



## Access to Information Policy

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Proposed Review Date: 24/10/2026

Responsible Officer: Manager Corporate Services

Verified by General Manager..... Verified by Mayor.....

## **1. Intent**

The intent of this policy is to outline the Bourke Shire Council's guiding principles for handling requests for information access by the general public.

### **1.1 The objectives of this policy are to:-**

- define and manage proactive, informal and formal information requests from the public under the *Government Information (Public Access) Act 2009* (the GIPA Act)
- provide the public with a straightforward and fully transparent process to access information held by Council at minimal cost and/or delay
- provide access to information wherever possible via Council's website and Customer Service Centre
- define information which may be restricted from public access
- ensure customers are promptly advised of the information they are entitled to access and with clearly documented reasons if access to information is refused
- advise customers of their rights of review if access to information is refused.

## **2. Scope**

The policy applies to all government and personal information held by the Council in the various forms, comprising all councillors, employees, consultants and contractors providing a service to Council.

## **3. Framework**

This Policy, once adopted, will provide Council and Council staff with a process for handling requests for information access by the general public.

## **4. Provisions**

### **4.1 Accessing Information**

Any member of the public has the legal right to request access to the information the Council maintains by submitting an application to the Council. The Council also makes a lot of information available to the public upon request and publishes a wide range of information on its website.

The Council will provide copies of requested information in digital form wherever possible. Where copies cannot be made available in digital form, information may be available for viewing in the Council building's conference room.

The Council is required to issue Access Directions for all records older than 30 years under Part 6 of the *State Records Act 1998*. Access guidelines are created for record classes rather than specific records. Records that are subject to an access direction and available to the public must be made available upon request. Under the GIPA Act, access to records that have been closed under the *State Records Act 1998* is still possible. If access is denied in accordance with the GIPA Act, the review rights detailed below take effect.

## **4.2 Open Access Information and Proactive Disclosure**

The GIPA Act requires the Council to make its "open access information" accessible to the general public. Information that is "open access information" is listed in Schedule 1 of the *Government Information (Public Access) Regulation 2009* and Part 3 of the GIPA Act.

The Council's 'open access information' is made available to members of the public via Council's website.

The proactive sharing of information upholds the public's right to information and shows that the Council is actively looking for ways to be open and accountable. In accordance with the GIPA Act, the Council aims to identify material to disclose in advance and encourages staff to periodically determine whether the information produced and gathered in their respective business areas would be useful to publish in advance.

## **4.3 Informal Access to Information**

If a member of the public seeks access to information that is not posted on the Council's website, they will be advised on how to submit an informal information access request via email, or on a printable form.

The Council will grant access to information unless there is a compelling public interest to withhold it.

An informal information access request is free of charge, but a scanning or photocopying fee might be charged in accordance with the Council's Revenue Policy: Fees and Charges. Requests for information access will be handled as quickly as possible, usually within 10 working days.

## **4.4 Formal Access to Information**

When the Council denies access to information in response to an informal information access request, the individual requesting access to the information will be informed of their right to file a formal access application under section 41 of the GIPA Act.

In accordance with Section 41 of the GIPA Act, a formal access application may be required to be submitted if:

- the information sought is of a sensitive nature, as defined by the Council's Sensitive and Security Classified Information Schema;
- the processes necessary to locate the information sought are highly complex;
- a substantial amount of information is sought; granting access would necessitate a thorough search;
- the information sought involves the personal or business information of third parties, the release of which requires their consent.

Applications for access under Section 41 (formal applications) must be submitted in writing and include a \$30 fee. Processing fees could also be charged based on the kind and volume of information requested. The GIPA Act controls the levying of processing fees.

An access application will get a written acknowledgement of receipt within five business days.

The processing of access applications will normally takes 20 working days. However, if a third party consultation or requirement to retrieve records is necessary, the decision period may be extended up to 15 working days. The statutory decision period could be prolonged in response to a request for an advance deposit.

The decision will be communicated to the applicant in writing. Any decision to deny access will be supported by justifications. If there are fees involved, access to the information won't be granted until the fee has been paid.

#### **4.5 Review Rights for Section 41 (formal) Applications**

Part 5 of the GIPA Act outlines a number of review rights. There are a variety of options available to the applicant if access to information is denied following a request made under section 41 of the GIPA Act, including asking for a review of the Council's decision:

- via an internal review by the Council;
- by the Information and Privacy Commission (IPC);
- by the NSW Civil and Administrative Tribunal (NCAT).

Applications for internal review must be submitted within 20 working days of the applicant receiving notice of the decision in writing and include a \$40.00 fee.

A senior official who was not involved in the initial decision-making process will carry out an internal review. Within 15 working days, the outcome of an internal review will be announced. If consultation is required, this may be extended by up to 10 working days.

As an alternative, an applicant may submit a request for review directly to the Information and Privacy Commission (IPC) or the NSW Civil and Administrative Tribunal (NCAT). To request this review, applicants must do so within 40 working days of receiving the initial decision. If the applicant has already received a review decision from the IPC, they have 20 working days from the date of the decision to submit an application to NCAT.

#### **4.6 How Councillors are to request access to information**

Councillors' general rights and obligations with regard to getting access to council information that is legitimately required for them to perform the duties of their civic office are covered explicitly in Part 8 of the Council's Code of Conduct.

Council members and their staff should use their official email addresses or letterhead to send any written requests for information to the Office of the General Manager or the relevant Executive Manager in order to carry out the duties of their civic office.

When other departments receive similar requests, they should immediately forward them to the Office of the General Manager or the appropriate Manager.

Council members and their staff should be certain when requesting information that:

- their requests clearly and concisely describe the information they seek
- the size and scope of requests for information are within reasonable limits.

The General Manager or appropriate Manager is required to exercise reasonable judgment when responding to a Councillor's request for information. If a request is denied, justification must be given in writing since a Councillor could need the information to carry out their public duties. Every information provided to one councillor while they are carrying out their civic responsibilities ought to be made available to every other councillor who wants it.

According to the Council's Code of Conduct, "Councillors and administrators who have a private interest in only council information have the same rights of access as any member of the public." When requesting information, council members and their staff should be clear about whether it is related to their job responsibilities or just a personal interest.

#### **4.7 Copyright**

A significant portion of the Council's information that is accessible to the public is protected by copyright and is the intellectual property of third parties. As an illustration, consider the plans and reports provided with development applications. According to the GIPA Act and other pertinent laws, such as the *Environmental Planning and Assessment Act 1979*, the public has access to this information. This information is protected by copyright laws, thus users are urged to get the owner's permission before using any of the information in any way.

### **5. Accountabilities**

The General Manager will delegate responsibilities to staff to determine applications under the GIPA Act, which is reflected in the Council's 'Delegations Register from the General Manager to staff'.

The Council's employees, council members, and contractors are accountable for respecting the policy's guiding concepts and procedures as necessary for their daily jobs.

#### **5.1 Roles and Responsibilities**

The following Council officers are responsible for the implementation and adherence of this Policy:

- General Manager
- Manager Corporate Services and Executive Services.

#### **5.2 Support and Advice**

The following Council officers are available to provide support and advice on this Policy:

- Manager Corporate Services and Executive Services.

## 6 Definitions

Term	Explanation
Government Information	Refers to information contained in a record held by a government agency i.e. Bourke Shire Council.
Record	Means any document, data or information created, compiled, recorded or stored in written form by electronic process, film or recordings, or in any other manner or by any other means that is evidence of or captures business activities and transactions.
Access Application (Approved Form)	Council has an approved form to be used for the purpose of formal request for information that is does not come under the categories of open access information. The approved form is to be accompanied by the required application fee.

## 7 Linkages

### 7.1 Applicable Legislation

This policy is to be read in conjunction with the following:-

- *Government Information (Public Access) Act 2009*
- *Government Information (Public Access) Act Regulations 2018*
- *Local Government Act 1993*
- *Privacy and Personal Information Protection Act 1998*
- *State Records Act 1998*
- *Environmental Planning and Assessment Act 1979*
- *Other subordinate legislation mentioned in the GIPA Act 2009*
- *Copyright Act 1968 (Cth)*

### 7.2 Related Policies and Procedures

Please refer to the following policies/procedures:

- *Council's Code of Conduct*
- *Council's Code of Meeting Practice*

## 8 Review

This Policy will be reviewed every three (3) years or as required in the event of legislative changes. Any amendment to the Policy must be by way of a Council Resolution or the approval of the General Manager.

## 9. Policy Amendments

Version	Date Approved	Description of Changes
1.4.10 (v3)	24/08/2020	New policy format.
1.4.10(v4)	23/10/2023	Minor revisions/ revised Policy format.