



Document Access Policy

LINKS TO COMMUNITY STRATEGIC PLAN & DELIVERY PROGRAM

Direction G8 – Council manages information and knowledge in an integrated and accessible way.

Strategy G8a – Improve the management of, and access to, information across Council.

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Table of Contents

1.	INTRODUCTION	3
2.	PURPOSE	4
3.	PRINCIPLES	5
4.	IMPLEMENTATION	6
5.	COPYRIGHT	8
6.	AMENDING INFORMATION	10
7.	REDACTING INFORMATION	11
8.	RIGHTS OF REVIEW AND APPEAL	12
9.	PERSONAL INFORMATION	13
	S 13 - Information about personal information held by agencies	13
	S 14 - Access to personal information held by agencies	13
	S.15 - Alteration of personal information	14
	Legislation affecting Council's management of personal and health information	15
	Applications for suppression in relation to general information (not Public Registers)	16
10.	LOCAL GOVERNMENT ACT 1993	17
	Section 739 - Protection of privacy	17

1. Introduction

On 1 July 2010, the Government Information (Public Access) Act 2009 (GIPA) replaced the Freedom of Information Act 1989 (FOI Act). The GIPA Act is designed to meet community expectations of more open and transparent government. Local Councils are encouraged to make it as easy as possible for members of the public to access government information.

Members of the community also need to know what documents are generally available, whether their personal information is likely to be included in documents that are generally available for access and the types of appeal mechanisms they can use when they believe that they have unfairly or improperly denied access to documents.

This policy aims to address the needs of both community members, Council staff and elected members.



2. Purpose

The aim of this policy is to outline Waverley Council principles regarding public access to information and records held by Council and to facilitate the processing of requests for such access in accordance with the provisions of the Government Information (Public Access) Act 2009, Government Information (Public Access) Regulation 2009 and other relevant legislation.

This policy is to be read in conjunction with Waverley Council's Government Information (Public Access) Act 2009 – Information Guide – 2013.



3. Principles

Waverley Council is committed to the following principles regarding public access to documents and information:

- Open and transparent government.
- Consideration of the overriding public interest in relation to access requests.
- Proactive disclosure and dissemination of information.
- Respect for the privacy of individuals.

This policy applies to all members of the public, Councillors and staff of Waverley Council.

All Council staff are responsible for record keeping and record management of documents that they create, send or receive. All Council staff must accurately gather and record information onto Council's electronic systems to record business activities, policy formation and decision making processes.



4. Implementation

Council is committed to ensuring open access information is easily accessible. Waverley Council will provide access to information in the following ways:

- **Mandatory Proactive Release** (open access) which consists of information we must make freely available.
- **Proactive Release** which is information Council constantly reviews to make publicly available.
- **Informal Release** where members of the public can request access to information which is not available on our website but is deemed open access.
- **Formal Release** where a formal application is submitted for information that is not publicly available which requires the application of a public interest test to determine the level of disclosure.

As far as possible open access information will be available on Council's website unless to do so would impose unreasonable additional costs to Council. Council also makes as much other information as possible publicly available in an appropriate manner. Diagrams 1 and 2 at the end of this policy detail the processes Council will follow when dealing with the informal and formal release of information.

Council's Information Guide identifies the documents and types of information that are available for public access and any restrictions that may apply.

Where copies of documents are requested reasonable copy charges will apply. Information on Council's fees and charges is included in the annual Pricing Policy, Fees and Charges, which can be viewed on Council's website.

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests or from performing other Council functions, may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavour to assist in refining such requests to make them more manageable.



Some documents may require a formal access application in accordance with the Government Information (Public Access) Act. Council will assess all requests for access to documents and information in a timely manner and in accordance with Council's 'Information Guide' and statutory deadlines.

Council will assess requests for access to information with reference to:

- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2009
- Local Government Act 1993
- Privacy and Personal Information Protection Act NSW 1998
- Environmental Planning and Assessment Act 1979
- State Records Act 1998
- Copyright Act 1968 (Commonwealth)
- Health Records and Information Privacy Act 2002
- Other relevant legislation and guidelines as applicable.

Council endeavours to release other information in response to an informal request. These are subject to any reasonable conditions Council may impose having regard to the circumstances of the case.

Where information is released to an applicant under a formal access application and Council considers that it will be of interest to other members of the public, Council will provide details of the information in a Disclosure Log for inspection by the public.

The General Manager has authority to approve Guidelines for Information Access, which is to be available to members of the public.

Nothing in this policy requires Council to retain documents for any period beyond that specified in the General Records Disposal Schedule for Local Government.



5. Copyright

Copyright issues may arise when requests are made for copies of documents held by Council. A large amount of information, which is available for public access in accordance with the GIPA Act and other relevant legislation, belongs to third parties and is the subject of copyright, such as plans and reports submitted with development applications.

The Commonwealth Copyright Act (1968) takes precedence over State legislation. Copyright laws apply to information accessed and applicants are advised to seek the consent of the copyright owner / holder before reproducing the information in any way.



6. Amending information

Applicants for access to information may not alter documents in any way. However, an applicant may request that a document containing their personal information be altered in accordance with section 15 of the *Privacy and Personal Information Protection Act*.

Section 739 of the Local Government Act 1993 allows Council to protect the privacy of individuals by omitting or removing any matter that would disclose the person's place of living from any material that is available or is to be made available for public inspection.



7.Redacting Information

Section 74 of the Government Information (Public Access) Act 2009 allows Council to delete / redact* information from a copy of a record which is subject to an access application if it deems the information to not be relevant to the information applied for or because it does not meet the requirements of a public interest test.

* *'Redact' means to obscure or remove text from a document prior to public release.*



8. Rights of Review and Appeal

Where a member of the public is refused access via a formal application under the GIPA Act, staff will provide details of the reasons for refusal to the applicant in writing. An applicant who has been refused access by Council to information requested under a formal application has three options of review available.

1. Internal Review by application to Council. This review will be undertaken by a more senior officer than the original decision maker. Applications for an Internal Review must be made within twenty (20) working days from receiving notice of a decision. A \$40 fee is payable by the Applicant.
2. Review by the Information Commissioner. If an applicant is not satisfied with the internal review, or does not want one, they can request a review by the Office of the Information Commissioner. The request must be made within forty (40) working days of being notified of a decision seeking a review.
3. Administrative Decisions Tribunal. If an applicant is not satisfied with the decision of the Information Commissioner or the internal review or if they do not want to take these options, they can apply to the Administrative Decisions Tribunal (ADT). This application must be made within twenty (20) working days of a notification of the decision made by the Information Commissioner or eight (8) weeks from notification of the decision made by Council.

There are no rights of review in respect of informal information applications. However, the applicant may make a formal application at anytime.



9. Personal Information

Council records may hold personal information about individuals. This information is covered by the provisions of the Privacy and Personal Information Protection Act 1998. (See Sections 13, 14 and 15 of the Act).

S 13 - INFORMATION ABOUT PERSONAL INFORMATION HELD BY AGENCIES

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- (a) whether the agency holds personal information, and
- (b) whether the agency holds personal information relating to that person, and
- (c) if the agency holds personal information relating to that person:
 - (i) the nature of that information, and
 - (ii) the main purposes for which the information is used, and
 - (iii) that person's entitlement to gain access to the information

S 14 - ACCESS TO PERSONAL INFORMATION HELD BY AGENCIES

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.



S.15 - ALTERATION OF PERSONAL INFORMATION

1. A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:
 - (i) is accurate, and
 - (ii) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.
2. If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
3. If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency
4. This section and any provision of a privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.
5. The Privacy Commissioner's guidelines under section 36 may make provision for, or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.
6. In this section (and in any other provision of this Act in connection with the operation of this section), *public sector agency* includes a Minister and a Minister's personal staff.

This section of the policy should be read in conjunction with Council's Privacy Management Plan which notes:



LEGISLATION AFFECTING COUNCIL'S MANAGEMENT OF PERSONAL AND HEALTH INFORMATION

Council will only collect personal information for a lawful purpose as part of its proper functions. The Local Government Act governs Council's major obligations and functions. Section 22 of the Local Government Act provides other functions under other Acts. Some of those Acts are as follows:

- Community Land Development Act 1989
- Companion Animals Act 1998 **
- Conveyancing Act 1919
- Environmental Planning & Assessment Act 1979
- Fire Brigades Act 1989
- Fluoridation of Public Water Supplies Act 1957
- Flood Act 1989
- Impounding Act 1993
- Library Act 1939
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Recreation Vehicles Act 1983
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency Service Act 1989
- State Records Act 1998
- Strata Schemes (Freehold Development) Act 1973
- Strata Schemes (Leasehold Development) Act 1986
- Swimming Pools Act 1992

This list is not exhaustive.

Additionally, the exercise by Council of its functions under the Local Government Act may also be modified by the provisions of other Acts. Some of those Acts are as follows:

- Coastal Protection Act 1979
- Environmental Offences and Penalties Act 1989
- Government Information (Public Access) Act 2009
- Heritage Act 1977
- State Emergency and Rescue Management Act 1989
- Unclaimed Money Act 1995
- Unhealthy Building Land Act 1990.

The circumstances under which Council may collect information, including personal information, are varied and numerous. Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.



Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions undertaken by Council or by commercial agents acting on behalf of Council.

****Companion Animals Act**

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Director General's 'Guidelines on the Exercise of Functions Under the Companion Animals Act', which has been developed with the PPIPA in mind.

APPLICATIONS FOR SUPPRESSION IN RELATION TO GENERAL INFORMATION (NOT PUBLIC REGISTERS)

Where an application for suppression is made in relation to anything other than a public register, then an application under section 739 of the Local Government Act 1993 (LGA) is required.

Section 739 of the LGA covers all publicly available material under section 12(1) and 12(6) of the LGA other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise must meet the requirements of section 739. When in doubt, Council will err in the favour of suppression.

An application for suppression should be made in writing and be addressed to Council's General Manager, and it must outline the reasons for the request.



10. Local Government Act 1993

SECTION 739 - PROTECTION OF PRIVACY

1. A person may request that any material that is available (or is to be made available) for public inspection by or under this Act be prepared or amended so as to omit or remove any matter that would disclose or discloses the person's place of living if the person considers that the disclosure would place or places the personal safety of the person or of members of the person's family at risk.
2. A person who may make a request under this section includes a person who is entitled to be enrolled as an elector.
3. The request is to be made to the General Manager or, in the case of the residential roll for an area, the Electoral Commissioner.
4. The request is to be in the form prescribed by the regulations, to give particulars of the relevant risk and to be verified by statutory declaration by the person making the request or by some other person.
5. The person to whom the request is made may grant the request if satisfied that disclosing or continuing to disclose the matter would place or places the personal safety of the person or of members of the person's family at risk.
6. The person to whom the request is made must notify the person concerned of the decision to grant or refuse the request.



7. The Electoral Commissioner must not include in the residential roll for an area the address of an elector whose request under this section is granted by the Electoral Commissioner.

8. The General Manager, in relation to:

(a) the non-residential roll and the roll of occupiers and ratepaying lessees for the area, and

(b) any other material that is available (or is to be made available) for public inspection by or under this Act

must not include in the roll or other material the address of a person whose request under this section is granted by the general manager. However, in the case of material other than a roll, the General Manager may include the address of a person if the name of the person is excluded from the material.



Diagram 1: Informal Information Access Process

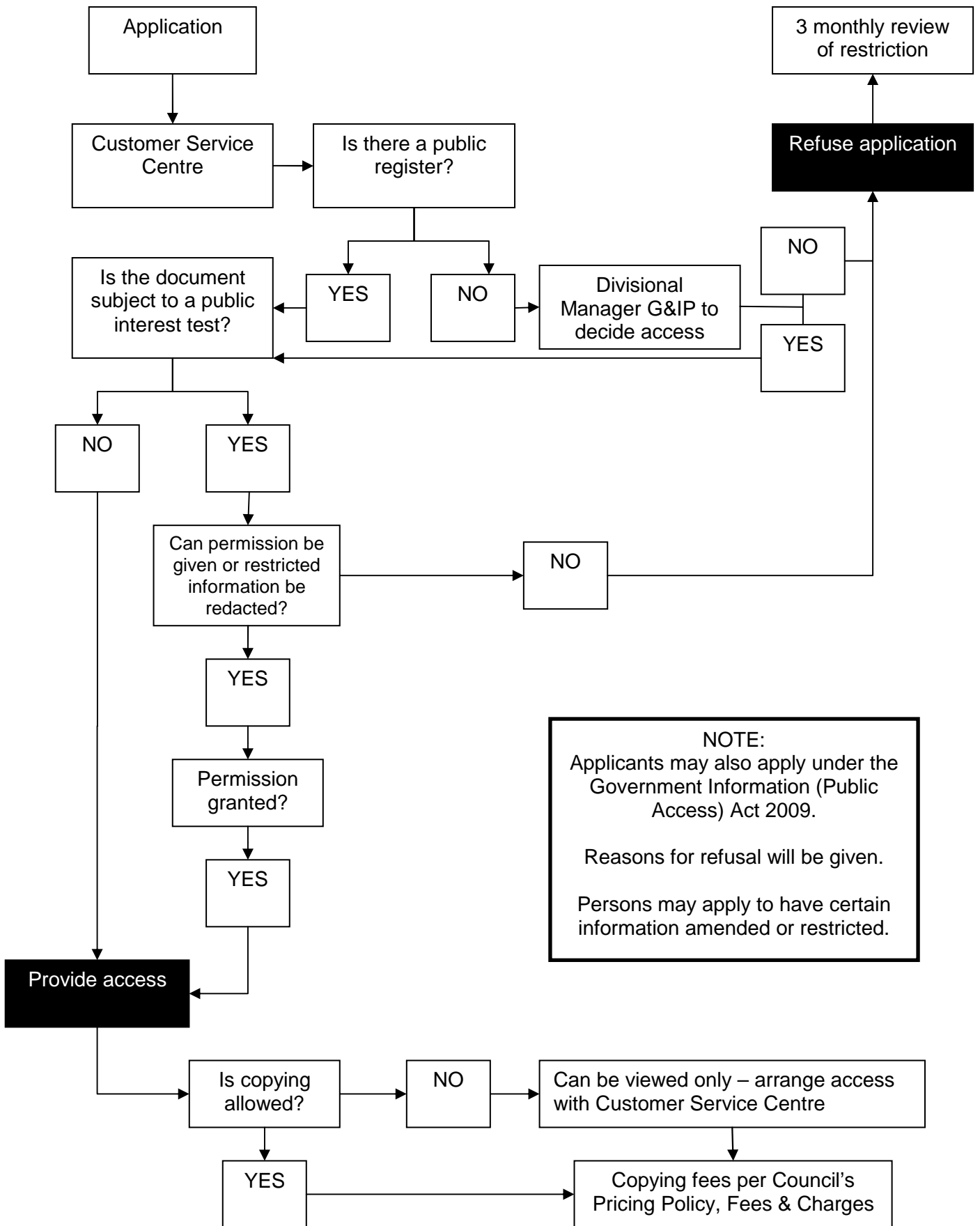
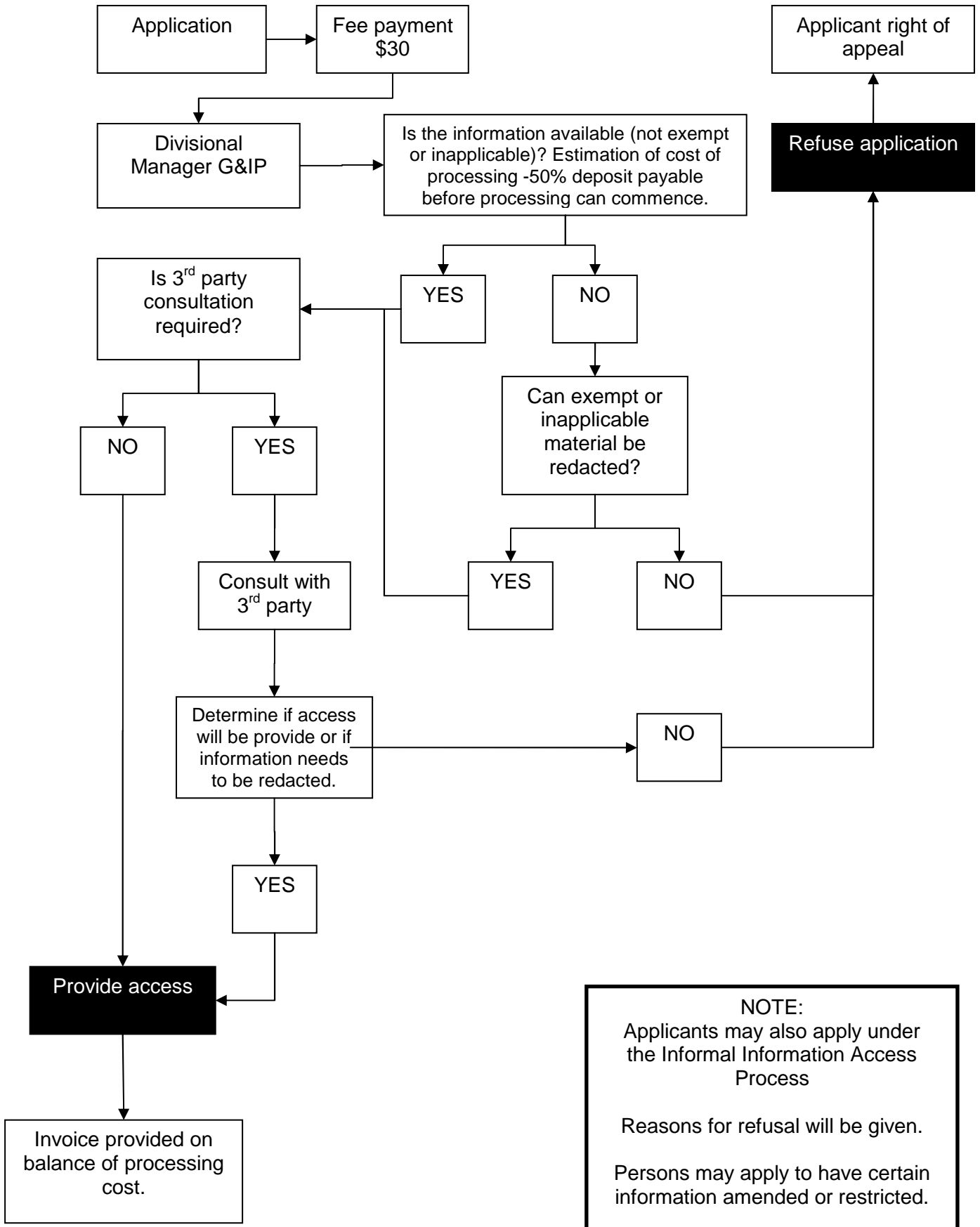


Diagram 2: Access under the Government Information (Public Access) Act 2009



Government Information (Public Access) Act 2009 ACCESS APPLICATION



Please complete this form to apply for formal access to government information under the *Government Information (Public Access) Act 2009* (the GIPA Act). For further information, please contact the Governance and Integrated Planning Division on 9369 8000 or visit our website at www.waverley.nsw.gov.au/your_council/Access_Council_Information.

APPLICANT

Title	Given Name/s	Family Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Organisation

Postal Address	Postcode
<input type="text"/>	<input type="text"/>

Daytime telephone	Facsimile	Email Address
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you are acting on someone's behalf please provide that person's:

Given Name/s	Family Name
<input type="text"/>	<input type="text"/>

Please attach proof of your authorisation to act on the person's behalf, such as legal documentation in support of your authority (for example: a client agreement if you are a solicitor) or written authorisation from the person concerned.

PROOF OF IDENTITY

Only required when an applicant is requesting information on their own behalf.

When seeking access to personal information, an applicant must provide proof of identity in the form of a certified copy of any one of the following documents:

- Australian driver's licence (with photograph, signature and current address)
 Current Australian Passport
 Other proof of signature and current address

GOVERNMENT INFORMATION

Please describe the information you would like to access in enough detail to allow us to identify it.

Note: If you do not give enough details about the information, Council may refuse to process your application.

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Are you seeking personal information? Yes No

Third Party Consultation – Council may need to consult with other parties about the release of the information that you have requested. Do you object to your name only being released to these parties?

- No, I have no objection to the release of my name only
 Yes, I object to the release of my name

FORM OF ACCESS

How do you wish to access the information?

Inspect the document(s)

A copy of the document(s)

Access in another way (please specify)

DISCLOSURE LOG

If the information sought is released to you and would be of interest to other members of the public, details about your application may be recorded in Council's 'disclosure log'. This is published on Council's website.

Do you object to this?

Yes

No

APPLICATION FEE

I attach payment of the **\$30 application fee** by
(**Note:** please do **NOT** send cash by post)

Cash (only at Customer service Centre)

Cheque Money order

If you are given access to the information sought, you may be asked to pay a charge for processing the application (\$30 / hour). Some applicants may be entitled to a 50% reduction in their processing charges. If you wish to apply for a discount, please indicate the reason:

Financial hardship – please attach supporting documentation (e.g. a pension or Centrelink card) AND / OR

Special benefit to the public – please specify why below:

.....

PRIVACY

In making this application, you are providing personal information such as name and contact details. This information will be used for the purpose of assessing your application and ensuring we are able to remain in contact with you regarding the status of your application. Your personal information will be accessed by persons who have been authorised to do so, including the decision maker for your application. Your personal information will be handled in accordance with the Privacy and Personal Information Act, 1998.

SIGNATURE

1. I declare that the information given on this application form is true and correct.
2. I understand that I must seek the Copyright Owner's consent in order to use any part of a copyright document for any other purpose.

Applicant's name

Applicant's signature

Date

HOW TO LODGE THIS APPLICATION

In person: Waverley Council Customer Service Centre
55 Spring Street
Bondi Junction
8.30am – 5.00pm Monday to Friday

Facsimile: 9387 1820

Mail: Governance & Integrated Planning
Waverley Council
PO Box 9
Bondi Junction NSW 1355

E-mail: waver@waverlev.nsw.gov.au

OFFICE USE ONLY

Received by

Date received



APPLICATION FOR SEARCH & VIEWING OF APPLICATION FILES

(Relates to Development Applications, Construction Certificates, Building Applications, Footpath Seating Applications and Subdivision Applications)

You can apply to Council to view various application files and to subsequently obtain copies (**subject to Council's photocopying fees**) of certain documents and extracts of plans from such files.

NOTE:

- Council cannot guarantee that the search will provide the information you require.
- Council will generally complete the searches for current/recent files within 5 working days and for non current/recent files within 10-15 working days and will inform you when the file is ready to be inspected.
- **Once notified you will have two (2) weeks to view the information before it is returned to Archives.**

Please complete the application form providing all relevant information and as much detail as you can in regard to your request to minimise delays and to ensure Council can fulfil your search request. Submit the completed form to our Customer Service Centre, 55 Spring Street, Bondi Junction. Should you require assistance please contact Council's Customer Service Centre on 9369 8000.

APPLICANT DETAILS *(It is important that we are able to contact you if more information is needed and to forward scanned documents, so please complete the below information)*

Name: _____

Postal Address: _____
 _____ Postcode: _____

Phone No. (Daytime): _____ Mobile No.: _____

E-mail: _____

Signature: _____ Date: _____

PROPERTY DESCRIPTION *(This will help us to correctly identify the subject property)*

Street No.: _____ Street Name: _____

Suburb: _____ Lot & DP/SP No.: _____

APPLICATION FILE REQUIRED - I request to view and possibly have copies from the following file/s:

Type of File	Tick	Application Number/s <i>(State the number to ensure your search can be completed)</i>
Development Application		
Building Application		
Construction Certificate		
Footpath Seating Application		
Subdivision Certificate		
Are you requiring specific information ie plans of the building, details of the pool, details of the approved use of the building or other information?		<i>(Please provide details)</i>