

Right to Information and Information Privacy

CONTROL:

Policy Type:	Administrative
Authorised by:	Council
Head of Power:	QLD Right to Information Act 2009 & QLD Information Privacy Act 2009
Responsible Officer:	Chief Executive Officer
Adopted / Approved:	Minute No. 2022.06.20-OM-5
Last Reviewed:	June 2022
Review:	<p>This policy is reviewed when any of the following occur:</p> <ul style="list-style-type: none"> • related information is amended or replaced; • other circumstances as determined from time to time by the Council; <p>Notwithstanding the above, this policy is to be reviewed at intervals of no more than two years.</p> <p>June 2024</p>
Version:	2

1. INTRODUCTION

Council is committed to providing easy public access to Council documents in accordance with legislative requirements. Council aims to maximise the amount of corporate information that is publicly available.

The following guideline describes the general processes and conditions for accessing documents or parts of documents held by Council, or under the control of Council. For the purpose of this policy, a document refers to all forms of corporate information. It may be available in hard copy or electronic format.

Council documents are available to the public via:

- Council website
- The Publication Scheme
- Administrative office
- Disclosure Log
- Administrative access application
- A formal application under the RTI Act or IP Act.

An individual who requests access to a Council document, or part of a document, should initially be referred to Council's website, Publication Scheme, Disclosure Log, library or other source where Council documents are routinely made available to the public.

If the document is not publicly available, an individual may apply to the relevant information asset custodian (the custodian) for administrative access to the information. The custodian will assess the request in accordance with legislation and Council policy.

As a last resort, the applicant may choose to submit an RTI access application in accordance with the provisions of the RTI Act and/or IP Act.

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Schedules 3 and 4 of the RTI Act provide that access to a document may be refused if a document contains exempt information or is not in the public interest. Examples include documents that contain budgetary information or information that is subject to legal professional privilege

1.1 SCOPE

This policy refers to the release of any information that is held or controlled by Council. The policy and guidelines apply to all Council employees, contracted service providers and Councillors.

1.2 PURPOSE

To ensure that Council complies with legislative obligations and functions under the Right to Information Act 2009 (RTI Act) and Information Privacy Act 2009 (IP Act) to enable the public to access Council documents.

1.3 BACKGROUND

The RTI Act and the IP Act commenced on 1 July 2009, replacing the Freedom of Information Act 1992 and Information Standards 42 and 42A: Information Privacy.

The RTI Act extends the right of the community to have access to information held by State Government Departments, Local and Public Authorities with a view of achieving a more open, accountable and transparent government.

1.4 COMMENCEMENT OF POLICY

This Policy will commence on adoption. It replaces all other specific Right to Information and Information Privacy policies of Council (whether written or not).

2. POLICY

2.1 POLICY STATEMENT

Council acknowledges the importance of facilitating public access to Council documents. Council will make every reasonable effort to assist applicants and to ensure that requests to access Council documents and/or amend documents containing an individual's personal information are managed efficiently, effectively and in accordance with legislation and Council policies.

Council is committed to ensuring that an RTI access application is a last resort option for accessing a Council document.

Where the provision of a document or documents will incur administrative, printing or retrieval costs, Council may charge a fee for the cost of providing the document or documents.

Council have an obligation under the Queensland Right to Information Act 2009 to:

- make information about its policies, structure and activities publicly available;
- provide access to documents upon request, subject to limited exceptions; and
- release information administratively as a matter of course (unless there is a good reason not to do so), with applications under the Act being necessary only as a last resort.

The Queensland Information Privacy Act 2009, as it applies under this Policy, provides the right for individuals to access and amend their personal information.

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3. STANDARDS AND PROCEDURES

3.1 SPECIFIC AND STANDARD

3.1.1 Roles and Responsibilities

Section 30 of the RTI Act states that any access application must be determined by the 'Principal Officer'. In Council's case the 'Principal Officer' is the Chief Executive Officer or another Council Officer ('RTI Officer') who has been delegated power from the Chief Executive Officer.

The RTI Officer has the responsibility of making initial decisions regarding the release of relevant documents within the time periods stipulated within the RTI Act. The RTI Officer may deal with any RTI application and liaise with the relevant Departments or Programs within Council regarding access to documents.

Under the RTI Act the RTI Officer is authorised to view all relevant documents including any confidential documents in order to assess the documents to determine if the documents are able to be released.

3.1.2 Publication Scheme

Council will maintain a publication scheme on its website in accordance with the RTI Act. This scheme will identify the type of information which Council will make routinely available, including any terms or charges.

The Publication Scheme is administered by Council. It provides information about Council business that Council releases routinely. The Publication Scheme is available on the Council website and refers to seven classes of information:

- 1) About Council: Council information, location and contacts, constitutional and legal governance
- 2) Council's services: A description of the services offered by Council, including advice and guidance, transactions and media releases
- 3) Council's finances: Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts
- 4) Council's priorities: Strategy and performance information, plans assessments, inspections and reviews
- 5) Council's decisions: Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations
- 6) Council's policies: Current policies and proposals for delivering our functions and responsibilities
- 7) Council's lists: Information held in registers required by law to be publicly available and other lists and registers relating to the functions of Council.

The Publication Scheme must contain information that is significant and appropriate.

Appropriate information means that a document must not be exempt from public release or the release must not be contrary to the public interest as determined by the RTI Act or the IP Act. Consideration must be given to any relevant legislation and/or Council policies.

Publication Scheme documents may be edited so that personal or sensitive information is not disclosed. Where possible, the Publication Scheme will clearly show the document has been

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edited, provide a brief explanation, and a summary of the omitted section where this can be done in a way that does not disclose the sensitive material.

Council actively promotes the publication of accurate, appropriate and significant information to the Publication Scheme.

3.1.3 Administrative Release

The Administrative Scheme is a way of providing the public with access to information. 'Administrative Access' refers to the release of information by means other than a formal access application under the RTI or IP acts. Council in accordance with the RTI Act will promote access to documents in its possession as a matter of course.

The administrative release of information is appropriate where there is no substantial harm to an individual, Council or other organisation in disclosing the information. As a general, rule personal information may only be disclosed administratively to the individual it is about except where legislation prevents such disclosure.

3.1.4 Disclosure Log

The Disclosure Log is to be available on the Council website. At the discretion of the delegated officer, it contains documents, or references or links to certain documents that have been made available to an applicant in accordance with the provisions of the RTI Act.

Where it is not reasonably practicable to publish a particular document that has been disclosed under the RTI Act, the Disclosure Log provides details identifying the document and how it may be accessed.

A document is published to the Disclosure Log no sooner than 24 hours after it is accessed by an applicant and no later than five business days after access.

3.1.5 Administrative Access Applications

If a Council document is not publicly available, or available via an administrative access request, an individual can make a formal application to Council to access a Council document under the provisions of the RTI Act.

- Administrative access applications are ad hoc requests for a Council document or part of a document. An individual who requests access to a Council document, or part of a document, should initially be referred to Council's website, Publication Scheme, Disclosure Log. If the document is not publicly available, the individual may apply for administrative access to the information.
- An administrative access request must be referred to the relevant information asset custodian (the custodian) for consideration. The custodian, or delegated officer, must assess the request to determine if the document can be released administratively. The administrative release of a document is at the discretion of the custodian, subject to legislative provisions and Council policy.
- When assessing an administrative access application, the objective is to maximise the flow of routine administrative information to the general public, while guarding against the inappropriate disclosure of sensitive information. The administrative release of information is to be in accordance with open and transparent governance and reduces the need for a formal RTI access application.
- The custodian must consider information that is exempt from disclosure under the Section 3 of the RTI Act. The custodian must also consider the factors for deciding

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the public interest in disclosing or not disclosing a document as described in Schedule 4 of the RTI Act. Council must consider who will be affected by the disclosure of the information and who should be consulted in relation to its possible disclosure. Inappropriate disclosure may cause distress to individuals and can lead to legal action against Council.

- If the applicant is not satisfied with the custodian's decision, the applicant may choose to submit an RTI access application in accordance with the provisions of the RTI Act and/or IP Act
- In general, Council does not charge for the release of Disclosure Log documents unless it involves significant Council Resources. Where the provision of a document or documents will incur administrative, printing or retrieval costs, Council may charge a fee for the cost of providing the document or documents.

3.1.6 Access to Council Documents

A formal administrative access application must:

- Be in the approved form and accompanied by the prescribed application fee
- Give sufficient information to enable the identification of the documents requested
- State an address where notices issued under the RTI Act or IP Act are to be sent.

The RTI access application applies only to documents that are, or may be, in existence on the day the application is received. Access applications do not apply to documents that are available from an alternative source, such as the Publication Scheme or via administrative access.

RTI application forms are available from Council's website, at Council's administration office or by requesting a copy to be posted. The completed application form must be addressed to the Chief Executive Officer (CEO)

The RTI Act provides Council with 25 business days, from Council's receipt of the application, to receive a decision. At any time before the processing period expires, Council may ask the applicant for an extension of the processing period with a view to making a considered decision.

If an access application is outside the scope of the legislative provisions, Council will advise the applicant within 10 business days after receiving the application. If the application does not meet all the requirements of a valid application, Council will advise the applicant within 15 business days. Chief Executive Officer (CEO) will ensure Council complies with its legislative obligation to assist applicants to make a valid application.

The CEO or delegated officer assesses each application in accordance with the public interest test and other exemptions prescribed by the RTI Act. If the delegate considers on balance, that disclosure of the information would be contrary to the public interest, the information will not be released.

Council may refuse to deal with an access application if it would substantially and unreasonably divert Council's resources. Council can also refuse to deal with an access application if the application was previously made for access to the same documents.

Once an access application has been assessed, the delegate provides the applicant with a written notice of its decision and, if access to certain information is denied, a statement of reasons in accordance with the RTI Act.

3.1.7 Access to Personal Information

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Under Section 43 of the IP Act an individual, or another person on behalf of the individual, including a parent or guardian of a child under 18 years, can apply to access their personal information that is held or controlled by Council.

The IP Act provides Council with 25 business days from Council's receipt of the application, to receive a decision. If an access application is outside the scope of the legislative provisions, Council will advise the applicant within 10 business days after receiving the application. If the application does not meet all requirements of a valid application, Council will advise the applicant within 15 business days. Council's Nominated Officer will ensure Council complies with its legislative obligation to assist applicants to make a valid application.

The delegate assesses each application in accordance with the provisions of the RTI Act and IP Act. Once an access application has been assessed, the delegate will provide the applicant with written notice of the decision, any access charges payable and the period in which the applicant may access the document/s. If access to certain documents or parts of documents is denied, Council will provide a statement of reasons in accordance with the RTI Act.

Where an applicant formally applies to access their personal information, the applicant must provide evidence of their identity within 10 business days of making the application. Without such evidence, the application cannot be processed. Acceptable documents that provide sufficient evidence of identity include:

- Current driver license
- Current passport
- Birth certificate
- Statutory declaration

If an application for access is made on another person's behalf, a copy of the letter of authorization to act is required. Both parties must provide evidence of their identity.

3.1.8 RTI Internal and External Review

Applicants have the right to seek an internal review if they disagree with the decision of the RTI Officer. An internal review is a process established under the RTI Act which allows the decision made by RTI Officer to be reviewed by the Principal Officer, namely the Chief Executive Officer. The Chief Executive Officer may delegate this power to another officer.

Applicants may apply to the Office of Information Commissioner if they are not satisfied with the result of the internal review. Alternatively, the Applicant may wish to forgo the opportunity to seek an internal review of the RTI Officer's decision and proceed directly to an external review with the Office of Information Commissioner.

3.1.9 Training

Our records administrator is responsible for ensuring that adequate training is available to all staff to ensure their capabilities meet their responsibilities.

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4. REFERENCE AND SUPPORTING INFORMATION

4.1 DEFINITIONS:

To assist in interpretation, the following definitions shall apply:

Word / Term	Definition
Administrative Release	Information released administratively through the exercising of administrative discretion.
Disclosure Log	A list of documents released following a decision about an application for access under the RTI Act, which is published on the Council's website or in hardcopy upon request.
IP Act	Information Privacy Act 2009
Principal Officer	The Chief Executive Officer is the 'Principal Officer'.
RTI Act	Right to Information Act 2009.
Council	Means Diamantina Shire Council. (DSC)
Publication Scheme	Shall mean information that Council has available and the terms on which Council will make the information available including any charges.
Information asset Custodians	Custodians are the people who are actually in possession of the information, and who implement and administer controls over the information according to instructions from owners.
Document	Shall mean a document in the possession or under the control of Council whether brought into existence or received by the agency and includes: (a) A document to which Council is entitled to access (b) A document in the possession or under the control of an officer of Council in the officer's official capacity. A document can include: (a) Any paper or other material on which there is writing, marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; (b) Any disk, tape or other article or 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).
RTI Officer	Council Officer delegated to undertake Right to Information decisions.
Personal Information	Shall mean information or an opinion, including information or an opinion forming part of a database, whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

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4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Records Management Policy
Confidentiality Policy
Right to Information Act 2009 (Qld)
Right to Information Regulation 2009
Information Privacy Act 2009 (Qld)
Information Privacy Regulation 2009
Public Records Act 2002

4.3 Version Control:

Previous Version Number	Adopted/Approved Date
1	June 22 2020;Minute No. 2020.06.22-OM-19
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