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ACCESS TO COUNCIL INFORMATION

Strategic Outcome:	Good government	
Policy type	Statutory	
Date of Adoption:	19 October 2022	Minute Number: 350/22
Date for Review:	15 October 2026	
Responsible Officer:	Director Corporate Services	
Document Control:	New policy	
Delivery Program Link:	2.1.2 Meet legislative requirements for Council elections, local government and integrated planning and reporting	

1. POLICY STATEMENT

Berrigan Shire Council is required to assist members of the public to obtain information held by is as a legally enforceable right under the *Government Information (Public Access) Act 2009* (GIPA Act) legislation.

Berrigan Shire Council is committed to openness and transparency in carrying out its functions, to publish information in accordance with the GIPA Act, and to disclose information in response to an informal request or formal access application, unless to do so would be contrary to the public interest.

2. PURPOSE

Council should adopt and maintain an Access to Information Policy in line with the GIPA Act. Council has developed this policy to ensure Berrigan Shire Council handle legitimate requests for access to information promptly and members of the public are provided access information, subject to the public interest.

Council is guided by the following principles:

- open and transparent government;
- a presumption in favour of disclosure unless there is an overriding public interest against disclosure;
- a proactive approach to disclosure and dissemination of information;
- timely, unbiased and impartial processing of reasonable requests for information within relevant legislative and business frameworks, at the lowest reasonable cost; and



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- respect for the privacy of individuals.

3. SCOPE

The policy applies to Councillors, Delegated Committees and Council staff of Berrigan Shire Council, any person or organisation seeking Council information.

4. OBJECTIVE

This policy is developed to assist the Council with the Delivery Program Objective:

2.1.2 Meet legislative requirements for Council elections, local government and integrated planning and reporting.

5. DEFINITIONS

Council	means Berrigan Shire Council
GIPA Act	means <i>Government Information (Public Access) Act 2009</i>
Open Access (mandatory release)	Under part 3, Division 1 of the <i>Government Information (Public Access) Act 2009</i> all NSW government agencies (including local government) must make publicly available all open access information unless there is an overriding public interest against disclosure of the information.
Public Interest Test	Whilst a document may be considered to be an 'open access' document, not all of the information contained within the document is necessarily 'public' information. The public interest test requires balancing factors for and against disclosure of each piece of government information. That balancing must be undertaken within the context of the GIPA Act.
Informal request for Information	Request to access to information that is not available on council website.
Formal request for Information	Information that is not available any other way may be requested by lodging a Formal Access application.

6. POLICY IMPLEMENTATION

6.1. How is Council information made publicly available?

Information will be made available:

- on Council's website
- via Council's social media



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- in person at the Council Administration Office
- through the public participation processes at Council meetings
- through community engagement and consultation processes
- via Council Meeting agenda and minutes
- by publishing policies, plans and reports on the Council website
- via public registers
- in accordance with the *Government Information (Public Access) Act 2009*.

Other legislation may apply to the release of Council records such as, but not limited to, the *Privacy and Personal Information Act 1998 (NSW)* and *Copyright Act 1968*. Council's Access to Information Officer will consider all relevant legislation applicable to any request for information.

Council will release government information in response to an informal request subject to any reasonable conditions as Council thinks fit to impose.

Council will decide by what means information is to be released in response to an informal request.

Council may ask for proof of identity when the applicant is seeking access to their own personal information.

Council may require a formal application (formal requests are also known as 'access applications') to be submitted where the information sought:

- is of sensitive nature;
- contains personal or confidential information about third party that requires consultation; and / or
- would involve an unreasonable amount of time and resources to produce.

It is important to note that the lodging of a formal access application does not automatically guarantee all or part of any information requested will be provided to the applicant.

Prior to lodging a formal access application, applicants should first check if the information being sought is freely available on Council's website or could be accessed through our informal release process.

6.2. Open access information and proactive disclosure

The Council must make its 'open access information' publicly available in accordance with the GIPA Act. Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation 2009 list the information that is 'open access information'.

Proactive release supports the public's right to information, and it demonstrates the Council is actively seeking ways to be transparent and accountable. In compliance with the GIPA Act the Council seeks to identify information to disclose proactively and encourage staff to regularly assess whether the information created and collected in their business areas would be useful to publish proactively.



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6.3. Informal application

Those seeking Council information are encouraged to first request the information through an informal application.

Applicants should be aware:

- information may be provided more promptly through an information application rather than a formal application;
- no fee is payable to view information;
- conditions may be imposed on how the information can be accessed (for example – view only); and
- Council's decision about what information will be provided to you is not reviewable.

An applicant who is not given information in response to an Informal Access to Information Application will be informed of their right to make a Formal Access to Information Application under the GIPA Act

6.4. Formal application

Those seeking Council information are entitled to lodge a formal application, either after an informal application has been refused or initially should they choose.

Applicants should be aware:

- the decision may take longer due to formal requirements and the possible need to consult with third parties;
- a processing fee is payable with application and further processing fee per hour is payable after the first hour of processing;
- no condition can be imposed on the release of information (except Copyright information which is view only); and
- Council's decision as to what information will be provided is reviewable. It can be reviewed internally at Council, or externally by the Information Commissioner or by the Administrative Appeals Tribunal.

Formal requests will be processed within 20 working days and may be extended by up to 15 working days where consultation with a third party is required or if records need to be retrieved.

6.5. Review rights

If an applicant is refused access to information, the applicant has several options including:

- requesting an internal review by the Council;
- requesting a review of the Council decision by the Information and Privacy Commission; or



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- requesting a review of the Council decision by the NSW civil and Administration Tribunal (NCAT)

Applications for internal review must be made within 20 working days of the notice of the decision being given to the applicant.

The applicant is required to pay the set fee when they lodge this request (section 85). There are no processing fees required to be paid by the application in respect of this application (section 87).

The internal review will be decided within 15 days of receipt of a valid request for internal review. This period may be extended by up to 10 working days if consultation is required. The applicant will be notified if an extension of time will be applied (section 86).

Internal reviews are done by making a new decision, as if the original decision had not been made.

6.6. Copyright

Copyright laws apply to this information and applicants are advised to seek the consent of the copyright owner before reproducing the information in any way. Council will only provide copies of copyrighted material upon written consent from the copyright holder or during the assessment phase of a development application.

6.7. Responsibilities

Chief Executive Officer or Director Corporate Services (as the Council's delegated Access to Information Officer) will determine applications under the GIPA Act.

Staff, Councillors and Contractors of the Council are responsible for upholding the principles and processes of the policy as required in their daily work.

7. RELATED LEGISLATION, POLICIES AND STRATEGIES

7.1. Legislation/References

- *Government Information (Public Access) Act 2009*
- *Government Information (Public Access) Regulation 2009*
- *State Records Act 1998*
- *Privacy and Personal Information Protection Act 1998*
- *Health Records and Information Privacy Act 2002*
- *Local Government Act 1993*
- *Copyright Act 1968*



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7.2. Council policies and guidelines

- Governance Policy
- Code of Conduct
- Records Management Policy
- Privacy Management Plan

8. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

9. DOCUMENT AVAILABILITY

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

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10. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	19.10.2022	New Policy document	Information and Records Officer