



FORBES SHIRE COUNCIL
Agency Information Guide
2022

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1 About the Government Information (Public Access) Act 2009

1.1 Introduction

The *Government Information (Public Access) Act*, (“GIPA Act”) is the New South Wales Government's approach to giving the community greater access to government information. The New South Wales Government has made a commitment to provide access to information held by the Government, unless on balance there is an overriding public interest against disclosure. New legislation replacing the *Freedom of Information Act 1989 and Section 12, 12A, 12B and 13 of the Local Government Act 1993* came into effect on 1 July 2010.

There are four main ways information is made available under the GIPA Act, namely:

- i. Mandatory proactive release;
- ii. Authorised proactive release;
- iii. Informal release; and
- iv. Access applications.

The Right to Information reform aims to: Make more information available; provide equal access to information across all sectors of the community; and provide appropriate protection for individuals' privacy.

1.2 Object of the Act (extract from Part 1, Section 3 of the GIPA Act)

- i. *In order to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective, the object of this Act is to open government information to the public by:*
 - a. *authorising and encouraging the proactive public release of government information by agencies, and*
 - b. *giving members of the public an enforceable right to access government information, and*
 - c. *providing that access to government information is restricted only when there is an overriding public interest against disclosure.*
- ii. *It is the intention of Parliament:*
 - a. *that this Act be interpreted and applied so as to further the object of this Act, and*
 - b. *that the discretions conferred by this Act be exercised, as far as possible, so as to facilitate and encourage, promptly and at the lowest reasonable cost, access to government information.*

2 Understanding your Council and its functions

2.1 Structure and functions of Council

Forbes Shire Council is incorporated as a Council under the *Local Government Act 1993* and has adopted a structure to reflect the requirements of the Act. This structure also enables clear responsibility and accountability for outcomes set out in Council's Delivery Program.

Forbes Shire Council is governed by a body of nine (9) Councillors who are elected by the residents and ratepayers of the Forbes Local Government Area.

The role of councillors as defined in s.232 of the *Local Government Act 1993* is:

- i. to be an active and contributing member of the governing body,
- ii. to make considered and well-informed decisions as a member of the governing body,
- iii. to participate in the development of the integrated planning and reporting framework,
- iv. to represent the collective interests of residents, ratepayers and the local community,
- v. to facilitate communication between the local community and the governing body,
- vi. to uphold and represent accurately the policies and decisions of the governing body,
- vii. to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

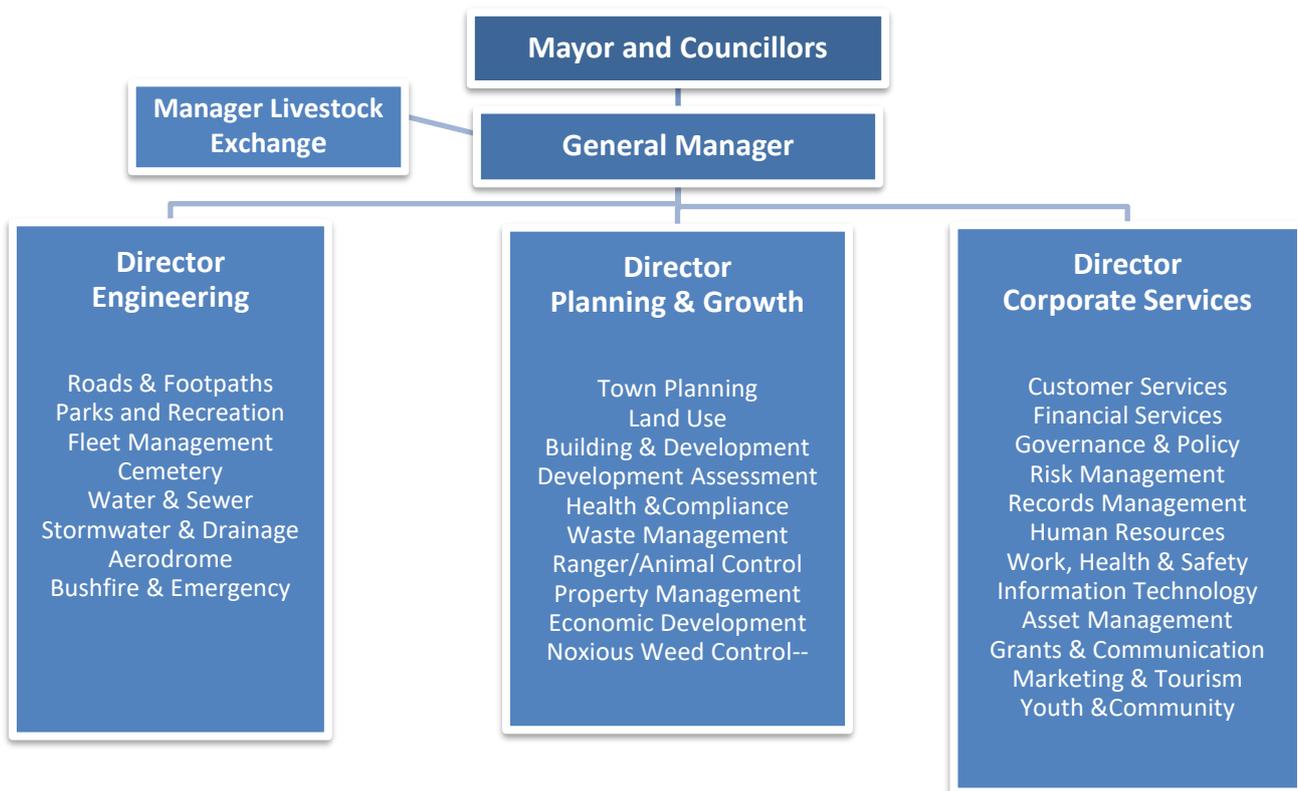
A councillor is accountable to the local community for the performance of the council.

The Mayor presides at meetings of Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body politic between its meetings and performs any other functions that Council determines.

The Principal Officer of Council is the General Manager. The General Manager is responsible for the efficient operation of Council organisation and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of Council, the exercise of any functions delegated by Council, the appointment, direction and where necessary, the dismissal of staff.

To assist the General Manager in the exercise of these functions, there are three (3) Departments of Council. These Departments are Corporate Services, Planning and Growth, and Engineering; each of these Departments is headed by a Director and supported by Managers.

The following is a depiction of Council's organisational structure.



2.2 Principal functions of Forbes Shire Council

Forbes Shire Council is constituted under the *Local Government Act 1993 (NSW)* (the Act). The purpose of Act is:

- i. to provide the legal framework for the system of local government for New South Wales,
- ii. to set out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government,
- iii. to provide for governing bodies of councils that are democratically elected,
- iv. to facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government,
- v. to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

Section 22 of the Act conferred or imposed other functions on NSW councils under other legislation or law. Some other Acts and some of the functions they confer include:

ACT	FUNCTIONS
Community Land Development Act 2021	planning functions as consent authority
Companion Animals Act 1998	companion animal registration and control
Conveyancing Act 1919	placing covenants on council land
Environmental Planning and Assessment Act 1979	environmental planning
Fire and Rescue Act 1989	payment of contributions to fire brigade costs and furnishing of returns
Fluoridation of Public Water Supplies Act 1957	fluoridation of water supply by council
Food Act 2003	inspection of food and food premises
Impounding Act 1993	impounding of animals and articles
Library Act 1939	library services

ACT	FUNCTIONS
Protection of the Environment Operations Act 1997	pollution control
Public Health Act 2010	inspection of systems for purposes of microbial control
Recreation Vehicles Act 1983	restricting use of recreation vehicles
Roads Act 1993	roads
Rural Fires Act 1997	issue of permits to light fires during bush fire danger periods requiring the furnishing of information to the Rural Fire Service Advisory Council and its Co-ordinating Committee
State Emergency Service Act 1989	recommending appointment of local controller
Strata Schemes Development Act 2015	approval of strata plans
Swimming Pools Act 1992	ensuring restriction of access to swimming pools

The exercise by a council of its functions under the Act may also be modified by the provisions of another Act. Some of those Acts and some of the modifications they effect include:

ACT	EFFECTED MODIFICATIONS
Environmental Offences and Penalties Act 1989	forfeiture of council functions to person appointed by Governor
Government Information (Public Access) Act 2009	council required to publish certain information and to grant access to certain documents
Heritage Act 1977	rating based on heritage valuation
Privacy and Personal Information Protection Act 1998	council required to amend certain records that are shown to be incomplete, incorrect, out of date or misleading
State Emergency and Rescue Management Act 1989	council required to prepare for emergencies
Unclaimed Money Act 1995	unclaimed money to be paid to the Chief Commissioner of Unclaimed Money

Listed below are the principal functions and strategic objectives of Forbes Shire Council. The strategic objectives indicate the ways in which the functions affect members of the community.

FUNCTIONS	STRATEGIC OBJECTIVES
Service functions	<ul style="list-style-type: none"> • Provision of community health, recreation, education and information services; • Environmental protection; • Waste removal and disposal; • Land and property, industry and tourism development and assistance; • Civil infrastructure planning; • Civil infrastructure maintenance and construction.
Regulatory functions	<ul style="list-style-type: none"> • Approvals; • Orders; • Building certificates.
Ancillary functions	<ul style="list-style-type: none"> • Resumption of land; • Powers of entry and inspection; • Community planning and development functions.

FUNCTIONS	STRATEGIC OBJECTIVES
Revenue functions	<ul style="list-style-type: none"> • Rates; • Charges and Fees; • Borrowings; • Investments.
Administrative functions	<ul style="list-style-type: none"> • Employment of staff; • Management plans; • Financial reporting; • Annual reporting; • Marketing of Forbes Shire as a destination; • Community engagement; • Commercial enterprise development.
Enforcement functions	<ul style="list-style-type: none"> • Proceedings for breaches of the Local Government Act and Regulations and other Acts and Regulations; • Prosecution of offences; • Recovery of rates and charges.

2.3 How Council's decision making functions affect the public

As a service organisation, the majority of the activities of Forbes Shire Council have an impact on the public. The following is an outline of how the broad functions of Council affect the public.

As an Operator of Utilities - Council's day to day activities in the important areas of water supply and sewerage have a direct impact on all residents. The provision of these services is a major component of Council's budget and initiatives to encourage water conservation and improve effluent treatment are constantly under consideration.

As a Service Provider - Council provides a wide range of facilities and services to the community. These range from the library, public halls, parks, reserves and the Olympic swimming pool, through to cleaning of public amenities such as toilets and streets, together with conducting youth and community service activities.

As a Consent Authority - Council processes a large number of applications dealing with land and the use of buildings. The consideration of building, development and subdivision proposals is a major component of our activities and decisions made by Council have a direct impact on the applicant together with the local neighbourhood. In addition, many other applications are made to Council. For example, opening and closing of roads, to stage festivals and other events and to use public facilities.

As a Regulatory Body - After consents are issued, Council then has a responsibility to monitor and enforce the conditions imposed. Council's regulatory functions also extend to bush fire control, animal control, approvals for street closures and any other activities which involve public property.

As a Licensing Authority - Council is responsible for the licensing of places of public entertainment, caravan parks and dogs. Again, after the licences are issued, Council has a continuing responsibility to monitor the approval to ensure compliance with the licence conditions.

As a Developer of Land - Council develops residential and industrial subdivisions in response to community needs.

As a Promoter of Tourism - Council actively promotes Forbes as a tourist destination by participating in local and regional activities. We provide tourist information services at the Council Administration Office and primarily through the Visitor Information Centre located at the Railway Station. Council is also an active member of the regional tourism organisation Central NSW Tourism, which incorporates the Central Western region.

As a Consultative Organisation - All meetings of Council are advertised and attendance by members of the public is encouraged. Input from the community in any area of Council's operations is welcomed. Council avoids making decisions which will affect the wider interests of the local area without first inviting comments and suggestions by any interested parties.

As part of our commitment to consultative decision making, Council meets regularly with Council/Community committees, for example, the Business and Industry Group and the Sports Council. Council's planning staff are available to discuss land use proposals with land owners and/or their consultants before a development application is lodged.

As a Liaison Link - Council provides a link between our local communities and other levels of Government. We have developed a close working relationship with the Federal Member for Riverina, Mr Michael McCormack MP and the State Member for Orange, Mr Philip Donato. This has resulted in many benefits, including changes to decisions which were considered contrary to the interests of our local communities. The three Departments co-operate and liaise closely with their counterparts in other councils and Government departments.

As a Landlord - Council is the owner of a number of buildings including the Council Administration Building and chambers, town/public halls, community centres, the library and numerous other buildings and facilities. Council's Planning and Growth Department is responsible for the day to day care, control and management of many of these buildings. In the case of some buildings private lease agreements have been approved.

Council owns a range of vacant land throughout the shire, some of which it leases to members of the public under short term license. Council is also the Trustee of a range of Crown Reserves for which it has the day to day care, control and management.

As a Lobby Group - Legislative change is constantly being introduced by various levels of Government. Council acts on the community's behalf in commenting on many proposals and suggesting amendments, which requires the preparation of submissions and personal representations by Councillors and senior staff on behalf of our local residents.

As a Catalyst for Change - Council is responsible for ensuring that the infrastructure and land use zonings are capable of accommodating future growth needs.

3 Public participation in the formulation of Council policy and the exercise of Council functions

There are two broad ways in which the public may participate in the policy development and the general activities of Council. These are through representation and personal participation.

3.1 Representation

Local Government in Australia is based on the principle of representative democracy. This means that the people elect representatives to their local council to make decisions on their behalf. In New South Wales, local government elections are held every four years. Forbes Shire Council's next election is scheduled for September 2021.

At each election, voters elect nine (9) Councillors for a four (4) year term. All residents of the area who are on the electoral roll are eligible to vote. Property owners who live outside of the area and rate paying lessees can also vote, but must register their intention to vote on the non-residential roll. Voting is compulsory.

Residents are able to raise issues with, and make representations to, the elected Councillors. The Councillors may pursue the matter on the resident's behalf thus allowing members of the public to influence the development of policy.

3.2 Personal Participation

There are also avenues for members of the public to personally participate in the policy development and the functions of Council.

3.2.1 **Attending Council Meetings:** Members of the public are able to attend Council meetings (third Thursday of the month) held in the Council Chambers, Harold Street, Forbes. The Public Forum segment of the Council meeting provides an opportunity for people to speak publicly on any item on Council's business paper agenda or on any matter within the Local Government area which falls within Council's jurisdiction.

Members of the public who wish to address Council during the public forum must register with Council by 10:00am on the day of the meeting and must advise the topic being raised. For more information refer to Council's *Code of Meeting Practice*.

3.2.2 Residents and ratepayers may choose to telephone or write to Council at any time about any of its operations, its facilities, its activities or its policies. Members of the public may also make submissions to Council and are encouraged to respond to any matter placed on public exhibition in Council's Administration Office, advertised in Council's public notice advertisement in the Friday edition of the Forbes Advocate each week, or on Council's website.

3.2.3 **Public Meetings:** Council hosts a number of community meetings throughout the year to allow members of the public to raise any issues directly with Councillors and Council staff. These meetings are also held in the localities of Bedgerebong, Wirrinya, Ootha, Corinella and Garema.

3.2.4 **Volunteer on Council's advisory committees and working groups:** Council has adopted Section 355 committees to undertake specific functions of behalf of Council. These committees may be supported by special interest advisory and working groups. Council seeks expressions of interest from members of the public to join its advisory and working groups on an as needs basis.

COMMITTEE	PURPOSE
Aerodrome	To advise Council on strategic and operational matters relating to the Forbes Aerodrome.
Audit, Risk and Improvement	To review the following aspects of Council's operations: (a) compliance, (b) risk management, (c) fraud control, (d) financial management, (e) governance, (f) implementation of the strategic plan, delivery program and strategies, (g) service reviews, (h) collection of performance measurement data by the council and (i) any other matters prescribed by the regulations. <u>(extract from S.428A (2) Audit, Risk and Improvement Committee, Local Government Amendment (Governance and Planning) Act 2016)</u>
Economic, Finance and Infrastructure	To consider matters related to economic development, finance, infrastructure as relevant to Council Integrated Planning and Reporting actions defined in the Community Strategic Plan.
Floodplain	To review floodplain matters relating to development applications.
Heritage	To advise Council on strategic matters relating to heritage from the planning, infrastructure and community engagement perspective.
Saleyards	To advise Council on strategic matters relating to the Central West Livestock Exchange.
Events and Tourism	To advise Council on matters related to events and tourism and promotion as relevant to Council Integrated Planning and Reporting actions defined in the Community Strategic Plan.
Tree	To advise Council on strategic and operational matters relating to the management of trees in urban and parkland settings.

4 Open Access Information

4.1 Documents held by Council

Council holds documents (hard copy and/or electronic form) that relate to a number of different issues concerning the Forbes Local Government Area. These documents are grouped into three categories:

- i. Electronic Documents;
- ii. Physical Files; and
- iii. General Documents.

Documents included in Clause 4.2 of this Guide may be made available to the public on request unless there is an overriding public interest not to do so. Some documents may require a formal access application in accordance with the GIPA Act.

4.2 General Documents

Schedule 1 of the *Government Information (Public Access) Regulation 2018* requires that these certain documents held by Council are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at Council's Administration Office during ordinary office hours or at any other place as determined by the Council. Any current and previous documents of this type may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges.

These documents are:

4.2.1 Information about Council:

- i. Information contained in the current version and the most recent previous version of the following records is prescribed as open access information:
 - a. the model code prescribed under section 440 (1) of the LGA and the code of conduct adopted under section 440 (3) of the LGA;
 - b. code of meeting practice;
 - c. annual report;
 - d. annual financial reports;
 - e. auditor's report;
 - f. Integrated Planning and Reporting suite of documents;
 - g. EEO management plan;
 - h. policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors;
 - i. annual reports of bodies exercising functions delegated by the local authority; and
 - j. any codes referred to in the LGA.
- ii. Information contained in the following records (whenever created) is prescribed as open access information:
 - a. returns of the interests of councillors, designated persons and delegates;
 - b. 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);
 - c. 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 that is closed to the public) to the resolutions and recommendations of the meeting; and
 - d. Departmental representative reports presented at a meeting of the local authority in accordance with section 433 of the LGA.

- iii. Information contained in the current version of the following records is prescribed as open access information:
 - a. land register;
 - b. register of investments;
 - c. register of delegations;
 - d. register of graffiti removal work kept in accordance with section 13 of the *Graffiti Control Act 2008*;
 - e. register of current declarations of disclosures of political donations kept in accordance with section 328A of the LGA; and
 - f. the register of voting on planning matters kept in accordance with section 375A of the LGA.

4.2.2 Plans and policies:

Information contained in the current version and the most recent previous version of the following records is prescribed as open access information:

- i. local policies adopted by the local authority concerning approvals and orders;
- ii. plans of management for community land; and
- iii. environmental planning instruments, development control plans and contributions plans made under the *Environmental Planning and Assessment Act 1979* applying to land within the local authority's area.

4.2.3 Information about development applications:

- i. Information contained in the following records (whenever created) is prescribed as open access information:
 - a. development applications (within the meaning of the *Environmental Planning and Assessment Act 1979*) and any associated documents received in relation to a proposed development including the following:
 - home warranty insurance documents;
 - construction certificates;
 - occupation certificates;
 - structural certification documents;
 - town planner reports;
 - submissions received on development applications;
 - heritage consultant reports;
 - tree inspection consultant reports;
 - acoustics consultant reports;
 - land contamination consultant reports;
 - records of decisions on development applications made on or after 1 July 2010 (including decisions made on appeal); and
 - a record that describes the general nature of the documents that the local authority decides are excluded from the operation of this clause by subclause ii.
 - ii. This clause does not apply to so much of the information referred to in subclause (i) (a) as it consists of:
 - the 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
 - 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; or

- development applications made before 1 July 2010 and any associated documents received (whether before, on or after that date) in relation to the application.

iii. A local authority must keep the record referred to in subclause (i) (c).

4.2.4 Approvals, orders and other documents:

Information contained in the following records (whenever created) is prescribed as open access information:

- i. applications for approvals under Part 1 of Chapter 7 of the LGA and any associated documents received in relation to such an application;
- ii. applications for approvals under any other Act and any associated documents received in relation to such an application;
- iii. records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals;
- iv. orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA;
- v. orders given under the authority of any other Act;
- vi. records of building certificates under the *Environmental Planning and Assessment Act 1979*;
- vii. plans of land proposed to be compulsorily acquired by the local authority;
- viii. compulsory acquisition notices;
- ix. leases and licences for use of public land classified as community land; and
- x. performance improvement orders issued to a council under Part 6 of Chapter 13 of the LGA.

4.3 Register of Government Contracts

Council must keep an updated register of all contracts valued at \$150,000 (incl. GST) or more, which are entered into with a private sector entity for a project, goods and services, or the sale, purchase or lease of real property. This register can be accessed on Council's website.

This register is updated upon signing new contracts. Council will keep details of the contracts on the register only for the 'public access period'. The 'public access period' is the period until the project to which the contract relates is complete, the goods and services concerned have been provided under that contract, the term of the lease has expired or the real property has been transferred.

4.4 Disclosure Log

Council must keep an updated disclosure log showing information released under a formal access application under the GIPA Act since 1 July, 2010. It should be noted applicants can object to inclusion in Council's disclosure log.

5 How members of the public may access and amend Council documents concerning their personal affairs

5.1 Accessing Information Generally

Forbes Shire Council is committed to providing the community with open and transparent access to information about our services, activities and business operations. Much of this information is routinely provided in our corporate documents and is available on our website.

In addition, where possible, Council aims to make information, not defined as open access information, available through a process of authorised proactive or informal release. Where informal release of information is not possible because of possible public interest issues then Council will accept, process and determine applications for formal release of information in accordance with the GIPA Act. Where copies of documents are requested, reasonable copy charges will apply. Information on Council's fees and charges are included in the Integrated Planning and Reporting suite of documents.

Most documents can be inspected at, or obtained from, Council's Administration Office between the hours of 8.30 am and 4.30 pm, Monday to Friday (except public holidays). Further enquiries should be directed to the Public Officer.

5.2 Accessing Information in the Disclosure Log

To obtain copies of any of the released documents shown in Council's disclosure log, members of public must make a written request (including via email) to the General Manager. Reasonable copy charges will apply if copies of information are required. Information on Council's fees and charges are listed in the Integrated Planning and Reporting suite of documents. In some cases there may be copyright restrictions on copying information.

5.3 Formal Requests to Access Information

While Council aims to proactively release information about our activities, Section 41 of the GIPA Act provides a formal means of requesting access to information held by Council that is not publicly available because there may be an overriding public interest against disclosure of all or part of the information. Formal requests for access to information must:

- i. be in writing;
- ii. specify it is made under the GIPA Act;
- iii. provide a postal address;
- iv. provide sufficient detail to enable Council to identify the information requested; and
- v. include the necessary application fee.

Council has a GIPA Act application form on its website. The form is also available at Council's Administration Office. Applications should be sent to:

*Mr Steve Loane
General Manager
Forbes Shire Council
PO Box 333
FORBES NSW 2871*

Council has 20 working days from receipt of an application to determine a formal request to access information. This period can be extended if there is a need for consultation with a third party or records have to be obtained from a records archive. In addition to the application fee, there is a \$30 an hour charge to process formal access applications. In some cases an advance deposit to cover processing costs is required. In some limited circumstances a fee reduction on the application charge and processing costs may be available.

5.4 Application for amendment of records

An application for amendment to personal information held by Council must be made in accordance with the *Privacy and Personal Information Protection Act 1998* ("PIPPA Act") and addressed to Council's General Manager.

6 Public Officer/Right of Information Officer

Council's Governance Officer has been appointed as the Public Officer. Amongst other duties, the Public Officer may deal with requests from the public concerning Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council. The Public Officer is also Council's Right to Information Officer and as such is responsible, in consultation with the General Manager, for determining applications for access to documents or for the amendment of records.

The Public Officer can be contacted on 02 6850 2300 or via email forbes@forbes.nsw.gov.au

7 Information and Privacy Commission NSW

Further information regarding the functions of the Office of the Information and Privacy Commission (IPC) and rights to accessing government information may be found on the IPC website at www.ipc.nsw.gov.au or via telephone 1800 472 679.

8 Definitions

Access application means an application for access to government information under Part 4 of the *Government Information (Public Access) Act 2009* that is a valid access application under that Part.

Disclosure Log means a disclosure log kept by an agency under Part 3 *Government Information (Public Access) Act 2009*.

External review means a review by another agency excluding Council e.g. Office of the Information Commissioner NSW.

Government Information (Public Access) Act 2009 means the legislation that now governs access to government information in NSW.

Information Commissioner means the Information Commissioner under the *Government Information (Information Commissioner) Act 2009*.

Internal review means a review by the head or chief executive officer (however designated) of Council.

PIIP Act means the *Privacy and Personal Information Protection Act 1998* to provide for the protection of personal information and for the protection of the privacy of individuals generally.

Principal Officer of Council means the general manager or chief executive officer (however designated) of Council or the person of greatest seniority.

Agency Information Guide means a guide that:

- i. describes the structure and functions of Council, and
- ii. describes the ways in which the functions (including, in particular, the decision making functions) of Council affect members of the public, and
- iii. specifies any arrangements that exist to enable members of the public to participate in the formulation of Council's policy and the exercise of Council's functions, and
- iv. identifies the various kinds of government information held by Council, and
- v. identifies the kinds of government information held by Council that Council makes (or will make) publicly available, and
- vi. specifies the manner in which Council makes (or will make) government information publicly available, and
- vii. identifies 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.

Public Officer means an officer employed by Council delegated authority to deal with:

- i. requests from the public concerning Council's policies and procedures;
- ii. assisting the public to gain access to publicly available documents of the Council;
- iii. accepting service of documents on behalf of Council; and
- iv. representing the Council in any legal or any other proceedings.

Register of Government Contracts means a register of the following contracts between Council and a private sector entity:

- i. a contract under which a party agrees to undertake a specific project (such as construction, infrastructure or property development project);
- ii. a contract under which a party agrees to provide specific goods or services (such as information technology services), other than a contract of employment;
- iii. a contract under which a party agrees to transfer real property to another party to the contract; and

iv. a lease of real property.

Right to Information Officer means an officer employed by Council capable of providing information from a particular area for an *informal* application.

Senior Right to Information Officer means an officer employed by Council to determine and process a *formal* application made under the *Government Information (Public Access) Act 2009* and is senior to a Right to Information Officer.