

**FILE NO:** PSC2005-1592

**TITLE:** PUBLIC ACCESS TO STATE RECORDS AFTER 20 YEARS

**OWNER:** ORGANISATION SUPPORT SECTION MANAGER

**1. PURPOSE:**

1.1 This policy allows for the public to have greater access to State records older than 20 years. This means the public may not be required to request these records through a Government Information (Public Access) request.

**2. CONTEXT/BACKGROUND:**

2.1 The State Records Act 1998 (the 'Act') promotes the principles of accountability and access by requiring public office(s), including local government councils, to create full and accurate records of their business and administrative transactions, and ensuring that records of significant value are preserved. Councils will ensure that all records of continuing value are considered for public access in due course and in accordance with the Attorney General's 'Guidelines on Making Access Directions under Part 6 of the State Records Act 1998'.

**3. SCOPE:**

3.1 This policy relates to all person(s) who request either personal information or a record from Port Stephens Council that is deemed older than 20 years. A record is taken to be 20 years old, when 20 years have elapsed since it came into existence or since the original record of which it is a copy came into existence.

3.2 Council must ensure that State records for which it is responsible, that are in the open access period, are the subject of an access direction(s). This can be either an open to public access (OPA) direction or a closed to public access (CPA) direction.

3.3 The fact that a record is not open to public access under the Act does not affect any entitlement to obtain access to information contained in the record under the Government Information (Public Access) Act 2009.

**4. DEFINITIONS:**

4.1 An outline of the key definitions of terms included in the policy.

Access Direction	A closed to public access (CPA) direction or an open to public access (OPA) direction.
Disclose	Make information available and release or provide access to information.
Exercise	A function includes perform a duty.
Person	Includes an agency, the government or another jurisdiction (including a jurisdiction outside Australia) and an agency of the government of another jurisdiction.
Public Office	An office established or continued for a public purpose by or under the provisions of a legislative instrument.
Personal Information	Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.
Record	Information created, received and maintained as evidence and as an asset by an organisation or person, in pursuit of legal obligations or in the transaction of business.
OPA	Open to public access.
CPA	Closed to public access.

## 5. STATEMENT:

- 5.1 The policy is intended to outline the access provisions of the State Records Act 1998 and to explain the rights and obligations of Council and the public, under Part 6 of the Act.
- 5.2 Council's access directions are given to the Museum of History NSW (MH NSW) in writing in a form approved by MH NSW. Access directions are publicly accessible through a register published on the MH NSW website.
- 5.3 Assessment as to whether records should be open or closed to public access will be made on the basis of the known or likely contents of a series, group or class of records, not on an individual record basis.
- 5.4 A State record is deemed to be the subject of an OPA direction on the commencement of the records open access period, unless the record is already the subject of a CPA direction. Criteria for an OPA direction include public interest, whether similar records are already available, OPA precedents, appropriate elapse of time and whether the records are already public knowledge or are available elsewhere. An OPA direction will remain in force until it is revoked.

- 5.5 Criteria for a CPA direction includes whether information has been provided under an expectation of confidentiality, information protected under other legislation, culturally sensitive Indigenous information or would disclose secret or sacred Indigenous tradition, unreasonable disclosure of sensitive personal information, records that may jeopardise the future provision of information, safety and security. A CPA direction will remain in force for up to 5 years, unless revoked or renewed sooner. CPA directions will be reviewed every 5 years.
- 5.6 Application for access to records must be in writing to the Governance Section referencing Part 6 of the State Records Act 1998 and detailing the records to which access is required.
- 5.7 Council may impose a fee when being requested access to State records under Part 6 of the State Records Act 1998. Please refer to Council's Fees and Charges.
- 5.8 Council will notify applicants of its access decision on their requested record/s in writing.
- 5.9 A CPA direction does not affect an individual's entitlement to access a record under the Government Information (Public Access) Act 2009.

## **6. RESPONSIBILITIES:**

- 6.1 The Organisation Support Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

## **7. RELATED DOCUMENTS:**

- 7.1 State Records Act 1998 (Part 6).
- 7.2 Attorney General's Guidelines 'Making Access Directions under the State Records Act 1998'.
- 7.3 Government Information (Public Access) Act 2009.

## CONTROLLED DOCUMENT INFORMATION:

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<b>EDRMS container No.</b>	PSC2005-1592	<b>EDRMS record No.</b>	TBC
<b>Audience</b>	Port Stephens community and Council employees		
<b>Process owner</b>	Organisation Support Section Manager		
<b>Author</b>	Organisation Support Section Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	TBC
<b>Adoption date</b>	16 May 2000		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	16/5/2000	Information Services Coordinator		267
2.0	24/6/2003	Information Services Coordinator		245
3.0	24/7/2007	Information Services Coordinator		198
4.0	27/9/2011	Information Services Coordinator		344
5.0	14/10/2014	Information Services Coordinator		266

Version	Date	Author	Details	Minute No.
6.0	21/09/2016	Information Services Coordinator	<p>Definition of scope, namely what constitutes which documents are available under the State Records Act 1998 and the Government Information (Public Access) Act 2009 inserted.</p> <p>Scope to include legislative direction for access to records under 30 years old (Government Information (Public Access) Act 2009 inserted.</p> <p>The relevant legislation being State Records Act 1998 No 17 current version for 15 January 2016 inserted.</p> <p>Formatted in accordance with PSC Policy template released May 2016.</p> <p>Note: no change in legislation since policy last reviewed in 2014.</p>	
7.0	25/10/2016	Information Services Coordinator	Adopted by Council.	314
8.0	27/11/2018	Business Systems Support Section Manager	<p>No changes to Policy.</p> <p>Template updated to include numbering.</p> <p>Updated EDRMS reference number.</p>	160

Version	Date	Author	Details	Minute No.
9.0	27/10/2020	Organisation Support Section Manager	<p>The Public access to records after 30 years was reviewed and updated in the new template.</p> <p>Updated Policy Owner to Organisation Support Section Manager.</p> <p>4.1 – Updated Records definition to be in line with the Business Operating System.</p> <p>6.1 – Updated Information Services Coordinator to Senior Records Team Leader.</p> <p>Updated EDRMS reference number.</p>	223
10.0	23/08/2022	Organisation Support Section Manager	<p>6.1 – Deleted ‘Senior Records Team Leader’ and added ‘Organisation Support Section Manager’ to reflect current organisation structure.</p>	224

11.0	TBC	Organisation Support Section Manager	<p>Reviewed and updated into new template, grammatical amendment and the version control.</p> <p>Title – Inserted ‘State’, and deleted ‘30’ and replaced with ‘20’.</p> <p>1.1 Deleted ‘30’ and replaced with ‘20’. Deleted ‘are not’ and replaced with ‘may not be’.</p> <p>2.1 Inserted ‘(the ‘Act’)’. Deleted ‘sector’.</p> <p>3.1 Deleted ‘30’ and replaced with ‘20’.</p> <p>3.2 Inserted Council’s responsibility to establish access directions.</p> <p>3.3 Deleted ‘this’ replaced with ‘the’.</p> <p>4.1 Added definition for ‘Access Direction’.</p> <p>5.2 Inserted new clause relating to Council’s access directions and approval directions.</p> <p>5.4 Updated definition of how and when an OPA direction is established.</p> <p>5.5 Updated assessment criteria and renewal timeframes to reflect current Attorney General Guidelines.</p> <p>5.6 Added ‘to the Governance Section’ and ‘Part 6 of’. Deleted ‘specifying that access be requested under s.54 of’.</p> <p>5.7 Deleted ‘No fee will be payable for Public Access requests’.</p> <p>5.7 Inserted ‘Council may</p>	TBC
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Version	Date	Author	Details	Minute No.
			<p>impose a fee when being requested access to State records under Part 6 of the State Records Act 1998. Please refer to Council's Fees and Charges'.</p> <p>5.8 Deleted 'Documentation of Access Directions will contain sufficient detail to help meet Council's statutory obligations under the State Records Act 1998'.</p> <p>6.1 – Updated wording in responsibilities for consistency with the policy template.</p> <p>7.2 Added 'Attorney General's Guidelines 'Making Access Directions under the State Records Act 1998' to related documents.</p>	