

Public Access to Information

Purpose

The purpose of this Policy is to facilitate the public's right to access council 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.

Policy Statement

Riverina Water County Council is committed to providing, as far as possible, an open, accountable and transparent process 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.

Scope

This Policy applies to all members of the public wishing to access Council information, all Board members and staff of Riverina Water.

Definitions

Contracts Register	A register that records information about each contract to which Council is a party that has a value of \$150,000 or more (GST inclusive)
council	Riverina Water County Council
Council officials	Includes board members, members of staff, council committee members, delegates of council and anyone who operates under official capacity as a member of Riverina Water

Data and document control

Disclose information	Making information available or providing access to information
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 Riverina Water's website
Formal access application	Valid application for access to government information under Part 4 of the GIPA Act
GIPA Act or GIPAA	The Government Information (Public Access) Act 2009
Government information	The information contained in a record held by Riverina Water including: any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; or 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)
Open access information	Records containing government (council) information that are publicly available
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)
Publication guide	Sets out the kinds of information that Council makes publicly available and routinely publishes on the website

Data and document control

Principles

1. Legislative compliance

Members of the public have a legally enforceable right to access government information held by 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.

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

2. Accessing personal information & amendment of council records

2.1 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.

2.2 All applications for amendment of Council's records will be dealt with under Part 6A of the Privacy and Personal Information Protection Act 1998 (PPIPA) - Schedule 3, Part 2, Section 4.

3. Ways to access council information

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

3.1.1. Mandatory proactive release of certain government information. Council publishes open access information, defined in Section 18 of the GIPA Act, on its website.

The following publications constitute open access information:

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- 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.

3.1.2. Authorised proactive release of government information, which must be exercised in an appropriate manner by or with the authority of the CEO or delegate, 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.

3.1.3. 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 the CEO or their delegate - Part 2, Section 8 of the GIPA Act.

3.1.4 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 (eg. 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).

4. Public interest considerations and the public interest test

4.1 *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*).

4.2 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.

4.3 *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.

5 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 Customer Service, or when releasing of the information requires previous consultation with third parties, this information may be accessed through a formal access application process.

5.1 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 required fee if applicable
- 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. An 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, and from our administration office in Hammond Avenue.

5.2 Initial determination on validity of application.

The relevant nominated officer (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.

If the application is deemed not valid, the notification 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 assist

the applicant to provide such information as may be necessary to enable the applicant to make a valid access application.

5.3 Outcome of the application and providing notice of the decision

According to Part 4, Division 4, Section 57 of the GIPA Act, the Information Access Officer must determine the outcome of 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.

5.4 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 the information is already available to the applicant (open access)
- Decision to refuse to deal with the application
- Decision to refuse to provide access to information
- Decision to provide access to the information

5.5 Providing access to the information

In accordance with Part 4, Division 6, Section 72 of the GIPA Act, access to the information in response to a successful application 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 the notice of the decision to grant access is provided to the applicant.

5.6 Review of the 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.

An application for internal review must be made within 20 working days of receiving the decision, and accompanied by a review fee - Part 5, Division 2 of GIPA Act.

There are three ways of review:

- Internal review by a Senior Officer of council. 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.

6 Other Provisions

6.1 State Records Act not affected

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

6.2 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.

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.

6.5 Information about Tenders and Contractors

Information about the name and price of successful tenders, and information about contracts, is publicly available from the Council's Contract Register, published on Council's website - Part

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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.

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.

8 Policy Implementation

This policy and supporting procedure will be provided to customer service staff to ensure understanding and correct application of the policy. It will be made available on the Riverina Water website along with a Request for Information request form.

8.1 Reporting Requirements

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

Non Compliance

Non-compliance with adopted policy may be considered a breach under the Code of Conduct. As such, any suspected or known non-compliance will be reported to the CEO

Policy number	1.15
Responsible area	CEO
Approved by	Riverina Water Board
Approval date	27 April 2022 – Res 22/046
Legislation or related strategy	<ul style="list-style-type: none"> • NSW Government Information (Public Access) Act 2009 (GIPA A) • 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
Documents associated with this policy	<ul style="list-style-type: none"> • Requests for Information Guidelines • Code of Conduct Policy 1.01 • Privacy Policy 1.20 • Privacy Management Plan

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Policy history

Vers 2 – 28 June 2017 – Res 17/98

Vers 1 – 15 Oct 2014 – Res 14/134

Number change from Policy 5.26 22/11/13

Original date of adoption – 24 Oct 2012 – Res 12/152

Review schedule

Every 4 years (once per term of the Board)

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

END OF POLICY STATEMENT

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