

ACCESS TO INFORMATION

FREQUENTLY ASKED QUESTIONS (FAQ)

E-mail address: Council@Lithgow.nsw.gov.au

A. PUBLIC ACCESS TO DOCUMENTS AND FILES

Q1. How do I get access to Councils documents and files?

A1. Fill out one of the following two forms:

1) Access Application Form: GIPA Act 2009 (Government Information Public Access Act 2009 (must be accompanied by a \$40.00 fee)

2) Informal Access Request Form

and submit to Lithgow City Council 180 Mort St, Lithgow NSW 2790 or mail PO Box 19 Lithgow NSW 2790, or fax (02) 63514259, e-mail or to Council@Lithgow.nsw.gov.au.

Q2. Where do I obtain a Document Access Request form?

A2. You can obtain a form on Councils website or alternatively, at Council's Administration Centre and ask for an Information Access Form.

Q3. What if I want to access a document that is not listed on the form?

A3. Obtain a Document Access Request Form and write a description of the document/s. If you have questions about the form, forward an e-mail to Council or phone 63549999.

Q4. How long will it take to obtain documents or access files?

A4. Depending on the way a document is requested it may take up to 20 working days. Informal access to information will normally only take 10 working days but formal access could take up to 20 days and if consultation with a third party is required, a further 10 to 15 working days extension is allowed.

Some documents may be archived and are not readily available.

Q5. What fees will I have to pay with my Document Access Request?

A5. Informal Access to Documents:

In accordance with the provisions of *Section 18 of the Government Information Public Access Act 2009*, there are no fees for accessing Informal documents unless photocopying is excessive and then reasonable costs will apply as per Councils Schedule of Fees and charges.

Formal Access to Documents:

In accordance with the provisions of *Section 18 of the Government Information Public Access Act 2009*, there is a fee payable of \$30.00 per application and if photocopying is excessive and then reasonable costs will apply as per Councils Schedule of Fees and charges.

Q6. How can I speed up my request?

A6. Phone Council's general enquiries number on (02) 63549999 and find out which officer is dealing with the Document Access Request. A call to the officer may speed up your request but please be advised that some files may be archived and delays may occur to obtain them.

B. PUBLIC ACCESS TO DOCUMENTS AND FILES – HOW OLD?

Q7. How do I view or obtain a copy of building plans?

- A7 . (i) If the building was built **over 7 years ago**, you will need proof of ownership or a letter of consent from the owner, and may be obtained by completing an information access application.
- (ii) If your building was built **in the last 7 years**, you require owners' consent and you should complete a Document Access Request form.
- (iii) Due to the size of the many plans they many only be available for viewing at Councils Administration Centre 180 Mort St Lithgow.

C. PUBLIC ACCESS TO DOCUMENTS AND FILES – AVAILABILITY

Q8. What documents can I view?

A8. The types of documents that are available and may be copied under *Schedule 1 Part 2 Section 1 (1) of the Government Information Public Access Regulation 2009* may include, but are not limited to:

- Management Plans;
- Development Applications and associated documents;
- Council's Business Papers;
- Councils Minutes;
- Annual Reports;
- Council Policies;
- Government Information Public Access Act Disclosure Log;
- Public Registers.

Some of the abovementioned information is also available on the Council website at www.council@lithgow.nsw.gov.au

Some documents are available to be viewed but, under State legislation, cannot be copied. These include:

- building certificates (without building owner's consent)
- plans of buildings and developments, unless the copyright owner approves or unless part of a development application (see copyright exemption in *Section 57 of the Environmental Planning and Assessment Regulation 2000*, during

Development Application notification period)

Schedule 1 Part 2 Section 3 (1) of the Government Information Public Access Regulation 2009 allows inspection of documents in addition to those referred to above unless inspection is deemed by Council to be contrary to the public interest or a restriction applies as listed below.

Other documents available for view and copy under this clause may include but are not limited to:

- Home owner warranty insurance documents;
- Building essential certification documents;
- Construction certificates;
- Occupation certificates,
- Town Planners (DA) reports;
- DA submission letters (with limitations on personal information where submitter requests confidentiality on the basis of personal safety),
- Complaints, with the personal details of the complainant masked;
- Structural certification documents;
- Heritage Consultants' Reports;
- Tree Inspection Consultants' Reports;
- Acoustics Consultants' Reports;
- Land Contamination Consultants Reports.

The following documents are protected by copyright and while viewing access is available, copies will require copyright owners consent:

- Plans associated with development applications and/or construction certificates (other than residential configuration).

Copies of documents provided to members of the public are given for information purposes only and are provided by Council to meet its requirements under relevant legislation. **Copyright laws still apply to each document.** Copyright owner's consent is required if any part of the document is used for any other purpose.

Q9. What documents will be withheld?

A9. Under relevant legislation, access to some documents and information held by Council may be restricted if the document or part thereof, contains the following types of information:

- trade secrets
- a matter the disclosure of which may:
 - be contrary to law, or

- give rise to action for breach of confidence
- that part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA.
- documents which were submitted to, or are to be submitted to a 'Closed Session' of a Council or Committee Meeting (If some time has passed since it was considered in Confidential Session or the reason for confidentiality no longer exists then the document/s may be released).

Schedule 1 Part 2 Section 3 (2) Government Information Public Access Regulation 2009 restricts access to internal configuration of residential developments but allows access to the height and external configuration of a building and other plans such as shadow diagrams and landscape plans.

A standard clause has been included on all Development Application forms from March 2006, whereby some applicants have given permission for Council to allow full public access to copies of plans.

D. PUBLIC ACCESS TO DOCUMENTS AND FILES – FORMAL INFORMATION ACCESS APPLICATIONS (GIPA ACT)

Q10. What documents will require lodgement of a Formal Information Access Application?

A10. Public access to the following documents may be available after lodgement of a Formal Information Access application (and may require third party consultation):

- Legal advice;
- Personnel (individual staff) matters;
- Complainants details;
- Individuals details on DA submissions where they claim personal safety issues;
- Council Lease documents;
- Successful Council Contracts;
- Successful Council Tenders;
- Insurance claims.

Note that legal advice may be subject to legal professional privilege, that is, if it is advice from Council's legal advisers relating to pending or threatened legal action by or against Council. If so, it is not normally available to be either inspected or copied.

Q11. How can I apply to see the documents listed in Q13?

A11. You will need to complete a Formal Information Access Application form and pay the \$30.00 application fee. In some cases an Advance Deposit may be requested, where the work required to produce the documents will take many hours.

Q12. How do I obtain a Formal Information Access application form?

A12. You may obtain a form by attending Council's Administration Centre or downloading from our website..

Q13. How long will my Formal Information Access application take to process?

A13. Formal Information Access applications are required by law to be completed in 20 working days. If consultation with a third party is required, a further 10 to 15 working days extension is allowed. You will receive a formal determination letter with your requested documents or reasons why a document has been withheld.

Q14. If I am not satisfied with the documents I have been given or with the fees I have been charged, can I appeal against the Right to Information Officer's determination?

A14. Yes, you can appeal against the determination by completing a Request for Review Application and paying a \$40.00 review fee. This form together with any supporting documentation shall be forwarded to Council's General Manager to review the Right to Information Officer's determination.

Within 15 working days, you will receive a formal response letter with your requested documents or further explanation why the documents have been withheld.

Q15. What can I do if I am not satisfied with the determination of the General Manager?

A15. You may appeal to either the NSW Information Commissioner or the Administrative Decisions Tribunal. (Right to Information legislation only allows appeal to these bodies, if you have made an initial Formal Information Access application and sought a request for review of determination).

E. PUBLIC ACCESS TO OTHER INFORMATION – OTHER MATTERS?

Q16. How can I obtain a property owners name and address?

A16. Council will release owners' details, if the owner is a business or corporation but does not release individual's details due to privacy constraints unless it is an adjoining owner for a matter in relation to fencing.

If the owner is an individual, you should apply for ownership information at the Land Titles Office in Orange.

Q17. What Council registers may I view?

A17. The following registers maintained by Council are available for public inspection, as required by law.

Register of Development Applications;

Register of Building Certificates;

Register of Development Consents;

Register of Construction Certificates;

Register of Complying Development Certificates;

Register of Subdivision Certificates;

Register of Council Land;

Register of Pecuniary Interests;

Delegations Register;

Roll of Occupiers & Rate paying Lessees;

Non Residential Roll;

Pollution Control Notices;

Register of Skin Penetration Premises;

GIPAA Disclosure Log;

Returns of interests of Councillors and designated persons.

In the case of any register that contains personal or health information Council reserves the right to satisfy itself that access by any person is for a purpose consistent with the purpose for which the register was created.