



# AGENCY INFORMATION GUIDE

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Manager

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# **1. Structure and Functions of Council**

## **1.1 Description**

Port Stephens Council has a popularly elected Mayor and nine (9) Councillors, representing three (3) Wards; West, Central and East, across the Local Government area.

The Port Stephens Local Government Area (LGA) is located at the boundary of the Mid North and Central Coasts of New South Wales, and covers an area of 858.9 square kilometres. It is approximately 55 kilometres from east to west and 30 kilometres from north to south. Port Stephens extends north to Karuah, west to Duns Creek, east to Shoal Bay and southeast to Fern Bay and Hexham. The area contains prime agricultural land, valuable natural ecosystems and a high level of species diversity. The LGA has a substantial estuary system with a surface area of over 100 square kilometres, making it approximately three times the size of Sydney Harbour. The waterway lies at the junction of the Myall River Lakes System, Karuah River and the Pacific Ocean. The western half of the area is geographically dominated by the confluence of the Paterson and Williams Rivers with the Hunter River. The eastern portion of the LGA contains the Stockton Bight dune system, which extends for 32 kilometres, the largest unvegetated dune system in NSW.

## **1.2 Basis of Constitution**

Port Stephens Council is constituted under the Local Government Act 1993.

Section 8 of the Local Government Act 1993 provides the guiding Principles for Local Government.

## **1.3 Organisational structure and resources**

Port Stephens Council is divided into (3) Ward, West, Central and East.

Council is governed by the body of Councillors who are elected by the residents and ratepayers of the area. Section 223 of the Local Government Act 1993 states:

- (1) The role of the governing body is 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 polices 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,

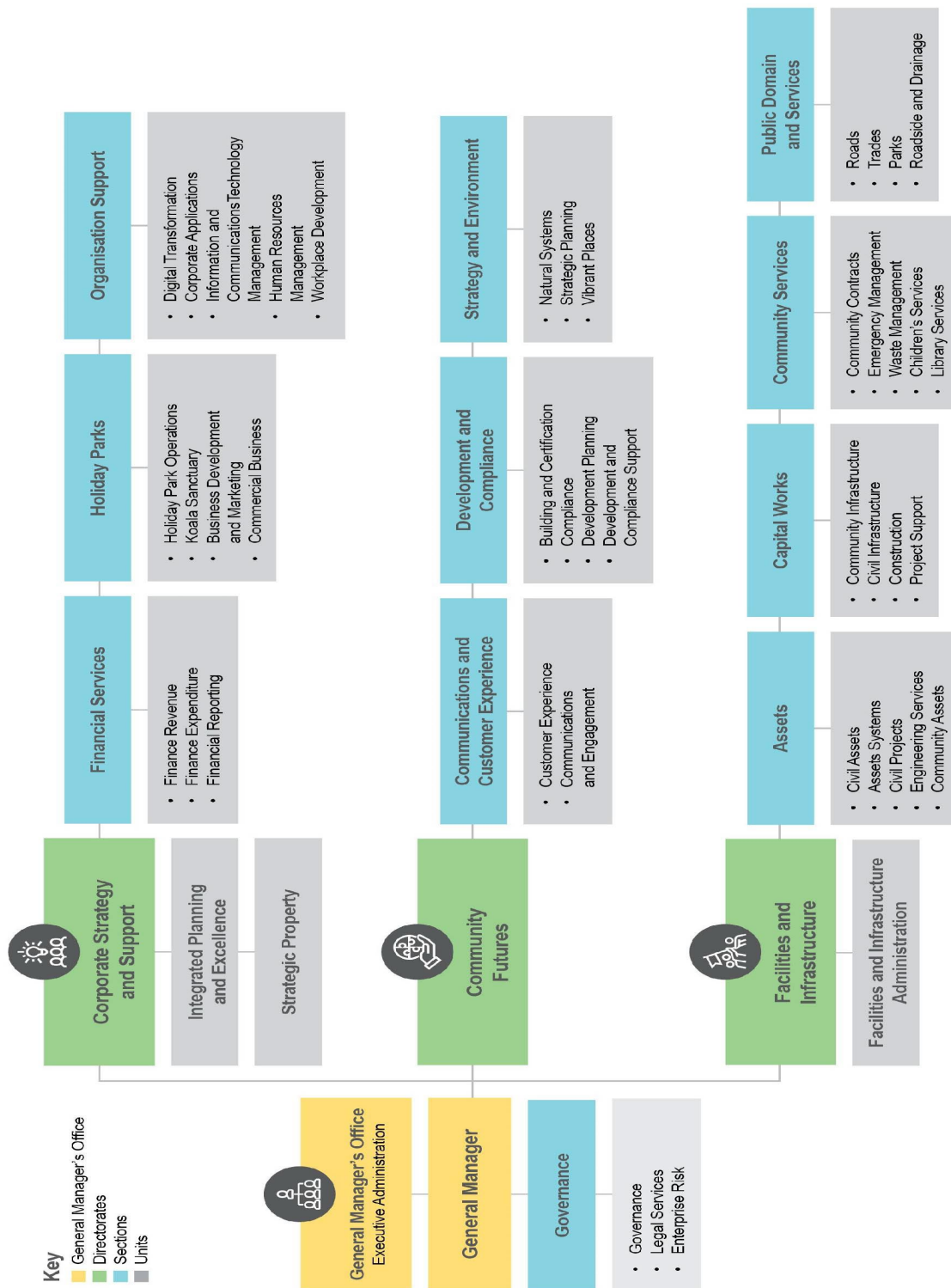
- (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
  - (g) to keep under review the performance of the council, including service delivery,
  - (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.
- (2) The governing body is to consult with the general manager in directing and controlling the affairs of the council.

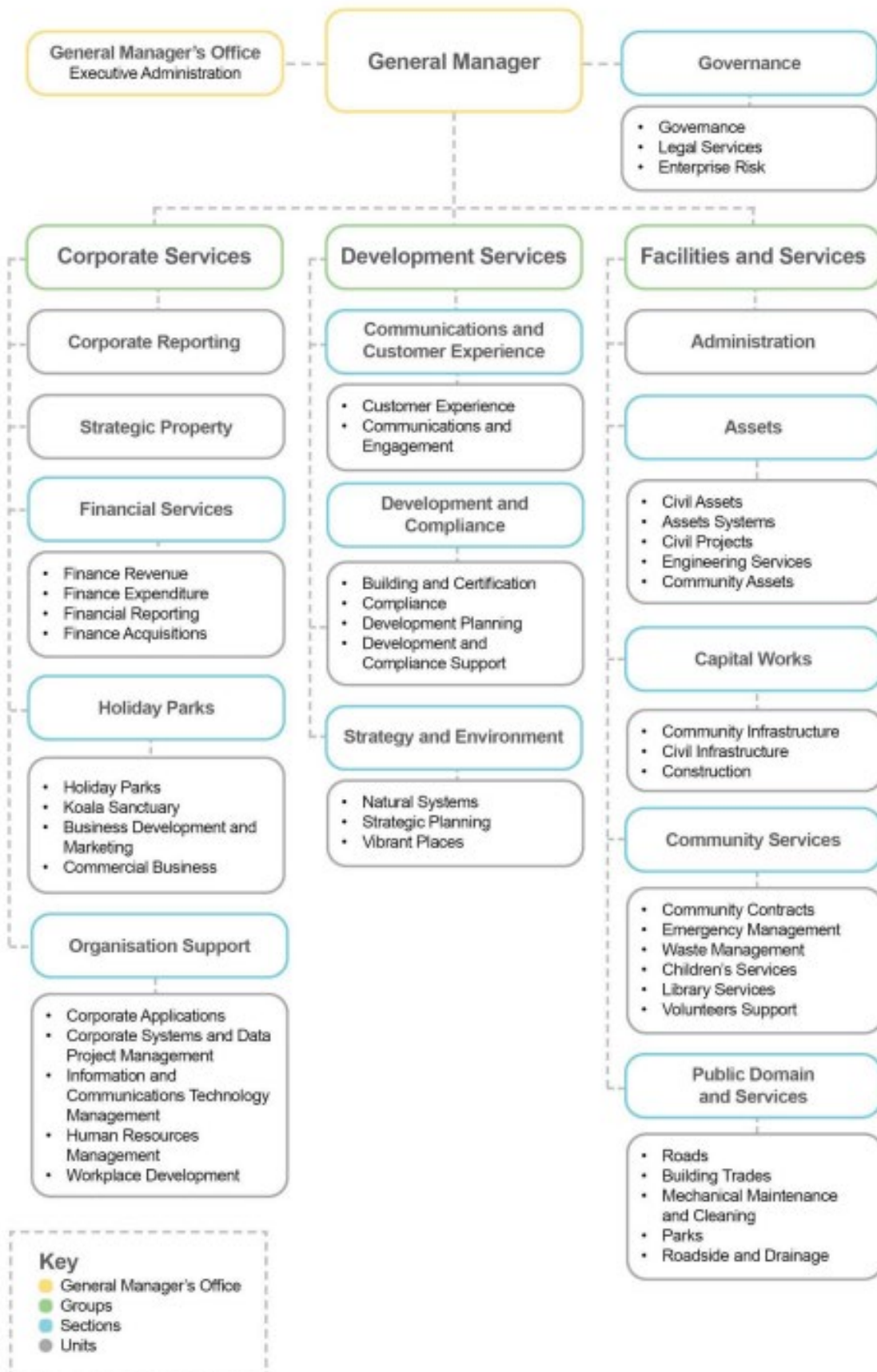
The Mayor chairs the meetings of the Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body politic, between its meetings and performs any other functions that the Council determines.

The Principal Officer of the Council is the General Manager. The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of the Council, the exercise of any functions delegated by the Council, the appointment, direction and where necessary, the dismissal of staff, as well as the implementation of Council's Equal Employment Opportunity Management Plan.

To assist the General Manager in the exercise of these functions, there are three (3) Directorates of Council. These Directorates are Corporate Strategy and Support Directorate, Facilities & Infrastructure and Community Futures Directorate Development Services, with a Director responsible for each area. In addition to this, there is a smaller section that supports the General Manager with the functions of the General Manager's Office which includes governance, enterprise risk, legal services, executive and councillor support and the Mayor's Office.

The following is Council's organisational structure.





## 1.4 Functions of Port Stephens Council

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

A COUNCIL EXERCISES FUNCTIONS UNDER THE LOCAL GOVERNMENT ACT 1993

<b>SERVICE FUNCTIONS</b>	<b>REGULATORY FUNCTIONS</b>	<b>ANCILLARY FUNCTIONS</b>	<b>REVENUE FUNCTIONS</b>	<b>ADMIN FUNCTIONS</b>	<b>ENFORCEMENT FUNCTIONS</b>
Including:  *Provision of community health, recreation, education & information services *Environmental protection *Waste removal & disposal *Land & property, industry & tourism development & assistance *Civil Infrastructure Planning *Civil Infrastructure Maintenance & Construction	Including:  *Approvals *Orders *Building Certificates	Including:  *Resumption of land. *Powers of entry and inspection	Including:  *Rates *Charges *Fees *Borrowings *Investments	Including:  *Employment of staff *Management plans *Financial reporting *Annual reports	Including:  *Proceedings for breaches of the Local Government Act & Regulations and other Acts & 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, but not limited to:

- Biodiversity Conservation Act 2016
- Biosecurity Act 2015
- Building and Development Certifiers Act 2018
- Children and Young Persons (Care and Protection) Act 1998
- Community Land Development Act 1989
- Community Land Management Act 2021



- Companion Animals Act 1998
- Contaminated Land Management Act 1997
- Crown Land Management Act 2016
- Environmental Planning & Assessment Act 1979
- Food Act 2003
- Government Information (Public Access) Act 2009
- Heritage Act 1977
- Impounding Act 1993
- Independent Commission Against Corruption Act 1988
- Land Acquisition (Just Terms Compensation) Act 1991
- Library Act 1939
- Local Government Act 1993
- Ombudsman Act 1974
- Privacy and Personal Information Protection Act 1998
- Public Interest Disclosures Act 1994
- Protection of the Environment Operations Act 1997
- Public Spaces Unattended Property Act 2021
- Public Health Act 2010
- Road Transport Act 2013
- Roads Act 1993
- Rural Fire Act 1997
- State Records Act 1998
- Strata Schemes Development 2015
- Strata Schemes Management 2015
- Swimming Pools Act 1992
- Waste Avoidance and Resource Recovery Act 2001
- Workers Compensation Act 1987
- Work Health & Safety Act 2011
- Workplace Surveillance Act 2005

## **2. How Council functions affect members of the public**

As a service organisation, the majority of the activities of the Port Stephens 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 child care services and libraries, halls and community centres, recreation facilities, infrastructure and waste management.

*Regulatory functions* place restrictions on developments and buildings 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 revenue from rates and other charges paid by the public is used to fund services and facilities 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 who are in breach of certain legislation. This includes matters such as the non-payment of rates and charges, unregistered dogs and parking offences.

*Community planning and development functions* affect areas such as cultural development, 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 Strategic 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 Australia Day activities, NAIDOC Week, Youth Week, Children's Week, as well as promoting events of others.

Decisions made by the governing body (Council) will affect the community in different ways. Essentially, the Council will adopt many policies and set the strategic direction of the Council through the Integrated Planning and Reporting requirements under the Local Government Act 1993. This will result in improved infrastructure and the provision of services to the community, whilst maintaining legislative requirements.

### **3. How the public can participate in Council's policy development and the exercising of functions**

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

At each election, voters elect mayor/councillors for a four 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, if they agree with the issue or representation, 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 the Council. Several Council committees comprise or include members of the public. Some of these special committees or bodies are:

Aboriginal Strategic Committee
Hinton School of Arts Committee
Karuah Community Hall Committee
Lemon Tree Passage Old School Centre Committee
Medowie Sports Council
Nelson Bay Community Hall Committee
Port Stephens Australia Day Committee
Port Stephens Sister Cities Committee
Raymond Terrace Senior Citizens Hall Management Committee
Salt Ash Community Hall Committee
Salt Ash Sports Ground Committee
Seaham Park & Wetlands Committee
Strategic Arts Committee
Tanilba Bay Foreshore Hall Committee
Tilligerry Sports Council

Tomaree Sports Council
West Ward Sports Council

Members of the public are also able to attend Council meetings and Council Committee Council meetings held at the Administration Building, 116 Adelaide Street, Raymond Terrace. Public Access is available to members of the public who wish to address the Council on a particular matter. Please refer to Council's [website](#) for meeting dates and public access application forms.

Council also provides a number of forums for community participation:

- Public surveys
- Phone polls
- Specific forums
- Council's website – ['have your say'](#)
- Digital and on line channels – [social media](#)
- Calls for submissions

#### **4. Information held by Council**

Under the *Government Information (Public Access) Act 2009*, there are four ways information can be accessed from Council:

- 1) Mandatory release
- 2) Proactive release
- 3) Informal applications
- 4) Formal applications

Persons seeking information should visit Council's website in the first instance and then make contact with Council if the relevant information is not available from the website. An informal application can then be made, however Council may decide that a formal accessing application is required. Council details are shown at the end of this Agency Information Guide.

Council undertakes a review of information annually as part of its proactive release obligations under the *Government Information (Public Access) Act 2009*. The review includes reviewing formal access for information applications and informal accessing information requests received by the public, as well as the [disclosure log](#) on its website. The review also includes a review of categories of information in the corporate EDRMS, reviewing neighbouring Council's disclosure logs to assess what information is sought by the broader public and a review of the Council website.

Formal applications should be a last resort to access information. Formal Applications will require a \$30 application fee to lodge and may incur additional processing charges in order to process the application. Council will advise you whether the information you are requesting requires the lodgement of a Formal GIPA as the requirement of a Formal GIPA is often determined on a case by case basis. Generally, any information

in which third party consultation must be undertaken will require the lodgement of a Formal. Third party consultation often relates to information that is considered personal information of another party or business information.

If an applicant is not satisfied with Council's decision in respect of a Formal GIPA Application, review rights may be accessed to have the application reviewed either internally, by the Information and Privacy Commission (IPC) or by the NSW Civil and Administrative Tribunal (NCAT). To lodge an internal review a \$40 statutory fee is payable upon lodgement however no additional charges will be applicable to the review decision. Further to this, a review by the IPC will be processed free of charge and for a review application to be processed by NCAT an application fee will be payable to the Registry. A list of all reviewable decisions for a Formal GIPA Application are locatable under section 80 of the GIPA Act.

#### **4.1 Documents held by Council**

Council holds documents (hard copy and/or electronic form) that relate to a number of various matters within the Port Stephens area. These documents are grouped into four categories:

1. Electronic Documents
2. "Physical Files"
3. Policy Documents
4. General Documents – Open Access Information

Documents included in Clause 4.4 of this Agency Information Guide may be made available to the public on request unless there is an overriding public interest not to do so.

Some documents held by Council may require a formal access application in accordance with the Government Information (Public Access) Act 2009.

## **4.2 Electronic and "physical"**

Council implemented an Electronic Document Management System (TRIM) in 2004, from this date most documents were stored within this system. This system is now known as EDRMS. Hard copy, physical files were dispensed with, except for development/building/construction applications.

Accordingly, the EDRMS captures information against the following indices:

1. Customer
2. Property
3. Application
4. Street/Road
5. Request Type
6. Subject
7. Meetings

Prior to 2004, the main types of "physical" files held by Council includes general subject files, development and building files, property files as well as street and park files.

The foregoing are not available on Council's website, however this information may be made available either by informal release or via an access application in accordance with Sections 7-9 of the GIPA Act, unless there is an overriding public interest against disclosure of the information as outlined in Section 14 of the GIPA Act. Members of the public who require an informal release or an access application can do so by contacting Council on 49880255.

## **4.3 Policy documents**

Council has a register of policy documents which is available from its website. Please click [here](#) to access Council's current policies.

## **4.4 General documents – Open access information**

The following list of general documents held by Council has been divided into four sections as outlined by Schedule 1 of the Government Information (Public Access) Regulation 2009:-

1. Information about Council;
2. Plans and Policies;
3. Information about Development Applications;
4. Approvals, Orders and other Documents.

Schedule 1 of the Government Information (Public Access) Regulation 2009 (Regulations) requires that these 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 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 charges for those documents included at Schedule 1 of the Regulations, where the documents are readily available from Council's website. Any documents not classified as 'open access information' under Schedule 1 of the Regulations may incur a charge.

The release of any Council record is subject to the Government Information (Public Access) Act 2009 (NSW) and other legislation such as, but not limited to, the Copyright Act 1968 (Cth) and the Privacy and Personal Information Protection Act 1998 (NSW).

These documents are:

#### **1. Information about Council**

- The model code prescribed under section 440 (1) of the LGA
- Councils adopted Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- EEO Management Plan
- Policy concerning the Payment of Expenses Incurred by, and the Provision of Facilities to, Councillors
- Annual Reports of Bodies Exercising Functions Delegated by Council
- Any Codes referred to in the LGA
- Returns of the Interests of Councillors, Designated Persons and Delegates (subject to the GIPA Guideline 1).
- Agendas and Business Papers for any meeting of Council or any Committee of Council
- Minutes of any meeting of Council or any Committee of Council
- Departmental Representative Reports presented at a meeting of Council
- Land Register
- Register of Investments
- Register of Delegations
- Register of Graffiti removal works
- Register of current Declarations of Disclosures of Political donations
- Register of voting on planning matters

## **2. Plans and policies**

- Local Policies adopted by Council concerning approvals and orders
- Plans of Management for Community Land
- Environmental Planning Instruments, Development Control Plans and Contribution Plans

## **3. Information about development applications**

Development Applications and any associated documents received in relations to a proposed development:

- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications
- Heritage Consultant Reports
- Tree Inspections Consultant Reports
- Acoustic Consultant Reports
- Land Contamination Consultant Reports
- Records of decisions on Development Applications including decisions on appeals

Schedule 1 of the Regulations does not apply to information listed in item 3 above where the information consists of:

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

## **5. Approvals, Orders and other documents**

- Applications for approvals under part 7 of the LGA
- Applications for approvals under any other Act and any associated documents received
- Records of approvals granted or refused, any variation from Council Policies with reasons for the variation, and decisions made on appeals concerning approvals



- Orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA
- Orders given under the Authority of any other Act
- Records of Building Certificates under the Environmental Planning and Assessment Act 1979
- Plans of land proposed to be compulsorily acquired by Council
- Compulsory Acquisition Notices
- Leases and Licenses for use of Public Land classified as Community Land

In addition to Open Access information, Council holds a broad range of documents and records that, upon request, may incur a charge when sought under the GIPA Act. A \$30 application fee is required upon the lodgement of a Formal GIPA request and additional charges may be payable for the processing of the request at a rate of \$30 an hour. If the GIPA request lodged with Council is estimated to exceed an hour of processing usually an advanced deposit request (being 50% of the estimated costs) will be issued to the applicant advising of the estimated charges. This will allow the applicant to be aware of the predicted charges and may lead to the scope being reduced to save processing time.

When the Notice of Decision has been published, any outstanding fees will be made known to the applicant which will be payable before the release of documents occurs. If the applicant has noted on the application form a relevant concession/financial hardship (pensioner, senior or student), or the information is of the kind which may be of special benefit to the public then Council has the discretion to award a 50% reduction in processing charges. This consideration will occur prior to decision being finalised.

If an applicant wishes to dispute processing charges, or seek to have the decision reviewed, they are able to lodge an internal review request with Council for a one-off charge of \$40. Reviews can also be sought from the Information and Privacy Commissioner for free or upon application to the NSW Civil and Administrative Tribunal (NCAT) in accordance with their published fees and charges. Further information on fees and charges imposed under GIPA can be located on the Information and Privacy Commissioners website and [Factsheet: 'GIPA Act fees and charges' August 2020](#).

Examples of information that may require a formal GIPA request and therefore incur charges include:

- Copies of complaints made
- Information subject to Copyright
- Information containing personal information of another party
- Information concerning legal documentation
- Financial information of third parties
- Business information or information classified as commercial in confidence

## 5. Open Data and Data NSW

[OpenGov NSW](#) is a website that allows NSW Government agencies to make information available to the public including annual reports and information that may be released under the GIPA Act.

[Data NSW](#) brings together a list of NSW Government datasets available in one searchable website. The aim of Data NSW is to make data more accessible to the public and to industry in order to stimulate innovative approaches to service delivery.

## 6. How members of the public may access and amend Council documents concerning their personal affairs

As mentioned previously, Council has a vast range of documents that can be accessed in varying ways. Most documents can be inspected at and obtained from Council's Administration office between the hours of 8.30 am and 5.00 pm, Monday to Friday (except public holidays). It is advisable to contact Council in the first instance to ensure the documents are readily available. For further enquiries about any document, a Right to Information Officer should be contacted. If you experience any difficulty in obtaining documents or information, you should contact the Public Officer.

### 6.1 Privacy and Health Information Protection

Access to certain information may be limited in accordance with the Privacy and Personal Information Protection Act and the Health Records and Information Privacy Act. These Acts provide for the protection of personal information and the privacy of individuals generally, as well as health related information. To ensure proper management of such information, Council has adopted a Privacy Management Plan which details Council's approach to this.

### 6.2 Privacy Management Plan

Council's Privacy Management Plan has been adopted to meet its legislative requirements under the Privacy and Personal Information Protection Act (PPIPA), to confirm Council's commitment to privacy protection, and to outline Council's practice for dealing with privacy and personal information in accordance with the Information Protection Principles contained within the Act. Council also uses the Privacy Management Plan to comply with the Health Privacy Principles as set out in the Health Records and Information Privacy Act (HRIPA).

Council's Privacy Management Plan also details how data breaches are handled, processed and reported on. If you suspect a data breach has occurred and wish to report this to Council, you can confidentially report this to Council's Public Officer where the breach will be processed and you will be informed on the outcome of the assessment.

The Privacy Management Plan is available on Council's website [here](#).

### 6.3 Public Officer - Right of Information Officer

It should be noted that the Governance Section Manager has been appointed as the Public Officer. Amongst other duties, the Public Officer may deal with requests from the public concerning the Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council. The Public Officer is also one of Council's Right to Information Officers 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. Also, if you would like 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  
Port Stephens Council  
PO Box 42 (116 Adelaide St)  
RAYMOND TERRACE NSW 2324

Phone: (02) 4988 0255  
Email: [council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au)  
Internet: [www.portstephens.nsw.gov.au](http://www.portstephens.nsw.gov.au)  
Business hours: 8.30am to 5pm, Monday to Friday (excluding public holidays)

Further information can also be sought from:

Information and Privacy Commission  
Level 15, McKell Building  
2-24 Rawson Place (GPO Box 7011, SYDNEY 2001)  
HAYMARKET NSW 2000

Phone: 1800 472 679  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
Internet: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
Business hours: 9am to 5pm, Monday to Friday (excluding public holidays)

#### CONTROLLED DOCUMENT INFORMATION:

This is a controlled document. Hardcopies of this document may not be the latest version. Before using this document, check it is the latest version; refer to Council's website <a href="http://www.portstephens.nsw.gov.au">www.portstephens.nsw.gov.au</a>			
<b>RM8 container No</b>	PSC2009-09420	<b>EDRMS no</b>	24/194024
<b>Audience</b>	Council employees and the community		

<b>Process owner</b>	Governance Section Manager		
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5.0	28/07/2014	Executive Officer	Annual review in accordance with GIPA Act
6.0	13/07/2015	Governance Manager	Annual review in accordance with GIPA Act
7.0	06/07/2017	Governance Manager	Annual review in accordance with GIPA Act
8.0	26/06/2017	Governance Manager	Annual review in accordance with GIPA Act
9.0	26/06/2018	Governance Manager	Annual review in accordance with GIPA Act
10.0	26/06/2019	Governance Section Manager	Annual review in accordance with GIPA Act
11.0	26/06/2020	Governance Section Manager	Annual review in accordance with GIPA Act
12.0	25/06/2021	Governance Section Manager	Annual review in accordance with GIPA Act
13.0	24/06/2022	Governance Section Manager	Annual review in accordance with GIPA Act
14.0	26/06/2023	Governance Section Manager	Annual review in accordance with GIPA Act
15.0	26/06/2024	Governance Section Manager	Annual review in accordance with GIPA Act