

Media Statement

13 November 2023

Information Commissioner statement relating to the publication of development applications containing the location of refuges by local councils

The Information Commissioner is aware of recent media relating to the publication of development applications for domestic violence refuges by local councils including Wollongong Council.

The Information Commissioner, Elizabeth Tydd, advised that, "I have today issued correspondence to Wollongong Council seeking advice on the Council's information access practices. A response from Wollongong Council will inform my regulatory approach to this significant issue.

"However, it is important to immediately reinforce my abiding advice to Local Councils that the *Government Information (Public Access) Act 2009* (GIPA Act) requires agencies to also determine if there are factors against disclosing information. Some of these factors are highly relevant to the location of refuges and include the risk of harm to individuals. These factors must be considered by all decision makers including those in local councils."

Under the *Government Information (Public Access) Regulation 2018*, prescribed 'open access' information such as plans and policies together with certain development application information, should be made available by NSW public sector agencies, including local councils, via their agency's website.

However, the GIPA Act is clear that the obligation to disclose open access information does not apply where there is an overriding public interest against disclosure (section 6(1) of the GIPA Act). This means that agencies should withhold or redact records of open access information if there are public interest factors against disclosure which outweigh the public interest in the disclosure of such information.

The GIPA Act details the types of public interest factors against disclosure and these include where the disclosure could reasonably be expected to:

- *endanger, or prejudice any system or procedure for protecting, the life, health or safety of any person; and*
- *expose a person to a risk of harm or serious harassment or serious intimidation.*

The Information Commissioner has engaged with Local Councils and published materials to ensure meaningful consideration of the public interest test in assessing records of open access information for release (see the Information Commissioner's published [Guideline 3: For local government – personal information in development applications](#) for further information).

ENDS

For further information, please contact:

The Manager, Communications and Corporate Affairs on 0435 961 691 or email communications@ipc.nsw.gov.au

About the Information and Privacy Commission:

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales' legislation dealing with privacy and access to government information. The IPC supports the Information Commissioner and the Privacy Commissioner in fulfilling their legislative responsibilities and functions and to ensure individuals and agencies can access consistent information, guidance and coordinated training about information access and privacy matters.

About the NSW Information Commissioner

The NSW Information Commissioner's statutory role includes promoting public awareness and understanding of the *Government Information (Public Access) Act 2009* (GIPA Act); providing information, advice, assistance and training to agencies and the public; dealing with complaints about agencies; investigating agencies' systems, policies and practices; and reporting on compliance with the GIPA Act.

The *Government Information (Information Commissioner) Act 2009* (GIIC Act) establishes the procedures for appointing the Information Commissioner and sets out the Commissioner's powers and functions. It outlines the method for people to complain about the conduct of agencies when undertaking their duties under the GIPA Act, and the way in which the Information Commissioner may deal with the complaint. The GIIC Act also enables the Information Commissioner to investigate and report on how agencies carry out their functions under the GIPA Act.

For further information about the IPC visit our website at www.ipc.nsw.gov.au