

Government Information (Public Access) Regulation 2009

under the

Government Information (Public Access) Act 2009

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Government Information (Public Access) Regulation 2009*.

2 Definitions

(1) In this Regulation:

LGA means the *Local Government Act 1993*.

the Act means the *Government Information (Public Access) Act 2009*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Open access information of local authorities

3 Additional open access information

The government information listed in Schedule 1 that is held by a local authority is prescribed as open access information of the local authority.

Note. The fact that information is open access information does not create an obligation to keep records indefinitely and does not interfere with records management practices and procedures of local authorities that are consistent with the *State Records Act 1998*.

4 Additional ways in which open access information is to be made available

(1) A local authority must make its open access information publicly available by:

- (a) making the information available for inspection free of charge by any person at the office of the local authority during ordinary office hours, and
- (b) providing a copy of a record containing the information (or providing the facilities for making a copy of a record containing

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the information) to any person either free of charge or for a charge not exceeding the reasonable cost of photocopying.

- (2) This clause does not prevent a local authority from archiving records that contain open access information in accordance with the authority's records management practices and procedures. The authority is required to retrieve archived records and make the information available in accordance with this clause in response to a request for access as soon as reasonably practicable after the request is made.
- (3) This clause extends to open access information of a local authority that is open access information listed in section 18 of the Act (and is not limited to information listed in Schedule 1).

Schedule 1 Additional open access information— local authorities

(Clause 3)

1 Information about local authority

- (1) 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) management plan,
 - (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,
 - (j) any codes referred to in the LGA.
- (2) 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,
 - (d) Departmental representative reports presented at a meeting of the local authority in accordance with section 433 of the LGA.
- (3) 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,
- (f) the register of voting on planning matters kept in accordance with section 375A of the LGA.

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:

- (a) local policies adopted by the local authority concerning approvals and orders,
- (b) plans of management for community land,
- (c) 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.

3 Information about development applications

- (1) 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:
 - (i) home warranty insurance documents,
 - (ii) construction certificates,
 - (iii) occupation certificates,
 - (iv) structural certification documents,
 - (v) town planner reports,
 - (vi) submissions received on development applications,
 - (vii) heritage consultant reports,
 - (viii) tree inspection consultant reports,
 - (ix) acoustics consultant reports,
 - (x) land contamination consultant reports,

- (b) records of decisions on development applications (including decisions made on appeal),
 - (c) 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 (2).
- (2) This clause does not apply to so much of the information referred to in subclause (1) (a) as 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.
- (3) A local authority must keep the record referred to in subclause (1) (c).

4 Approvals, orders and other documents

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

- (a) applications for approvals under Part 1 of Chapter 7 of the LGA and any associated documents received in relation to such an application,
- (b) applications for approvals under any other Act and any associated documents received in relation to such an application,
- (c) records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals,
- (d) orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA,
- (e) orders given under the authority of any other Act,
- (f) records of building certificates under the *Environmental Planning and Assessment Act 1979*,
- (g) plans of land proposed to be compulsorily acquired by the local authority,
- (h) compulsory acquisition notices,
- (i) leases and licences for use of public land classified as community land.