

# RIGHT TO INFORMATION POLICY

## MANAGEMENT DIRECTIVE



### 1 Scope

This policy applies to Councillors, employees, contractors and volunteers of Rockhampton Regional Council and members of the public accessing Council information and personal information held by Council.

### 2 Purpose

The purpose of this policy is to ensure Council complies with legislative obligations and functions under the *Right to Information Act 2009* and *Information Privacy Act 2009* and to enable the public to access Council information without recourse to formal procedures.

### 3 Related Documents

#### 3.1 Primary

Nil

#### 3.2 Secondary

*Human Rights Act 2019*

*Information Privacy Act 2009*

*Local Government Act 2009*

*Right to Information Act 2009*

Administrative Access Scheme Procedure

Privacy Policy

### 4 Definitions

To assist in interpretation, the following definitions apply:

|                       |   |
|-----------------------|---|
| An Individual         | Any living human being. That is, an individual is not a company, trust or deceased person.  |
| Administrative Access | As defined in paragraph 5.4, information released through the exercise of administrative discretion in good faith and in the appropriate circumstances, without breaching existing laws or other obligations. |
| CEO                   | Chief Executive Officer<br>A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.                                      |
| Contractor            | A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.   |
| Coordinator           | An employee appointed to a position with a corporate band 4 delegated in line with the Delegation and Authorisation Policy and detailed in the Delegations Corporate  |

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|                      |  |
|----------------------|--|
|                      | Register.  |
| Council              | Rockhampton Regional Council   |
| Councillor/s         | The Mayor and Councillors of Council, within the meaning of the <i>Local Government Act 2009</i> .   |
| Disclosure Log       | A list of documents released following a decision about an application for access under the <i>RTI Act</i> , which is published on the Council's website or in hardcopy upon request.  |
| Employee             | Local government employee:<br>(a) The Chief Executive Officer; or<br>(b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .   |
| General Manager      | An employee appointed to a position with a corporate band 2 delegated in line with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register, positions include Deputy Chief Executive Officer, general managers and executive managers.                                    |
| IP                   | Information Privacy  |
| IP Act               | <i>Information Privacy Act 2009</i>  |
| Manager              | An employee appointed to a position with a corporate band 3 delegated in line with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.   |
| Personal Information | As defined in the IP Act, 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. |
| Publication Scheme   | Information Council makes routinely available for public access, refer to paragraph 5.3.   |
| RTI                  | Right to Information   |
| RTI Act              | <i>Right to Information Act 2009</i>   |
| Volunteer            | Any person, who of their own free will, offers to undertake unpaid work for Council and is accepted as a volunteer by the CEO and/or their authorised delegates.   |

## 5 Policy Statement

Council is committed to providing, as far as practicable, an open environment which enables members of the public to access Council documents without recourse to formal procedures as described by the RTI Act and IP Act.

On occasions where it is necessary or appropriate to make an application under these Acts, the application is considered with regard to content (where third party or sensitive non-personal information is requested) and context (where there are grounds for considering the documents may be exempt from access under the RTI Act).

This policy should be read in conjunction with Council's Privacy Policy.

### 5.1 Legislative Obligations

The RTI Act places obligations on Council to:

- (a) Make information about its policies, structure and activities publicly available;
- (b) Provide access to documents upon request, subject to limited exceptions; and

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- (c) Release information administratively as a matter of course (unless there is a good reason not to do so), with applications under the RTI Act being necessary only as a last resort.

The IP Act, as it applies under this policy, provides the right for individuals to access and amend their personal information.

## 5.2 Roles and Responsibilities

### 5.2.1 Principal Officer

As defined in Schedule 5 of the RTI Act, the CEO is the Principal Officer, and as such, is responsible for Council's obligations under the RTI Act.

### 5.2.2 RTI Coordinator

The Records Supervisor is appointed as the RTI Coordinator and is responsible for coordinating RTI and IP requests within Council and administering the key provisions under the RTI Act and the IP Act.

The RTI Coordinator:

- (a) Is the primary contact for the applicant;
- (b) Liaises with and advises the Decision Maker and the Action Officer on RTI matters;
- (c) Liaises with Council's legal representative when legal advice is required;
- (d) Coordinates RTI and IP training for employees; and
- (e) Coordinates updates to the Disclosure Log, Publication Scheme and Administrative Access Scheme as required. Links to documents published to the Disclosure Log are considered where it is reasonably practicable to do so.

### 5.2.3 RTI Decision Maker

The CEO may sub-delegate the power to deal with an application to another employee. An agreed number of appropriately qualified senior employees from each department are sub-delegated to act as Decision Maker for RTI and IP applications primarily relevant to their department.

Decisions about the release or exemption of any documents relevant to a request are the responsibility of the identified Decision Maker for that request.

### 5.2.4 RTI Action Officer

The Action Officer is critical to achieving the timely and comprehensive response to an RTI/IP application. The Action Officer works with the Decision Maker and RTI Coordinator to locate, identify and collate all documents held by their department/section/unit which are relevant to the request.

The Action Officer is nominated by the relevant department and is responsible for ensuring the completed package of documents relevant to the RTI/IP application is provided to the Decision Maker for assessment and registration into the relevant RTI/IP file for future reference.

### 5.2.5 RTI Internal Review Officer

The Internal Review Officer is another Decision Maker, of equal or greater seniority to the initial Decision Maker, who reviews any decisions made by the initial Decision Maker to refuse access to documents (or part thereof) relevant to the particular RTI/IP application.

### 5.2.6 Heads of Department/Section/Unit

General managers/managers/coordinators are responsible for ensuring administrative practices in their work area (for example, arrangements for access to documents by clients or others) are consistent with Council's obligations under the RTI/IP Act. Managers should liaise with the RTI Coordinator to develop appropriate procedures where necessary. Managers are responsible for updating information relating to their units under the Publication Scheme.

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## 5.2.7 Information Systems Unit

The Coordinator Information Systems is responsible for providing the system/tools for the development and support of an RTI webpage presence on the Council website to display the Publication Scheme, Disclosure Log and Administrative Access Scheme.

## 5.3 Publication Scheme

Council is required under the RTI Act to publish a scheme (a Publication Scheme) setting out the classes of information it has available and the terms on which it makes the information available, including any charges. The content of the Publication Scheme must comply with the scheme guidelines published by the Minister responsible for the RTI Act. Managers are responsible for updating information relating to their units under the Publication Scheme.

### 5.3.1 Council Publication Scheme

The Council Publication Scheme describes and categorises information routinely available from Council. It has been developed to give the community greater access to information. Information is grouped and accessible through seven classes:

- (a) About Council – who we are and what we do, including our:
  - (i) Organisational structure;
  - (ii) Role, mandate, mission and business activities;
  - (iii) Locations and contacts; and
  - (iv) Relevant legislation.
- (b) Council services – Information about the services Council offers.
- (c) Council finances – Council’s budget and financial standing.
- (d) Council priorities – What Council’s priorities are and respective progress status.
- (e) Council decisions – Council’s decision making process.
- (f) Council policies – Council’s current written policies and procedures.
- (g) Council lists:
  - (i) Information held in registers Council is required by law to maintain.
  - (ii) Registers and lists relating to Council business activities and functions.

Council’s Publication Scheme does not usually include information that is:

- (a) Prohibited by law from disclosure or is exempt under the RTI Act;
- (b) In draft form;
- (c) In a form that cannot be easily accessed; or
- (d) No longer readily available because it has been transferred to Queensland State Archives.

## 5.4 Administrative Access

Administrative access refers to the release of information held by Council by means other than a formal access application under the RTI Act or the IP Act. Administrative access focuses on the reactive release of information and demonstrates a commitment to openness, accountability and transparency. The Administrative Access Scheme Procedure provides further guidance on public access to information.

An Administrative Access Scheme is maintained to provide an overview of the types of information available for release into the community administratively when requested.

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## 5.5 Requests for Access to Personal Information or Amendment of Personal Information – IP Act

The IP Act gives individuals the right to seek access to documents containing personal information about them. It also gives them the right to seek amendment of personal information held about them, where it is considered to be inaccurate, incomplete, out-of-date or misleading. In simple cases, an appropriate officer of the Council may alter the record without using the formal IP mechanisms. In more complex cases (for example, where opinion or other interpretative information is involved), it is necessary to make an application to the RTI Coordinator.

Amendment of information does not extend to deletion or destruction of records.

## 5.6 RTI/IP Applications

### 5.6.1 Made by an Agent

Where an agent is making an application on behalf of the applicant and the application is for personal information of the applicant, evidence of the agent's authority and a certified copy of their identification is required in accordance with the IP Act.

The agent's authority must clearly set out the scope of the authority to act as the applicant's agent. Council will not accept an authority if it is older than six months unless Council can verify the authority is still current.

### 5.6.2 Charges

An application fee is NOT payable where an application relates to information concerning the applicant's personal information. However, actual costs incurred in providing access to personal information (for example, reproducing non-paper sourced information) may be recovered. In all other cases, an application fee is payable.

In accordance with section 58 of the RTI Act, it is the duty of the Council to minimise any charges payable by an applicant.

Under section 64 of the RTI Act, processing or access charges may be waived if the likely associated costs to the Council would be more than the likely amount of the charge.

## 5.7 RTI Review and Appeal

The Decision Maker must provide to the applicant the reasons in writing justifying their decision(s) not to release documents, to give only partial access to documents, or to refuse to amend personal information. Such decisions can be internally reviewed by the Internal Review Officer. Independent review by the Queensland Information Commissioner is also available.

## 5.8 RTI/IP Recordkeeping Requirements

Council must maintain a discreet electronic record for each RTI/IP request. It is important that the RTI/IP file records Council's actions and decision-making in dealing with each request. The records need to be sufficient to allow reviewers to understand the process and reasons for RTI/IP determinations. In all cases, Council has the onus of justifying its actions under the RTI Act and the IP Act.

## 6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the CEO.

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## 7 Document Management

|                        |   |
|------------------------|---|
| Sponsor                | Chief Executive Officer                   |
| Business Owner         | Deputy Chief Executive Officer            |
| Policy Owner           | Manager Corporate and Technology Services |
| Policy Quality Control | Legal and Governance                      |



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