



ACCESS TO INFORMATION POLICY 01.01.01

1. BACKGROUND

The Access to Information Policy is a local policy to assist in applications for documents that will be assessed in accordance with the *Government Information (Public Access) Act 2009*. The local policy utilises the NSW Information and Privacy Commission 'Information Access Guideline 6: Agency Information Guides' (2020). The object of the *Government Information (Public Access) Act 2009* is to open government information to the public to maintain and advance a system of responsible and representative democratic government.

2. PURPOSE

The purpose of this policy is to ensure Council is proactively releasing appropriate information to members of the public. Open access information is published on the Council Website or provided through the Customer Service Counter.

Council as a local authority, is subject to the *Government Information (Public Access) Act 2009* ('GIPA Act') and accordingly acknowledges the right of the public to obtain information about Council's structure, plans and policies, information about development applications and any other information as prescribed by the Act and any accompanying regulations and guidelines.

As part of our commitment to the GIPA Act, Council endeavours to release open access information at the request of the customer within 20 days of the request.

The Policy is a local supplement to the provisions of the Act.

3. POLICY OBJECTIVES

The objectives of this Policy are to ensure that Council:

- Maintains the highest possible integrity for the GIPA Act related services provided by Council,
- Facilitates the public's right to access Council information under the GIPA Act,
- Administers and encourages proactive release of Council information,
- Provides Council Officers and the community with a framework for access to information, and
- Appropriately administers the access to open information in accordance with the GIPA Act and any supporting documentation.



4. LEGISLATION

The Policy relates to the GIPA Act. However, there are also a number of legislation and regulations applicable to this policy:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998
- NSW Government Information (Public Access) Act 2009
- NSW Local Government Act NSW 1993 (LGA)
- NSW Local Government Regulations
- NSW Privacy Code of Practice (Local Government)
- Federal Copyright Act 1968
- NSW Information and Privacy Commission 'Information Access Guideline 6: Agency Information Guides' (2020).

5. APPLICATION/SCOPE

This Policy applies to all Council Officials and members of the public wishing to access Council information.

6. POLICY

6.1. Roles and Responsibilities

The following table outlines the roles and responsibilities of personnel. Noting that the position titles may change, however, the responsibilities remain the same.

There are specific delegations associated with releasing information under the GIPA Act.

Roles	Responsibility
The Elected Council	To support Council delegates to administer the policy. Refer to section 6.6 for Access to Information for Councillors.
General Manager	The General Manager is responsible for the overall control and implementation of the Policy. The General Manager is Council's Principal Officer. The Principal Officer's role and responsibility is outlined in the



Roles	Responsibility
	<p>Information and Privacy Commission's factsheet however namely focuses on:</p> <ul style="list-style-type: none"> • Upholding the Public Sector's leadership commitment • Promote the four pathways • Promote a pro-disclosure culture • Raise awareness of information access issues regularly and proactively • Assess whether to release data and other information under authorised proactive release • Ensure Council has sound record keeping practices • Support informed and independent decision-making by Right to Information Officers • Review the resources available for dealing with access requests • Performance monitoring
Director of Corporate Services	<p>The Director of Corporate Services is responsible for the administration of this Policy.</p> <p>The Director of Corporate Services is the Right to Information Officer (RIO).</p> <p>The RIO is delegated and responsible to meet Council's day-to-day obligations under the GIPA Act.</p>
Other Directors	<p>In the absence of the RIO, Council's Principal Officer will appoint another Director to undertake the role of the RIO.</p>
Council Staff	<p>Council staff who are directly involved in an access to information request including but not limited to:</p> <ul style="list-style-type: none"> • Council's Records Officer • Council's Customer Service and Administration Officers • Other Council Executives and Managers.
General Public	<p>The general public must act in accordance with this policy and abide by any determination made as a result of this policy.</p>

6.2. ACCESSING INFORMATION

The Right to Information Officer (RIO) will deal with requests to inspect documents in accordance with the GIPA Act, free of charge but reasonable photocopying fees may apply under the Act.

Under the GIPA Act, a person seeking access to Council information has a right to be provided with access unless there is an overriding public interest against disclosure of the information.



In accordance to Part 2, Division 1 of the GIPA Act, access to government information may be exercised in four ways:

1. Open access information (mandatory release)

Under the law, Council is to publicly release certain information on the website unless there is an overriding public interest against doing so. Generally, open access information must be available on an agency's website. A list of particular information needed to be released is provided in a regulation under the GIPA Act. The following publication constitutes open access information:

- Agency Information Guide - provides the community with the structure and functions of Council and details on how each function affects them. In the guide it identifies what information is publicly available to members of the public, how to access government information and how to be involved in Council's decisions making processes.
- Disclosure log of formal access applications where in Council's opinion the information released may be of interest to other members of the public.
- Register of contracts worth more than \$150,000 that Council has with private sector bodies.
- Additional open access information.

2. Authorise proactive release

If it is in the public interest, Council is authorised and encouraged to release as much other information as possible, free of charge or at the lowest possible cost.

3. Information release of information

Customer to contact Council and ask for information. This is known as an informal request. Agencies can release information informally, subject to any reasonable conditions.

4. Access application (formal application) of release of information

If the information cannot be accessed through the above methods, customers can make an access application.

6.3. FEES AND CHARGES

For all fees and charges associated with access to Council information, please refer to Council's Fees and Charges.



6.4. EXEMPTION TO ACCESS

In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.

Council will not classify information as exempt unless there are clear reasons for doing so. If documents contain exempt information in part, only this information will be withheld, and the remaining information will be made available under the Act.

The GIPA Act provides an exhaustive list of public interest considerations against disclosure and these are the only considerations against disclosure that Council will utilise when applying the public interest test. Considerations are grouped under the following test:

- responsible and effective government
- law enforcement and security
- individual rights, judicial processes and natural justice
- business interests of agencies and other persons
- environment, culture, economy and general matters
- secrecy provisions (in legislation other than those listed in Schedule 1)
- exempt documents under Freedom of Information legislation in all Australian States except NSW

In applying the public interest test, Council will not take into the account:

- that disclosure might cause embarrassment to, or loss of confidence in, the Council;
- that information disclosed might be misinterpreted or misunderstood by any person.

6.5. PRIVACY CONSIDERATIONS

The GIPA Act recognises privacy as a key principle against disclosure. Where an application for access to information involves the disclosure of personal information about a person other than the applicant, Council must gain permission from that other person before providing access to the information requested.

6.6. ACCESS TO INFORMATION BY COUNCILLORS

Councillors have a right to access Council information that is reasonably necessary for exercising the function of their Civic Office, including communication Council policy and decisions to the community, excising community leadership and representing the views of residents and the ratepayers.



Councillors are to seek information in alignment with the Access to Information requirements set out in the GIPA Act, Guideline and in accordance to this Policy and the Interaction Between Councillors and Staff Policy (15.8.1).

Councillors may also apply for information as a member of the general public by making either a Formal or Informal application with the associated fees and charges.

6.7. COPYRIGHT

A large amount of information which is available for public access belongs to third parties and is the subject of copyright. These can include plans and reports submitted with development applications. Access to this information is provided to members of the public in accordance with GIPA Act and other relevant legislation, such as the Environmental Planning and Assessment Act 1979. As copyright laws apply to this information, Council must first seek the approval of the copyright owner before it reproduces this information, and applicants are encouraged to seek the consent of the copyright owner before reproducing, distributing or amending the information provided to them in any way.

6.8. COUNCIL WEBSITE

Council's website will have accessible information on the Access to Information process including forms.

6.9. TIME LIMITS

Council will acknowledge receipt of a formal access application within five working days. Council will further notify applicants of its decision within 20 working days unless the Applicant agrees to extend the time.

Informal applications will be assessed within 20 working days.

Council may extend the time by up to 15 working days where consultation is required with a third party or if Council needs to retrieve records from archives.

If access is deferred by Council, then the applicant will be notified, provided a reason for the deferral and given the date that the access will be provided. A decision to defer access to formal applications is reviewable (see Rights of Review and Appeal).

If Council does not decide the applicant's formal access application within the above timeframe, it is deemed 'refused' and Council will refund the application fee and the applicant may seek an internal or external review (see Rights of



Review) of this refusal. This will not apply if an extension of time has been arranged or payment of an advance deposit is pending.

6.10. BREACHES OF THIS POLICY

Breaches of this policy will be investigated in accordance with the appropriate mechanism, including but not limited to, Council's Code of Conduct.

6.11. RIGHTS OF REVIEW

In accordance with the GIPA Act, any member of the public who is dissatisfied with Council's decision in regard to a formal application for information may lodge a request for review. Under the Act, there are three options for review of a Council decision:

1. Internal Review

This is a review by someone within Council more senior than the original decision maker. That is, the Principal Officer undertaking a review of the RIO's original decision.

An application for internal review must be made within 20 working days of receiving Council's decision. Please refer to Council's most recent Fees and Charges schedule to see fee associated.

2. Review by the Information and Privacy Commissioner

If an applicant is not satisfied with the internal review, or does not wish one to be conducted, they can ask for a review by the Information and Privacy Commissioner.

Applicants have eight weeks from notification that their original application has been reused to ask for a review.

3. Review by the Administrative Decisions Tribunal (NCAT)

If an applicant is not satisfied with the decision of the Information and Privacy Commissioner or the internal review or if they do not wish to exercise these options, applicants can apply to the NSW Civil & Administrative Tribunal (NCAT). Applicants must apply for this review within 8 weeks of Council's decision or if a review by the Information and Privacy Commissioner has been undertaken, four weeks after the decision from that review or in accordance to the provisions outlined in the Guideline should it superseded the local policy.



7. DEFINITIONS

Key Terms	Meaning
Council	Weddin Shire Council
Council Officials	Includes Councillors, members of the staff of Council, administrators, council committee members, conduct reviewers and delegates of Council.
Contract Register	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.
Disclose information	Making information available for release or providing access to publicly available information.
Disclosure log	A list of documents released as a result of a decision about a valid Formal Application for access under the Act, which is published on Council's website.
Government information	Information contained in a record held by Council includes: <ul style="list-style-type: none"> any paper or other material on which there is writing. any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them. any disc, tape or other article or any material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).
Personal information	Information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (definition from NSW Privacy and Personal Information Protection Act 1998).
Against disclosure	There is an "overriding public interest against disclosure" of government information for the purposes of GIPA Act if (and only if) there are public interest considerations against disclosure and, on balance, those considerations outweigh the public interest considerations in favour of disclosure.
Informal release	An agency is authorised to release government information held by it to a person in response to an informal request by the person (that is, a request that is not an access application) unless there is an overriding public interest against disclosure of the information.



Title: Access to Information Policy		
Department: Corporate Services		
Version	Date	Author
0.1	27/9/2022	General Manager
0.2	20/10/2022	General Manager
1.0	15/12/2022	General Manager
<p>This policy may be amended or revoked at any time and must be reviewed at least three (3) years since its adoption (or latest amendment). The Director Corporate Services will be responsible for the review of this policy. Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guideline.</p>		
Review Date: 15/12/2025		
Amendments in the release		
Amendment History	Date	Detail
Finalisation and adoption of policy	15/12/2022	Resolution 313/22
Annexure Attached:		
Noreen Vu General Manager		