



AGENCY INFORMATION GUIDE

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Government Information (Public Access) Act 2009

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1. STRUCTURE AND FUNCTIONS OF COUNCIL

1.1 Description

Upper Hunter Shire Council was proclaimed on 26 May 2004 following the amalgamation of Merriwa, Murrurundi and Scone Shires.

The Shire covers an area of 8,100 square kilometres and shares its boundary with Tamworth Regional Council, Gloucester Shire Council, Singleton Shire Council, Muswellbrook Shire Council, Mid-Western Regional Council, Warrumbungle Shire Council and Liverpool Plains Shire Council.



1.2 Basis of Constitution

Upper Hunter Shire Council is constituted under the Local Government Act 1993.

1.3 Organisational Structure and Resources

The Shire is an undivided area with 9 Councillors who are elected by the residents and ratepayers of the area.

The Mayor is elected each year by the Councillors from among their numbers.

The roles of Councillors, as members of the body corporate are:-

- to direct and control the affairs of the Council in accordance with the Local Government Act and other applicable legislation;
- to participate in the optimum allocation of Council's resources for the benefit of the area;
- to play a key role in the creation and review of Council's policies, objectives and criteria relating to the exercise of Council's regulatory functions;
- to review the performance of the Council and its delivery of services, management plans and revenue policies of the Council;

The roles of a Councillor, as an elected person:-

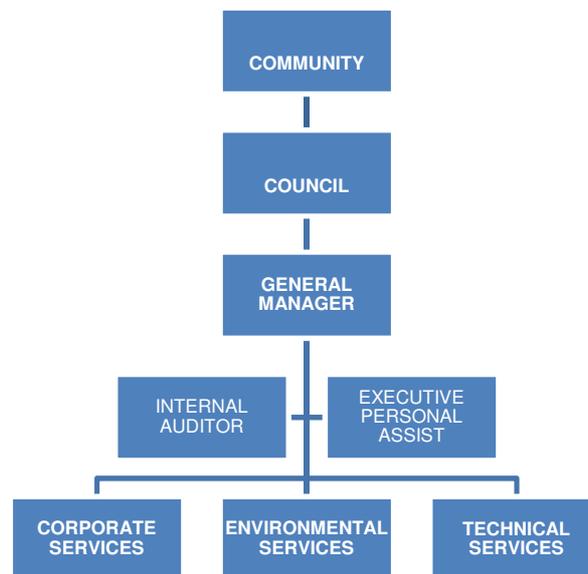
- to represent the interest of the residents and ratepayers;
- to provide leadership and guidance to the community;
- to facilitate communication between the community and the Council.

The Mayor presides at meetings of the Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body, between its meetings and performs any other functions that the Council determines.

The Principal Officer of the Council is the General Manager. The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of the Council, the exercise of any functions delegated by the Council, the appointment, direction and where necessary, the dismissal of staff, as well as the implementation of Council's Equal Employment Management Plan.

To assist the General Manager in the exercise of these functions, there are three (3) Directorates of Council. These Directorates are Corporate Services, Technical Services and Environmental Services. Each of these Departments is headed by a Director.

Upper Hunter Shire Council organisational structure



- | | | |
|-------------------------------|------------------------|--------------------------|
| ▪ Administration & Governance | ▪ Building Services | ▪ Engineering Operations |
| ▪ Business Development | ▪ Environmental Health | ▪ Civil Assets |
| ▪ Community Services | ▪ Landuse Planning | ▪ Technical Support |
| ▪ Finance and Administration | ▪ Compliance | ▪ Water/Waste |
| ▪ Office Services | | ▪ Water Development |
| ▪ Human Resources | | ▪ Plant Services |
| ▪ Information Systems | | |
| ▪ Tourism | | |

1.4 Function of Upper Hunter Shire Council

Under the Local Government Act, 1993, Council's functions can be grouped into the following categories:

A COUNCIL EXERCISES FUNCTIONS UNDER THE LOCAL GOVERNMENT ACT 1993

| SERVICE FUNCTIONS | REGULATORY FUNCTION | ANCILLARY FUNCTIONS | REVENUE FUNCTIONS | ADMIN FUNCTIONS | ENFORCEMENT FUNCTIONS |
|--|--|--|---|--|---|
| <p>Including:</p> <ul style="list-style-type: none"> ▪ Provision of community health, creation, education & information services ▪ Environmental protection ▪ Waste removal & disposal ▪ Land & property industry & tourism development & assistance ▪ Civil infrastructure planning ▪ Civil infrastructure maintenance & construction | <p>Including:</p> <ul style="list-style-type: none"> ▪ Approvals ▪ Orders ▪ Building certificates | <p>Including:</p> <ul style="list-style-type: none"> ▪ Resumption of land ▪ Powers of entry and inspection | <p>Including:</p> <ul style="list-style-type: none"> ▪ Rates ▪ Charges ▪ Fees ▪ Borrowings ▪ Investments | <p>Including:</p> <ul style="list-style-type: none"> ▪ Employment of staff ▪ Management plans ▪ Financial reporting ▪ Annual reports | <p>Including:</p> <ul style="list-style-type: none"> ▪ Proceedings for breaches of the Local Government Act & Regulations and other Acts & Regulations ▪ Prosecution of offences ▪ Recovery of rates and charges |

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

- Children and Young Persons (Care and Protection) Act 1998
- Community Land Development Act 1989
- Companion Animals Act 1998
- Contaminated Land Management Act 1997
- Conveyancing Act 1919
- Crown Lands Act 1989
- Environmental Planning & Assessment Act 1979
- Food Act 2003
- Government Information (Public Access Act 2009
- Heritage Act 1977
- Impounding Act 1993
- Independent Commission Against Corruption Act 1988
- Land Acquisition (Just Terms Compensation) Act 1991
- Library Act 1939
- Privacy & Personal Information Protection Act 1998
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Roads Act 1993
- Rural Fire Act 1997
- State Records Act 1998
- Swimming Pools Act 1992
- Workers Compensation Act 1987
- Workplace Health & Safety Act 2011

2. HOW COUNCIL FUNCTIONS AFFECT MEMBERS OF THE PUBLIC

As a service organisation, the majority of the activities of Upper Hunter Shire Council have an impact on the public. The following is an outline of how the broad functions of Council affect the public.

Service functions affect the public as Council provides services and facilities to the public. These include provision of human services such as aged care facilities, child care services and libraries, halls and community centres, recreation facilities, infrastructure and waste management.

Regulatory functions place restrictions on developments and buildings to ensure that they meet certain requirements affecting the amenity of the community and not endanger the lives and safety of any person. Members of the public must be aware of, and comply with, such regulations.

Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land. In these circumstances, only the owner of the property would be affected.

Revenue functions affect the public directly in that revenue from rates and other charges paid by the public is used to fund services and facilities provided to the community.

Administrative functions do not necessarily affect the public directly but have an indirect impact on the community through the efficiency and effectiveness of the service provided.

Enforcement functions only affect those members of the public who are in breach of certain legislation. This includes matters such as the non-payment of rates and charges, unregistered dogs and parking offences.

Community planning and development functions affect areas such as cultural development, social planning and community profile and involves:-

- advocating and planning for the needs of our community. This includes initiating partnerships; participating on regional, State or Commonwealth working parties; and preparation and implementation of the Community Plan;
- providing support to community and sporting organisations through provision of grants, training and information;
- facilitating opportunities for people to participate in the life of the community through the conduct or a range of community events such as NAIDOC Week, Youth Week, Children's Week, as well as promoting events of others.

3. HOW THE PUBLIC CAN PARTICIPATE IN COUNCIL'S DEVELOPMENT AND EXERCISING OF FUNCTIONS

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

3.1 Representation

Local Government in Australia is based on the principle of representative democracy. This means that the people elect representatives to their local Council to make decisions on their behalf. In New South Wales, local government elections are held every four years. Scheduled elections are to be held in September 2016, September 2020 and September 2024.

At each election, voters elect nine Councillors for a four year term. All residents of the area who are on the electoral roll are eligible to vote. Property owners who live outside of the area and ratepaying lessees can also vote, but must register their intention to vote on the non-residential roll. Voting is compulsory.

Residents are able to raise issues with, and make representations to, the elected Councillors. The Councillors, if they agree with the issue or representation, may pursue the matter on the resident's behalf thus allowing members of the public to influence the development of policy.

Council also allows the public to address the Open Council Meetings (held fourth Monday of the month) on matters included in the business paper for that month.

3.2 Personal Participation

There are also avenues for members of the public to personally participate in the policy development and the functions of the Council.

Several Council Committees comprise or include members of the public. To view a full list of Council Committees or to nominate as a delegate go to:

<http://upperhunter.nsw.gov.au/your-council/council-business/committees.aspx>

Standing Committee meeting dates, times and venues are also advertised on Council's website, go to:-

<http://upperhunter.nsw.gov.au/our-shire/events/what-s-on-calendar.aspx>

Alternatively you may contact the Public Officer for this information.

From time to time Council calls for public submissions, for example, community input into its annual *Delivery Program and Operational Plan* and the bi annual *Community Strategic Plan*. Calls for submissions are advertised on Council's website www.upperhunter.nsw.gov.au and in the local Newspapers *The Scone Advocate*, *The Hunter Valley News*, *The Aberdeen Whisper*, *The Merriwa Ringer*, *The Murrurundi Links*. These advertisements will include details on how to submit submissions and the closing date.

In addition, Council, as part of its public consultation process will often call for meetings on specific topics, e.g., *disability access* to gain community feedback.

Meetings are also held in different areas of the Shire to address both larger issues of the Shire as well as local issues within that area. These meetings are advertised in advance on Council's website, in the newspapers listed above, through media releases and letterbox drops.

4. ACCESS TO INFORMATION

4.1 Information held by Council

Council holds information (hard copy and electronic form) that relate to a number of different issues concerning Upper Hunter Shire. This information is grouped into four categories:

1. Electronic Documents
2. "Physical Files"
3. Policy Documents
4. General Information

Information included in Clause 4.4 of this Agency Information Guide may be made available to the public on request unless there is an overriding public interest not to do so. Some information may

require a formal access application in accordance with the Government Information (Public Access) Act.

4.2 Electronic Documents and “Physical Files”

Council implemented an electronic document management system in 2005. Hard copy, physical files were dispensed with except for development/building/construction applications.

Prior to 2005 the former Merriwa Shire Council maintained an electronic document management system and the former Murrurundi and Scone Shire Council's maintained a paper-based filing system.

Some of Council's electronic documents and physical files are not available on the website, however, this information may be made available either by informal release or via an Access Application (GIPA Act Section 7 – 9) unless there is an overriding public interest against disclosure of the information in accordance with the provisions of the Section 14 of the GIPA Act.

4.3 Policy Documents

Some policies constitute open access information. These and other policies are available on Council's website :-

<http://upperhunter.nsw.gov.au/your-council/documents-and-policies/policies.aspx>

4.4 General Information

The Government Information (Public Access) Act 2009 provides the public a general right of access to information held by Council and requires that this information be made publicly available for inspection, free of charge. The public is entitled to inspect this information either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the offices of the Council during ordinary office hours or at any other place as determined by the Council. Any current and previous information of this type may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges.

1. Information about Council

- The model code prescribed under Section 440(1) of the LGA
- Council's adopted Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Report
- Auditor's Report
- Delivery Program & Operational Plan
- EEO Management Plan
- Policy concerning the Payment of Expenses Incurred by, and the Provision of Facilities to, Councillors
- Annual Reports of Bodies Exercising Functions Delegated by Council
- Any Codes referred to in the LGA
- Returns of Interests of Councillors, Designated Persons and Delegates
- Agendas and Business Papers for any meeting of Council or any Committee of Council
- Minutes of any meeting of Council or any Committee of Council
- Departmental Representative Reports presented at a meeting of Council
- Land Register
- Register of Investments
- Register of Delegations
- Register of Graffiti Removal Works

- Register of current Declarations of Disclosures of Political Donations
- Register of Voting on Planning Matters

2. Plans and Policies

- Local Policies adopted by Council concerning approvals and orders
- Plans of Management for Community Land
- Environmental Planning Instruments, Development Control Plans and Contribution Plans

3. Information about Development Applications

Development Applications and any associated documents received in relation to a proposed development:-

- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications
- Heritage Consultant Reports
- Tree Inspections Consultant Reports
- Acoustic Consultant Reports
- Land Contamination Consultant Reports
- Records of decisions on Development Applications including decisions on appeals
- Records describing general nature of documents that council decides to exclude from public view including internal specifications and configurations, and commercially sensitive information

4. Approvals, Orders and Other Information

- Applications for approvals under part 7 of the LGA
- Applications for approvals under any other Act and any associated documents received
- Records of approvals granted or refused, any variation from Council Policies with reasons for the variation, and decisions made on appeals concerning approvals
- Orders given under Part 2 of Chapter 7 of the LGA and any reasons given under Section 136 of the LGA
- Orders given under the Authority of any other Act
- Records of Building Certificates under the Environmental Planning and Assessment Act 1979
- Plans of land proposed to be compulsorily acquired by Council
- Compulsory Acquisition Notices
- Leases and Licenses for use of Public Land classified as Community Land

5. Other Information Available under Section 18 of the Government Information (Public Access) Act 2009

- Council's current Agency Information Guide
- 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
- policy documents
- disclosure log of access applications
- register of government contracts
- record of open access information (if any) that is not made publicly available on the basis of an overriding public interest against disclosure
- such other government information as may be prescribed by the regulations as open access information

4.5 Ways to Access Information

Under the Government Information (Public Access) Act 2009, there are four ways information can be accessed from Council:-

2. Mandatory Release
3. Proactive Release
4. Informal Applications
5. Formal Applications

A formal access application is one way members of the public can access government information not already available as open access information, proactively released information or information informally released by this agency. It should be considered as a last resort. Persons seeking open access to information should visit Council's website:-

<http://upperhunter.nsw.gov.au/your-council/documents-and-policies/policies.aspx> in the first instance and then make contact with Council if the relevant information is not available from the website. Council contact details are shown at Clause 5. of this Agency Information Guide - *How Members of the Public May Access and Amend Council Documents Concerning their Personal Affairs*.

5. HOW MEMBER OF THE PUBLIC MAY ACCESS AND AMEND COUNCIL DOCUMENTS CONCERNING THEIR PERSONAL AFFAIRS

As mentioned previously, Council has a vast range of documents that can be accessed in varying ways. Most documents can be inspected at and obtained from Council's offices in Merriwa, Murrurundi and Scone between the hours of 9.00am and 4.00pm Monday to Friday (except public holidays). For further enquiries about any document, a Customer Services Officer should be contacted. If you experience any difficulty in obtaining documents or information, you should contact the Public Officer.

5.1 Public Officer – Right of Information Officer

It should be noted that the Director Corporate Services has been appointed as the Public Officer. Amongst other duties, the Public Officer may deal with requests from the public concerning the Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council. The Public Officer is also Council's Right to Information Officer and, as such, is responsible for determining applications for access to documents or for the amendment of records. If you have any difficulty in obtaining access to Council documents, you may wish to refer your enquiry to the Public Officer. Also, if you would like to amend a document of Council which you feel is incorrect, it is necessary for you to make written application to the Public Officer in the first instance. Enquiries should be addressed as follows:

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| General Manager Upper Hunter Shire Council PO Box 208 SCONE NSW 2337 | Phone: (02) 6540 1100 Fax: (02) 6545 2671 Email: council@upperhunter.nsw.gov.au Web: www.upperhunter.nsw.gov.au |
| Further information can also be sought from:- | |
| Information & Privacy Commission GPO Box 7011 SYDNEY NSW 2000 | Phone: 1800 472 679 Email: ipcinfo@ipc.nsw.gov.au Web: http://www.ipc.nsw.gov.au/privacy/ipc_contactus.html |