

**KEMPSEY SHIRE COUNCIL**

**GIPA ACT AGENCY INFORMATION GUIDE**

**Procedure 5.3.2**

Policy No. and title	5.3	Access to Information Policy
Procedure	5.3.2	GIPA Act Agency Information Guide
Version	4	
Date Adopted	8 December 2020	

---

**Contents**

1	Agency Information Guide	2
2	Structure and functions of Kempsey Shire Council	2
2.1	Organisational structure .....	2
2.2	Councils Vision and Values.....	3
2.3	Functions and how they affect members of the public .....	3
4	How members of the public can participate in the formulation of Council’s policies and exercise of Council’s functions	4
5	Open access information publicly available	4
6	How members of the public may access Government Information	6

## **1 Agency Information Guide**

Section 20 of the *Government Information (Public Access) Act 2009* (the GIPA Act) requires agencies to develop and adopt an agency information guide as part of their mandatory open access information. The Act states that the Agency information Guide shall:

- a) Describe the structure and functions of the agency, and
- b) Describe the ways in which the functions (including, in particular, the decision-making functions) of the agency affect members of the public, and
- c) Specify arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the exercise of the agency's functions, and
- d) Identify the various kinds of government information held by the agency, and
- e) Identify the kinds of government information held by the agency that the agency makes (or will make) publicly available, and
- f) Specify the manner in which the agency makes (or will make) government information publicly available, and
- g) Identify the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.

## **2 Structure and functions of Kempsey Shire Council**

Kempsey Shire Council is a duly constituted council in the State of New South Wales under the terms of the Local Government Act 1993. Council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual, both in and outside the State.

### **2.1 Organisational structure**

- a) An Organisational Structure has been developed to facilitate the functions of Council.
- b) Council's operational policy is determined by the elected Council which comprises of nine (9) councillors elected each four years. The next Council election is due in September 2020.
- c) At the September 2016 election, the Mayor for the ensuing four years was popularly elected by the people.
- d) The Mayor presides at meetings of the council, carries out the civic and ceremonial functions of the office, exercises in case of necessity, the decision making functions of the council between its meetings and performs any other functions that the council determines.
- e) Council's operational functions are carried out through the General Manager and two Directors covering the areas of Corporate and Commercial and Operations and Planning.
- f) The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council's decisions. The General Manager is also responsible for the day to day management of the Council.

The current [organisational structure](#) can be found on Council's website.

## **2.2 Councils Vision and Values**

Councils [Community Strategic Plan](#) outlines the aspirations of our Community to form our visions and values, being:

**Healthy** - Our people and environment are healthy;

**Wealthy** - We are a wealthy and prosperous community;

**Safe** - We live in a safe community;

**Connected** - Our community is vibrant, engaged and connected;

## **2.3 Functions and how they affect members of the public**

Kempsey Shire Council is a service organisation and most of its functions will have an impact on the public.

Council's functions are detailed in Section 8 of the *Local Government Act 1993* and include regulatory, ancillary, revenue, administrative, service and enforcement functions.

The following is a summary of the major functions and how they may affect the public.

### Service Functions

Service Functions affect the public as Council provides goods, services and facilities to the public. This includes community halls and buildings, libraries, recreation facilities, tourism and industry services, environmental protection and waste removal and disposal.

### Regulatory Functions

Regulatory functions affect the public as they place restrictions on developments and buildings to ensure they meet legislative requirements, and do not endanger the lives and safety of any person.

### Ancillary Functions

Ancillary functions include the resumption of land and the powers of entry, inspection and investigation over land when required to carry out other Council functions.

### Revenue Functions

Revenue functions includes rates, fees and charges, grants, borrowings and investments. This enables Council to finance the services and facilities provided.

### Administrative Functions

Administration functions include the employment of staff, community strategic plans, financial reporting and Councils annual reporting. These functions affect the efficiency and effectiveness of services provided to the public.

### Enforcement Functions

Enforcement function affects members of the public that are in breach of certain legislations. For example the non-payment of rates and charges, parking fines or unregistered companion animals.

#### **4 How members of the public can participate in the formulation of Council's policies and exercise of Council's functions**

- a) In the broad sense members of the public may participate in the formulations of Council's policies and functions through representation and personal participation. The public elect the nine councillors to represent them at council meetings and to make decisions on Council's policies and functions on their behalf.
- b) Members of the public are able to raise issues and make representations to the elected councillors.
- c) Council meetings are held monthly on the third Tuesday of the month commencing at 9.00 am at the Civic Centre Council Chambers, 22 Tozer Street, West Kempsey. The general public are welcome and encouraged to attend these meetings. Council meetings are preceded, on the prior Monday afternoon, by a public forum session where, subject to approval of the mayor, a person may address council on any matter listed on the meeting agenda.
- d) Personal participation can occur through Council's community engagement forums. The method of engagement used by the council will depend on the nature and complexity of the issue. It may be by public exhibition of documents, surveys, public meetings, citizen panels, community conversations, workshops and forums. Council will advise the community of the engagement process via its website and Council's notice page in the Macleay Argus.

#### **5 Open access information publicly available**

The *Government Information (Public Access) Act 2009* (GIPA Act) requires that Council provide much of its information as open access information that is made available to the public. At least one of the ways it is provided (usually by a website) must be free of charge.

The following Council information is prescribed as open access information:

##### **Information about Council**

- 1 The model code prescribed under section 440 (1) of the LGA and the code of conduct adopted under section 440 (3) of the Local Government Act (LGA).
- 2 Code of meeting practice.
- 3 Annual report.
- 4 Annual financial reports.
- 5 Auditor's report.
- 6 Management Plan.
- 7 EEO Management Plan.
- 8 Policy concerning the payment of expenses incurred by, and the provision of facilities to the Mayor and Councillors.

- 9 Annual reports of bodies exercising delegated Council functions.
- 10 Any codes referred to in the LGA.
- 11 Returns of the interests of councillors, designated persons and delegates.
- 12 Agendas and business papers for Council and committee meetings (but not including business papers for matters considered when a meeting is closed to the public).
- 13 Minutes of Council and committee meetings (but not including minutes of a meeting or any part of a meeting that is closed to the public other than the recommendations of that meeting).
- 14 Departmental representatives' reports presented at a meeting of the local authority in accordance with section 433 of the LGA.
- 15 Land register.
- 16 Register of investments.
- 17 Register of delegations.
- 18 Register of graffiti removal work kept in accordance with section 13 of the Graffiti Control Act 2008.
- 19 Register of current declarations of disclosures of political donations kept in accordance with section 328A of the LGA.
- 20 Register of voting of planning matters kept in accordance with section 375A of the LGA.

### **Plans and policies**

- 21 Local policies adopted by the Council concerning approvals and orders.
- 22 Plans of Management for community land.
- 23 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.

### **Information about development applications**

- 24 Development applications and any associated documents received in relation to a proposed development including the following:
  - a) Home warranty insurance documents.
  - b) Construction certificates.
  - c) Occupation certificates.
  - d) Structural certification documents.
  - e) Town Planners' reports.
  - f) Submissions received on development applications.

- g) Heritage consultant reports.
  - h) Tree inspection consultant reports.
  - i) Acoustics consultant reports.
  - j) Land contamination consultant reports.
- 25 Records of decisions on development applications (including decisions made on appeal)
- 26 A record that describes the general nature of the documents that the local authority decides is excluded from the operation of this clause by subclause 4(2) of schedule 1 of the GIPA Act. These excluded documents are:
- a) Plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or
  - b) Commercial information, of the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret.

#### **Approvals, orders and other documents**

- 27 Applications for approvals under Part 1 of Chapter 7 of the LGA and any associated documents received in relation to such an application.
- 28 Applications for approvals under any other Act and any associated documents received in relation to such an application.
- 29 Records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals.
- 30 Orders given under Part 2 of Chapter 7 of the LGA and any reasons given under section 136 of the LGA.
- 31 Orders given under the authority of any other Act.
- 32 Records of building certificates under the Environmental Planning and Assessment Act 1979.
- 33 Plans of land proposed to be compulsorily acquired by council.
- 34 Compulsory acquisition notices.
- 35 Leases and licences for use of public land classified as community land.
- 36 Performance improvement orders issued to a council under Part 6 of Chapter 13 of the LGA.

## **6 How members of the public may access Government Information**

The Government Information (Public Access) Act 2009 (GIPA Act) provides for government information to be released in four ways:

- 1 Mandatory proactive release.
- 2 Authorised proactive release.

- 3 Informal release.
- 4 Release subject to a formal access application.

Information that is subject to mandatory proactive release is available in the Open Access Information section of Council's website. Council has proactively released a range of information on this site.

The rights to information provided by the GIPA Act mean that formal applications for access to information should be a last resort. In most circumstances you should not have to make a formal application to access information that council holds.

To access the Council's information:

- 1 Search our website to see if it's already available.
- 2 Contact Council and ask for the information. We will decide whether the information you want:
  - a) Is open access information that is readily available. If it is, we will tell you where and how you can get the information.
  - b) Should be made available as part of a "proactive release" of information.
  - c) Can be disclosed to you through "informal release", for example where no third party personal information is involved.
  - d) Requires a "formal access application", for example because consultation with a third party is required.

Where any of the open access information is not readily available copies of the documents will be made available subject to privacy and copyright matters. In accordance with Council's Fees and Charges a copying fee may apply.

Formal applications for access to information should be made using the application form. Before making a formal application for access to information, we suggest you contact the Customer Services Centre on 65663200 to see if the information you seek is already available or can be made available to you without the need for a formal application. The GIPA Act formal application form is available on Council's website (click on communications then forms index) or at the Customer Services Centre, 22 Tozer Street, West Kempsey.

Formal applications for access may be made to:

The Right to Information Officer  
Kempsey Shire Council  
PO Box 3078  
West Kempsey 2440

Telephone (02) 6566 3200  
E-Mail [ksc@kempsey.nsw.gov.au](mailto:ksc@kempsey.nsw.gov.au)  
Internet <http://www.kempsey.nsw.gov.au>

### **Office of the Information Commissioner**

If you require any other advice or assistance about access to government information you may also contact the Office of the Information Commissioner NSW at:

Level 11, 1 Castlereagh Street, Sydney 2000  
GPO Box 7011, Sydney NSW 2001  
Tel: 1800 472 679  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
Website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

## **VARIATION**

The General Manager reserves the right to review, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.