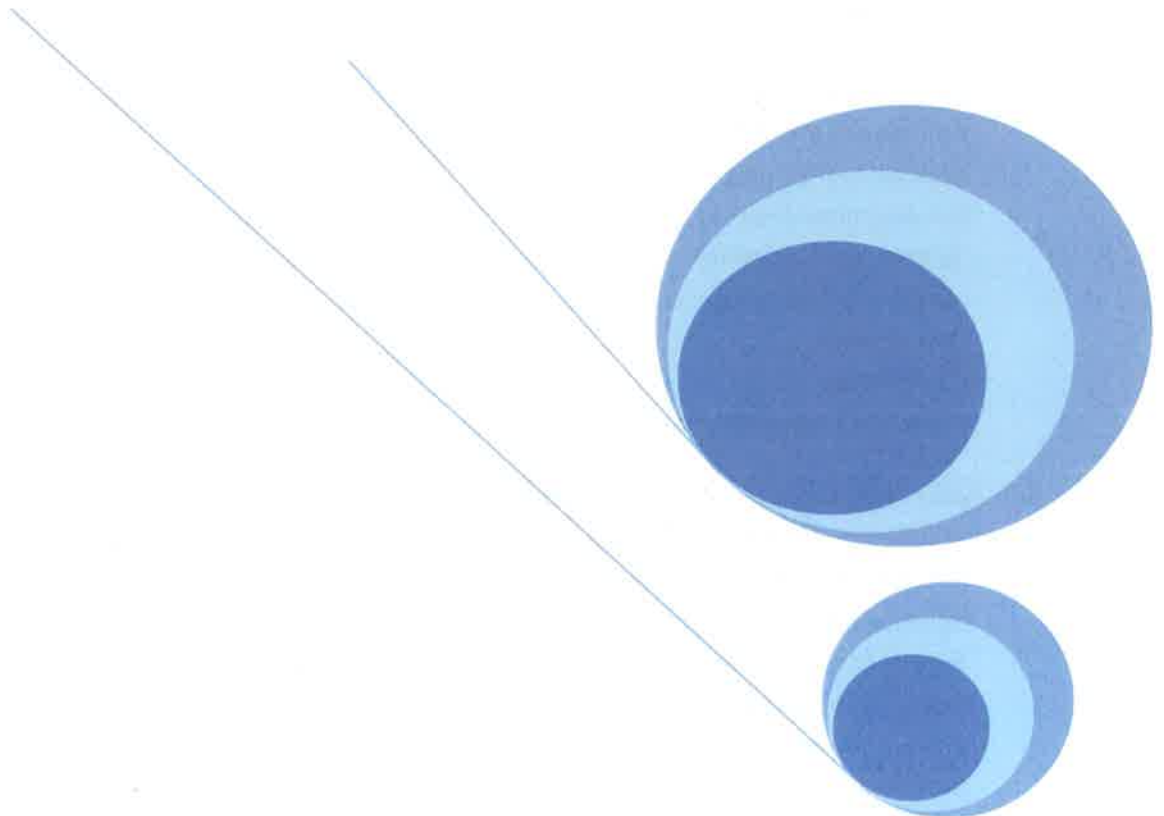




BELLINGEN SHIRE COUNCIL

Government Information (Public Access) Act 2009

AGENCY INFORMATION GUIDE



Amended January 2018

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1.0 Introduction

This Agency Information Guide has been produced by Bellingen Shire Council in accordance with Section 20 of the Government Information (Public Access) Act 2009 (GIPA Act).

The purpose of the document is to provide members of the public and staff of the organisation with information concerning:

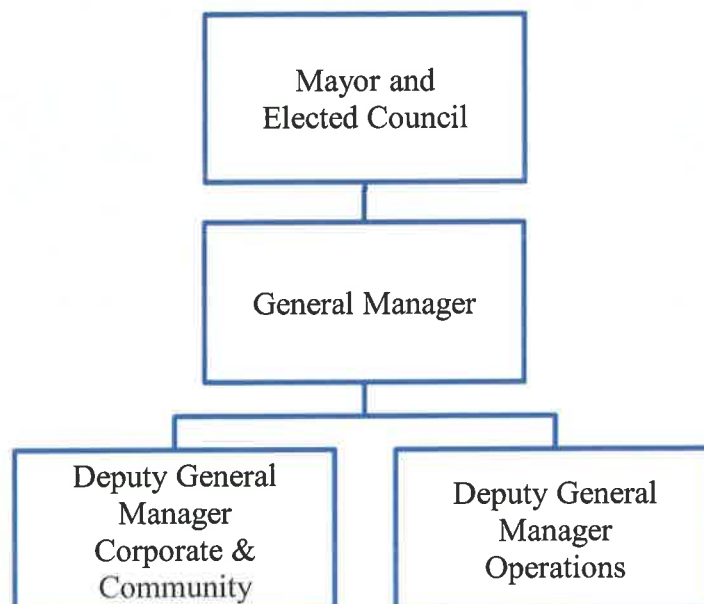
- the structure and functions of Bellingen Shire Council;
- the ways in which its functions affect members of the public;
- the avenues available to the public to participate in policy development and the exercise of Bellingen Shire Council's functions;
- the kinds of information that are, or will be, made publicly available free of charge and those kinds of information for which a charge is, or will be, imposed;
- how members of the public and staff may access and seek amendment to records relating to their personal affairs if they are incomplete, incorrect, out of date or misleading.

The Agency Information Guide is available from Council's website www.bellingen.nsw.gov.au or from Council's Administration Centre during business hours.

2.0 Structure and Functions of Council

Organisation Structure

The organisation structure under which Council operates is set out in the following table:



Council

Bellingen Shire is governed by an elected Council, comprising seven (7) Councillors, including the Mayor, all of whom are elected by the residents/ratepayers.

Councillors

The role of the governing body is to direct and control the affairs of the Council in accordance with the Local Government Act and other applicable legislation. As elected persons, Councillors are required to represent the interests of the residents and ratepayers, provide leadership and guidance to the community, facilitate communication between the community and the Council and to formulate policies.

Mayor

The Mayor carries out the civic and ceremonial functions of the Mayoral office. The Mayor also presides at meetings of the Council, exercises, in cases of necessity, the policy-making functions of the governing body of the Council between its meetings and carries out any other functions that the Council determines.

General Manager

The General Manager is the Chief Executive Officer of the Council and is responsible for the operation of the Council's organisation and for implementing decisions of the Council and its policies. The General Manager is also responsible for the day-to-day management of the Council, exercising any functions delegated by the Council, the appointment, direction and dismissal of staff and the implementation of Council's equal employment opportunity management plan.

Divisions

To assist the General Manager in the exercise of these functions, there are two Divisions of Council. These Divisions are: Corporate & Community and Operations. Each of these Divisions has a number of functional responsibilities and is headed by a Deputy General Manager.

The following table shows the functional and service plan responsibilities of each Division to fulfil the organisation's purposes described in Council's Principal Activities.

CORPORATE & COMMUNITY Deputy General Manager: Michelle McFadyen

- Administration Support
- Financial Management
- Risk Management & Insurances
- Human Resources & OH&S Co-ordination
- Library Services
- Tourism and & Economic Development
- Public Cemeteries
- Information Technology
- Records Management
- Fire & Emergency Services
- Community Development
- Community Services
- Flood Plain Management
- Environmental Management

OPERATIONS Deputy General Manager: Matt Fanning

- Roads & Bridges
- Parks & Recreation
- Plant & Equipment
- Water & Sewerage
- Waste Management
- Vegetation Control
- Quarries
- Buildings & Asset Maintenance
- Emergency Management
- Development Control
- Building Services
- Public Health
- Strategic Planning
- Pollution Control
- Law Enforcement

Council's Major Functions and Powers

Under Section 21 of the NSW Local Government Act, 1993 Council has the following functions conferred or imposed upon it.

- non-regulatory or service functions (included in Chapter 6 of the Act)
- regulatory functions (included in Chapter 7 of the Act)
- ancillary functions (included in Chapter 8 of the Act)
- revenue functions (included in Chapter 15 of the Act)
- administrative functions (included in Chapters 11, 12 and 13 of the Act)
- enforcement functions (included in Chapters 16 and 17 of the Act)

In addition, Council has functions conferred or imposed on it by, or under, other Acts.

Some other Acts and some of the functions they confer include:

- *Biodiversity Conservation Act 2016* — local control authority with delegated authority from relevant minister under the Act
- *Coastal Protection Act* - limitation on coastal development by Councils
- *Community Land Development Act* - planning functions as consent authority
- *Companion Animals Act* - registration and control of companion animals
- *Contaminated Land Management Act* – management of contaminated lands.
- *Conveyancing Act* - placement of covenants on council land
- *Crown Lands Act* – Management of Reserves under Council control
- *Environmental Planning and Assessment Act* - environmental planning
- *Fire Brigades Act* - payment of contributions to fire brigade costs and furnishing of returns
- *Fluoridation of Public Water Supplies Act* - fluoridation of water supply by Council.
- *Food Act* - inspection of food and food premises
- *Government Information (Public Access) Act* - Publication of certain information and the granting of access to other information held by Council
- *Health Records and Information Privacy Act* – standards and requirements with regard to the collection, storage and processing of health information.
- *Heritage Act* - rating based on heritage valuation
- *Impounding Act* - impounding of articles
- *Library Act* - library services
- *Ombudsman Amendment (Child Protection and Community Services) Act* – child protection
- *Privacy and Personal Information Protection Act* – standards and requirements with regard to the collection, storage and processing of personal information; amendment of certain records that are shown to be incomplete, incorrect, out of date or misleading
- *Protection of the Environment Operations Act* – environmental protection
- *Public Health Act* – health inspections for purposes of microbial control
- *Roads Act* - roads
- *Road Transport (General) Act* – regarding management of roads with mass restrictions and operation of B-Doubles.
- *Road Transport (Safety and Traffic Management) Act* – facilitating the Australian Road Rules which govern traffic and parking activities.

- *Rural Fires Act* - declaration of bush fire danger periods and issue of permits to light fires during those periods requiring the furnishing of information to the Rural Fire Service Advisory Council and its Co-ordinating Committee
- *State Emergency and Rescue Management Act* - preparation for emergencies
- *State Emergency Service Act* - recommending appointment of local controller
- *State Records Act* - requirements for records keeping and access to Council records
- *Strata Schemes (Freehold Development) Act* - approval of strata plans
- *Strata Schemes (Leasehold Development) Act* - approval of leasehold strata plans
- *Swimming Pools Act* - ensuring restriction of access to swimming pools
- *Workers Compensation Act* – requirements for occupational health and safety practices in the workplace.
- *Workers Compensation Amendment Act* – requirements for occupational health and safety practices in the workplace.

The major functions that Council exercises are set below:

Council Exercises Functions Under the NSW Local Government Act 1993:

Service Functions (Non-regulatory)

- Providing community health, recreation, education and information services
- Environmental health and protection
- Waste removal and disposal
- Land and property management and development, industry and tourism development and assistance.

For other functions see the introduction to Chapter 6 of the Local Government Act

Regulatory Functions

- Development Approvals
- Orders
- Building, Subdivision and Construction Certificates

Ancillary Functions

- Resumption of land
- Powers of entry and inspection

Revenue Functions

- Rates
- Charges
- Fees
- Borrowings
- Investments

Administrative Functions

- Employment of staff
- Management plans and quarterly reviews
- Financial reporting
- Annual reports
- Sustainable reporting

Enforcement Functions

- Proceedings for breaches of the Act
- Prosecution of offences
- Recovery of rates and charges

Other Acts

- Various Functions – see list on previous pages

3.0 The Impact of Council's Functions on the Public

As a service organisation, the majority of Council's activities have a significant impact on the public. The activities that Council performs and their impact can briefly be described as follows:

Service Functions

Council exercises these functions in providing facilities such as roads, parks, child care centres, halls and swimming pools, and services such as libraries, garbage removal and bushland regeneration. In turn, these facilities can be used and enjoyed by the general public.

Regulatory Functions

These functions provide Council with a mechanism for regulating various activities for the general wellbeing of the local community. Members of the public are required to comply with the legislative process in pursuing any of the stated activities.

Ancillary Functions

These functions assist Council in carrying out its other functions. Only some members of the public will be affected in the performance of these functions, for instance, the resumption of land or the entry onto land by a Council officer.

Revenue Functions

The exercise of functions such as levying rates and setting fees and charges has a direct impact on many residents. Rates, fees and charges must be paid by the public; however, this income is used by Council to provide services and facilities for its residents.

Administrative Functions

These functions deal more with the internal operations of Council and as such generally do not have direct impact on the public. However, by setting out processes of Council's operation and mechanisms for accountability, the public are kept informed of the administration of their Council.

Enforcement Functions

These functions only affect those members of the public that are in breach of certain legislation, such as the non-payment of rates and charges and parking fines, or the failure to obtain an approval or comply with an order or notice.

4.0 Public Participation in the Formulation of Council Policy and the Exercise of Council Functions

There are a number of avenues available to the public to enable participation in the formulation of Council's Policies and/or the exercise of Council's functions. These include:

Open Council Meetings

The meetings of Council are open to the public except when dealing with specified confidential matters.

Ordinary Meetings are held on the fourth Wednesday of each month at 9.00 am in the Council Chambers, Hyde Street Bellingen. Meeting agendas are available on Council's website, at Shire Libraries and the Administrative Centre on the Friday before the scheduled meeting date.

Members of the public may also address Council on matters listed on the agenda.

Extraordinary Meetings are held when a matter needs to be dealt with prior to the next Ordinary Meeting.

Works Committee Meetings are held quarterly in the months of February, May, August and November.

Public Forums

Council may periodically hold Open Forum meetings on specific community issues.

Interactive Community Engagement Portals

Councils has implemented an interactive community engagement hub in its website called *CREATE*.

Community Workshops

Community Workshops are held to gain public input and understanding in respect of major plans and studies, Local Environment Plans and Development Control Plans.

Making Representations to Councillors

Councillors are the elected representatives of the residents and make decisions having regard to the views of their constituents. Members of the public are able to contact

Councillors directly to raise any concerns. The contact details of the current elected members are:

Cr Dominic King (Mayor)
Phone: 0499 984 164
Email: mayor@bellingen.nsw.gov.au

Cr Desmae Harrison
Phone: 0499 984 166
Email: cr.harrison@bellingen.nsw.gov.au

Cr Jennie Fenton
Phone: 0499 984 161
Email: cr.fenton@bellingen.nsw.gov.au

Cr Garry Carter
Phone: 0499 984 163
Email: cr.carter@bellingen.nsw.gov.au

Cr Steve Klipin (Deputy Mayor)
Phone: 0499 984 165
Email: cr.klipin@bellingen.nsw.gov.au

Cr Toni Wright -Turner
Phone: 0499 984 154
Email: cr.wright-turner@bellingen.nsw.gov.au

Cr Steve Jenkins
Phone: 0499 984 162
Email: cr.jenkins@bellingen.nsw.gov.au

Mayoral Interviews

After speaking to Councillor/s and/or appropriate staff, members of the public may make an appointment with the Mayor and Council Officers to discuss issues that require further attention.

Submissions to Council

The public can either personally or in writing address matters within the province of Council. Every attempt is made by Council to satisfy the concerns of the enquirer. Information provided to Council in correspondence, submissions or requests (verbal, electronic or written), including personal information such as names and addresses, may be made publicly available, including via Council's website, in accordance the Government Information (Public Access) (GIPA) Act.

Submissions are to be made to:

The General Manager
Bellingen Shire Council
PO Box 117

BELLINGEN NSW 2454
Fax: 02 6655 2310
Email: council@bellingen.nsw.gov.au

Legislative Provisions

Through the provisions of certain Acts or Regulations members of the public have the opportunity to influence Council's decisions by making submissions, comments or objections to proposals.

For example, matters such as the levels of rates and charges, the contents of management plans and the granting of development and building approvals are advertised for comment. Information provided to Council in correspondence, submissions or requests (verbal, electronic or written), including personal information such as names and addresses, may be made publicly available, including via Council's website, in accordance with the GIPA Act.

Council Polls

The Local Government Act permits Council to take a poll of electors for its information and guidance on any matter. Council is also required to conduct a constitutional referendum before being able to proceed with certain matters.

Committees

Bellingen Shire Council has a range of advisory and management (Sect 355 LGA) committees; the list can be accessed on Councils website at <http://www.bellingen.nsw.gov.au/>

Privacy Management Plan

Council has adopted a [Privacy Management Plan](#) to meet Council's legislative requirements under the Privacy and Personal Information Protection Act, to confirm Council's commitment to privacy protection and to outline Council's practice for dealing with privacy and personal information in accordance with the Information Protection Principles. Council also uses the Privacy Management Plan to comply with the Health Privacy Principles as set out in the Health Records and Information Privacy Act.

5.0 Types of Information Held by Council and How to Access It

Bellingen Shire Council holds information in respect of the wide range of functions undertaken by it and information which is pertinent to different issues relating to the Local Government area.

Some of this information is available for inspection as a requirement of certain legislation, some documents are available for purchase, whilst others are available free of charge.

Under the GIPA Act there is a right of access to certain information held by Council unless there is an overriding public interest against disclosure of the information.

There are four main ways in which Council will provide access to information:

- 1 Mandatory Proactive Release
- 2 Authorised Proactive Release
- 3 Informal Release
- 4 Formal Access Applications

Any applications under the GIPA Act will be processed in accordance with the Act's requirements and a determination made to release the documents or refuse access on the basis of the relevant considerations under that Act.

Council will assess requests for access to information having regard to:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998
- any other relevant legislation and guidelines as applicable.

Mandatory Proactive Release

Under Section 6 of the GIPA Act, Council must make its "open access information" publicly available unless there is an overriding public interest against disclosure of the information. Open access information is required to be published on Council's website unless to do so would impose an unreasonable additional cost on Council.

Open access information is defined in Section 18 of the GIPA Act and includes:

- Council's policy documents
- An agencies current Information Guide which contains information about Council's structure and functions, and lists the type of information that is publicly available
- a disclosure log of formal access applications which includes release of information that Council believes may be of interest to other members of the public
- a register of contracts worth more than \$150,000 which Council has with private sector bodies
- a record of open access information that Council has not made publicly available on the basis that there is an overriding public interest against disclosure
- such other information that may be prescribed by the GIPA Regulation as open access information

In respect of the last dot point above, Schedule 1 of the GIPA Regulation requires that Council provide open access to the following:

- 1 Information about Council
 - the Division of Local Government's (DLG's) Model Code of Conduct prescribed under section 440(1) of the Local Government Act
 - Code of Conduct
 - Code of Meeting Practice
 - Annual Report
 - Annual Financial Reports

- Auditor's Report
 - Management Plan
 - EEO Management Plan (aka Workplace Equity Diversity Plan)
 - The Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy
 - Annual Reports of bodies exercising functions delegated by Council (e.g. Section 355/377 Committees)
 - any codes referred to in the Local Government Act
 - Returns of the interests of Councillors, designated persons and delegates
 - Agendas, business papers and minutes of Council/Committee meetings (except meetings that are closed to the public)
 - Division of Local Government, NSW Department of Premier and Cabinet Representative Reports presented at a meeting of Council
 - Land Register
 - Register of Investments
 - Register of Delegations
 - Register of Graffiti Removal Works
 - Register of current Declarations of Disclosures of Political donations
 - Register of Voting on Planning Matters Plans and Policies are publicly available on Councils website:
- Local policies adopted by Council concerning approvals and orders
 - Plans of Management for community land
 - Environmental Planning Instruments, Development Control Plans and Contribution Plans
 - Register of Graffiti Removal Works
 - Workforce Equity Diversity Plan

3 Information about development applications

3.1 Development Applications and any associated documents received in relation to a proposed development (subject to exclusions¹) e.g.:

- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications
- Heritage Consultant Reports
- Tree Inspections Consultant Reports
- Acoustic Consultant Reports
- Land Contamination Consultant Reports

3.2 Records of decisions on Development Applications including decisions on appeals

¹ Exclusions to Open Access Requirements with respect to Development Applications

1. Section 3(2) of Schedule 1 of the GIPA Regulations 2009 outlines exclusions to the general Open Access provision for DA's. These are:
 - the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or

- commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret.
2. GIPA Guideline 3 from the IPC, which may be found at <http://www.ipc.nsw.gov.au/gipa-guideline-3-local-councils-personal-information-contained-development-applications-what-should-provides> provides some additional exclusions with regard to the publication of information on Council's website:
- personal contact details of an individual, including personal phone/mobile numbers and email addresses
 - signatures on DA applications or submissions or objection letters
 - personal financial information, e.g. credit card details
 - health and medical information
 - photos depicting people.

This guideline will be interpreted by Council as also applying to reports to Council (which are published on Council's website).

Additional information may be found on GIPA at <http://www.ipc.nsw.gov.au/gipa-act> .

3.3 Records describing the general nature of documents in relation to this section that Council decides to exclude from public view after application of public interest test considerations, e.g. residential floor plans or commercial information

4 Approvals, Orders and Other Documents:

- applications for approvals under part 7 of the LGA
- applications for approvals under any other Act and any associated
- documents received
- records of approvals granted or refused, any variation from Council
- Policies with reasons for the variation, and decisions made on appeals
- concerning approvals
- orders given under Part 2 of Chapter 7 of the LGA, and any reasons given
- under section 136 of the LGA
- orders given under the Authority of any other Act
- records of building certificates under the Environmental Planning and
- Assessment Act 1979
- plans of land proposed to be compulsorily acquired by Council
- compulsory acquisition notices
- leases and licenses for use of public land classified as community land

Council provides free public access to:

- Agency Information Guide
- Policy documents
- Disclosure log of access applications
- Register of government contracts
- Record of open access information not publicly available

on the access to information page on its website at <https://www.bellingen.nsw.gov.au/council/access-information-government-information-public-access-act-2009>

IP&R, Annual Reports, Fees and charges, Financial Statements & Plans & Policies:

- Integrated Planning & Reporting

- Annual Reports
- Fees and Charges
- Financial Statements
- Policies and Plans

on the Reports, Policies and plans page on its website at <https://www.bellingen.nsw.gov.au/council/reports-policies-and-plans>

Where any other open access information is not made available on Council's website, it will be made available for viewing at Council's administration offices during normal business hours. Copies of the documents will also be available for a reasonable copying charge.

Authorised Proactive Release

In addition, Council will make as much other information as possible publicly available in an appropriate manner, including on its website. The information will be available free of charge or at the lowest reasonable cost. Such other information includes frequently requested information or information of public interest that has been released as a result of other requests.

Informal Release

Access to information which is not available as Mandatory Release or Authorised Proactive Release information may be provided through Informal Release. In this regard, application should be made to Council by submitting the appropriate Informal Access to Information application form. Council will endeavour to release information in response to such a request, subject to any reasonable conditions as Council deems fit to impose.

Where possible, documents listed as open access will be made available on Council's website, at public libraries or from Customer Services at Council's Administrative Centre located at 33-39 Hyde Street, Bellingen.

Members of the public seeking access to Council information should initially search Council's website.

If the information is not referenced in this section, the public should contact the following Council officer:

The Right to Information Officer – Manager of Governance & Engagement - (02) 6655 7300.

The Officer will either:

- advise where the information is located;
- ascertain if the document sought can be obtained from Council's website, Customer Services or referral to Council's technical or professional staff. For example, copies of building application plans and approvals are provided by Customer Services within a 48 hour timeframe;
- handle your request as an Informal Request; or
- in limited circumstances, request that a "Formal Access Application" form be lodged.

Informal Access Requests under the Government Information (Public Access) Act

(GIPA)

You can make informal access requests to Council in the following ways:

- Over the phone
- In writing (by post / fax / email)

By phone

Contact Council's Customer Service Officer on 02 6655 7300 and describe the information you require access to. The Officer will forward your call to the appropriate officer (i.e. Planning, Information Services, Right to Information officers etc.) to handle your request.

By email

Email your request to council@bellingen.nsw.gov.au with the following information:

- your name and company name details (mandatory)
- Your postal address (mandatory)
- Your daytime and mobile phone numbers (mandatory)
- Your fax number
- A description of the information you would like to access in enough detail to allow us to enable identification (mandatory)
- Advise if the information you are seeking is personal information (mandatory)
- Advise if you want (mandatory):
 - to inspect the document(s)
 - copies of the document(s)
 - access to the information in another way

By fax

Complete an Informal Access Request application form and fax to (02) 6655 7300.

By post

Complete an Informal Access Request application form and post to:

The General Manager
Bellingen Shire Council
PO Box 117
Bellingen NSW 2454

Applications forms are also available and located on Council's website or at the Customer Services Counter within the Administrative Centre.

There are no charges to lodge a request; however appropriate copying charges to obtain copies of information may apply. Charges for copies of documents are specified in Council's adopted Fees and Charges. This document can be viewed on Council's website or at Council's Administrative Centre.

The responsible officer may contact the applicant to clarify the request and discuss the method of supply of the information, including likely timeframe.

The public will be also offered the opportunity to inspect and obtain copies of the information from Council's Administrative Centre between the hours of 8.30 am to 4.30 pm

Monday to Friday (except public holidays).

Formal Access Applications

Notwithstanding the lodgement of an informal application, Council may require a formal access application to be submitted where the information sought:

- is of a sensitive nature that requires careful weighing of the considerations in favour of and against disclosure, or
- contains personal or confidential information about a third party that requires consultation, or
- would involve an unreasonable amount of time and resources to produce.

To make a formal request for access to information a 'Formal Access to Information' application form should be completed. In accordance with the GIPA Act, an application fee of \$30.00 is payable, and additional processing charges may be applicable. An acknowledgement of such application will be provided by Council within five working days.

Any fees for photocopies of documents provided under the GIPA Act are listed in Council's adopted Fees and Charges.

Copies of documents provided are given for information purposes only and are provided by Council to meet its requirements under relevant legislation. Copyright laws still apply to each document. The copyright-owner's consent is required if any part of the document is used for any other purpose.

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.

For further information about accessing Council information, including exemptions, time limits and rights of review, please refer to Council's Access to Information Policy.

Copies of Council documents placed on public exhibition are also generally available in all Libraries throughout the exhibition period.

For enquiries about specific documents please telephone Council on 02 6655 7300 and speak to the appropriate Council Division or the Right to Information Officer (RTI).

Privacy and Personal Information Protection

Access to certain information may be limited in accordance with the Privacy and Personal Information Protection Act 1998. This Act provides for the protection of personal information and for the protection of the privacy of individuals generally.

Privacy and Health Information Protection

Access to certain information will also be limited in accordance with the Health Records and Information Privacy Act 2002. This Act provides for the protection of health information.

Amendment of Council Documents

Members of the public are also able to request access or amendment to personal information about themselves which is held on Council files if the information is incorrect, out of date, or misleading. Such requests should be made under the Privacy and Personal Information Protection Act or the Health Records and Information Privacy Act, and be lodged in writing to Council's Access to Information Section.

Right to Information Officer

Council has appointed the Manager Governance and Engagement as its Right to Information Officer. Among other duties, the Right to Information Officer may deal with requests from the public concerning the Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council.

The Right to Information Officer may also determine applications for access to documents under the GIPA Act or for the amendment of records, but the General Manager may delegate this responsibility to other appropriate staff.

If you have any difficulty in obtaining access to Council documents, you may wish to refer your enquiry to the Right to Information Officer as follows:

Right to Information Officer
Manager of Governance & Engagement
Bellingen Shire Council
33-39 Hyde Street
PO Box 117
BELLINGEN NSW 2454

8.30 am to 4.30 pm Monday to Friday
Telephone: 02 6655 7300, Fax 02 6655 2310
Email: council@bellingen.nsw.gov.au – Attention: Right to Information Officer
Website: www.bellingen.nsw.gov.au

Additional Information

Further information regarding your rights to access information can be obtained by contacting the Information and Privacy Commission as follows:

Free call telephone: 1800 IPC NSW (1800 472 679)
email: ipcinfo@ipc.nsw.gov.au
website: www.ipc.nsw.gov.au
Postal address: GPO Box 7011 Sydney NSW 2001

Access to NSW Government Data can be accessed through the following websites:

- <https://data.nsw.gov.au/>
- www.nsw.gov.au

Document Authorised by:



Liz Jeremy
General Manager

1.2.18.

Date