



SNOWY MONARO
REGIONAL COUNCIL

Government Information (Public Access) Act 2009 (GIPA)

Agency Information Guide 2019



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1 Structure of Council

Snowy Monaro Regional Council (SMRC) is constituted under the *Local Government Act 1993* (the Act) and was formed by proclamation of the NSW Government on 12 May 2016, amalgamating the former Bombala, Cooma-Monaro Shire and Snowy River Shire local government areas (LGA).

The SMRC region covers an area of 15,162sq kms extending from the Australian Capital Territory in the north to the Victorian border in the south with a population of 20,2018 as at 2016 census.

Eleven Councillors represent the whole community of the region, with the Mayor being elected by the Councillors from amongst their numbers. The Council is not broken into separate wards.

1.1 Councillors

The role of the Council is to:

- Direct and control the affairs of the Council in accordance with the Act;
- Provide effective civic leadership to the local community;
- Ensure as far as possible the financial sustainability of the Council;
- Ensure as far as possible that the Council acts in accordance with the principals set out in the Act and the plans; programs; strategies and policies of the Council;
- Develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the Council;
- Determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the Council's resources to implement the strategic plans (including the community strategic plan) of the Council and for the benefit of the local area;
- Keep under review the performance of the Council, including service delivery;
- Make decisions necessary for the proper exercise of the Council's regulatory functions;
- Determine the process for appointment of the General Manager by the Council and to monitor the General Manager's performance;
- Determine the senior staff positions within the organisations structure of the Council;
- Consult regularly with community organisations and other key stakeholders and keep them informed of the Council's decisions and activities; and
- Be responsible for ensuring that the Council acts honestly, efficiently and appropriately.

1.2 Mayor

The Mayor chairs the meetings of Council, performs the civic and ceremonial functions of the office, and in cases of necessity, exercises the decision making functions of the body politic, between meetings and performs any other functions that the Council determines.

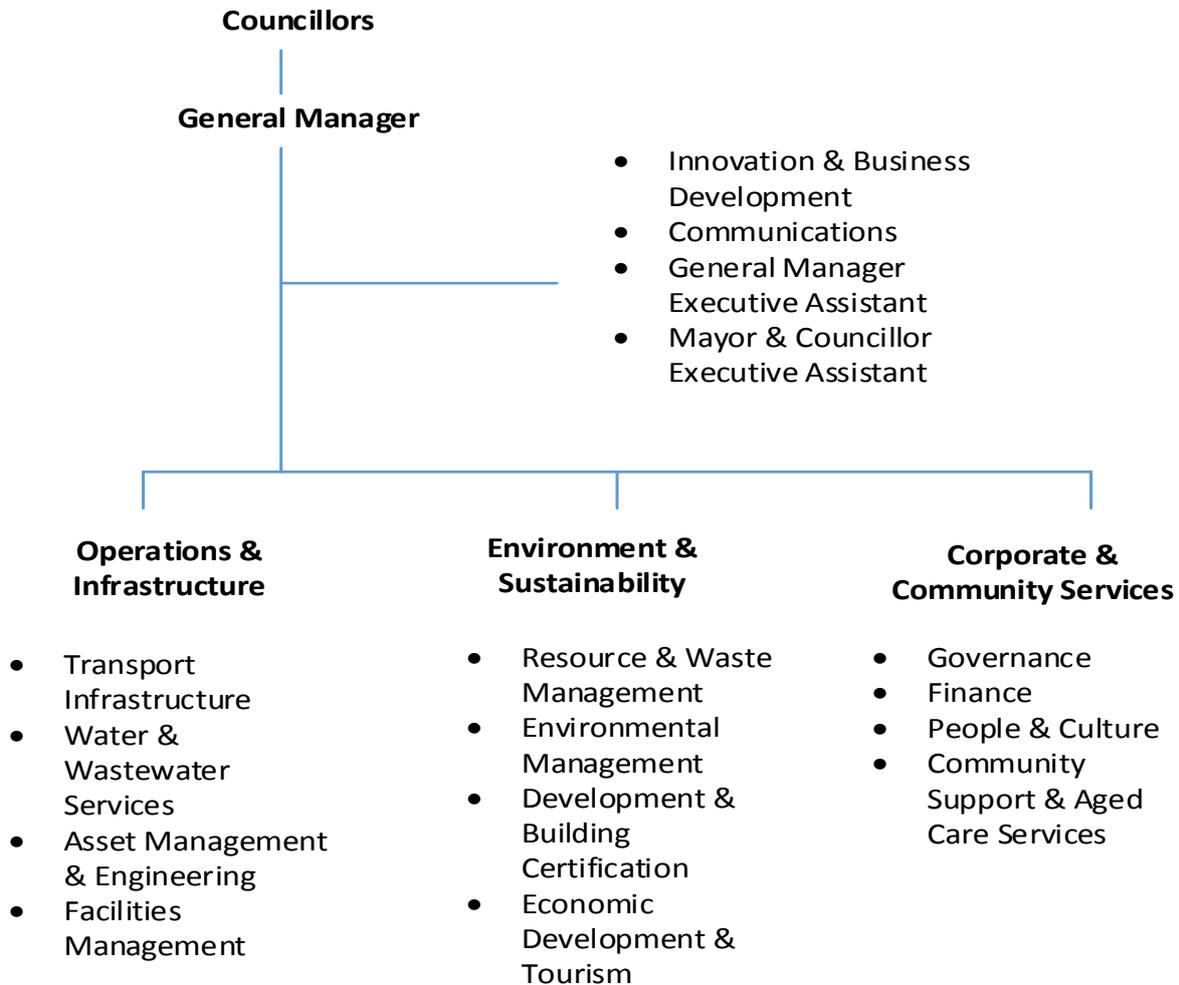
1.3 General Manager

The General Manager is responsible for managing efficient operational functions of Council and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of the Council, and the exercising of any functions delegated by the Council and for the appointment and management of council employees.

Three Council Directorates Operations & infrastructure, Environment & Sustainability and Corporate & Community Services assist the General Manager perform the functions required of Council.

1.4 Organisational Structure

The organisational structure of Snowy Monaro Regional Council is set out below:



2 Council Vision and Values

2.1 Council Vision

A trusted community partner

2.2 Values

Solutionary – We inspire others by best practice and inventive problem resolution that delivers revolutionary changes and quality outcomes for our customers and our community.

Together – We collaborate and work together in a harmonious and well organised way to support organisational initiatives.

Accountable – We own and take responsibility for our decisions and actions that are evidence based and justifiable, and we do what we say.

Innovative – We constantly seek continuous improvement and use creative thinking to look for new ways of doing things, embracing and introducing new, advanced and original ideas, products, methods and systems.

Caring – Our service culture is based on caring, displaying kindness and concern for each other and our community and being proud of what we do and deliver.

3 Council Functions and How They Affect the Public

The *Snowy Monaro 2040 Community Strategic Plan*, developed in consultation with the community, guides and directs the priorities and decision making of Council, and supports provision of a range of services, programs and initiative on behalf of the community.

As a service organisation, most of Council’s activities have an impact on the public. Below is an outline of the broad functions of Council, and how they can affect the public, conferred or imposed on it by the *Local Government Act 1993*.

Service Functions

Council provides services and facilities to the public, these include community health, recreation, education and information services, environmental protection, waste removal and disposal, land and property, industry and tourism development and assistance, civil infrastructure, maintenance and construction.

Regulatory Functions

Council regulates development and buildings to ensure that they meet certain requirements affecting the amenity and safety of the community. These include issuing development and construction approvals, orders and building certificates. Members of the public must be aware of, and comply with, such regulations.

Ancillary Functions

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

Revenue from rates and other charges paid by the public helps fund services and facilities provided for the community. These functions include levying rates, charges and fees as well as borrowings and investments.

Administrative Functions

Councils administrative functions include employment of staff, development of management plans and financial and performance reporting. These have an indirect impact on the community through the efficiency and effectiveness of the service provided.

Enforcement Functions

Enforcement function include matters such as the non-payment of rates and charges, environmental planning or companion animals' offences, construction outside of hours and parking offences. Council may issue penalty notices or initiate legal proceedings for breaches.

Community Planning and Development Functions

Council advocates and develops plans for the needs of our community. These include initiating partnerships, participating on regional, State or Commonwealth working parties and preparation and implementation of the Community Strategic Plan.

Council also facilitates opportunities for people to participate in the life of the community through the conduct of a range of community events such as NAIDOC Week, Youth Week, as well as sponsoring many other events.

As well as the *Local Government Act 1993*, Council has powers under a number of other Acts including:

- *Biodiversity Conservation Act 2016*
- *Coastal Management Act 1979*
- *Commons Management Act 1989*
- *Community Land Development Act 1989*
- *Companion Animals Act 1998*
- *Contaminated Land Management Act 1997*
- *Conveyancing Act 1919*
- *Crown Lands Act 1989*
- *Environmental Planning and Assessment Act 1979*
- *Fire Brigades Act 1989*
- *Fluoridation of Public Water Supplies Act 1957*
- *Food Act 2003*
- *Government Information (Public Access) Act 2009*
- *Heritage Act 1977*
- *Impounding Act 1993*
- *Library Act 1939*
- *Privacy and Personal Information Protection Act 1998*
- *Protection of the Environment Operations Act 1997*
- *Public Health Act 2010*
- *Recreation Vehicles Act 1983*
- *Roads Act 1993*
- *Rural Fires Act 1997*
- *State Emergency & Rescue Management Act 1989*
- *State Emergency Service Act 1989*
- *Strata Schemes Development Act 2015*
- *Strata Schemes Management Act 2015*
- *Swimming Pools Act 1992*
- *Unclaimed Money Act 1995*

4 Participation in Local Government – ‘have your say’

There are many ways to participate in the policy development and the general activities of Council. These are through representation and participation, member of the public are encouraged to participate and provide input on issues considered by Council.

4.1 Public Participation and Community Engagement

Council holds one meeting a month on the third Thursday commencing at 5pm. Council meetings are open to the public and prior to the meetings the opportunity is offered to interested persons to register their request to address Council on any matters that are within its jurisdiction.

Members of the public can participate in community consultation and engagement through Council's website www.snowymonaro.nsw.gov.au where you can see matters Council is seeking public comment through [Your Say](#) and view current development applications.

Councillors serve on a number of committees comprising and including members of the public, which deal with various areas of responsibility. These committees included Section 355 management and advisory committees and external committees, such as Local Traffic Committee, BOCO Rock Community Fund and Monaro Interagency. Minutes from these committees can be viewed in Council Business Papers.

4.2 Councillor Representation

Local government in Australia is based on the principle of representative democracy. This means that 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 the next being held in September 2020.

Snowy Monaro Regional Council is represented by 11 Councillors who are responsible for providing strategic direction, leadership and vision for the Council. Members of the public are encouraged to discuss local community concerns with their elected representatives. For information and contact details visit the Councillors page on the SMRC website.

5 Access to Information

Under the *GIPA Act* people have an enforceable right to access government information unless there is an overriding public interest against disclosure of the information.

How to access information

In accordance with the *GIPA Act* there is an underlying principle to provide the public with greater accessibility to government information and transparency of Council decision making for members of the public. Council's website contains a significant amount of information which Council publishes proactively.

Information that is not published on the website may be requested via informal request, free of charge, or via a formal access application in line with section 9 of the *GIPA Act* (an application fee will apply plus hourly processing charges – sometimes exemptions and discounts may apply).

5.1 Open Access Information

Members of the public are entitled to inspect mandatorily open access information either on Council's website, at any of the offices during ordinary office hours or at any other place as determined by the Council.

The list of Government information held by Council is set out below:

Information about Council

- Code of Conduct
- Code of Meeting Practice

- Annual Report
- Annual Financial Reports
- Auditor’s Report
- Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan
- EEO Management Plan
- Payment of Expenses and the Provision of Facilities to Councillors Policy
- Annual Reports of Bodies Exercising Functions Delegated by Council
- Any Codes referred to in the LGA
- Returns of the 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
- Register of development applications and consents
- 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

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

5.2 Informal Release

Council endeavours wherever possible and appropriate to deal with request for information informally. Informal applications are free of charge. Council encourages the public to seek information in the first instance by searching the website, and then via informal request. Not all applications can be treated informal but the vast majority can be.

To meet the requirements under the *GIPA Act*, Council has taken a resolution to manage access to information in accordance with the below categories;

Category 1 – Informal Access Application – ‘Open Access’

- Information available publically
- Development Information made on or after 1 July 2010
- Neighbours contact details

Category 2 – Informal Access Application – ‘Government Information’

- Simple requests relating to Development Information dated before 1 July 2010
- Plans (floor and building)

Information about Development Applications as per category 1. (Lodged on or after 1 July 2010)

The *Government Information (Public Access) Regulations 2018* introduced changes to the way Council determines and releases information about development applications, as detailed below:

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

- 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:
- home warranty insurance documents,
 - construction certificates,
 - occupation certificates,
 - structural certification documents,
 - town planner reports,
 - submissions received on development applications,
 - heritage consultant reports,
 - tree inspection consultant reports,
 - acoustics consultant reports,
 - 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 the local authority decides are excluded from the operation of this clause by point 2 below.

2. However, the information released does not include:

- 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, or
- 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.

Information about Development Applications as per category 2. (Lodged prior to 1 July 2010)

The *Government Information (Public Access) Regulation 2018* enacted changes relating to how Council determines the release of Development Application information Pre 1 July 2010. The 2018 regulation reclassified this information category from 'Open Access' information to 'Government Information' meaning the information must be obtained via an 'Access Application'.

Development application information has always been something commonly requested from Council as part of sale/purchase of a property and/or proposed works to existing houses etc. and previously provided informally to the Public under the provision it was 'Open Access' meaning it is publically available information at no cost.

Access to information relating to development applications and their accompanying support information prior to 1 July 2010 will need to be applied for using the informal Access Application form, given that they fall into Category 2 of Council's Triage System. Copyright legislation is to be considered in relation to the release of all information relating to development applications.

Approvals, Orders and Other Documents

- 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, Performance improvement orders issued under Section 6 of Chapter 13 of the LG.

In addition to the above the following Council held government information known as "open access information" is also publicly available:

- Agency Information Guide
- Information about the Council contained in any document tabled in Parliament by or on behalf of the Council, other than any document tabled by order of either House of Parliament,
- Policies
- Disclosure log of access applications
- Register of government contracts
- Record of the open access information (if any) that it does not make publicly available on the basis of an overriding public interest against disclosure,
- Other government information as may be prescribed by the regulations as open access information.

5.3 Formal Release

It may be necessary to submit a formal access application if the information sought;

- Is of a sensitive nature
- Contains personal or confidential or commercially sensitive information about a third party
- Would involve a considerable amount of time and resources to assemble
- Is of uncommon complexity

Where formal application under the *GIPA Act* are made, Council will apply application, processing and advanced deposit charges as specified in the Act. For an application be considered it must;

- Be in writing
- Have the \$30 application fee paid upon lodgment
- Include a postal address within Australia, or email address
- Contain enough detail to allow the required information to be identified
- Must disclose on their access application whether they have applied to another agency, at any time, for substantially the same information, identifying the agency.

The application fee covers the first hour of processing, subsequent time spent processing the application will incur a charge of \$30 per hour. Formal Access Application forms can be found on Council's website or by calling Council on 1300 345 345.

Public Interest Test

When a person makes a formal access application, we must decide whether there are any public interest considerations against disclosure of the requested information. If so, Council needs to determine the weight of the public interest considerations in favour of and against disclosure and where the balance between those interests lies. Access can only be refused if the public interests against disclosure outweigh those in favour of disclosure. This is called the 'public interest test'.

Third Party Consultation

When a person requests information from us, that information often contains details about other individuals, businesses, or agencies. Council may need to consult with those third parties before deciding whether or not to release the information to the applicant.

Consultation with third parties is important in balancing information access rights, and the rights of individuals to protect and control the privacy of information about themselves.

Viewing Documents

Some open access documents require an appointment to be accessed, in order to allow files to be retrieved from Council's off-site storage facilities. Appointments can be made to view documents at Council offices between the hours of 9am to 4.30pm, Monday to Friday (except public holidays). Any current and previous government (open access) information may be inspected free of charge. Copies can be supplied for reasonable copying charges, subject to copyright.

6 Contacting Council

Member of the public can provide feedback, ask questions or make a complaint by contacting Council via:

Phone: 1300 345 345
Email: Council@snowymonaro.nsw.gov.au
Website: <https://www.snowymonaro.nsw.gov.au/9/How-Do-I>
Post: PO Box 714, Cooma, NSW 2630

Written correspondence should be addressed to the General Manager.

7 The Information and Privacy Commission

The Information and Privacy Commission oversees the *GIPA Act*. The commission provides information about the right to access information and can be contacted via:

Phone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au

Website: www.ipc.nsw.gov.au

Post: GPO Box 7011, Sydney, NSW 2001