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| Title: | Elected Members Access to Council Information |
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| 2 | 21\3873 | 27/10/2015 | Review Adopted |
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1 Policy Summary

Elected Members of City of Darwin need appropriate access to information in order to carry out their role as described in Section 35 of the Northern Territory Local Government Act (NT LGA):

- to represent the interests of residents and ratepayers
- to provide leadership and guidance
- to facilitate communication
- to participate in council deliberations
- to ensure that council acts honestly, efficiently and appropriately

This policy establishes the protocols to be followed to enable Elected Members to gain access to information through appropriate channels.

2 Policy Objectives

The objectives of this policy are to:

- Provide a standard approach by which Elected Members can access council information.
- Ensure timely access for Elected Members to all documents required by them to undertake their statutory responsibilities pursuant to the NT Local Government Act and other Acts.
- Complement the provisions of the NT Local Government Act.

3 Background

From time to time Elected Members seek access to Council information. Not all Council information is accessible to some or all Elected Members for reasons of privacy, confidentiality, legal restraint or conflict of interest. A lack of a documented policy has the potential to cause inconsistencies in the way that requests for information are processed.

4 Policy Statement

1. Access to Information

Elected Members access to information

- 1.1 The Chief Executive Officer must provide Elected Members with sufficient information to enable them to carry out their role. Elected Members have a right to inspect any record of the Council provided that it is relevant to the exercising of the Elected Member's responsibility in his or her civic office and is not subject to privacy, confidentiality or legal restraint.
- 1.2 Elected Members can also request access to other documents of the Council either by a request to the relevant General Manager or Chief Executive Officer, Notice of Motion to the Council, a Freedom of Information application or a Section 200 request for access to information. Staff will expedite access to the requested document providing the request is in accordance with 1.1. Any recommendation to deny access will be referred to the Chief Executive Officer.
- 1.3 Elected Members shall have access to office productivity tools in the computer system to assist in word processing, email, internet, etc, but does not include access to Council records databases.

Subject to the establishment of appropriate internal controls and IT security and functionality, every effort will be made to provide an appropriate level of electronic access to enable Elected Members to carry out their role. Privacy, confidentiality or legal restraint reasons prevent unrestricted Elected Member electronic access to Council information.
- 1.4 Elected Members who have a personal or pecuniary interest in a document of Council have the same rights of access as any other person as stipulated by the Code of Conduct.
- 1.5 Information sought by and provided to an Elected Member in relation to an item to be considered at a council or committee meeting will be distributed to all Elected Members irrespective of whether the original request was marked private or confidential.

- 1.6 Elected Members who have a private interest (as distinct from their role as an Elected Member) in information have the same rights of access as any member of the public (Refer to Section 200 of the NT Local Government Act and the Information Act).
- 1.7 Access will be provided to documents and files necessary for the Lord Mayoral role. This includes files relevant to correspondence received directly by the Lord Mayor and is subject to the same viewing rules as an Elected Member. The Lord Mayor is subject to the same requirements of access as other Elected Members.

2. Use of Information

- 2.1 It is recognised that Elected Members have a role both as a member of the governing body of the Council and as an elected person. While it is desirable in the public interest to maintain open government, not all information available to Elected Members is available to members of the public.
- 2.2 Elected Members are made privy to information of a confidential nature, the disclosure of which is specifically prohibited. The right of Elected Members to have access to records is for the purpose of exercising the office of Elected Member. It does not carry with it the right to disclose any information obtained by an Elected Member to another person, unless it is already in the public domain. An Elected Member has no authority to release documents on behalf of Council.
- 2.3 In regard to information obtained in the Elected Member's role, the Elected Member must:
 - a) only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for themselves, or any other person or body, from any information to which they have by virtue of their role with council
 - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation
 - e) protect confidential information and not disclose any information discussed or viewed during a confidential session of a council meeting
 - f) only release confidential information if the Elected Member has authority to do so
 - g) only use confidential information for the purpose it is intended to be used
 - h) not use confidential information gained through the Elected Member's role for the purpose of securing a private benefit for the Elected Member or for any other person
 - i) not use confidential information with the intention to cause harm or detriment to council or any other person or body

- 2.4 The Lord Mayor shall not cause the by-passing of general access provisions by providing information to Elected Member made available through the Lord Mayoral role.
- 2.5 Elected Members shall not cause the by-passing of provisions from the Information Act by providing information to a member of the public made available to Elected Members as an elected representative.

3. Refusal of Access to Information

- 3.1 Where the Chief Executive Officer determines to refuse access to information sought by an Elected Member, the Chief Executive Officer must act reasonably. In reaching this decision, the Chief Executive Officer must take into account whether or not the document sought is required for the Elected Member to perform their role. The Chief Executive Officer must, in writing, state the reasons for the decision if access is refused.
- 3.2 If the Chief Executive Officer decides that access to a document or other information held by the Council should not be given to an Elected Member, and the matter is not a Section 200 request, then the Elected Member has a number of options:
- Take no further action;
 - Seek a review by the Chief Executive Officer;
 - Seek Council support for the requested access by lodging a Notice of Motion;
 - Lodge an Information Act application.
- 3.3 If the Council passes a motion for the production of a Council record, then the Chief Executive Officer must allow such access and the request is carried out.

4 Legislation, terminology and references

Section 200 of the NT LGA 2008 provides provisions for the information that is required to be publicly available on council's website and at council's public office:

- (a) a draft regional management plan for the region in which the council's region is situated and the notice inviting written representations (See section 19(3));
- (b) the regional management plan for the region in which the council's area is situated (See section 21(2));
- (c) the council's draft and final municipal or shire plans (sections 22(3) and 24(2));
- (d) the constitution of a local government subsidiary for which the council is a constituent council (See section 29);

- (e) the notices and minutes of meetings of the council, local boards, council committees and electors (See sections 59(4) and 63(3));
- (f) a statement of the level of allowances and expenses to be paid to members under this Act (See sections 71 and 72);
- (g) the register of members' interests (See section 74(2));
- (h) the council's code of conduct (See section 77(3));
- (i) an approved rating proposal (See section 142(6));
- (j) notice of the declaration of rates (and charges) for the current financial year (See section 158(1));
- (k) notice of the council's intention to sell land, by auction, for non-payment of rates (See section 175(3));
- (l) notice of the council's assumption of the care, control and management of land (See section 179(4));
- (m) notice of an application by the council to the Supreme Court for variation of a trust (See section 181(4)) and notice of an order made on such an application (See section 181(6));
- (n) notice of a proposed by-law the council intends to make (See section 190(1));
- (o) the register of by-laws (See section 192(3));
- (p) the council's annual reports (See section 199(4));
- (q) a list setting out each category of reviewable decisions (See section 227(2)).