

Government information (Public Access) ACT 2009

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## **1.0 ABOUT THIS GUIDE - PREFACE**

This Publication Guide has been produced by Gloucester Shire Council in accordance with Section 20 of the Government Information (Public Access) Act, 2009 (GIPA Act). It represents Council's first publication guide under this new legislation that commenced on 1 July 2010 and will be reviewed annually.

The purpose of this Guide is to provide members of the public and staff of the organisation with information concerning:

- The structure and functions of Gloucester Shire Council,
- The way in which the functions of Council affect the public,
- The avenues available to the public to participate in policy development.
- The kinds of information held and available from Council, and
- The manner in which Council will make information publicly available and the kinds of information that will be available free of charge or subject to a charge.

This Publication Guide is available free of charge from Council's Libraries, on Council's website ([www.gloucester.nsw.gov.au](http://www.gloucester.nsw.gov.au)) and from the Public Officer at Council's Gloucester Administration Centre, King Street during business hours.

**ALLAN YOUNG**  
**General Manager**  
**31 December, 2010**

## 2.0 INTRODUCTION

Gloucester Shire Council is a body politic constituted under the Local Government Act 1993 (the Act). **Council's Charter** is set out in Section 8 of the Act and is:

- To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- To exercise community leadership;
- To exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- To promote and to provide and plan for the needs of children;
- To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- To have regard to the long term and cumulative effects of its decisions;
- To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible;
- To facilitate the involvement of Councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- To raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- To keep the local community and the State government (and through it, the wider community) informed about its activities;
- To ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected; and
- To be a responsible employer.

### **3.0 Structure and Functions of the Gloucester Shire Council**

Gloucester Shire is governed by nine (9) Councillors elected by the residents of the Gloucester Council Area (LGA) at an ordinary election last conducted on 13 September 2008. This Council will serve a four (4) year term ending in September 2012. The Councillors elect their Mayor from its elected members on an annual basis.

#### **3.1 The elected member's role is:**

i. As a member of the governing body of Council:

- To direct and control the affairs of the Council in accordance with the provisions of the Local Government Act and other applicable legislation;
- To participate in the optimum allocation of the Council's resources for the benefit of the area;
- To play a key role in the creation and review of the Council's policies and objectives and criteria relating to the exercise of the Council's regulatory functions; and
- To review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.

ii. As an elected person:

- To represent the interests of the residents and ratepayers;
- To provide leadership and guidance to the community;
- To facilitate communication between the community and the council.

#### **3.2 The role of the Mayor is:**

- To exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- To exercise such other functions of the Council as the Council determines;
- To preside at meetings of the Council; and
- To carry out the civic and ceremonial functions of the mayoral office.

## **4.0 Organisation Structure**

The Principal Officer of the Council is the General Manager. The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

### **4.1 The General Manager is also responsible for:**

- The day-to-day management of the Council;
- The exercise of any functions that are delegated to him by the Council;
- The appointment of staff in accordance with an organisation structure and resources approved by the Council;
- The direction and dismissal of staff; and
- The implementation of Council's Equal Employment Opportunity Management Plan.

The General Manager is assisted in the exercise of these functions through the three organizational Divisions of Council. These are Corporate Services, Technical Services and Planning & Environmental Services. Each of these Divisions is headed by a Director. The Economic Development section reports directly to the General Manager.

### **4.2 The structure of each Department is as follows:**

#### **4.2.1 Corporate Services**

- Administrative
- Financial Services
- Information Technology
- Library Services
- Human Resources
- Corporate Planning & Governance
- Customer Service & Communication
- Community Services

#### **4.2.2 Technical Services**

- Design & Investigation
- Transport Asset Management & Maintenance
- Civil Works Operations
- Parks & Recreation
- Water and Sewerage Services
- Saleyards

#### **4.2.3 Planning & Environmental Services**

- Development Assessment
- Building Control
- Environmental Services
- Natural Resources Management
- Strategic Land-use Planning
- Cemeteries

[Gloucester Shire Council Organisational Structure](#)

## 5.0 Council Functions

Under the Local Government Act, 1993, Council's functions can be grouped into the following categories:

SERVICE FUNCTIONS	REGULATORY FUNCTIONS	ANCILLARY FUNCTIONS	REVENUE FUNCTIONS	ADMINISTRATIVE FUNCTIONS	ENFORCEMENT FUNCTIONS
* Providing health, recreation, & information services * Environmental protection * Waste removal & disposal * Land & property, industry & tourism development & assistance * Civil Infrastructure Maintenance and Construction & Planning	* Approvals * Orders * Building certificates	* Resumption of land * Powers of entry and inspection	* Rates * Charges * Fees * Borrowings * Investments	* Staff Employment * Governance * Management plans * Financial reporting * Annual reports	* Proceedings for breaches of the Local Government Act & Regulations and other Acts and Regulations * Prosecution of offences * Recovery of rates and charges

As well as the Local Government Act, Council has powers under a number of other Acts including:

Coastal Protection Act 1979  
 Community Land Development Act 1989  
 Companion Animals Act 1998  
 Contaminated Land Management Act 1997  
 Conveyancing Act 1919  
 Environmental Planning & Assessment Act 1979  
 Fire Brigades Act 1989  
 Fluoridation of Public Water Supplies Act 1957  
 Food Act 1989  
 Government Information (Public Access) Act 2010  
 Heritage Act 1977  
 Impounding Act 1993  
 Library Act 1939

Noxious Weeds Act 1993  
 Privacy & Personal Information Protection Act 1998  
 Protection of the Environment Operations Act 1997  
 Public Health Act 1991  
 Recreational Vehicles Act 1983  
 Roads Act 1993  
 State Emergency & Rescue Management Act 1989  
 State Emergency Service Act 1989  
 Strata Schemes (Freehold Development) Act 1973  
 Strata Schemes (Leasehold Development) Act 1986  
 Strata Schemes Management Act 1996  
 Swimming Pools Act 1992  
 Unclaimed Money Act 1995

## 6.0 WAYS IN WHICH FUNCTIONS & DECISIONS AFFECT THE PUBLIC

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

**Service Functions** affect the public as Council provides services and facilities to the public. These include provision of human services such as libraries, halls and community centres, recreational facilities infrastructure and the removal of waste.

**Regulatory Functions** place restrictions on developments and buildings that are erected to ensure that they meet certain requirements affecting the amenity of the community and not endanger the lives and safety of any person. Members of the public must be aware of, and comply with, such regulations.

**Ancillary Functions** affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land. In these circumstances, only the owner of the property would be affected.

**Revenue Functions** affect the public directly in that rates and other charges paid by the public and are applied to fund services and facilities required by and provided to the community.

**Administrative Functions** do not necessarily affect the public directly but have an indirect impact on the community through the efficiency and effectiveness of the service provided.

**Enforcement Functions** only affect those members of the public that are in breach of certain legislation. This includes matter such as the non payment of rates and charges, unregistered dogs and parking offences.

**Community Planning and Development Functions** affect the community through cultural planning, social planning and community profile and involves:

- Advocating and planning for the needs of our community. This includes initiating partnerships; participating on regional, State or Commonwealth working parties; and preparation and implementation of the Community Plan.
- Providing support to community and sporting organisations through provision of grants, training and information.
- Facilitating opportunities for people to participate in the life of the community through the conduct of a range of community events such as NAIDOC Week, Youth Week, Volunteer's Week, as well as promoting events of others.

## 7.0 How the Public can participate in Council's Policy Development

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

### 7.1 Representation

Local Government in Australia is based upon the principle of representative democracy. This means that people elect representatives to their local Council to make decisions on their behalf. If people are aggrieved by the decisions made by their representatives they then have the option not to vote for them at the next election.

In New South Wales, local government elections are held every four years. An election was held in September 2008 and the next election will be in September 2012. At the 2008 election the Gloucester community elected nine representatives to Council. Council's area is not broken up into wards and as such there are no 'local' Councillors, with all Councillors representing the entire Council area.

If you are a resident of the Gloucester Shire Council area you are required to vote in the election. To do this you must be registered on the electoral roll with the State Electoral Commission. Property owners who live outside of the Council area may also vote in the election but need to register their intention to vote on the non-residential roll by nominating prior to each election for inclusion on this roll.

Between elections, residents are able to raise issues and make representations to Councillors. Should a Councillor agree with the issue or representation, the matter may be pursued on the resident's behalf, thus allowing members of the public to indirectly influence the development of policy.

### 7.2 Participation through the Ordinary Meetings of Council

Ordinary Meetings of Council are usually held in the Council Chambers on the third Wednesday of each month commencing at 9.30 am. These meetings are open to the public except when dealing with specified confidential matters. All members of the public are welcome to attend Council meetings and agendas for these meetings are normally available for perusal on the Friday before the meeting and on Council's website- Council documents

There are two ways in which members of the public can participate in the monthly meeting. They are:

- **Address Council** – Members of the public can request to address Council on an item that is on the agenda for consideration at an Ordinary Meeting. Such requests should be made through the General Manager's Office by the close of business on the Monday day prior to the meeting by 4.30pm.  
The Mayor and Council retain the discretion to determine whether requests received after this deadline will be approved.
- **Address from the Public Gallery** – A period of Council's Ordinary Meeting (usually commencing at 9.45 am) is set aside for any member(s) of the public gallery who wish to address Council on any issue(s) NOT related to Development Applications listed on the Agenda.

In general, addresses should be limited to five minutes duration; however the Mayor at his discretion may allow an extension. At the conclusion of the address, Councillors will be invited to ask questions in order to clarify their understanding of the issue(s) raised. No debate or further discussion on the issue(s) will occur, however if the issue(s) is/are of an urgent nature it may be considered later in the meeting subject to the requirements of Council's Code of Meeting Practice.

Members of the public wishing to raise matters regarding Development Applications listed on the Agenda and who have made arrangements with the General Manager to do so, are advised that this section of the Agenda will be considered at 11.00am

### **7.3 Committee Meetings and Section 355 Committees**

Council also operates a number of committees that are established to consider specific issues. These committees include:

#### **Standing Committees**

- Forward Planning (Strategic) Committee – considers issues of a policy nature requiring more in-depth briefing or discussion than may be available at an Ordinary meeting
- Saleyards Management Committee - considers the development of policy and financial strategies to establish and maintain a quality assured complex.

#### **Section 355 Committees**

These Committees are Committees to which Council has delegated a function of Council e.g. the care, control and management of Council facilities or functions such as Tourism, Australia Day, Community Services, Cultural Development, District Sports and Recreation and Tidy Towns. In performing these roles they exercise some functions of Council.

These committees may allow public addresses in accordance with the guidelines applying to the Ordinary Meeting or have members of the public as committee members. In the latter instance Council will advertise vacancies on these committees as they become due and members of the public are invited to nominate for appointment.

### **7.4 Legislative Provisions / Submissions**

Through the provisions of certain Acts and Regulations members of the public have the opportunity to influence Council's decisions by making submissions, comments or objections to proposals. For example, matters such as the levels of rates and charges, the contents of management plans and granting of development and building approvals are advertised for comment.

### **7.5 Council Polls / Constitutional Referendums**

The Local Government Act permits Council to take a poll of electors for its information and guidance on any matter. For example, Council may be planning to spend funds on a new library, but people may be saying that a new swimming pool is needed more urgently. Council may decide to take a poll of the electors to find out what the residents see as priorities for future capital works or services.

Unlike a referendum, a poll is not binding under the Local Government Act, so if Council has good reason why the library should go ahead first, they may still decide to build it, even if the poll showed most people preferred the swimming pool.

Council is also required to conduct a constitutional referendum before being able to proceed with certain matters. These matters are principally concerned with how the Mayor and Councillors are elected, whether a ward structure exists, whether there is a popularly elected Mayor or changes to the voting system.

## **8.0 Description of Information Held by Council**

Gloucester Shire Council holds information in respect of a wide range of functions undertaken by Council and documents pertinent to different issues. These documents may be broadly categorised as: Historic Files and Electronic Records including Policy Documents.

Information is be made available to the public Council's the Government Information (Public Access) GIPA Act and is available either through one of four ways:-

- i) Mandatory disclosure ;open access readily available,
- ii) Proactive disclosure; Council proactively has information on its website or as a handout,
- iii) Informal release; where no third party personal information is involved,
- iv) Formal application; as a last resort where a formal application is required because consultation with others is required.

### **Historic Files and Electronic Documents**

Prior to 30 June 2009 Council held hard copy files that were mostly categorised by subject while others were held as legal documents, resumptions and personnel.

Since that time Council has moved to an electronic document management system.

Historic files and electronic records are available to the public in accordance with the prevailing legislation and Council's availability of resources to have such information readily available to the public.

### **Policy Documents**

Policy documents provide rules for Council's operations and will be shortly available on this website and are available for inspection at Council's Administration Centre. Policy documents are available for inspection free of charge. Copies can be obtained for the cost of the copying fee. These fees are set annually by Council and can be found in Council's Fees & Charges Schedule.

[Gloucester Shire Council Fees and Charges for 2010 - 2011](#)

### **General Information**

The following list of general documents held by Council is divided into two broad categories being Information about Council and Information about Development Applications.

The GIPA Act requires that these documents and information 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 cost to Council to publish these documents on the website) or at the offices of the Council 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 costs.

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

- The Model Code of Conduct prescribed under section 440(1) of the Local Government Act
- Council's adopted Code of Conduct
- Council's Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- EEO Management Plan
- Policy for the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor & Councillors

- Any Codes referred to in the Local Government Act 1993
- Returns of the Interests of Councillors, Designated Persons and Delegates
- Agendas and Business Papers for Council and Committee Meetings (but not including business papers for matters considered when part of a meeting is closed to the public)
- Minutes of Council and Committee Meetings, 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
- Council's Land Register
- Register of Investments
- Register of Delegations
- The register of declarations of disclosures of political donations kept in accordance with section 328A
- The register of voting on planning matters kept in accordance with section 375A
- Plans of management for community land
- Environmental planning instruments, development control plans and contribution plans made under the *Environmental Planning and Assessment Act 1979* applying to land within Council's area

## **8.2 Information about Development Applications**

Development Applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents including:

- Home warranty insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification documents
- Town Planning reports
- Submissions received on Development Applications
- Heritage consultant reports
- Acoustics consultant reports
- Land contamination consultant reports
- Records of decisions on Development Applications including decisions on appeals
- Records describing the general nature of the documents that Council decides to exclude from public view including internal specifications and configurations, and commercially sensitive information
- Applications for approvals under Part 1 of Chapter 7 of the Local Government Act and any associated documents received in relation to the application
- Application for approvals under any other Act and any associated documents received in relation to that application
- Records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals
- Orders given under Part 2 of Chapter 7 of the Local Government Act, and any reasons given under section 136 of that Act
- Orders given under the authority of any other Act
- Records of building certificates under the *Environmental Planning and Assessment Act 1979*
- Leases and licences for use of public land classified as community land

## **9.0 How Members of the Public May Access or Seek to Amend Council Documents.**

Council has a wide range of documents that may be accessed in varying ways. Where appropriate, documents may be inspected at the Administration Centre, King St Gloucester between 9.00 am and 4.00 pm, Monday to Friday (except public holidays). Copies of these documents may also be available.

## 9.1 Public Officer – Right to Information Officer

Council has appointed the Director of Corporate Services 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 gain access to public documents of the Council. The Public Officer is also Council's Right to Information Officer and, as such, is responsible for determining applications for access to documents or for the amendment of records. If you have any difficulty in obtaining access to Council documents, you may wish to refer your enquiry to the Public Officer. If you wish to amend a document of Council which you feel is incorrect it is necessary for you to make written application to the Public Officer in the first instance.

Enquiries should be addressed as follows:

General Manager  
Gloucester Shire Council  
PO Box 11  
GLOUCESTER NSW 2422 or Email – [council@gloucester.nsw.gov.au](mailto:council@gloucester.nsw.gov.au)

## 9.2 How to Apply for Access Information

Council's applies the Government Information (Public Access) Act , GIPA for access to information held by Council. Much of this information is available for viewing and downloading from Council's website or by visiting the Council's Administration Centre through its Corporate Services department.

Where practicable, Council will deal with requests to inspect documents informally, in accordance with the requirements of the Government Information(Public Access) Act free of charge but a reasonable photocopying fee may be payable under the Act and for access to versions of documents that are neither current nor immediately preceding versions of the document and are not reasonably accessible. All charges are detailed in Council's Fees and Charges Schedule.

[Gloucester Shire Council Fees and Charges for 2010 - 2011](#)

There is a right of access Council information under the GIPA Act unless there is an overriding public interest against disclosure. Any applications under the GIPA Act will be processed in accordance with the Act's requirements and a determination made to release the information or refuse access on the basis of the relevant considerations under that Act. Charges for formal applications are in accordance with the GIPA Act and include a \$30 application fee. In some circumstances processing charges may also be applied (in accordance with the GIPA Act).

## 10.0 Office of Information Commissioner

Should any member of the public wish to gain more information regarding access to public information and or is not satisfied with the process or results from gaining access from Council, contact can be made directly with the OFFICE OF THE INFORMATION COMMISSIONER – NSW via:

- Web [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)
- Email [oiinfo@oic.nsw.gov.au](mailto:oiinfo@oic.nsw.gov.au)
- Mail GPO Box 7011, Sydney NSW 2001
- Visit Level 11, 1 Castlereagh Street, Sydney NSW 2000
- Call 1800 463 626 between 9am to 5pm Monday to Friday ( excluding public holidays)