

## Publication Guide

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# 1 Structure and Functions of the Council

## 1.1 Description

Bayside Council brings together the City of Botany Bay and Rockdale City Councils. It was established by Proclamation on Friday, 9 September 2016. Bayside Council now comprises a large proportion southern and eastern Sydney; occupies 50 square kilometres in area and is home to a population of nearly 160 000 people. Its population is increasing rapidly due to high levels of urban growth and renewal currently experiencing the second highest level of new dwelling approvals in New South Wales for 2016/2017.

## 1.2 Basis of Constitution

Bayside Council is constituted under the Local Government Act 1993.

## 1.3 Organisational Structure and Resources

Council has a General Manager who is appointed under Section 335 of the Local Government Act whom is responsible for the efficient and effective day to day management of the organisation.

Bayside Council has 15 Councillors who are elected by the residents, the next election will be in 2020. The Mayor is elected by the Councillors every 2 years.

The role of Councillors includes:

- Being an active and contributing member of the governing body;
- Representing the collective interests of residents, ratepayers and the local community;
- Facilitating communication between the local community and the governing body

The role of the Mayor includes:

- being the leader of the council and a leader in the local community;
- advancing community cohesion and promote civic awareness;
- presiding at meeting of the Council

To assist the General Manager in the exercise of Council functions, there are 4 departments of Council: City Performance, City Futures, City Life and City Presentation.

Council's organisational structure can be found on Council's website at [www.bayside.nsw.gov.au](http://www.bayside.nsw.gov.au).

## 1.4 Council Functions

Council has functions in accordance with the Local Government Act 1993. These include:

Service Functions	<ul style="list-style-type: none"><li>• Provision of community health, recreation, education &amp; information services</li><li>• Environmental Protection</li><li>• Waste removal &amp; disposal</li><li>• Land &amp; property, industry &amp; tourism development &amp; assistance</li><li>• Civil Infrastructure Planning</li><li>• Civil Infrastructure Maintenance &amp; Construction</li></ul>
Regulatory Functions	<ul style="list-style-type: none"><li>• Approvals</li><li>• Orders</li><li>• Building Certificates</li></ul>
Ancillary Functions	<ul style="list-style-type: none"><li>• Resumption of land</li><li>• Powers of entry and inspection</li></ul>
Revenue Functions	<ul style="list-style-type: none"><li>• Rates</li><li>• Charges</li><li>• Fees</li><li>• Borrowings</li><li>• Investments</li></ul>
Administrative Functions	<ul style="list-style-type: none"><li>• Employment of staff</li><li>• Integrated planning and reporting</li><li>• Financial reporting</li><li>• Annual reports</li></ul>
Enforcement Functions	<ul style="list-style-type: none"><li>• Proceedings for breaches of the Local Government Act &amp; Regulation and other Acts &amp; Regulations</li><li>• Prosecution of offences</li><li>• Recovery of rates and charges</li></ul>
Governance Functions	<ul style="list-style-type: none"><li>• Council's affairs in line with the requirements of the Local Government Act</li><li>• Access to information held by Council</li><li>• Records Management</li><li>• Risk Management</li><li>• Internal Audit</li></ul>

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

- Biosecurity Act 2015
- Boarding Houses Act 2012
- Children (Protection and Parental Responsibility) Act 1997
- Liquor Act 2007 and Liquor Regulation 2008
- Pesticides Act 1999

- Coastal Protection Act 1979
- Community Land Development Act 1989
- Community Land Management Act 1989
- Companion Animals Act 1998
- Contaminated Land Management Act 1997
- Conveyancing Act 1919
- Crown Lands Act 1989, Crown Lands Regulation 2006, and Crown Lands (General Reserves) By-laws 2006
- Dangerous goods (Road and Rail Transport) Act 2008
- Disability Inclusion Act 2014
- Environmental Planning and Assessment Act 1979
- Fines Act 1996
- Food Act 2003
- Geographical Names Act 1966
- Government Information (Public Access) Act 2009
- Graffiti Control Act 2008
- Heritage Act 1977
- Housing Act 2001
- Impounding Act 1993
- Inclosed Lands Protection Act 1901
- Land and Environment Court Act 1979
- Library Act 1939
- Privacy & Personal Information Protection Act 1998
- Protection of the Environment Operations Act 1997
- Public Health Act 2010
- Public Interest Disclosures Act 1994
- Public Works Act 1912
- Real Property Act 1900
- Restricted Premises Act 1943
- Road Transport Act 2013
- Roads Act 1993
- State Emergency & Rescue Management Act 1989
- State Emergency Service Act 1989
- State Records Act 1998
- Strata Schemes Development Act 2015
- Strata Schemes Management Act 2015
- Surveillance Devices Act 2007
- Swimming Pools Act 1992
- Tattoo Parlours Act 2012
- Threatened Species Conservation Act 1995
- Transportation Administration Act 1998
- Trees (Disputes Between Neighbours) Act 2006
- Valuation of Land Act 1916
- Wilderness Act 1987
- Work Health and Safety Act 2011

## 1.5 How Council's functions affect the members of the public

As a service organisation, the majority of the activities of Bayside 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 child care services and libraries, halls and community centres, open space and recreation facilities, infrastructure and the removal of garbage.

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 in regional, state or commonwealth working parties
- 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.

## **1.6 How the public can participate in Council's Policy development and the exercising of functions**

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

### **1.6.1 Representation**

Local government in Australia is based on the principle of representative democracy, where the people elect representatives to their local Council to make decisions on their behalf. In New South Wales, local government elections are normally held every four years.

At each election, voters elect fifteen 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.

### **1.6.2 Consultation**

There are also avenues for members of the public to personally participate in the policy development and the functions of the Council. Formal consultation forms part of the preparation of most strategies and plans such as the City Plan and the Local Environment Plan (LEP). There is also local consultation for such matters as Development Applications and Local Traffic Management. A number of Council Committees and Strategic Reference Groups include members of the public.

### **1.6.3 Committees**

Council may establish advisory committees including the Risk & Audit Committee and Bayside Planning Panel that include community representatives appointed for a particular period. Such committees provide advice to Council on specific areas of community and council life.

### **1.6.4 Council Meetings**

Members of the public may attend Council Meetings and Bayside Planning Panel Meetings. They may also register to speak at Council Meetings on any issue that is on the meeting agenda.

## **2 Information held by Council**

Council is committed to proactive dissemination of information about the conduct of its public functions and information that will assist community advancement.

Documents required to be available for public inspection as open access information will, where practicable, be made available on Council's website, unless to do so would impose unreasonable additional costs on Council.

Council deals with informal requests to inspect other documents in accordance with the GIPA Act, free of charge. Charges may apply for photocopies, and for any additional services which go beyond the provision of access to identified documents. The rights of access under the GIPA Act are the specified documents listed in Schedule 5 Government Information (Public Access) Regulation 2009 of the Act, and to other documents held by the Council unless disclosure is, on balance, contrary to the public interest.

While any application is considered on its merits Council may refuse access where:

- dealing with the application would require an unreasonable and substantial diversion of the Council's resources
- Council has already decided a previous application for the information concerned (or information that is substantially the same as that information) made by the applicant and there are no reasonable grounds for believing that the Council would make a different decision on the application, (clause 60).

Applications are processed in accordance with the Act's requirements and a decision made to provide access to the documents, or not to provide access based on public interest considerations of the GIPA Act. Charges for formal GIPA applications are set out in Council's Schedule of Fees and Charges.

An individual also has rights to access and amend the personal and health information held by Council about him or her under the NSW Privacy and Personal Information Protection Act (PPIPA) and the NSW Health Records and Information Privacy Act (HRIPA). Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the GIPA Act which provides for consultation with any other affected parties prior to the possible provision of access to information concerning their personal or business affairs.



### **3 Privacy Legislation and Access to Council Information and Documents**

The privacy acts referred to above also apply to the collection, storage, use and disclosure of personal and health information by Council. The acts set out principles for the handling of this type of information. Full details of the acts and Council's obligations are set out in council's Privacy Management Plan.

It is not a breach of the privacy principles to disclose personal or health information where this is in accordance with the legislation, (e.g. where disclosure is consistent with the purpose for which the information was collected, or where the person was aware that particular information is usually disclosed) or where another act or law requires, permits or contemplates disclosure.

Disclosure of documents required to be made available for public inspection by the GIPA Act, Local Government Act, the Environmental Planning and Assessment Act or any other act, of disclosure under the GIPA Act is not contrary to privacy legislation. Where access to other documents is requested and a judgment needs to be made about whether disclosure, on balance, is contrary to the public interest, privacy may be a consideration if personal information about another person is involved. Relevant factors include the nature of the information, and the degree to which disclosure involves significant privacy issues, and any public interest that would be advanced by disclosure. Council may need to be able to explain considerations taken into account in deciding to disclose personal information to someone other than the person concerned.

## **4 Council Documents Available for Inspection**

### **4.1 Information about Council and its functions**

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

- The Model Code prescribed under section 440 (1) of the LGA and the Code of Conduct adopted under section 440 (3) of the LGA
- Code of Meeting Practice
- Annual Report
- annual financial reports
- Auditor's Report
- Equal Employment Opportunity Management Plan
- Expenses and Facilities Policy
- Annual reports of bodies exercising functions delegated by Council
- Codes referred to in the Local Government Act 1993
- Returns of the pecuniary interests of councillors, designated persons and delegates
- Agendas and business papers for any meeting of Council or any committee of Council (but not including business papers for matters considered when part of a meeting is closed to the public)
- Minutes of any meeting of Council or any committee of Council, 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

- Departmental representative reports presented at a meeting of the local authority in accordance with section 433 of the Local Government Act 1993

## **4.2 Registers**

- Land register
- Register of investments
- Register of delegations
- Register of graffiti removal work kept in accordance with section 13 of the Graffiti Control Act 2008
- Register of current declarations of disclosures of political donations kept in accordance with section 328A of the Local Government Act 1993
- Register of voting on planning matters kept in accordance with section 375A of the Local Government Act 1993
- Licences and leases register

In addition to registers mentioned above, Council maintains other registers which are required by law to be available for public inspection.

Where the public register contains personal or health information, Council is required to ensure that access by a member of the public is for a purpose consistent with the purpose for which the register exists. The Local Government Code of Practice issued under the Privacy and Personal Information Protection Act (PPIPA) permits Council to provide access to such registers by way of inspection on Council premises and for the copying of an entry or page in the register without regard to the purpose of the person who seeks access.

Council reserves the right to seek to satisfy itself about the purpose of access and to require a statutory declaration from the person seeking access that personal information will only be used for a specified lawful purpose.

In the case of an application for a certificate of an entry in the Rates Record under Section 603 of the Local Government Act 1993, a charge is payable.

## **4.3 Plans and policies**

- Policies adopted by Council concerning approvals and orders
- Plans of management for community land
- 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

## **4.4 Information about development applications and planning matters**

- 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 certificates
- Town planner reports
- Submissions received (signatures redacted)
- Heritage consultant reports
- Tree inspection consultant reports
- Acoustic consultant reports
- Land contamination consultant reports
- Records of decisions on development applications, including those made on appeal
- Record that describes the general nature of the documents that the council decides are excluded from the operation of this clause by subclause (2).

This includes:

- 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

## **4.5 Approvals, Orders and other documents**

Information contained in the following records:

- Applications for approvals under Part 1 of Chapter 7 of the Local Government Act 1993 and any associated documents received in relation to such an application
- Applications for approvals under any other Act and any associated documents received in relation to such an 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 1993, and any reasons given under section 136 of the Local Government Act 1993
- 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 the local authority,
- Compulsory acquisition notices
- Leases and licences for use of public land classified as community land

## **5 Access to other documents held by Council**

Other Council documents are available for inspection under the GIPA Act unless disclosure is, on balance, contrary to the public interest. Any application must be received in writing and will be processed promptly and within the agreed timeframe. The request should specify the documents sought, with a reference to any time or date limitations. Any application will be considered on its merits and considered in the light of the obligation to make documents available unless public interest considerations favour the withholding of the document(s).

## **6 Information and documents not usually available**

Information about the name of a property owner is in the public domain through internet access to the register maintained by the NSW Land and Property Information Service.

Council holds information about property ownership for the purpose of carrying out its functions. Council policy is not to make available information about the name of a property owner except in emergency circumstances or where the enquirer can establish a clear need to know. Council will not supply bulk property data to third parties for the purposes of direct marketing.

Law Enforcement authorities (NSW Police, Federal Police, WorkCover NSW, Australian Tax Office, and Australian Crime Authority) will be required to provide an official request to Council and information will only be provided in person and only after provision of suitable photo identification.

## **7 Documents not available because of provision in the Local Government Act 1993**

The following information will not be available:

- Papers submitted to Council for consideration in a closed session
- Documents containing information about personnel matters concerning particular individuals, the personal hardship of any resident or rate payer, trade secrets or other sensitive commercial information, or where disclosure would found an action for breach of confidence
- Documents that contain information the release of which would constitute an offence against an Act

## **8 Other documents not available**

- Documents or parts of documents which would reveal the identifying particulars of persons who provide information to Council in connection with its law enforcement and regulatory responsibilities, or who otherwise contact Council about matters of interest or concern, including complaints about other persons conduct or activities, and matters that require investigation by Council
- Documents which reveal confidential communications between the Council and its legal advisers, documents that are exempt from disclosure through legal professional privilege or documents which have been prepared by Council officers or others for the dominant purpose of use in proposed or anticipated legal proceedings
- Documents, the release of which are likely to endanger the life or safety of any person, or the security of any building or structure, or which would prejudice the conduct of a lawful investigation by Council or another authority
- Documents concerning Council functions or operations where disclosure would have a prejudicial effect on Council's property or financial interests, or would otherwise have an adverse effect on its regulatory functions, or its capacity to operate in an efficient and effective manner

## **9 Large general requests for access to documentation**

Broad, general requests for a large number of documents, for example all documents of a certain kind, or documents held on a number of different Council files, or which otherwise require a substantial allocation of Council resources, may be refused after consideration of the public interest factors involved by Council's Public Officer or Right to Information Officer. The Officer may, in the light of an assessment of the work involved in identifying, locating, collating and assessing a large number of Council documents, conclude that access should be refused on the grounds that the substantial diversion of Council resources necessary to deal with the application would, on balance, be contrary to the public interest.

The Public Officer or Right to Information Officer shall, in reaching such a decision take into account the following:

- An assessment of the work and time involved in responding to the application
- The extent to which the work involved in dealing with the request would result in Council resources being diverted from dealing with other access requests, or from other important functions
- The nature of the documents requested and any public interests to be advanced by disclosure generally, or disclosure to the particular applicant

Council acknowledges there is a public interest in disclosure of documents about Council operations and the exercise of its functions, and in a particular applicant gaining access to documents where there is a strong and justifiable right to know, however, an individual's right to access documents free of charge also requires consideration of the effect the processing of such an application may have on the rights of others, and on the efficient and effective use of Council resources in the interests of all ratepayers.

## **10 Refusal of access**

Where access to documents is refused under the GIPA Act, Council will advise the applicant in writing of the reasons for the decision. In the case of refusal on grounds that dealing with the request would involve the substantial diversion of Council resources, the Public Officer or Right to Information Officer will provide details to the applicant in writing, including an estimate of the time involved in responding to the application and consideration of the other factors mentioned in these guidelines however before doing so will give the applicant a reasonable opportunity to amend the application.

Any applicant dissatisfied with Council's handling of a request for documents under GIPA Act may seek a review in accordance with Sections 82 - 88 of the GIPA Act and may also seek a review of reviewable decisions through either the Information Commissioner or the Administrative Decisions Tribunal.

## 11 Copyright

Copyright issues may arise when requests are made for copies of documents held by the Council. The Commonwealth Copyright Act (1968) takes precedence over State legislation. Therefore the right to copy documents under GIPA does not override the Copyright Act.

If Council commissions a report etc. from a consultant it will be under the terms of the contract whether it can be copied. With regard to documents supplied with development applications, Council's development application form includes a statement whereby applicants give their permission to allow documents included with a development application to be accessed under the GIPA Act.

## 12 Access to information by Councillors and Administrators

The process for access to information by Councillors and Administrators is outlined in Council's Code of Conduct.

## 13 Public Officer and Right to Information Officer

The Manager of Governance & Risk has been appointed as the Public Officer. 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 for Council.

The Team Leader Information is Council's Right to Information Officer and, as such, is responsible for determining applications for access to documents or for the amendment of records.

## 14 Related documents

- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998
- Bayside Council Access to Information Policy
- Bayside Council Publication Referral Info sheet

## 15 Version history

This document replaces City of Botany Bay Access to Information Guide 2016 and the Rockdale City Council Access to Information Guide, August 2014.

Version	Release Date	Author	Reason for Change
1.0	11/09/2017	Therese Fitzgerald	New document

# 16 Bayside Council Publication Referral Info sheet

infosheet

Bayside  
Council

## Publication Referral

Access Report	Public
Acid Sulphate Soil Investigation Report	Public
Acoustic Report	Public
BASIX Certificate	Public
Contamination Records	Public
Design Verification Statement	Public
Driveway Profile Plan	Public
Elevations	Public
Flood Evacuation/Management Plan	Public
Floor Plans (Internal)	Do not make public
Geotechnical Report	Public
Heritage Impact Statement	Public
Landscape Checklist	Public
Landscape Plan	Public (except in instances where internal floor plans are shown)
Notification Plan	Public
Owners consent (contained on DA Form includes email; phone; signatures - not for publication)	Do not make public
Photo montage	Public
Photos with people in them	Do not make public
Plan of Management for Use	Public
Proposed and Existing Fire Safety Measures	Public
Schedule of Colours and Materials	Public
Sections	Public (except in instances where internal floor plans/room names are shown)
Shadow diagram in elevation and plan form	Public (except in instances where internal floor plans/room names are shown)
Site Plan	Public
Soil and Water Management Plan	Public
Soil Contamination Report	Public (except in instances where internal floor plans/room names are shown)
Statement of Environmental Effects	Public
Stormwater Certification; Checklist and Drainage Concept Plan	Public (except in instances where internal floor plans/room names are shown)
Subdivision Plan	Public
Survey Plan	Public
Traffic Report	Public
View Corridor Analysis	Public
Waste Management Plan	Public
Wind Tunnel Testing Report	Public

[www.bayside.nsw.gov.au](http://www.bayside.nsw.gov.au)