

PUBLIC ACCESS TO INFORMATION POLICY

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RESPONSIBLE MANAGER	GENERAL MANAGER		

PART 1: INTRODUCTION

Members of the public have a legally enforceable right to access government information held by the Riverina Water County Council. The Government Information (Public Access) Act 2009 extends the right of the community to have access to information held by State Government departments, local and public authorities with a view to achieving more open, accountable, fair and transparent government.

The Riverina Water County Council, as a local authority, is subject to the Government Information (Public Access) Act 2009 (GIPAA) and accordingly acknowledges the right of the public to obtain government information about Council's structure, policies

1.1 Policy Objectives

- The purpose of this Policy is to facilitate the public's right to access government information under the Government Information (Public Access) 2009 (GIPA Act).
- This Policy sets out the documents and types of information that are available to members of the public as a matter of routine (open access information), and information not made publicly available which may be requested via the formal access application process.
- This Policy establishes an internal process for processing formal access applications and informal requests for access to Council records, and aims to demonstrate Council's commitment to the principles of the GIPA Act.

1.2 Principles

The Riverina Water County Council is committed to the following principles regarding public access to government information held by Council:

- Service Quality
- Open and transparent government
- Respect for the privacy of individuals
- Consideration of the public interest in relation to access requests

1.3 Scope of Policy

This Policy applies to all members of the public wishing to access Council information, all Councillors and Council personnel.

1.4 Definitions

Council	The Riverina Water County Council
Council Officials	Includes Councillors, members of the staff of Council, contractors and delegates of Council
Disclose Information	Includes making information available for release or provide access to information
GIPA Act, or GIPAA	The Government Information (Public Access) Act 2009
Formal Access Application	Valid application for access to government information under Part 4 of the GIPA Act.
Open Access Information	Records containing government information which is publicly available

Government Information	<p>The information contained in a record held by Council:</p> <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)
Disclosure Log	Is a list of documents released following a decision about a valid access application for access under the Act, which is published on Council's website
Contracts Register	Is 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
Publication Guide	Sets out the kinds of information that Council makes publicly available and routinely publishes on the website
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 PPIPA 1998)

1.5 Legislative Context

- NSW Government Information (Public Access) Act 2009 (GIPA)
- NSW Local Government Act NSW 1993 (LGA)
- NSW Privacy and Personal Information Protection Act NSW 1998 (PPIPA)
- NSW Privacy Code of Practice (Local Government)
- NSW Health Records and Information Privacy Act 2002 (HRIPA)
- NSW State Records Act 1998 (SRA)
- Federal Copyright Act 1968

1.6 Related Documents

- Policy 1.1 Code of Conduct
- Policy 1.21 Privacy Management Plan

1.7 Responsibilities

Customer Service	Receiving applications, answering incoming informal enquiries, releasing information held by Council through authorised proactive release
Information Access Officer	Responsible for processing of informal requests, formal access applications, making decisions regarding the release of information within the timeframes stipulated in the Act, providing assistance to the applicants with invalid applications, searching for information held by Council, maintaining and updating of Publication Guide and Disclosure Log
Contract Services	Maintaining contracts register
All Council Officers	Responsible for ensuring the security of all Council records and refusing to directly provide ad-hoc information to any person without forwarding it to the appropriate Council officer for processing, unless the document is otherwise available e.g. on Council's website.

1.8 Reporting Requirements

Council must prepare an annual report on its obligations under GIPA Act and submit it to the responsible Minister. A copy of the report must be also forwarded to the Information Commissioner.

1.9 Review procedures

This policy must be reviewed by the policy owner in accordance with the review schedule noted above.

1.10 Breaches of this Policy

Breaches of this policy will be investigated in accordance with Council's Code of Conduct

PART 2: POLICY CONTENT

2.1 Legislative Requirements

The Riverina Water County Council is committed to providing, as far as possible, an open, accountable and transparent environment, which enables members of the public access to Council records which do not require recourse to formal procedures. Council will seek to ensure that legitimate requests for access to information are handled promptly and that members of the public are able to access information, subject to the need to protect the privacy of others, commercially sensitive information and information the disclosure of which would not be in the public interest.

2.2 Access to Information

2.2.1 Accessing Personal Information & Amendment of Council records

1. The GIPA Act recognises privacy as a key principle against disclosure - Section 14 (2). Where an application for access to personal information involves the disclosure of personal information about another person, Council must consult with that other person before providing the applicant with access to the information requested.
2. The GIPA Act transfers the right for amendment of personal information held in Council's records from Part 4 of the Freedom of Information Act (FOI) to the new Part 6A of the Privacy and Personal Information Protection Act 1998 (PPIPA) - Schedule 3, Part 2, Section 4. All applications for amendment of Council's records will be dealt with under PPIPA.

2.2.2 Ways to access government information

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

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

1. Mandatory proactive release of certain government information. Council publishes open access information, defined in Section 18 of the GIPA Act, on its website at www.rwcc.nsw.gov.au

The following publications constitute open access information:

- Publication guide - described in Part 3, Division 2 of the GIPA Act
 - Policy documents - described in Part 3, Division 3 of the GIPA Act
 - Disclosure log - described in Part 3, Division 4 of the GIPA Act.
 - Register of government contracts - described in Part 3, Division 5 of the GIPA Act.
 - Additional open access information - described in Part 3, Division 1 Section 18(b), (f) & (g) of the GIPA Act.
2. Authorised proactive release of government information, which must be exercised in an appropriate manner by or with the authority of Council's principal officer, free of charge (or at the lowest reasonable cost), unless there is an overriding public interest against disclosure of the information - Part 2, Section 7 of the GIPA Act.
 3. Informal release of government information via release of the information to a person in response to an informal request unless there is an overriding public interest against disclosure of the information. This may only be exercised by or with the authority of Council's principal officer - Part 2, Section 8 of the GIPA Act.
 4. Formal access application. According to Part 2, Section 9 of the GIPA Act, in some limited circumstances, people seeking access to government information will need to make a formal request for that information (e.g. where consultation with other agencies or third parties is required, or where the scope of request means that it will take significant agency resources to provide information).

2.2.3 Public interest considerations & the public interest test

Part 2, Division 2 of the GIPA Act provides a description of public interest considerations in favour (*Section 12*) and against disclosure of government information (*Section 14*).

In deciding which information to release, Council may apply the public interest test - in accordance with *Part 2, Division 2 Section 13* of the GIPA Act.

Schedule 1 of the GIPA Act provides 12 categories of information for which there is always an overriding public interest against disclosure. Any formal access applications for information described in those categories, are invalid under the GIPA Act.

2.3 Making a Formal Access Application

In some limited circumstances, when the government information is not open access information published on the website or available from the Customer Service Counter, and when releasing of the information requires previous consultation with third parties, this information may be accessed through a formal access application process.

2.2.3 How to make an access application

In accordance with *Part 4, Division 1, Section 41* of the GIPA Act, a valid formal access application must:

- be in writing,
- specify it is made under the GIPA Act;
- state a postal address in Australia;
- be accompanied by the fee payable as per Council's adopted Fees and Charges
- provide sufficient detail to enable the Council to identify the requested information.

In making an application, a person may include any other additional information they think is relevant to the public interest test, which should be taken into account in determining whether or not there is an overriding public interest against disclosure of the information. Access application may be amended or withdrawn by the applicant at any time.

The application form for access to information is available from Council's website, at Council's Customer Service centre, or by calling the Council Office on 02 6922 0608..

2.2.4 Processing access application

1. Initial decision as to validity of application.

The Information Access Officer is to decide whether the application is a valid access application (made in accordance with *Part 4, Division 1, Section 41*) or not (falls outside the scope of the Act), and notifies the applicant about the decision within 5 working days after the application is received - *Part 4, Division 3, Section 51* of the GIPA Act.

The notification that the application is not valid must include - according to *Part 4, Division 3, Section 52* of the GIPA Act - a statement of the reason why it is not valid, and provide assistance to the applicant to provide such information as may be necessary to enable the applicant to make a valid access application.

2. Decide the application and provide notice of the decision

According to *Part 4, Division 4, Section 57* of the GIPA Act, the Information Access Officer must decide a valid access application and give the applicant a notice of the decision within 20 working days after receiving an application.

If consultation with a third party is required and/or records are required to be retrieved from the archive - the decision period can be extended by up to 10 -15 working days.

3. The Decision

In accordance with Part 4, Division 4, Section 58 of the GIPA Act - to respond to valid access applications, the Information Access Officer may make the following types of decision:

- Decision that information is already available to the applicant
- Decision to refuse to deal with application
- Decision to refuse to provide access to information
- Decision to provide access to government information

2.4 Granting Access to Government Information

In accordance with Part 4, Division 6, Section 72 of the GIPA Act the access to the information in response to access information may be exercised by:

- Providing opportunity to inspect a record
- Providing a copy of a record
- Providing written transcript of the information

Council must provide access in the way requested by the applicant. Exceptions to that rule are described in *Part 4, Division 6, Section 72 (2)* of the GIPA Act.

The applicant has a period of 6 months to access the information. The access period starts from when notice of decision to grant access is given to the applicant.

2.5 Review of Decision

In accordance with Part 5, Division 1 of the GIPA Act, any member of the public who is dissatisfied with Council's decision for access to information, may lodge a request for review of Council's decision.

There are three ways of review of Council decision:

- **Internal review by a Senior Officer of Council** – an application for internal review must be made within 20 working days of receiving the decision, and accompanied by a \$40 fee - Part 5, Division 2 of GIPA Act.

Council must complete its internal review within 15 working days of receiving the application, which may be extended by up to 10 working days if further consultation is required.

- **External review by the Information Commissioner** – an application for Information Commissioner's review must be made within eight weeks of the person receiving notice of the council's decision - Part 5, Division 3 of the GIPA Act.
- **External review by the Administrative Decisions Tribunal** – an aggrieved person may seek review by the ADT within eight weeks of the decision or four weeks after the Information Commissioner's review - Part 5, Division 4 of the GIPA Act.

2.6 Other Provisions

2.6.1 Access to information listed in Section 12 of Local Government Act 1993

The GIPA Act abolishes the access to information regime under the Local Government Act 1993 (LGA). Section 12 of LGA now falls under the open access information - Schedule 5, Part 2, Section 3 of the GIPA Act.

2.6.2 State Records Act not affected

The GIPA Act does not affect the operations of the State Records Act 1998 (SRA) - Section 123.

2.6.3 Copying of public access documents

Published and released Council records are intended for general use and information. Information and files may be downloaded, stored, displayed and printed. Content must not be modified, copied, reproduced, or republished except with the written authorisation of Riverina Water County Council.

Copyright laws apply to all copies of documents provided for information purposes by Council, where the documents are used for any other purpose.

Council supports the sharing of information and the use of website content for the purposes of private study, research, criticism or review, as permitted under copyright legislation. However, Council does not give permission to reproduce or reuse content on its website for commercial purposes.

2.6.4 Personal Information about Council Employees

Personal information about employees of Council is not available to the general public unless it is subpoenaed or required by law.

2.6.5 Information about Tenders and Contractors

Information about the name and price of successful tenders, and also information about contracts, is publicly available from the Council's Contract Register, published on Council's website - Part 3, Division 5 of the GIPA Act. Accessing any further information about tenders will be processed on receipt of formal access application for information access.