

ACCESS TO COUNCIL  
DOCUMENTS  
ES50



NARRANDERA SHIRE COUNCIL POLICY

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## ACCESS TO COUNCIL DOCUMENTS

<b>Policy No:</b>	<b>ES50</b>
<b>Policy Title:</b>	<b>Access to Council Documents</b>
<b>Section Responsible:</b>	<b>Corporate and Executive Services</b>
<b>Minute No:</b>	<b>14/319</b>
<b>MagiQ No:</b>	<b>8364</b>
<b>Next Review Date:</b>	<b>As required</b>

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### **Purpose**

The purpose of this policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests.

### **Objective**

Narrandera Shire Council aims to provide the community as much access as possible to information held in its files consistent with its duties and obligations under:

- The Government Information (Public Access) Act 2009 (NSW)
- The Privacy and Personal Information Protection Act
- The Local Government Act.

### **Scope**

This policy applies to the provision of information held by Council under the terms of the Government Information (Public Access) Act 2009 (GIPA).

### **Eligibility**

This policy applies to all Councillors and employees of Narrandera Shire Council.

This policy applies to all members of the public.

This policy does not relate to the notification of development applications and related issues. A separate Notification Policy prepared in accordance with the Local Government Act 1993 addresses those matters.

### **Definitions**

Documents refer to:

- Files/correspondence
- Public Registers
- Any record that contains personal/private details or information.

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“Personal/Private Information” means information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information.

"Individual" means a person or any body that is at law a legal identity (e.g. company, registered body).

### **Content**

Narrandera Shire Council is committed to the following principles regarding public access to documents and information:

- open and transparent government,
- consideration of the public interest in relation to requests, and
- respect for the privacy of individuals.

The ‘Access for Information Provisions’ contained within this Policy identifies the documents and types of information that are available for public access and any restrictions that may apply.

Council publishes specific open access information on its website, free of charge unless to do so would impose unreasonable additional costs to Council.

Council publishes for inspection documents listed under Schedule 1 of the Government Information (Public Access) Regulation Act 2009 held by Council, unless there is an overriding public interest not to do so.

Council will keep a record of all open access information that is not published because of an overriding public interest against disclosure.

Council also makes as much other information as possible publicly available in an appropriate manner, including on the internet. Such information is also available free of charge or at the lowest reasonable cost.

Some documents may require a formal access application in accordance with the Government Information Public Access Act 2009. Council will assess all requests for access to documents and information in a timely manner and in accordance with the ‘Public Access to Information Provisions within this policy’ and relevant legislation. Depending upon the nature of the request and form of access requested charges may be applied in accordance with Council’s annual Schedule of Fees and Charges.

- Council will assess requests for access to information with reference to:
  - The Local Government Act 1993;
  - The Privacy and Personal Information Protection Act 1998;
  - The Government Information Public Access Act (GIPA) 2009;
  - The Environmental Protection & Assessment Act 1979; and
  - The Health Records and Information Privacy Act 2002.

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- The State Records Act 1998.
- Companion Animals Act 1998; and any other relevant legislation and guidelines as applicable.

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests; or from performing other Council functions may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavor to assist in defining the request to a more manageable scope.

Council also endeavors to release other information in response to an informal request, subject to any reasonable conditions Council may impose having regard to the circumstances of the case.

Where information is released to an applicant under a formal access application and Council considers that it will be of interest to other members of the public, Council will provide details of the information in a disclosure log for inspection by the public.

### Provisions

#### Files and Correspondence

Whilst Council aims to allow access to all files either free or on payment of a prescribed fee, there may be information on file that is protected either under the *the Government Information (Public Access) Act 2009 (NSW)*, or the Privacy and Personal Information Protection Act or the Local Government Act. This Policy recognises those restrictions.

As a general rule all files will be accessible to the public- free or on payment of a fee.

Access is not allowed to correspondence from third parties (if it contains information/details of a private/personal nature), staff matters, legal advice/opinion.

#### Suppression of Information

Privacy and Personal Information Protection Act (PIPPA) Section 59(1) provides that a person about whom personal information is held may request the Council to have that information removed from any public register and not disclosed to the public.

The Council will suppress the information unless it is of the opinion that the public interest outweighs the individual's interest. Council will err on the side of caution in this respect.

### **Limits on Disclosure of Personal Information contained in Correspondence to the Council - Section 18 PIPPA**

Personal Information contained in correspondence with the Council will not be disclosed to third persons unless:

- The document has been presented in an open Council or Council Committee meeting.
- Information contained in the file about identifiable individuals is already publicly available from a readily accessible source, e.g. the White/Yellow Pages.
- The individuals to whom the personal information relates were notified of the likelihood of disclosure.
- The purpose of the request for access is directly related to the purpose for which Council collected the information, and Council has no reason to believe that the individual would object.
- It is established (without disclosing any personal information contained in the relevant documents) that the person seeking access already knows all of the personal information contained in the file.
- The individual is reasonably likely to have been aware, or was made aware that information of that kind is usually disclosed to the person Council proposes to disclose it to e.g.. Council's "Open File" policies or pre-notification advice.
- Council believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or someone else.
- The individual has expressly consented to the disclosure.

### **The Government Information (Public Access) Act 2009 (NSW) (GIPA)**

Clause 14 of GIPA provides public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to reveal an individual's personal information or contravene an information protection principle under the Privacy and Personal Information Protection Act 1998

### **Local Government Act**

Any person may apply to the Council under Section 739 to suppress documents containing details of their "place of living".

Council will process any such application in accordance with Section 739 and advise the applicant of the outcome.

### **Suppression of Personal/Private Information**

Any person who provides personal information to the Council e.g. Name and address, telephone number, may require the Council to suppress those details from the public. Requests must be in writing and directed to the General Manager.

### **Barred Access**

Council will not provide unfettered access to documents and will not provide access to a document to the extent that:

- Council is satisfied that allowing access would, on balance, be contrary to the public interest;  
E.g. Legal correspondence/advice from solicitors acting for Council, its insurers or their agents; or information that has been suppressed.
- Disclosure of the document would reveal personnel matters concerning particular individuals; e.g. Personal disciplinary or contractual matters regarding staff
- Disclosure of the document would reveal information concerning the personal hardship of a resident or ratepayer;
- Disclosure of the document would reveal trade secrets or result in a breach of confidence; e.g. Details of contracts or sensitive business information.
- Disclosure of the document would constitute an offence.

### **Open Access**

To ensure equity of access by members of the public requesting perusals of property files, each file perusal appointment will be limited to one property address and scheduled file perusal appointments will be limited to one per individual or organisation per day, unless otherwise agreed to by the General Manager.

Subject to a fee for copying (refer Council's Fees and Charges Schedule), copies can be given of:

- Documents that are "Public Documents" i.e. they have been to a Council/Committee meeting and not deemed "Confidential". This includes third party correspondence that accompanies reports to Council or Committee and goes to Council as "Correspondence".
- Matters that have been dealt with under Delegated Authority e.g. DA's, CC's and other approvals.
- Documents that could be obtained freely under the the Government Information (Public Access) Act 2009 (NSW) i.e. they don't involve a third party or are readily available to the public elsewhere, or Council documents that don't involve litigation or staff matters.
- Documents otherwise exempted under the the Government Information (Public Access) Act 2009 (NSW) and/or the Privacy Act and Personal Information Act.

### **Applications for Access to Files**

Applicants must complete an application form and provide precise details about the information they want to access. This form will be retained on the file accessed.

If there is any uncertainty or doubt about the purpose stated the applicant may be required to make a Statutory Declaration. This may occur if the file contains sensitive personal information/details.

### **Enquiries**

If doubt exists as to whether access should be given to a particular document(s), a determination must be sought from the Public Officer.

Enquiries regarding the operation of this Policy should be directed to the Director of Corporate Services or the General Manager.

### **Responsibility/Accountability**

Records Management staff are responsible for ensuring that files are available for perusal according to scheduled appointments and for removing documents from files which have been determined as exempt under the Government Information (Public Access) Act 2009 (NSW) or the Privacy and Personal Information Protection Act.

The Public Officer, or an officer under delegation from the Public Officer, is responsible for ensuring this policy is observed and for providing a determination on access to documents.

### **Related Policies/Legislation**

The Policy should be read in conjunction with:

- Local Government Act 1993
- The Government Information (Public Access) Act 2009 (NSW)
- Privacy and Personal Information Protection Act 1998
- Narrandera Shire Council Policies/Plans
- Privacy Management Plan
- Fees and Charges Schedule
- Teloca House Privacy Policy
- The Environmental Protection & Assessment Act 1979;
- The Health Records and Information Privacy Act 2002
- The State Records Act 1998
- Companion Animals Act 1998; and any other relevant legislation and guidelines as applicable.

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**Policy History**

Endorsed ELT	27 October 2014
Adopted	15 July 2008
Reviewed	9 December 2008
Amended	15 November 2011
Reviewed	October 2014
Reviewed and Adopted	18 November 2014



Signed **General Manager**  
**Date: 19 November 2014**