



**ORANGE CITY COUNCIL
ORDINARY COUNCIL MEETING**

ATTACHMENTS

CCL ITEM 5.5

**STRATEGIC POLICY REVIEWS – FOR
EXHIBITION**

20 DECEMBER 2022

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Strategic Policy ST09

Gifts & Benefits

FOR EXHIBITION

PO Box 35, Orange
NSW 2800 Australia

135 Byng Street, Orange
NSW 2800 Australia

P: +61 2 6393 8000
F: +61 2 6393 8199

council@orange.nsw.gov.au
www.orange.nsw.gov.au



All policies can be reviewed or revoked by a resolution of Council, at any time.

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FOR EXHIBITION



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1 OVERVIEW

Purpose

The Purpose of this policy is to:

- 1.1 Ensure Council's requirements and outline the conduct expected of all Councillors, employees, contractors, volunteers, Committee members (referred to as Council Officers) in relation to gifts and benefits.
- 1.2 Ensure that all Council Officers are not compromised or perceived to be compromised in the performance of their duties through innocently or in good faith accepting gifts or benefits.
- 1.3 Ensure that contractors and suppliers of goods and services to Council are made aware that Council's preferred position is gifts and benefits not be offered to Council Officers.
- 1.4 Outline the management of political donations and gifts.

Applicability.

- 1.5 This policy applies to Councillors, employees, contractors, volunteers, Committee members and other delegates (referred to in this policy and procedure as Council Officers). The policy applies to the offer of gifts to individual Council Officers and to Council services.
- 1.6 This policy does not apply to the private giving of gifts between staff.
- 1.7 Political Donations and Gifts apply to relevant planning applications as outlined in part 6.

2 INTRODUCTION

Summary of Provisions

- 2.1 All offers of gifts and benefits must be declared, whether or not they are accepted.
- 2.2 Approval must be obtained in order to keep any gift or benefit.
- 2.3 Acceptance of any gift or benefit intended to influence the duty of a Council Officer is prohibited.
- 2.4 Any Council Officer who is offered a bribe must refuse to accept the offer and

immediately report the incident in accordance with the procedure.

- 2.5 **Accepting gifts of money or gift cards is strictly prohibited in all circumstances.**
- 2.6 The collection of private reward points or benefits arising from a Council related transaction is strictly prohibited (eg using a rewards card while paying with a corporate card or petty cash).
- 2.7 Acceptance of gifts of gratitude or gifts of appreciation of nominal value are generally permitted.
- 2.8 Non-compliance with this policy may result in disciplinary action for Council Officers.
- 2.9 Contractors or suppliers deliberately acting outside of this Policy will not be used by Orange City Council.
- 2.10 Council will manage political donations in accordance with the Environmental Planning and Assessment Act 1978, in accordance with part 6.

3 GENERAL

- 3.1 Councillors, employees, contractors, volunteers, committee members and other delegates (commonly referred to in this policy as Council Officers) shall not seek or accept (directly or indirectly) from any person or body, any immediate or future gift, reward or benefit (of other than of nominal value, or moderate acts of hospitality) for themselves or for any other person or body, relating to their status with Council.
- 3.2 **Offers of money or gift cards must never be accepted.**
- 3.3 If any gift, reward or benefit is offered (whether it is accepted or not) this must be disclosed using the Gifts and Benefits Declaration or Council's on-line Gifts & Benefits declaration. This applies to a gift that is offered to an individual Council Officer, group of Council Officers or a Council service.
- 3.4 Council Officers must not solicit gifts/benefits, nor accept gifts/benefits of more than nominal value.



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- 3.5 For the purposes of this procedure, a gift or benefit of nominal value is defined as one not exceeding a value of **\$50**.
- 3.6 Council Officers must not seek or accept a bribe or other improper inducement. A bribe is a gift or benefit offered to or solicited by a Council Officer to influence that officer to act (or fail to act) in a particular way. Council Officers must never solicit a gift or benefit under any circumstances.
- 3.7 Council will maintain a Gifts and Benefits Register of all gifts/benefits offered to all Council Officers or services whether or not the gift or benefit is accepted. This Register is available for public inspection.
- 3.8 Any Council Officer who is offered a bribe must refuse to accept the offer and immediately report the incident to their supervisor, or the Mayor in the case of Councillors.
- 3.9 Should a Council Officer become aware that another Council Officer is offered a gift of money or other gift or benefit, which he or she believes is meant to be a bribe, the person must immediately notify the Manager Corporate Governance, relevant Divisional Director or Chief Executive Officer, or the Mayor in the case of Councillors.
- 3.10 The collection of private loyalty program/frequent flyer or any rewards or benefits from a Council-related transaction is strictly prohibited. Staff should avoid using their own credit/debit cards for Council transactions.
- #### 4 PROCEDURE
- 4.1 It is Council's preferred position that gifts and benefits are not offered to Council Officers.
- 4.2 Council's Purchasing staff, and any positions as determined by the Chief Executive Officer, are prohibited from accepting any gift or benefit under any circumstances.
- 4.3 Gifts and benefits should be actively discouraged by Council Officers.
- 4.4 People doing business with Council should understand that they do not need to give gifts or benefits to Council Officers to get high quality service or be awarded work.
- 4.5 It is acknowledged that, in certain circumstances, Council Officers may offend a third party by not accepting a gift or benefit. In these circumstances, the following guidelines will apply:
- a) the common law offence of bribery is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the rules of honesty and integrity.
 - b) any Council Officer offered a bribe should immediately report to their supervisor or the Mayor (in case of Councillors). Council must then refer the matter to the Independent Commission Against Corruption and the Police.
 - c) All offers of gifts or benefits (whether or not they are accepted) must be declared using the declaration and noted on a publicly available gifts register against the name of the person or the service to whom the offer was made.
 - d) Gifts of a nominal value (for the purposes of this policy, a nominal value is deemed to have a value of less than \$50) may be accepted on approval of Chief Executive Officer or Mayor (in the case of Councillors). The gift declaration at appendix 1 should be completed and forwarded to the Manager Corporate Governance (for employees and other Council Officers such as Volunteers) or the Mayor (for Councillors). Gifts may also be declared via the on-line form.
 - e) **No more than one nominal gift may be accepted from the same source in any 12 month period.**



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- g) An annual report will be prepared detailing all offers of gifts and benefits, presented to Council in relation to Councillors, and to the Chief Executive Officer in relation to employees.
- 4.6 Examples of items of nominal value include:
- inexpensive pens and pencils or notepads
 - key rings, diaries, mouse pads
 - inexpensive marketing trinkets or corporate mementos
 - gifts of single bottles or reasonably priced alcohol at end of year functions, public occasions or in recognition of work done
 - a gift of a reasonably priced box of chocolates or other confectionary
- 4.7 Examples of gifts of more than nominal value:
- clothes
 - tickets to sporting events or other entertainment
 - sports team sponsorship by a supplier
 - accepting hospitality at corporate sponsored sporting events such as golf days, even when Council is a sponsor of the event (this is separate to meals and refreshments provided in conjunctions with undertaking council official duties)
 - discounted products for personal use
 - use of facilities such as gyms and holiday homes
 - free or discounted travel
 - free "training excursions"
 - obtaining of 'flybuys' or other rewards points and frequent flyer points as a consequence of Council transactions
- 4.8 Examples of benefits of more than nominal value:
- access to a private spectator box at a sporting venue, even when Council is a sponsor of the event
 - a new job or a promotion
 - preferential treatment such as queue jumping, upgrades or increased volume of products
 - access to confidential information
 - meals or hospitality of other than "nominal" value etc
- 4.9 Lucky door prizes must be declared through the Gifts and Benefits Declaration and are generally acceptable on approval.
- 4.10 If refusal of a gift or benefit is ignored, or for other reasons a gift of more than nominal value cannot reasonably be returned, the gift is to be regarded as the property of the Council. Such gifts or benefits should be handed to the Manager Corporate Governance for recommendation to the Chief Executive Officer, and a Gifts and Benefits Declaration completed.
- 4.11 Gifts which have been handed in will be disposed of by the Manager Corporate Governance in one of the following methods:
- shared amongst Councillors or employees,
 - retained and used as part of Council's operations,
 - returned to the giver,
 - donated to a local charity (where possible this will occur as a bulk donation at the end of each 6 month period).
- 4.12 Many community groups invite the Mayor (or delegate) and partner to events held by the community organisation. Such events include annual changeover dinners and/or special events where the Mayor (or the Mayor's delegate) is called upon to act in an official capacity. It is considered that the Mayor (or delegate) is properly fulfilling a community expectation that the community's elected leader (and partner) should be in attendance at these functions. Participation in such events is not considered a gift and benefit.
- 4.13 Free or subsidised meals, beverages or refreshments provided to Council officials in conjunction with the performance of their official duties include, but are not limited to:
- the discussion of official business



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- b) work-related events such as council-sponsored or community events, training, education sessions or workshops
- c) conferences
- d) council functions or events
- e) social functions organised by groups, such as council committees and community organisations.

4.14 Hospitality of any value should be refused except where the hospitality is considered a necessary part of Council business.

4.15 The Gifts and Benefits Register maintained by the Governance section, will contain the following information:

- date, time and place of the offer
- name of person to whom gift or benefit was offered
- name of person and organisation who offered gift or benefit and contact details
- details of the gift or benefit
- response to the offer

4.16 Any questions about gifts or benefits should be directed to the Mayor (for Councillors) or Manager Corporate Governance (for other Council Officers such as volunteers and community committee members).

5 CHILDREN'S SERVICES - FESTIVE GIFTS

5.1 Children's Services often receive a number of gifts from families during the festive season. To ensure that each transaction is recorded appropriately and in the most efficient way, a form has been created to lodge bulk gifts and benefits declarations.

5.2 While Council understands families wish to thank educators, Council's position and preference is to not accept any gift or benefit. The procedure and requirements of the policy should be adhered to at all times, however completion of the Children's Services Festive Gifts form during these busy periods should be used in lieu of the general gifts and benefits application.

6 POLITICAL DONATIONS

6.1 The Environmental Planning and Assessment Act 1979, s10.4, requires the public disclosure of donations or gifts when lodging or commenting on development proposals. This law is designed to improve the transparency of the planning system.

6.2 The laws set out disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of:

- various types of development proposals
- requests to initiate environmental planning instruments or development control plans.

6.3 These disclosure requirements apply at the time of lodgement to Councils or the NSW Government. It is the responsibility of the applicant to ensure they have met the requirements specified under the Act.

6.4 Disclosure requirements also apply to individuals or entities lodging submissions in objection or support to these types of proposals.

7 BREACHES

7.1 Council Officers found to be in breach of the Gifts and Benefits Policy and Procedure will be subject to relevant disciplinary processes, as set out in the Code of Conduct.

7.2 Suppliers of goods or services to Council found to be in breach of this Gifts and Benefits Policy and Procedure may receive a warning for non-compliance, or, if the breach is considered by the Chief Executive Officer to be serious, may be banned from use by Orange City Council Officers. The Chief Executive Officer will determine if a warning is provided, or immediate banning will be implemented.

7.3 Non-disclosure of Political Donations and Gifts may be subject to a breach in accordance with the Environmental Planning & Assessment Act 1979.



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8 DEFINITIONS

Benefit	A non-tangible item of value that one person or organisation confers on another, such as preferential treatment, hospitality, privileged access or favours in relation to work activities.
Bribe	A gift, hospitality or benefit offered to or solicited by a public official to influence that person to act in a particular way
Cash-Like Gift	A cash-like gifts includes, but is not limited to, gift vouchers, lottery tickets, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, membership or entitlements to discounts
Council Officer/Official	Includes all Councillors, employees, contractors, volunteers, Committee members and other Council delegates
Cumulative Gift	Repeated offers of token gifts from the same source which can cumulatively amount to more than token value
Corruption	The abuse of public office for private or personal advantage
Gift	An item of value which one person or organisation presents to another
Gift Register	An official record that details gifts and benefits received by Council Officers and how they are managed.
Nominal Value	Goods or services that have a nominal value (ie less than \$50).

ST09 – Strategic Policy – Gifts & Benefits		
Review Due: November 2024	Version 1.22	Last Revision: 20 April 2021
Approved By:	Minute Number:	Approval Date:



Orange City Council
 Wiradjuri Country
 135 Byng Street, PO Box 35
 Orange NSW, 2800
P: 02 6393 8000
E: council@orange.nsw.gov.au
www.orange.nsw.gov.au

Gift and Benefit

DECLARATION FORM

This declaration is to be completed by a Councillor or staff member who has been offered, or given, a gift or benefit. All details should be disclosed. Please forward the completed declaration to the Governance team for assessment and referral to the Chief Executive Officer if required.

OCCURRENCE DETAILS

Name of gift/benefit recipient

Name of person offering gift/benefit

Organisation

Date offered

Time offered

Place

RESPONSE TO OFFER

☐

Gift/benefit accepted

☐

Gift/benefit declined

☐

Gift/benefit handed into Manager Corporate Governance/Governance Coordinator for disposal

GIFT/BENEFIT DETAILS

Gift/benefit description

Estimated value

 \$

Has this person or organisation offered you a gift in the past? ☐ Yes ☐ No

If yes – please provide details of gift, when offered, action taken.

DECLARATION

Date

Name:

Signature:

GOVERNANCE APPROVAL

Date

Name:

Signature:

Comment

APPROVED BY CEO

Date

Name:

Signature:

ENTERED INTO REGISTER

Date

Name:



Strategic Policy ST16

Access to Information Held by Council

FOR EXHIBITION

PO Box 35, Orange
NSW 2800 Australia

135 Byng Street, Orange
NSW 2800 Australia

P: +61 2 6393 8000
F: +61 2 6393 8199

council@orange.nsw.gov.au
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FOR EXHIBITION



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1 OVERVIEW

Purpose

- 1.1 The objective of this policy is to state Council's procedures and protocols providing public access to information as governed by Government Information (Public Access) Act 2009.

Applicability

- 1.2 This policy applies to anyone wishing to access information from Orange City Council and also Council employees in complying with the Government Information (Public Access) Act 2009.

General

- 1.3 The Government Information (Public Access) Act 2009 ("GIPA") replaced the Freedom of Information Act 1989 and Section 12 of the Local Government Act.
- 1.4 The GIPA Act is designed to promote a more open, accountable, fair and effective government and provides the public with an enforceable right to access Council information.
- 1.5 The only restriction to release to information is when there is an overriding public interest against disclosure.
- 1.6 Council is not required to make government information available in any way that would constitute a breach of copyright.

2 FORMS OF ACCESS

There are four ways to access Council information via the Government Information (Public Access) Act 2009 ("GIPA"):

Mandatory Release

- 2.1 Members of the public may inspect, free of charge, during ordinary office hours the documents listed in Section 18 of the GIPA Act and the documents listed in Schedule 1 of the GIPA Regulations. Please see Annexure marked "A" which lists the information that must be made publicly available. This information is known as "open access information" under the GIPA Act.

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 to Council. Copies of such documents may be provided for a charge not exceeding reasonable photocopying costs. Council is not required to make government information available in any way that would constitute a breach of copyright.

Proactive Release

- 2.2 Council can make an executive decision to release extra information that is not covered by the mandatory provision and that is not already publicly available, free of charge.

Informal Application

- 2.3 This is to allow the public to request information without the need of a formal application and may be inspected free of charge, however, copies of documents may incur charges not exceeding reasonable photocopying costs. It should be noted that this form of access does not allow for the applicant to seek any type of review of their determination. An informal application may be submitted via an "Informal Request for Information" Application (refer Annexure "C").

Formal Application

- 2.4 If a request for information involves a large volume of information, extensive research is required or if the information relates to third party personal/business information, Council may require the lodgement of a Formal Access Application. A Formal Access Application (refer Annexure "D") may be submitted to Council including enough information for the required information to be identifiable, submitted with the prescribed \$30.00 fee attached to validate the application.



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A processing charge for each application is applicable at a rate of \$30 per hour for each hour of processing time for the application after the first hour. If a Formal Access Application is made for personal information about the applicant (the applicant being an individual) the first 20 hours of processing time is free. Lodgement of a Formal Access Application entitles the applicant to review rights under the GIPA Act. There are three avenues of review; internal review, review by the Information and Privacy Commissioner and review by the NSW Civil and Administrative Tribunal (NCAT).

3 RESTRICTIONS ON ACCESS TO INFORMATION

- 3.1 Council may refuse a request for information if there is an overriding public interest against disclosure or if searching for the requested information would require unreasonable and substantial diversion of Council's resources.
- 3.2 Council will not refuse access to information unless there are clear reasons for doing so, and such reasons will be explained to the applicant. Where documents contain some information which cannot be released, any remaining information contained within the requested document will be available under the Act.

Public Interest Test

- 3.3 In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.
- 3.4 What is the Public Interest Test? When deciding to release information, Council must weigh the factors in favour of disclosure against the public interest factors against disclosure. Unless there is an overriding public interest against disclosure, Council must provide the information.

- 3.5 In applying the Public Interest Test, Council will not take into account:

- That disclosure might cause embarrassment to, or loss of confidence in, the Council.
- That any information disclosed might be misinterpreted or misunderstood by any person.

- 3.6 Council will consider any submissions made by an applicant in relation to public interest considerations, as well as any factors personal to the applicant.

Excluded Information

- 3.7 The only considerations against disclosure that Council will consider in applying the public interest test are those provided in the GIPA Act. These considerations are grouped under the following headings:

- Responsible and effective government
- Law enforcement and security
- Individual rights, judicial processes and natural justice
- Business interests of agencies and other persons
- Environment, culture, economy and general matters
- Secrecy provisions
- Exempt documents under interstate Freedom of Information legislation.

- 3.8 Under the GIPA Act, there are 16 categories of information (8 of which appear to affect local government) for which there is a conclusive presumption of an overriding public interest against disclosure. This information is known as Excluded Information and the eight categories are:

- i. Information subject to an overriding secrecy law (26 specifically named Acts)
- ii. Information subject to the direction or order of a court or other body with the power to receive evidence on oath
- iii. Information subject to legal professional privilege



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- iv. "Excluded information" (judicial and prosecutorial information, information about complaints handling and investigative functions, competitive and market sensitive information)
- v. Documents affecting law enforcement and public safety
- vi. Specific information relating to transport safety
- vii. Specific reports concerning the care and protection of children
- viii. Specific information relating to Aboriginal and environmental heritage.
- 3.9 Generally under the GIPA Act, Council must not publish and must refuse requests to disclose information in the above categories. Formal applications for excluded information are invalid under the Act.
- 3.10 In dealing with informal applications Council will apply a similar decision making framework.
- 3.11 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 defining the request to a more management one.

Copyright

- 3.12 Copyright issues may arise when requests are made for copies of documents held by Council. The Commonwealth Copyright Act 1968 takes precedence over State legislation. Therefore the right to copy documents under the GIPA Act does not override the Copyright Act. Nothing in the GIPA Act or Regulations permits Council to make government information available in any way that would constitute an infringement of copyright.
- 3.13 Access to copyrighted documents will be granted by way of inspection only, unless the copyright owner's written consent is provided. Where authority is unable to be

obtained, copies of copyright material will not be provided.

- 3.14 Copyright material includes, but not limited to, plans/drawings, consultant reports and survey reports.

Third Party Consultation

- 3.15 Third party consultation must be taken when the Application to access information includes:-

- Personal information about a person, or
- Concerns the person's business, commercial, professional or financial interest, or
- Concerns research that has been, is being, or is intended to be, carried out by or on behalf of the person, or
- Concerns the affairs of a government of the Commonwealth or other State (and the person is that government).

- 3.16 If the third party objects to the release of their information, they must show evidence consistent with the GIPA Act as to why to restrict the release of information. The evidence provided by the third party will be taken into account; however, in any event the decision to release information rests with Council.

4 FORMAL APPLICATION PROCESS

- 4.1 Upon receipt of a formal application, Council must acknowledge receipt of the application and accept or reject the application within 5 working days.
- 4.2 If the application is invalid and does not contain enough information to process the Council staff member determining the application must assist the applicant to enable a valid application.
- 4.3 A decision regarding access to information must be made within 20 working days after receipt of the application. The decision period can be extended by up to 10-15 days if third party consultation is required or records are required to be retrieved from Council's archives.



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5 RIGHTS OF REVIEW AND APPEAL

- 5.1 A right of review exists only for formal applications made in accordance with the GIPA Act. No right of review exists for informal applications.
- 5.2 If an applicant has lodged a formal application and is aggrieved by a decision of Council, that person is entitled to a review of the decision in any of the following methods.

Internal Review by Council

- 5.3 The applicant can seek an internal review to be made by Council within 20 working days following the date of receipt of the decision.
- 5.4 A fee of \$40.00 must be paid upon application of the review of the decision.
- 5.5 The internal review cannot be conducted by the original decision maker and is to be no one less senior than the decision maker.
- 5.6 An internal review is not available to the applicant, if the initial decision was made by Council's delegated principal officer.
- 5.7 A decision of the internal review must be made within 15 working days and 25 working days if consultation is required.

Review by Information Commissioner

- 5.8 Must be made by the applicant within 40 working days following the date of receipt of the decision.
- 5.9 The Information Commissioner will consider the application and the onus is on Council to justify the decision.
- 5.10 The Information Commissioner must complete the review, and make any recommendations to Council within 40 working days after the Information Commissioner receives all information it considers necessary to complete the review.

Review by NCAT

- 5.11 The Information Commissioner can make a recommendation for reconsideration of the matter by Council and or refer the matter to the NCAT.

- 5.12 If the decision is the subject of review by the Information Commissioner, an application for NCAT review can be made at any time up to 20 working days after the applicant is notified of the completion of the Information Commissioner's review.

- 5.13 The onus is again on Council to justify decision.

6 PROCESSING TIMES/FEES & CHARGES

Informal Requests for Information

- 6.1 Where possible, Council will process Informal Applications under the GIPA Act and will respond to such requests within ten working days.
- 6.2 No processing charges apply and there are no charges to view the requested information, however, copies of documents can be supplied for charges not exceeding reasonable photocopying charges as outlined in Council's Fees and Charges annually adopted by Council.

Formal Access to Information

- 6.3 Formal Access to Information Applications must be determined within 20 working days (statutory requirement) after receipt of the application, however, this decision period may be extended by 10-15 working days where consultation with a third party is required or to retrieve information from Council's archives.
- 6.4 The formal Access application fee is \$30.00 (statutory fee). Processing charges of \$30.00 per hour also apply in dealing with the application. The application fee of \$30.00 paid by the applicant counts as payment towards any processing charge payable by the applicant.

Discount in Processing Charges – Formal Access Applications

- 6.5 **Financial Hardship (Section 65 GIPA Act)** - An applicant is entitled to a 50% reduction in processing charges if Council is satisfied the applicant is suffering financial hardship and provides evidence that the applicant:



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- Is the holder of a Pensioner Concession card issued by the Commonwealth that is in force; or
- Is a full-time student; or
- Is a non-profit organisation.

6.6 Special Public Benefit (Section 66 GIPA Act) - An applicant is entitled to a 50% reduction in a processing charge if Council is satisfied that the information applied for is of special benefit to the public generally.

6.7 Personal Information - If a formal Access to Information application is made for personal information about the applicant (the applicant being an individual), the first 20 hours of processing time for the application is free (statutory requirement).

6.8 A processing charge must not be discounted under financial hardship or special public benefit by more than 50% even if both apply.

7 DISCLOSURE LOG

7.1 As required by the GIPA Act, Council must keep and maintain a disclosure log which is to record all formal access applications made to Council that Council decides to provide access to if the information is information that Council considers may be of interest to other members of the public.

7.2 The disclosure log must include the date the application was decided, a description of the information to which access was provided in response to the application and a statement as to whether any of the information is now available from the agency to other members of the public and (if it is) how it can be accessed.

8 AGENCY INFORMATION GUIDE

8.1 Under the GIPA Act, Council is required to have an Agency Information Guide which must include information about Council, its structure, functions, policies and detail Council information that is made publicly available.

8.2 This needs to be developed within 6 months of the commencement of the Act

and reviewed and adopted at least every twelve months. Council must notify the Information Commissioner before adopting or amending its Agency Information Guide. Council's Agency Information Guide is accessible on Council's website.

9 CONTRACTS REGISTER

9.1 Council is required to maintain a Government Contracts Register for any Contract with a value of \$150,000 (including GST) or more. Information that is to be entered in the government contracts register is set out in Annexure "B".

10 OFFENCES

10.1 There are individual and Council offences for any decisions made that are contrary to the GIPA.

10.2 Penalties may be imposed if Council employees are proven to act unlawfully, conduct direct unlawful action, improperly influence a decision of the decision maker, misled or deceive, conceal or destroy information.

10.3 Each offence is currently charged at 100 penalty points.

11 ANNEXURE A

Open Access Information

11.1 The following government information held by Council is Council's **open access information** as listed under Section 18 of the GIPA Act that is required to be made publicly available by Council under Section 6 of the GIPA Act (Mandatory proactive release of certain government information):

- a) Council's Information Guide
- b) Information about Council contained in any document tabled in Parliament by or on behalf of Council, other than any document tabled by order of either House of Parliament
- c) Council's Disclosure Log of Access Applications (Division 4 of the GIPA Act)



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- d) Council's Register of government contracts (Division 5 of the GIPA Act)
- e) Council's record (kept under Section 6 of the GIPA Act) of the open access information (if any) that it does not make publicly available on the basis of an overriding public interest against disclosure.
- f) Such other government information as may be prescribed by the regulations as open access information.
- c) 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
- d) Departmental representative reports presented at a meeting of Council in accordance with section 433 of the LGA.

- 11.2 The following government information held by Council is prescribed by the GIPA Act Regulations (Schedule 1) as Additional open access information:

Information about Council

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 Council any codes referred to in the LGA
- j) any codes referred to in the LGA.

- 11.3 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 Council or any committee of Council (but not including business papers for matters considered when part of a meeting is closed to the public)

- 11.4 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.

Plans and Policies

- 11.5 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 Council 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 Council's area.

Information about Development Applications

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



All policies can be reviewed or revoked by a resolution of Council, at any time.

- 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 made on or after 1 July 2010 on development applications (including decisions made on appeal)

- c) a record that describes the general nature of the documents that Council decides are excluded from the operation of this clause by 11.7.

11.7 This clause does not apply to so much of the information referred to in subclause 11.6(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.
- 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.

Approvals, orders and other documents

11.8 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.
- j) Performance improvement orders issued to council under Part 6 of Chapter 13 of the LGA

12 ANNEXURE B

Register of Government Contracts valued at \$150,000 or more

Class 1 Contracts

12.1 The following information about a class 1 contract is to be entered in the government contracts register:

- a) the name and business address of the contractor
- b) particulars of any related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) in respect of the contractor, or any other private sector



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- entity in which the contractor has an interest, that will be involved in carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract
- c) the date on which the contract became effective and the duration of the contract
- d) particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract
- e) the estimated amount payable to the contractor under the contract
- f) a description of any provisions under which the amount payable to the contractor may be varied
- g) a description of any provisions with respect to the renegotiation of the contract
- h) in the case of a contract arising from a tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed
- i) a description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services.
- c) the obligations of one or more parties under the contract to maintain or operate infrastructure or assets could continue for 10 years or more
- d) the contract involves a privately financed project as defined by guidelines published by the Treasury (as in force from time to time)
- e) the contract involves a transfer of a significant asset of the agency concerned to another party to the contract in exchange for the transfer of an asset to the agency.

Class 2 Contracts

12.2 Additional information is required to be entered in the government contracts register for Class 1 Contracts to which any of the following paragraphs apply (class 2 contracts):

- a) there has not been a tender process, the proposed contract has not been made publicly available and the terms and conditions of the contract have been negotiated directly with the contractor
- b) the proposed contract (whether or not made publicly available) has been the subject of a tendering process and the terms and conditions of the contract have been substantially negotiated with the successful tenderer

12.3 The additional information required to be entered in the register for Class 2 Contracts is as follows:

- a) particulars of future transfers of significant assets to the State at zero, or nominal, cost to the State, including the date of their proposed transfer
- b) particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer
- c) the results of any cost-benefit analysis of the contract conducted by the agency
- d) the components and quantum of the public sector comparator if used
- e) if relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges)
- f) if relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved
- g) particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan



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- agreements entered into or proposed to be entered into
- h) particulars of any other key elements of the contract.

Class 3 Contracts

- 12.4 If a Class 2 Contract has (or is likely to have) a value of \$5 million or more (a Class 3 Contract), the register must include a copy of the class 3 Contract.

13 ANNEXURE C

- 13.1 Informal Information Request Application form as attached to this policy and updated when necessary.
- 13.2 Formal Access Application form as attached to this policy and updated when necessary.



ST16 – Strategic Policy – Access to Information held by Council		
Review Due: November 2024	Version 1_22	Last Revision: 17 March 2020
Approved By:	Minute Number:	Approval Date:

Information Request

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 ("GIPA")



Use this form to apply for informal access to Council held information under the GIPA Act. If you need help completing this form, please contact Council's Right to Information Officer on 6393 8000 or email council@orange.nsw.gov.au

PART 1: APPLICANT DETAILS

☐ Property Owner ☐ Purchaser of property ☐ Solicitor/Conveyancer for vendor ☐ Solicitor/Conveyancer for purchaser

☐ Other:

Name

Title

Company (if applicable)

Postal address

Contact Number

Email address

PART 2: INFORMATION REQUESTED

Please describe the information you seek. If you do not provide sufficient detail, Council may not be able to process your application.

To assist Council with processing your application, please indicate why you want this information:

What historical date do you wish Council to commence search for the information:

Start date:

End date:

PART 3: PROPERTY DETAILS

Street number

Street name

Lot No. (if known)

Section No. (if known)

DP/SP No. (if known)

PART 4: FORM OF ACCESS

☐ Inspect documents ☐ Email ☐ Photocopy (Photocopying fees payable as per Council's fees & Charges. Consent and Copyright conditions may apply - see Part 5)

PART 5: PROOF OF IDENTITY/PROPERTY OWNER'S CONSENT/COPYRIGHT OWNER'S CONSENT

Personal Information: An applicant must provide proof of identity in the form of a certified copy of any one of the following documents if seeking access to their personal information or access to all their property related files:

☐ Current Australian Driver's Licence

☐ Passport

☐ Other:

Non Open-Access Information: Access to property information not listed as "Open Access" information under the GIPA Act (refer to Council's Access to Information Policy and Agency Information Guide available on Council's website) including internal residential floor plans will require the property owner's written consent, together with a certified copy of property owner's proof of identity or an official letter from the property owner's legal representative authorising consent.

☐ Property owner's written consent attached, together with certified copy property owner's identity

☐ Property owner's legal representative official letter authorising consent

COPYRIGHT Access to copyrighted documents will be granted by way of inspection only, unless the copyright owner's written consent is provided. Where authority is unable to be obtained or the architect/copyright owner is not able to be contacted, copies of copyright material will not be provided. Such documents include Plans and consultant reports submitted with a DA (please note this list is not definitive). If requested documents are subject to copyright, Council will provide you with the details of the copyright owner to assist you in obtaining copyright owner written consent.

PART 6: APPLICANT DECLARATION

- The information I have provided is complete and correct.
- I understand written permission is required before copies of documents can be provided as per above.
- I understand I may peruse records and take notes.
- I will observe any directions given to me while viewing records.
- I will not photograph, trace, write on or otherwise deface, damage or remove a record.
- I understand there are fees associated with obtaining copies of documents, either in hard copy or electronic format.
- I have read the Privacy & Personal Information Protection Notice (right).

Privacy & Personal Information Protection Notice

The personal information requested on this form is collected for the purpose of recording and processing this application and providing the information requested. Access is limited to use by Council employees and other authorised persons. Supply of the personal information is voluntary, but if you cannot, or do not wish to, provide the information sought, Council may not be able to process your application. You may make application for access or amendment to information held by Council. This document will be stored on Council's electronic Records Management Database and archives.

Signature

Date

STAFF USE ONLY

Receiving Officer:	Processing Officer:	Ident. docs sighted/copied (specify details):	
Date Received:	Date Completed:	File Reference:	PR number:
Outcome of request/action taken:	Property owner consent/identification attached:	Copyright owner consent details attached:	
	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	
Files:	Returned date:	Department <input type="checkbox"/> Records <input type="checkbox"/> Other	Details:
	Fee calculation	CASHIERS	RECEIPT TYPE: 100 Plans: 01.00502.0072.1501 Other: 01.00201.0072.2500 Ref: Informal GIPA fee
Date	Copying/scanning fees:	Receipt number:	Cashier:

FORMAL

Access application

GOVERNMENT INFORMATION
(PUBLIC ACCESS) ACT 2009 ("GIPA")

Use this form to apply for **formal access** to Council held information under the GIPA Act. If you need help completing this form, please contact Council's Right to Information Officer on 6393 8000 or email council@orange.nsw.gov.au

PART 1: APPLICANT DETAILS

Name

Title

Company (if applicable)

Postal address

Contact Number

Email address

PART 2: INFORMATION REQUESTED

Please describe the information you seek. If you do not provide sufficient detail, Council may not be able to process your application.

To assist Council with processing your application, please indicate why you want this information:

What historical date do you wish Council to commence search for the information:

Start date:

End date:

PART 3: PROPERTY DETAILS - IF APPLICABLE

Street number

Street name

Lot No. (if known)

Section No. (if known)

DP/SP No. (if known)

☐ Owner☐ Purchaser of property☐ Solicitor/Conveyancer☐ Other:

PART 4: FORM OF ACCESS

☐ Inspect document ☐ Copy of documents ☐ other:

PART 5: 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:

☐ Current Australian Driver's Licence ☐ Passport ☐ Other:

PART 6: 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 the release of your name?**

☐ Yes ☐ No

PART 7: 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" (s.25 GIPA Act) This is published on Council's website.** The information recorded is the date the application is decided, a general description of the information to which access is provided in response to the application and a statement as to whether any of the information is now available from Council other members of the public and (if it is) how it can be accessed. **Do you object to release of information about this application?**

☐ Yes ☐ No

PART 8: APPLICATION FEE, PROCESSING CHARGES AND TIME-FRAMES

\$30.00 application fee to be paid:

☐ In person (cash/cheque/ money order/credit card) ☐ By mail (cheque/money order only) Note: do NOT send cash by post ☐ By telephone (credit card only - processing surcharge may apply) Note: we will call you once the application has been received to arrange payment)

- A **\$30 per hour processing charge** will apply in processing your application.
- You will be supplied with an estimate of processing charges prior to processing of your application.
- You may be required to pay an advance deposit (s.68 GIPA Act)
- You may apply for a reduction of the processing charge under the following categories, but you will be required to provide supporting documentation.

If you wish to apply for a discount, please indicate the reason:

- ☐ Personal information (first 20 hours of processing time is free - proof of identity required)
- ☐ Financial hardship (50% reduction - certified copy Pension or Centrelink Card required)
- ☐ Full-time student (50% reduction - proof required)
- ☐ Non-profit organisation (50% reduction - proof required)
- ☐ Special benefit to the public (50% reduction) Please specify why below. Council will consider if such reasons substantiate that the information requested would better inform the public about government and/or concerns a public issue which would be of special benefit or special interest to the public generally.

PROCESSING TIMES Under "Formal Access" Council must give you notice of its decision within 20 working days, although this time may be extended by 10-15 working days where consultation with a third party is required or to retrieve information from archives. Under "Formal Access" you have a right of review of Council's decision of whether or not to provide the information requested.

PART 9: APPLICANT DECLARATION

- The information I have provided is complete and correct.
- Where applicable, I have attached documents required for the purpose of this application (eg evidence of identity, evidence of financial hardship re processing charges).
- I have included the relevant application fee.
- I understand that I may be required to pay processing charges and an advance deposit in respect of this request and that I will be supplied with an estimate of charges prior to processing if appropriate.
- I understand it is an offence to give misleading information about my identity, and doing so may result in a decision to refuse to process my application.
- I have read the Privacy & Personal Information Protection Notice (right).

Privacy & Personal Information Protection Notice

The personal information requested on this form is collected for the purpose of recording and processing this application and providing the information requested. Access is limited to use by Council employees and other authorised persons. Supply of the personal information is voluntary, but if you cannot, or do not wish to, provide the information sought, Council may not be able to process your application. You may make application for access or amendment to information held by Council. This document will be stored on Council's electronic Records Management Database and archives.

Signature

Date

LODGMET

Once completed, this form can be returned to Orange City Council via:

- **POST**
PO Box 35 Orange, NSW, 2800
- **EMAIL**
council@orange.nsw.gov.au
- **IN PERSON**
135 Byng Street Orange, NSW, 2800

STAFF USE ONLY		RECEIPT TYPE: 85	NO: 01.201.72.2500	(GST FREE)
Ref: GIPA Application fee	Date	Receipt number:		Cashier:
\$				
Ref: GIPA Advance deposit	Date	Receipt number:		Cashier:
\$				
Ref: GIPA Processing fee	Date	Receipt number:		Cashier:
\$				



Strategic Policy ST21

Child Safe

FOR EXHIBITION

PO Box 35, Orange
NSW 2800 Australia

135 Byng Street, Orange
NSW 2800 Australia

P: +61 2 6393 8000
F: +61 2 6393 8199

council@orange.nsw.gov.au
www.orange.nsw.gov.au



All policies can be reviewed or revoked by a resolution of Council, at any time.

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FOR EXHIBITION



All policies can be reviewed or revoked by a resolution of Council, at any time.

1 OVERVIEW

Commitment

1.1 As a Child Safe organisation we create cultures, adopt strategies and act to prevent harm to children. Systematically we:

- Create conditions to reduce the likelihood of children being harmed
- Creates conditions that increase the likelihood of identifying and reporting harm
- Respond appropriately to disclosures, allegations and suspicions of harm.

Purpose

The objectives of this policy to:

- 1.2 Provide child safe environments for children and young people whilst on Council premises and using Council services.
- 1.3 To promote the health, safety, welfare and wellbeing of children and young people.
- 1.4 Adopts the Child Safe Standards.
- 1.5 Compile and implement best practice approaches to child protection and adhere to NSW child protection legislation.
- 1.6 Clarify and identify professional and legal obligations of Council and their employees in relation to child protection.
- 1.7 Implement clear procedures for prompt and confidential processes for any allegations against employees, volunteers, students and contractors/suppliers.
- 1.8 Implement clear procedure and guidelines relating to mandatory reporting obligations.
- 1.9 To outline and clarify the process when an employee brings their child/ren into the workplace.

Applicability

- 1.10 This policy applies to all Council employees, Councillors, (elected members), contractors, apprentices, work experience participants, Family Day Care Educators, volunteers and facility hirers and leases.

2 STANDARDS

2.1 This policy and associated procedures are designed to assist with Council's commitment to meeting the *Child Safe Standards* identified by the Royal Commission (2017), that is:

- a) Child safety is embedded in institutional leadership, governance and culture.
- b) Children participate in decisions affecting them and are taken seriously.
- c) Families and communities are informed and involved.
- d) Equity is upheld and diverse needs are taken into account.
- e) People working with children are suitable and supported.
- f) Processes to respond to complaints of child sexual abuse are child focused.
- g) Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
- h) Physical and online environments minimise the opportunity for abuse to occur.
- i) Implementation of the Child Safe Standards is continuously reviewed and improved.
- j) Policies and procedures document how the institution is child safe.

3 GUIDELINES

- 3.1 Council's Operational Policy – Child Safe outlines detailed guidelines and instructions, however, the following overarching policy provisions apply.

Children's Participation

- 3.2 Council supports the active participation of children in the programs, activities and services we offer. We provide a range of ways to allow children to provide feedback or raise concerns. We listen to their views, respect what they say and involve them when we make decisions, especially about matters that will directly affect them.



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Use of Council Facilities

- 3.3 All children **UNDER 12** must be accompanied by a guardian or parent whilst utilising a Council facility (i.e. Aquatic Centre, Gallery, Museum and Libraries). However, this excludes child care services and activity programs that are specifically designed for children.

Activity Programs

- 3.4 All Council activity programs for children, where the child is not accompanied by a guardian or parent, will require the parents to complete an enrolment form that will include the following information:
- Relevant medical, health and dietary information
 - Authorisation of whether or not pictures can be taken of their child
 - Clear instructions on who is authorised to pick up and drop off their child as well as contact details.
- 3.5 If an enrolment form is not completed, this may limit the ability of Council to accept the enrolment.

Recruitment

- 3.6 Orange City Council has implemented a risk based approach on all pre-employment screening checks as part of the Recruitment and Selection Policy and Procedure.
- 3.7 The risk based approach has the level of risk identified and the requirements for when a Criminal Records Check and Working with Children Checks need to be completed.
- 3.8 All employees of Orange City Council are required to have a basic identity check and any additional requirements (such as a Criminal Records Check and Working with Children Check) are listed within their Position Descriptions and within the Job Advertisement.
- 3.9 If any concerns are highlighted as part of the employment screening process, People & Culture will consider the information in consultation with the Hiring Manager.

- 3.10 Volunteers, work experience students and contractors in designated areas are responsible for maintaining their own Working with Children Checks and providing it as part of their screening processes prior to their applications being accepted by Council.

Complaints Management and Reporting

- 3.11 All complaints from children, parents or members of the public will be managed in accordance with Council's Complaint Management Policy and Council's operational procedures.
- 3.12 Designated Child Safety Officers will be identified and trained to support the workforce with compliance to this Policy, and guide, monitor and review the Council processes.

Training and Support

- 3.13 Employees are provided with both online and face to face training on child safe practices. The level of training provided will depending on the position.
- 3.14 Workers are encouraged to ask questions and contribute to the continuous improvement of child safe policies, procedures and practices in the workplace.
- 3.15 We promote respect, fairness and consideration for all workers.
- 3.16 This policy and procedure will be available online so that it is accessible to employees and the public.

Communication

- 3.17 We will hold regular information sessions to promote child safe practices.
- 3.18 Our policy will be provided during induction to all employees.
- 3.19 Kids and parents joining our program/s will receive have access to a copy of this policy.

Records

- 3.20 All records are to be accurately maintained and stored in accordance with Council's Records Management Policy and Procedure.



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4 LEGAL CONSIDERATIONS

Children's Guardian Act 2019

- 4.1 This Act outlines that the Office of the Children's Guardian will be responsible for the Reportable Conduct Scheme. The scheme oversees how organisations investigate and report on certain conduct (known as 'reportable allegations' and 'reportable convictions') made against their employees, volunteers or certain contractors who provide services to children. This includes the need to notify the Office of the Children's Guardian within 7 days about any reportable allegations and a Final Entity Report must be provided to the Children's Guardian within 30 calendar days.

Children and Young Persons (Care and Protection) Act 1998

- 4.2 Under this Act, there is a mandatory reporting requirement for any Council employee who delivers health care, welfare, education, children's services, residential services or law enforcement, wholly or in part to children and has reasonable grounds to suspect that a child is "at risk of harm" to report, as soon as practicable a description of the child and the grounds for suspecting that the child is "at risk of harm" to the NSW Department of Community Services (DoCS). For the purposes of this Act a child is a 'person who is under the age of 16 years' and a young person is a 'person who is aged 16 years or above who is under the age of 18 years'.

Child Protection (Working with Children) Act 2012

- 4.3 Under this Act, Council must organise "Working With Children Checks" for all prospective staff who are looking to be employed in child related employment and have these checks screened by an approved screening agency. The key agency for this Act is the NSW Office of the Children's Guardian (the Guardian). For the purpose of this Act a child means 'a person who is under the age of 18'.

Ombudsman Act 1974

- 4.4 This Act requires heads of agencies to report to the NSW Ombudsman, within 30 days of becoming aware, any reportable allegations or convictions against employees. Heads of agencies are also required to conduct investigations into reportable allegations or convictions, including allegations which are exempted from notification and to take appropriate action as a result.

5 PROCEDURE

A procedure is available outlining Council's guidelines and processes that are required to be followed in order to meet the objectives of this policy.

ST21 – Strategic Policy – Child Safe		
Review Due: November 2024	Version 1_22	Last Revision: 15 December 2020
Approved By:	Minute Number:	Approval Date: