is refused the Councillor may either:

- a) raise the matter with the General Manager and refer to the Code of Conduct for Councillors which states that the General Manager must ensure Councillors are provided with information sufficient to enable them to carry out their civic office functions and
 - i) if the General Manager determines the Public Officer acted reasonably in the decision to refuse access to the Council information sought by a Councillor, a Councillor may lodge a formal application under the GIPA Act;
 - ii) if a Councillor considers that there has been a breach of this policy by the General Manager, he/she may lodge a complaint with the Office of Local Government; or
- b) make a formal application under the GIPA Act which will be processed in accordance with that Act; and
 - i) if there is a refusal of access under the Government Information (Public Access) Act 2009 (GIPA Act), a Councillor may ask for an internal review or an external review by the Information Commissioner. For more information see www.ipc.nsw.gov.au; and
 - ii) to report a Government Information Contravention (i.e., a failure to properly fulfil functions under the GIPA Act), Councillors should refer to the Internal Reporting Policy which states that:
 - i) Reports against staff may be made to the General Manager;
 - ii) Reports against the General Manager may be made to the Mayor; and
 - iii) Any report of a Government Information Contravention may be made to the Information Commissioner.

LEGISLATION AND SUPPORTING DOCUMENTS

The **Local Government Act 1993 (the Act)** provides that:

- *Councillors (including the Mayor) as a group comprise the governing body of the Council and the role of the governing body is set out in section 223(1) as follows:*
 - (a) *to direct and control the affairs of the council in accordance with this Act,*
 - (b) *to provide effective civic leadership to the local community,*
 - (c) *to ensure as far as possible the financial sustainability of the council,*
 - (d) *to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,*
 - (e) *to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,*
 - (f) *to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,*
 - (g) *to keep under review the performance of the council, including service delivery,*
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- (h) to make decisions necessary for the proper exercise of the council's regulatory functions,*
- (i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,*
- (j) to determine the senior staff positions within the organisation structure of the council,*
- (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,*
- (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.*

Section 223(2) of the Act states:

The governing body is to consult with the general manager in directing and controlling the affairs of the council.

- *As an individual, a Councillor's role is set out in section 232(1) as follows:*
 - (a) to be an active and contributing member of the governing body,*
 - (b) to make considered and well-informed decisions as a member of the governing body,*
 - (c) to participate in the development of the integrated planning and reporting framework,*
 - (d) to represent the collective interests of residents, ratepayers and the local community,*
 - (e) to facilitate communication between the local community and the governing body,*
 - (f) to uphold and represent accurately the policies and decisions of the governing body,*
 - (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.*

Section 232(2) of the Act states:

A councillor is accountable to the local community for the performance of the council. •

- *The General Manager's functions are set out in section 335 as follows:*
 - (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,*
 - (b) to implement, without undue delay, lawful decisions of the council,*
 - (c) to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,*
 - (d) to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,*
 - (e) to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,*
 - (f) to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,*
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- (g) to exercise any of the functions of the council that are delegated by the council to the general manager,*
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,*
- (i) to direct and dismiss staff,*
- (j) to implement the council's workforce management strategy,*
- (k) any other functions that are conferred or imposed on the general manager by or under this or any other Act.*

The Public Officer is responsible for assisting people to gain access to public documents of the Council. The Public Officer is to be the contact person (via the General Manager's Office) for Councillors who wish to access information to enable them to make informed decisions and to exercise the functions of civic office.

Relevant Council Policies and Procedures include:

- Code of Conduct for Councillors;
- Code of Conduct for Council Staff;
- Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW; and
- Council's Code of Meeting Practice.

VARIATION AND REVIEW

The Councillor Access to Council Staff, Information and Premises Policy will be reviewed every three (3) years, or earlier if deemed necessary, to ensure that it meets the requirements of legislation and the needs of Council. The term of the Policy does not expire on the review date, but will continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

Appendix A**Document Control Continued**

PREVIOUS VERSIONS:	DATE:	RESOLUTION NO:	DESCRIPTION OF AMENDMENTS:	AUTHOR / EDITOR:	REVIEW / SIGN OFF:
1	25/10/2018	12.10/18		General Manager	Council