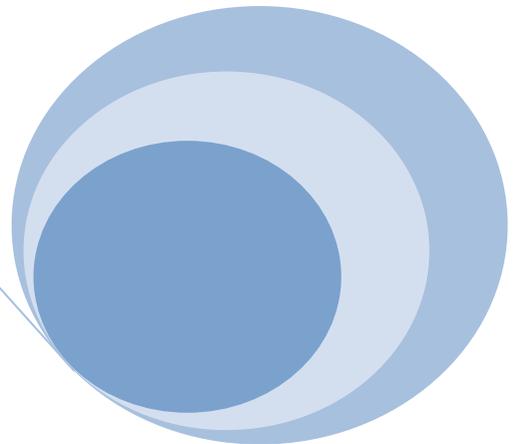




## **BELLINGEN SHIRE COUNCIL**

**Government Information (Public Access) Act 2009**

## **AGENCY INFORMATION GUIDE**



**February 2023**

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## **1. Introduction**

Bellingen Shire Council is committed to providing the community with as much access as possible to information held by Council, consistent with the following principles:

- Open and transparent government
- Consideration of the overriding public interest in relation to access requests
- Proactive disclosure and dissemination

The purpose of the document is to provide the community and Council staff with information in regards to:

- 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;
- The kinds of information available from Council and how this information can be obtained;
- How members of the public and staff may access and seek amendment to records relating to their personal affairs if incomplete, incorrect, out of date or misleading.

This Agency Information Guide has been developed and published in accordance with Section 20 of the Government Information (Public Access) Act 2009 (GIPA Act).

## **2. Structure and Functions of Council**

### **2.1 Who we are**

Bellingen Shire is located on the Mid North Coast of NSW, approximately halfway between Sydney and Brisbane. It has a total area of 1,605 square kilometres with a coastline of approximately 10km. The region is renowned for its ecological diversity with State Forests and National Parks covering over 53% of the local government area.

The shire consists of three broad topographical areas incorporating the seaboard around Mylestom, Repton and Urunga, the valleys of the Bellinger and Kalang rivers and the Dorrigo plateau landscapes.

### **2.2 Local Government Constitution**

Bellingen Shire Council is constituted under the Local Government Act 1993 (LGA).

Bellingen Shire is governed by an elected Council, comprising seven (7) Councillors, including the Mayor. Councillors are elected by the residents/ratepayers for a four-year period with the next election scheduled for 2024.

### **2.3 Organisational Structure**

#### **2.3.1 Councillors**

Councillors comprise the governing body of a council in the same way that a board of directors is the governing body of a corporation. The Local Government Act 1993 prescribes the collective role of a Council's governing body as follows:

- to direct and control the affairs of the Council in accordance with the Act,
- to provide effective civic leadership to the local community,
- to ensure as far as possible the financial sustainability of the Council,
- to ensure as far as possible that the council acts in accordance with the principles for local government (as described above) and the plans, programs, strategies and policies of the council,
- to develop and endorse the community vision, delivery program and other strategic plans, programs, strategies and policies of the council,

- to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council’s resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
- to make decisions necessary for the proper exercise of the council’s regulatory functions
- to consult regularly with community organisations and other key stakeholders and keep them informed of the council’s decisions and activities
- to be responsible for ensuring that the council acts honestly, efficiently and appropriately.

### 2.3.2 Mayor

The Mayor of Bellingen Shire Council is popularly elected by the residents / ratepayers and holds the office for the term of the Council. The Mayor has the same role and responsibilities as Councillors but has additional responsibilities that reflect their leadership role, these include:

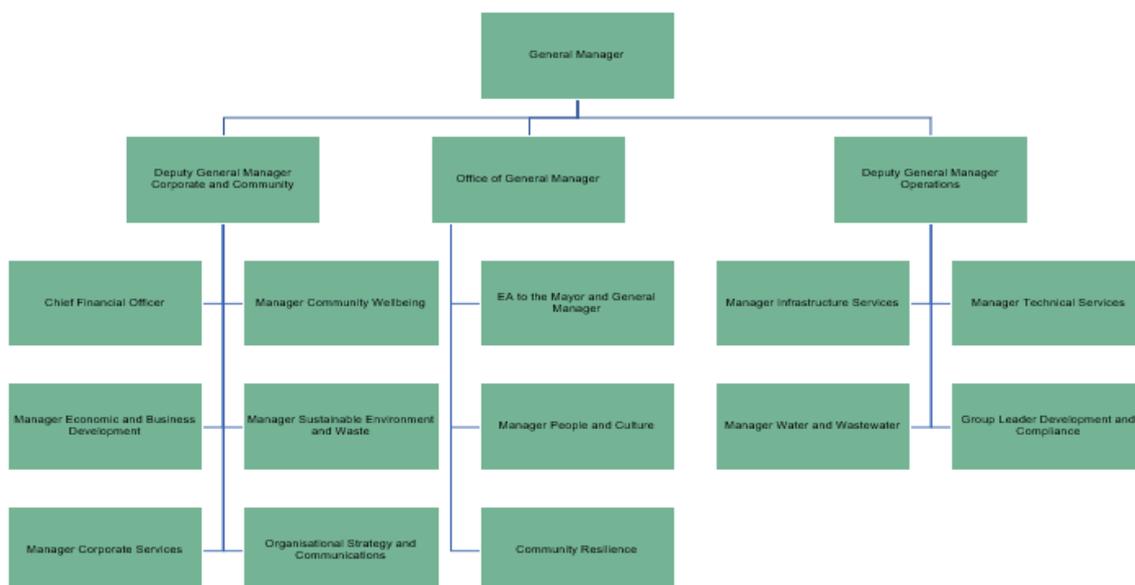
- be the leader of the council and a leader in the local community
- carry out the civic and ceremonial functions of the mayoral office
- represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level
- advance community cohesion and promote civic awareness
- be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities
- preside at meetings of the council
- ensure that meetings of the council are conducted efficiently, effectively and in accordance with the code of meeting practice and the Act
- promote the effective and consistent implementation of the strategic plans, programs and policies of the council
- promote partnerships between the council and key stakeholders

### 2.3.3 General Manager

The General Manager is the Chief Executive Officer of the Council and is responsible for the operation of Council and for implementing the decisions of the Council (resolutions) 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, or imposed by legislation.

The structure of Council is divided into two divisions, each division is managed by a Deputy General Managers. In addition, several functions of Council report directly to the General Manager, this includes People and Culture and the Executive Assistant to the General Manager.



### 2.3.4 Council's Service Categories

The table below outlines the services delivered by Council.

				
Economic Development	Regulatory Services	Public Conveniences	Noxious Plants	Administrative Services
Tourism Development	Stormwater Management Services	Planning Services	Environmental Protection	Corporate Governance
Beach Safety	Community Resilience	Parks & Gardens	Waste Management Services	Asset Management Services
	Community Groups & Facilities Support	Swimming Pools	Water Supply Services	General Revenue
	Aged & Disability Services	Transport Infrastructure	Sewage Disposal Services	Governance, Risk & Property Services
	Youth Hub			Business & Customer Services
	Public Cemeteries			Financial Services
	Libraries			Organisational Strategy & Communications

## 2.4 Council Exercises Functions Under the NSW Local Government Act 1993:

Under the Local Government Act, 1993, Council's functions can be grouped into the following categories:

### Service Functions (Non-regulatory)

- *Providing community health, recreation, education and information services*
- *Civic functions*
- *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*
- *Parking*
- *Companion Animals*

### Ancillary Functions

- *Resumption of land*
- *Powers of entry and inspection*

### Revenue Functions

- *Rates*
- *Charges*
- *Fees*
- *Borrowings*
- *Investments*

## **Administrative Functions**

- *Strategic and Corporate Planning*
- *Management Plans*
- *Human Resources*
- *Financial reporting*
- *Statutory reporting*

## **Enforcement Functions**

- *Proceedings for breaches of the Local Government Act & Regulations and other Acts & Regulations*
- *Prosecution of offences*
- *Recovery of rates and charges*

## **Other Acts**

- *Various Functions – see list on in section 2.5 of this document.*

## **2.5 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)*

While the main functions of Council fall under the Local Government Act, 1993 (LGA), Council has powers and obligations under a number of other Acts. These include but may not be limited to:

- Administrative Decisions Review Act 1997
- Anti Discrimination Act 1977
- Building and Construction Industry Long Service Payments Act 1986
- Building Services Corporation Act 1989
- Bush Fires Act 1949
- Charitable Fundraising Act 1991
- Children (Care and Protection) Act 1987
- Civil and Administrative Tribunal Act 2013
- Civil Liability Act 2002
- Civil Procedure Act 2005
- Clean Air Act 1961
- Coastal Protection Act 1979
- Commons Management Act 1989
- Community Land Development Act 1989
- Community Land Management Act 1989
- Companion Animals Act 1998
- Construction Safety Act 1912
- Contaminated Land Management Act 1997
- Conversion of Cemeteries Act 1974
- Conveyancing Act 1919
- Income Tax Act (various) (Commonwealth)
- Independent Commission Against Corruption Act 1988
- Industrial Relations Act 1996
- Interpretation Act 1987
- Justices (amendment) Act 1985
- Justices Regulation 1993
- Land Acquisition (Just Terms) Compensation Act 1991
- Land and Environment Court Act 1979
- Library Act 1939
- Liquor Act 1982
- Native Title (NSW) Act 1994
- Native Vegetation Act 2003
- Noise Control Act 1975
- Noxious Weeds Act 1993
- Occupational Health and Safety Act 1983
- Ombudsman Act 1974
- Pollution Control Act 1970
- Privacy & Personal Information Protection Act 1998
- Protected Disclosures Act 1994

- Copyright Act 1968 (Commonwealth)
- Crimes (Sentencing Procedure) Act 1999
- Crimes Act 1900
- Crown Land Management Act 2016
- Crown Lands Act 1989
- Dangerous Goods Act 1975
- Disability Discrimination Act 1992 (Commonwealth)
- Disorderly House Amendment Act 1995
- Dividing Fences Act 1991
- Election Funding Act 2018
- Electricity Safety Act 1945
- Electricity Supply Act 1995
- Environmental Offences and Penalties Act 1989
- Environmental Planning & Assessment Act 1979
- Environmental Protection Act
- Environmentally Hazardous Chemicals Act 1985
- Essential Services Act 1988
- Evidence Act 1995
- Financial Institutions (New South Wales) Act 1992
- Fines Act 1996
- Fire Brigades Act 1989
- Fluoridation of Public Water Supplies Act 1957
- Food Act 2003
- Fringe Benefits Tax Act 1986
- Geographical Names Act 1966
- Government Information (Public Access) Act 2009
- Health Records and Information Privacy Act 2002
- Heritage Act 1977
- Home and Community Care Act 1985 (Commonwealth)
- Home Building Act 1989
- Human Rights and Equal Opportunity Act 1992 (Commonwealth)
- Impounding (Penalty Notice Offences) Regulation 1993
- Impounding Act 1993
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Public Works Act 1912
- Real Property Act 1993
- Recreational Vehicles Act 1983
- Residential Tenancies Act 2010
- Road Rules 2008
- Road Transport (Safety and Traffic) Act 1999
- Roads (General) Regulation 2005
- Roads (Transport (Safety and Traffic Management) Regulation 1009
- Roads Act 1993
- Roads Regulation 2008
- Roads Transport (General) Act 2005
- Rural Fires Act 1997
- Sales Tax (Exemptions and Classifications) Act 1992 (Commonwealth)
- State Authorities Superannuation Act 1987
- State Emergency and Rescue Management Act 1989
- State Emergency Services Act 1989
- Strata Schemes (Freehold Development) Act 1973
- Strata Schemes Development Act 2015
- Strata Schemes Management Act 2015
- Strata Titles Act 1973
- Swimming Pools Act 1992
- Swimming Pools Regulation (no.2) 1992
- Threatened Species Conservation Act 1995
- Traffic Act 1909
- Unhealthy Building Land Act 1990
- Valuation of Land Act 1916
- Waste Recycling and Processing Service Act 1970
- Water Management Act 2000
- Work Health and Safety Act 2011
- WorkCover Administration Act 1989
- Workplace Surveillance Act 2005

## 2.6 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.

### **3. 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:

#### **3.1 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.

#### **3.2 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.

#### **3.3 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.

#### **3.4 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.

#### **3.5 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.

#### **3.6 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. 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.

#### **4.1 Representation**

Local Government in Australia is based on the principle of representative democracy. This means that people elect representatives to their local Council to make decisions on their behalf.

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 available on Councils website at [Our Mayor and Councillors](#).

## **4.2 Open Council Meetings**

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

### **Ordinary Meetings**

Ordinary Council 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**

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

## **4.3 Public Forums**

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

## **4.4 Interactive Community Engagement Portals**

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

## **4.5 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.

## **4.6 Appointment to speak with the Mayor**

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.

## **4.7 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) Act (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](mailto:council@bellingen.nsw.gov.au)

## **4.8 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.

## **4.9 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.

## **4.10 Committees**

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

## **5.0 Access to Information**

Under the Government Information (Public Access) Act 2009, there are four ways to access information held by government agencies:

1. Mandatory disclosure of open access information
2. Pro-active release
3. Informal release
4. Formal access to information (GIPA)

### **5.1 Information held by Council**

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.

Much of this information can be made available by lodgement of an informal access application. The various types of information held are available in a range of formats:

1. Electronic Documents – 2010 to present
2. Archived Hard Copy files – pre 2010

Some of this information is available for inspection only as a requirement of certain legislation, some documents are available to be supplied for reasonable copying charges, whilst other documents 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.

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
- Copyright Act 1968
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998
- any other relevant legislation and guidelines as applicable.

## 5.2 Mandatory Proactive Release of Council Information

The GIPA Act requires Councils (as government agencies) to publish information that has been defined by the Act as “Open access information”. 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, in these instances, an alternative arrangement to view the documents will be provided, such as a physical inspection at Council offices.

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

- (a) Council’s current Agency Information Guide
  - (see Division 2 of the GIPA Act 2009),
- (b) information about Council contained in any document tabled in Parliament by or on behalf of the Council, other than any document tabled by order of either House of Parliament,
- (c) Council’s policy documents
  - (see Division 3 of the GIPA Act 2009),
- (d) Council’s disclosure log of formal access to information applications which includes release of information that Council believes may be of interest to other members of the public
  - (see Division 4 of the GIPA Act 2009),
- (e) Council’s register of contracts worth more than \$150,000 which Council has with private sector bodies
  - (see Division 5 of the GIPA Act 2009),
- (f) Council’s record of the open access information (if any) that it does not make publicly available on the basis of an overriding public interest against disclosure,
- (g) such other Council information as may be prescribed by the GIPA regulations as open access information.
  - Schedule 1 of the GIPA Regulation requires that Council provide open access information to the following:

All information classified as “open access” will be available for inspection free of charge, however an Informal Access to Information application needs to be completed prior to Council providing hard copies of any information. In such circumstances, copying charges may apply in accordance with Council’s Schedule of Fees and Charges.

### 5.2.1 Information about Council

The following documents are classified as “open access information” in accordance with Schedule 1 of the GIPA Regulation 2018, or have been proactively released by Council.

These documents are available on Council’s website, unless otherwise stated.

1. Information contained in the current version and the most recent previous version of the following records is prescribed as open access information
  - (a) The Model Code of Conduct for Local Councils in NSW prescribed under section 440(1) of the Local Government Act
    - Council’s Code of Conduct
  - (b) Code of Meeting Practice
  - (c) Annual Report
  - (d) Annual Financial Reports
  - (e) Auditor’s Report
  - (f) Management Plans
    - Council’s Community Vision 2035

- Council's Delivery Program and Annual Plan
  - (g) EEO Management Plan
    - Workplace Equity Diversity Plan
  - (h) Policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors,
    - Payment of Expenses and Provision of Facilities to the Mayor and Councillors Policy
  - (i) Annual Reports of bodies exercising functions delegated by Council
    - Section 355 Committees
  - (j) Any codes referred to in the Local Government Act
2. Information contained in the following records (whenever created) is prescribed as open access information:
    - (a) Returns of the interests of Councillors, designated persons and delegates
    - (b) Agendas and business papers for any meeting of the Council or any committee of the Council (except meetings that are closed to the public)
    - (c) Minutes of any meeting of the Council or any committee of the Council, but restricted (in the case of any part of a meeting that is closed to the public) to the resolutions and recommendations of the meeting,
    - (d) Reports by the Chief Executive of the Office of Local Government presented at a meeting of the local authority in accordance with section 433 of the Local Government Act.
  3. Information contained in the current version of the following records is prescribed as open access information:
    - (a) Land Register
    - (b) Register of Investments
    - (c) Register of Delegations
    - (d) Register of graffiti removal work kept in accordance with section 13 of the Graffiti Control Act 2008,
    - (e) Register of current declarations of disclosures of political donations kept in accordance with section 328A of the Local Government Act 1993,
    - (f) The register of voting on planning matters kept in accordance with section 375A of the Local Government Act 1993.

### **5.2.2 Plans and policies**

1. Information contained in the current version and the most recent previous version of the following records is prescribed as open access information:
  - (a) Local policies adopted by the local authority concerning approvals and orders,
  - (b) Plans of management for community land,
  - (c) Environmental planning instruments, development control plans and contributions plans made under the Environmental Planning and Assessment Act 1979 applying to land within the Shire of Bellingen.

### **5.2.3 Information about development applications**

1. Information contained in the following records (whenever created) is prescribed as open access information:
  - (a) development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and any associated documents received in relation to a proposed development including the following:
    - i. home warranty insurance documents,
    - ii. construction certificates,
    - iii. occupation certificates,
    - iv. structural certification documents,

- v. town planner reports,
  - vi. submissions received on development applications,
  - vii. heritage consultant reports,
  - viii. tree inspection consultant reports,
  - ix. acoustics consultant reports,
  - x. land contamination consultant reports,
- (b) Records of decisions made on or after 1 July 2010 on development applications (including decisions made on appeal),
  - (c) A record that describes the general nature of the documents that the local authority decides are excluded from the operation of this clause by subclause 2.
2. However, this clause does not apply to so much of the information referred to in subclause 1(a) as consists of:
- (a) 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
  - (b) 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, or
  - (c) Development applications made before 1 July 2010 and any associated documents received (whether before, on or after that date) in relation to the application.
3. A local authority must keep the record referred to in subclause 1(c).

#### **5.2.4 Approvals, orders and other documents**

Information contained in the following records (whenever created) is prescribed as open access information:

- (a) Applications for approvals under Part 1 of Chapter 7 of the LGA and any associated documents received in relation to such an application,
- (b) Applications for approvals under any other Act and any associated documents received in relation to such an application,
- (c) Records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals,
- (d) Orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA,
- (e) Orders given under the authority of any other Act,
- (f) Records of building certificates under the Environmental Planning and Assessment Act 1979,
- (g) Plans of land proposed to be compulsorily acquired by the local authority,
- (h) Compulsory acquisition notices,
- (i) Leases and licences for use of public land classified as community land,
- (j) Performance improvement orders issued to a council under Part 6 of Chapter 13 of the LGA.

### **5.3 Proactive Release of Council Information**

The Act encourages government agencies to proactively release as much information as possible to the public, unless there is an overriding public interest against disclosure of the information.

Council must regularly review information that it holds and determine the kind of information it will pro-actively 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.

## **5.4 Informal Release of Council Information**

Council is authorised to release other information that is held by it in response to an informal request. Members of the public may access information of this nature via an informal access application.

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 an 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.

Informal Access to Information Application forms are available on Council's website and the Customer Services Counter within the Administrative Centre.

There are no charges to lodge an informal 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.

Informal access applications should be made in writing. There is no fee payable, however charges may apply to cover reproduction costs.

Once an application form has been submitted, it will be assessed and 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 8.30am to 4.30pm, Monday to Friday (except public holidays).

Once an application form has been submitted, it will be assessed and 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 8.30am to 4.30pm, Monday to Friday (except public holidays).

## **5.5 Formal Access to Information Applications (Formal GIPA)**

Under schedule 1, 3(2)(c) of the GIPA Regulation 2018, formal access to information applications are required for Development Applications and associated documents made before 1 July 2010.

In limited circumstances, access to information will require a formal access application. Members of the public have a right to access information in this way unless the GIPA Act provides a reason to withhold the information.

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.

To be valid, a formal access to information (GIPA) applications must be made in writing and accompanied by the application fee.

Other charges may also apply to cover processing costs, such as photocopying. Formal Access to information (GIPA) Application forms are available on the agency's website.

Notwithstanding the lodgement of an informal application, Council may require a Formal Access to Information 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.

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.

The decision whether to release information via a formal access application is delegated by Council to the Governance team.

## **5.6 Review of Council's decision**

The decisions of Council Officers are reviewable where the applicant is aggrieved by the decision. In these circumstances, the applicant may lodge a request for an Internal Review:

- by the Council, (this is undertaken by a Council Officer not involved in the original decision,
- to the Information and Privacy Commission NSW (IPC), or
- to the NSW Civil and Administrative Tribunal (NCAT).

Note: A \$40.00 fee applies to an Internal Review.

## **6. Important considerations in the release of Information**

### **6.1 Information not made Publicly**

Council must make the information deemed as open access information publicly available unless there is an overriding public interest against disclosure.

Documents may not be made available on Council's Website due to the following reasons:

- Commercial in confidence
- Legal Privilege,
- Copyright,
- Staff and Employment Information,
- Personal information including signatures, addresses and contact information,
- Other Public Interest Considerations against disclosure identified in the Table associated with section 14 of the GIPA Act is applied prior to the release of information onto Council's website.
  - See [Attachment "A"](#)

## **6.2 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.

## **6.3 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.

# **7 Public access and amendment to Council documents**

## **7.1 How members of the public may access Council documents**

Council is committed to openness and has had for many years addressed open government and access to Council documents.

As previously mentioned, open access information will generally be available on Council's website and/or for inspection at Council's offices during business hours Monday to Friday.

Perusal of documents is subject to removal of information that may not be in the public interest, confidential legal advice, commercial in confidence matters, staff matters or personal information relating to a third party identified as such by the Privacy & Personal Information Protection Act 1998.

To view documents or plans an access to information application must be completed. Application forms can be obtained on Council's website for both formal and informal applications.

Council will process requests then consult with customers to confirm details and to coordinate the most appropriate means of making the information available.

There is no restriction on making notes from information provided. Copies of non-third-party documents are permissible, however a copying charge may apply in accordance with Council's Schedule of Fees and Charges.

## **7.2 Amendments to Details on Council Records**

Members of the public are also able to request access to personal information about themselves which is held on Council files. If the information is incorrect, out of date, or misleading, they can request that the document is amended or updated.

Persons seeking to alter information on Council records, whether personal information or on behalf of another, should make written application to Council's Public Officer, Bellingen Shire Council, PO Box 117, Bellingen, NSW, 2454.

## **8. Council contacts and additional information**

### **8.1 Right to Information Officer**

Council has appointed the Senior Governance and Risk Officer 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:

### **8.2 Contacting Council**

Bellingen Shire Council  
33-39 Hyde Street  
PO Box 117  
BELLINGEN NSW 2454

Office Hours: 8.30am to 4.30pm, Monday to Friday  
Telephone: 02 6655 7300,  
Fax: 02 6655 2310  
Email: [council@bellingen.nsw.gov.au](mailto:council@bellingen.nsw.gov.au)  
Website: [www.bellingen.nsw.gov.au](http://www.bellingen.nsw.gov.au)

### **8.3 Information and Privacy Commission (IPC)**

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](mailto:ipcinfo@ipc.nsw.gov.au)  
website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

Postal address: GPO Box 7011, Sydney, NSW, 2001

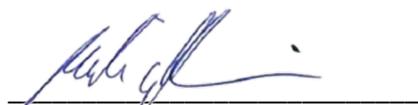
Access to NSW Government Data can be accessed through the following websites:

- <https://data.nsw.gov.au/>
- [www.nsw.gov.au](http://www.nsw.gov.au)

## **9. Approval**

The Bellingen Shire Council Agency Information Guide was approved by the General Manager.

**Approval Date:** 10 February 2023



**Mark Griffioen**  
General Manager (Acting)

## **Attachment “A” - Section 14 of the GIPA Act 2009**

### **Public interest considerations against disclosure**

- (1) It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in Schedule 1.
- (2) The public interest considerations listed in the Table to this section are the only other considerations that may be taken into account under this Act as public interest considerations against disclosure for the purpose of determining whether there is an overriding public interest against disclosure of government information.
- (3) The Information Commissioner can issue guidelines about public interest considerations against the disclosure of government information, for the assistance of agencies, but cannot add to the list of considerations in the Table to this section.
- (4) The Information Commissioner must consult with the Privacy Commissioner before issuing any guideline about a privacy-related public interest consideration (being a public interest consideration referred to in clause 3 (a) or (b) of the Table to this section).

### **Table**

#### **1 Responsible and effective government**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally)—

- (a) prejudice collective Ministerial responsibility,
- (b) prejudice Ministerial responsibility to Parliament,
- (c) prejudice relations with, or the obtaining of confidential information from, another government,
- (d) prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency’s functions,
- (e) reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency,
- (f) prejudice the effective exercise by an agency of the agency’s functions,
- (g) found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence,
- (h) prejudice the conduct, effectiveness or integrity of any audit, test, investigation or review conducted by or on behalf of an agency by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).

#### **2 Law enforcement and security**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally)—

- (a) reveal or tend to reveal the identity of an informant or prejudice the future supply of information from an informant,
- (b) prejudice the prevention, detection or investigation of a contravention or possible contravention of the law or prejudice the enforcement of the law,

- (c) increase the likelihood of, or prejudice the prevention of, preparedness against, response to, or recovery from, a public emergency (including any natural disaster, major accident, civil disturbance or act of terrorism),
- (d) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any person,
- (e) endanger the security of, or prejudice any system or procedure for protecting, any place, property or vehicle,
- (f) facilitate the commission of a criminal act (including a terrorist act within the meaning of the Terrorism (Police Powers) Act 2002),
- (g) prejudice the supervision of, or facilitate the escape of, any person in lawful custody,
- (h) prejudice the security, discipline or good order of any correctional facility.

### **3 Individual rights, judicial processes and natural justice**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects—

- (a) reveal an individual's personal information,
- (b) contravene an information protection principle under the Privacy and Personal Information Protection Act 1998 or a Health Privacy Principle under the Health Records and Information Privacy Act 2002,
- (c) prejudice any court proceedings by revealing matter prepared for the purposes of or in relation to current or future proceedings,
- (d) prejudice the fair trial of any person, the impartial adjudication of any case or a person's right to procedural fairness,
- (e) reveal false or unsubstantiated allegations about a person that are defamatory,
- (f) expose a person to a risk of harm or of serious harassment or serious intimidation,
- (g) in the case of the disclosure of personal information about a child—the disclosure of information that it would not be in the best interests of the child to have disclosed.

### **4 Business interests of agencies and other persons**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects—

- (a) undermine competitive neutrality in connection with any functions of an agency in respect of which it competes with any person or otherwise place an agency at a competitive advantage or disadvantage in any market,
- (b) reveal commercial-in-confidence provisions of a government contract,
- (c) diminish the competitive commercial value of any information to any person,
- (d) prejudice any person's legitimate business, commercial, professional or financial interests,
- (e) prejudice the conduct, effectiveness or integrity of any research by revealing its purpose, conduct or results (whether or not commenced and whether or not completed).

## **5 Environment, culture, economy and general matters**

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects—

- (a) endanger, or prejudice any system or procedure for protecting, the environment,
- (b) prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge,
- (c) endanger, or prejudice any system or procedure for protecting, the life, health or safety of any animal or other living thing, or threaten the existence of any species,
- (d) damage, or prejudice the ability of the Government or an agency to manage, the economy,
- (e) expose any person to an unfair advantage or disadvantage as a result of the premature disclosure of information concerning any proposed action or inaction of the Government or an agency.

## **6 Secrecy provisions**

- (1) There is a public interest consideration against disclosure of information if disclosure of the information by any person could (disregarding the operation of this Act) reasonably be expected to constitute a contravention of a provision of any other Act or statutory rule (of this or another State or of the Commonwealth) that prohibits the disclosure of information, whether or not the prohibition is subject to specified qualifications or exceptions.
- (2) The public interest consideration under this clause extends to consideration of the policy that underlies the prohibition against disclosure.

## **7 Exempt documents under interstate Freedom of Information legislation**

- (1) There is a public interest consideration against disclosure of information communicated to the Government of New South Wales by the Government of the Commonwealth or of another State if notice has been received from that Government that the information is exempt matter within the meaning of a corresponding law of the Commonwealth or that other State.
- (2) The public interest consideration under this clause extends to consideration of the policy that underlies the exemption.
- (3) In this clause, a reference to a corresponding law is a reference to—
  - (a) the Freedom of Information Act 1982 of the Commonwealth, or
  - (b) a law of any other State that is prescribed by the regulations as a corresponding law for the purposes of this clause.