

# Access to Information Policy

## Policy Approval and Distribution

Approved by	Council resolution
Responsible Officer	Governance Officer
Council Service Unit	Governance
Next Review Date	27-03-2022

## Version Control

Ref	Date	Description	Council Resolution
1.0	27-03-2018	Adopted.	63/2018
1.1	24-09-2019	Updated Policy to coincide with updates to the Agency Information Guide.	N/A

## Purpose

The purpose of this policy is to demonstrate Council's commitment to public access to information, in accordance with the provisions of the *Government Information (Public Access) Act 2009 (GIPA Act)* and *Government Information (Public Access) Regulation 2009*, and to outline the mechanisms that facilitate the processing of requests for such access.

## Scope

This policy applies to members of the public, Council staff and Councillors.

## Related CGRC Policies and Guidelines

This policy should be read in conjunction with;

- [Council's Agency Information Guide](#)
- [Privacy Management Plan](#)
- [Code of Conduct](#)
- [Council's Adopted Fees and Charges](#)

## Definitions

Term	Meaning
<i>GIPA Act</i>	Government Information (Public Access) Act 2009.
<i>LGA</i>	Local Government Act 1993.
<i>PIIPA</i>	Privacy and Personal Information Protection Act 1998.
<i>HRIPA</i>	Health Records and Information Privacy Act 2002.
<i>Council</i>	Cootamundra-Gundagai Regional Council.
<i>Government Information</i>	Information contained in a record held by Council.
<i>Record</i>	Any document or other source of information compiled, recorded or stored in written form or by electronic process or in any other manner or by any other means.
<i>Formal Access Application</i>	A valid application for access to government information under Part 4 of the GIPA Act. A formal access application must be accompanied by a \$30 fee along with meeting other requirements.
<i>Open Access Information</i>	Records containing government information which is publicly available. Part 3 of the GIPA Act prescribes what constitutes open access information. Schedule 1 of the GIPA Regulation contains additional open access information of Councils.
<i>Disclosure Log</i>	A list of documents released following a decision about a valid access application for application under the Act, which is published on Council's website.
<i>Contracts Register</i>	A register of government contracts that records information about each government contract to which Council is a party that has a value of \$150,000 or more.
<i>Agency Information Guide</i>	A document that sets out the type of information that Council makes publicly available and routinely publishes on its website.
<i>Personal Information</i>	Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (definition from PIPPA).

## Legislative Framework

Government Information (Public Access) Act 2009

Government Information (Public Access) Regulation 2009

Local Government Act 1993

Local Government Regulation 2005

Privacy and Personal Information Protection Act 1998

Privacy Code of Practice (Local Government) 2000

Health Records and Information Privacy Act 2002

Environmental Planning and Assessment Act, 1979

Copyright Act 1968

State Records Act 1998

Companion Animals Act 1998

## Review Period

This document is to be reviewed every four (4) years, or as required, to ensure that it remains relevant and meets legislative requirements.

## Policy Statement

### 1. General Principles

- a) Any member of the public has a legal right to make an application to Council for access to information that it holds.
- b) There is a general presumption in favour of the disclosure of government information unless there is an overriding public interest against disclosure.
- c) A person's right to access government information in NSW is regulated under the GIPA Act and Regulations, and also other legislation, such as the PPIPA and HRIPA.
- d) Council will assess all requests for access to information in a timely manner and in accordance with relevant legislation.
- e) Council will apply fair and reasonable charges for access to information in accordance with relevant legislation and Council's Schedule of Fees and Charges.
- f) Council is committed to the following principles in facilitating public access to information:
  - i) Openness and transparency
  - ii) Consideration of the 'public interest' in the assessment of all requests
  - iii) Proactive disclosure and dissemination of information
  - iv) Respect for the privacy of individuals

### 2. Accessing Government Information

There are four ways to obtain access to information held by Council:

#### 2.1 Mandatory Proactive Release (open access)

- a) Under the law Council must release certain information unless there is an overriding public interest against doing so.
- b) Council's website is the central reference point where members of the public can search for this information.
- c) This type of information includes Council policies, meeting agendas and minutes, media releases, annual reports, register of government contracts and disclosures log of access applications.

#### 2.2 Authorised proactive release

- a) Council proactively releases information with a commitment to providing as much information as possible for free on Council's website, or in another appropriate manner and by the amount specified in Council's current [Adopted Fees and Charges](#).

#### 2.3 Informal Access Applications

- a) Information that is not available by mandatory or authorised proactive release may be provided through informal release, subject to any reasonable conditions that Council may wish to impose, including deleting matter that would otherwise result in there being an overriding public interest against disclosure.
- b) Applications for informal release can be made in writing by completing the [Informal Access to Information Form](#), which is available on Council's website and forwarding it to Cootamundra-Gundagai Regional Council, PO Box 420 Cootamundra NSW 2590 or email [mail@cgrc.nsw.gov.au](mailto:mail@cgrc.nsw.gov.au).

- c) There is no fee required for an informal access application, but photocopying fees may apply as specified in Council's current [Adopted Fees and Charges](#).
- d) Informal requests will be processed in a timely manner and as soon as practical. Turnaround times will also depend on the volume of information sought and whether documents need to be retrieved from hard copy files.

## **2.4 Formal Access Applications**

- a) A formal access application may be required where the information requested is not available by proactive or authorised release or informal access, and the information sought:
  - i) Is of a sensitive nature that requires careful consideration of the public interest test;
  - ii) Contains confidential information;
  - iii) Contains personal information of third parties who must be consulted;
  - iv) Contains business information of third parties who must be consulted; or
  - v) Would involve a significant diversion of Council resources
- b) Formal access applications must be made in writing by completing a [Formal Access Application Form](#) which is available on Council's website.
- c) Processing charges as outlined in Division 5 of the GIPA Act apply to formal access applications, and additional processing costs, such as photocopying costs, may apply as outlined in Council's Current [Adopted Fees and Charges](#).
- d) Formal access applications will be acknowledged and determined within the statutory periods prescribed by section 57 of the GIPA Act, which includes making a determination and notifying the applicant of the decision within 20 working days, unless the applicant agrees to extend the time. Council may also extend the time by up to 15 working days when consultation with a third party is required or if Council needs to retrieve records from archives.

## **3 Copyright Restrictions**

3.1 Information held by Council is subject to the Copyright Act 1968. The Copyright Act does not permit materials covered by copyright (e.g. DA architect plans, floor plans, or specialist reports) to be copied or published unless the copyright owner has given consent. Council will make available documents to inspect, but without the written consent of the copyright owner, Council cannot provide copies of copyright materials. (please note: the copyright owner is the person who created the plan, not the property owner)

## **4 Public Interest Test**

4.1 Providing access to government information is restricted only when there is an overriding public interest against disclosure. Schedule 1 of the GIPA Act lists the conclusive considerations against disclosure. In addition, section 14 of the GIPA Act lists the discretionary considerations against disclosure.

## **5 Review of Decisions**

5.1 Where an applicant is refused access to information by way of a formal application under the GIPA Act, Council will provide details of the reasons for refusal in writing. If the applicant is dissatisfied with Council's determination of their application they may seek to have the decision reviewed either by:

- a) Internal review - this is a review by a Council officer more senior than the original decision maker. Applicants have 20 working days from receiving notice of a decision to ask for a review, and a \$40 fee is payable by the applicant.
- b) External Review by the Information Commissioner - the applicant has eight weeks from receiving notice of a decision to ask for a review.

- c) External Review by NSW Civil Administration Tribunal – the applicant has eight weeks from receiving notice of a decision from Council to ask for a review, or four weeks after the completion of a review by the Information Commissioner.

## 6 Councillor Access to information

- 6.1 Council's Code of Conduct outlines Councillors' right to access information.
- 6.2 The Code of Conduct states that Councillors must be provided with information sufficient to enable them to carry out their civic office functions.
- 6.3 Further, the Code states that Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights as any other person, and such requests for access to information by Councillors should be made in accordance with this Policy.

## Responsibilities

Position	Responsibility
<i>Manager Business</i>	<ul style="list-style-type: none"> <li>• Duties of the Public Officer, which includes assisting people to gain access to public documents held by Council (s343 LGA).</li> <li>• Undertaking any necessary internal reviews.</li> <li>• Implementation and review of the Access to Information policy.</li> </ul>
<i>Governance Officer</i>	<ul style="list-style-type: none"> <li>• Processing and making decisions about formal information access applications.</li> <li>• Providing assistance to applicants with invalid applications.</li> <li>• Maintaining Council's disclosure log of access applications.</li> <li>• Assisting with the routine publication of open access information.</li> <li>• Maintaining and updating Council's Agency Information Guide.</li> <li>• Assisting with the review of the Access to Information policy.</li> <li>• Completing necessary GIPA reporting functions / obligations.</li> <li>• Processing and making decisions / responding to informal requests for information.</li> <li>• Advising applicants when an application should be applied for formally.</li> </ul>
<i>Customer Service Staff</i>	<ul style="list-style-type: none"> <li>• Receiving incoming informal and formal applications.</li> <li>• Sending all incoming informal and formal applications received at the customer service counter to Records for registration and allocation.</li> <li>• Answering any enquiries regarding submitting of information applications.</li> <li>• Assisting applicants with locating open access information on Council's website.</li> <li>• Releasing information held by Council through mandatory or authorised proactive release.</li> </ul>
<i>Records Staff</i>	<ul style="list-style-type: none"> <li>• Registering incoming informal and formal applications and allocating to the Governance officer for processing / response.</li> </ul>
<i>All staff</i>	<ul style="list-style-type: none"> <li>• Referring any informal or formal GIPA requests to the Records department for registration and allocation.</li> <li>• Searching for and providing requested information to Governance Officer in response to an informal or formal request for information, in a timely manner.</li> </ul>