



# Right to Information Policy

Policy Information			
<b>Policy Name</b>	Right to Information		
<b>Policy Number</b>	MSC-STAT-018		
<b>Type</b>	Statutory Policy		
<b>Owner</b>	Chief Executive Officer		
<b>Responsible Officer</b>	Director Corporate & Communications		
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## 1. Purpose

- 1.1. This policy sets out how Council will comply with its obligations under the Right to Information Act 2009 (Qld) (RTI Act) to provide the community with access to information held by Council.
- 1.2. The RTI Act is based on the principle that government information is a public resource and that providing access to information promotes open, accountable and transparent government. The RTI Act establishes a pro-disclosure bias, meaning that access to information should be granted unless, on balance, disclosure would be contrary to the public interest.
- 1.3. Council is committed to maximising the disclosure of information through proactive release, administrative access and formal access applications.
- 1.4. As this is a Statutory Policy, it operates as a combined policy and procedure. It goes beyond what is normally required in a policy as it needs to meet the requirements detailed in the relevant legislation.

## 2. Commencement

- 2.1. This policy commences on the Approval Date. It replaces any previous policy of the same intent.

## 3. Scope

- 3.1. This policy applies to all Elected Members, employees, contractors, volunteers, consultants and agents of Council.
- 3.2. It applies to all documents held by Council, in any form, whether created by Council or received by Council from an external source.

## 4. Terms and Definitions

Term	Definition
<b>Access application</b>	A formal application under the RTI Act for access to documents held by Council.
<b>Administrative access</b>	Access to information provided by Council outside the formal RTI application process, as part of its normal business operations.
<b>Amendment application</b>	A formal application under the RTI Act to amend personal information contained in a document held by Council.
<b>Council</b>	Mornington Shire Council
<b>Disclosure log</b>	A record published on Council's website of documents released in response to access applications under the RTI Act, where applicable.
<b>Document</b>	Includes any paper, article or thing on which information is stored or from which information can be retrieved, including electronic records, emails, databases, photographs, maps and recordings.
<b>Information Commissioner</b>	The Queensland Information Commissioner.
<b>Internal review</b>	A review of an access or amendment decision conducted by a different, more senior officer within Council.
<b>OIC</b>	The Office of the Information Commissioner (Queensland).
<b>External review</b>	A review of an access or amendment decision conducted by the OIC.
<b>Personal information</b>	Has the meaning given in the Information Privacy Act 2009 (Qld).
<b>Personnel</b>	All Elected Members, employees, contractors, volunteers, consultants and agents of Council.
<b>Pro-disclosure bias</b>	The principle under the RTI Act that access to information should be granted unless, on balance, disclosure would be contrary to the public interest.
<b>Publication scheme</b>	A document published on Council's website describing the classes of information routinely available from Council, and how to access that information.
<b>RTI Act</b>	The Right to Information Act 2009 (Qld).

<b>RTI Officer</b>	The officer designated by the Chief Executive Officer to receive and process access and amendment applications under the RTI Act.
<b>Third party consultation</b>	Consultation with a person or organisation whose interests may be affected by the release of a document under the RTI Act.

## 5. Roles and Responsibilities

Role	Responsibilities
<b>All Personnel</b>	<ul style="list-style-type: none"> <li>• Read and understand this policy.</li> <li>• Comply with the requirements of this policy and all applicable legislation.</li> <li>• Cooperate with the RTI Officer in responding to access and amendment applications, including by conducting reasonable searches for documents.</li> <li>• Not destroy, conceal or alter documents that may be the subject of an access application.</li> <li>• Proactively identify information suitable for release through the publication scheme or administrative access.</li> <li>• Immediately report any actual or suspected non-compliance to their supervisor, manager or the Responsible Manager.</li> <li>• Cooperate with any investigation or response activity under this policy.</li> <li>• Comply with recordkeeping obligations.</li> </ul>
<b>Manager</b>	<ul style="list-style-type: none"> <li>• Identify and escalate concerns within area of responsibility which may enliven the requirements of this policy.</li> <li>• Ensure Personnel within their area of responsibility are aware of and comply with this policy.</li> </ul>
<b>RTI Officer</b>	<ul style="list-style-type: none"> <li>• Receive and process access and amendment applications in accordance with the RTI Act.</li> <li>• Maintain the publication scheme and disclosure log.</li> <li>• Provide advice and assistance to applicants.</li> <li>• Conduct third party consultations where required.</li> <li>• Report to the Chief Executive Officer on RTI compliance, including application volumes, processing times and outcomes.</li> </ul>
<b>Responsible Manager</b>	<ul style="list-style-type: none"> <li>• Oversee Council's compliance with the RTI Act.</li> <li>• Maintain and update this policy.</li> <li>• Oversee review and remediation processes.</li> </ul>
<b>Chief Executive Officer</b>	<ul style="list-style-type: none"> <li>• Has overall accountability for Council's compliance with the legislative requirements underpinning this policy.</li> <li>• Designate the RTI Officer.</li> </ul>

- Ensure sufficient resources are allocated to RTI processing and proactive disclosure.
- Decide internal review applications, or delegate the decision to an appropriate officer.

## 6. Policy

### 6.1. Council's Commitment

6.1.1. Council is committed to open, accountable and transparent governance. Council will:

- a) Apply the pro-disclosure bias in all decisions about access to information. This means that the starting position is that information should be provided to the person requesting it, and Council may only withhold information where it can demonstrate that, on balance, there is a stronger public interest reason for non-disclosure than for release.
- b) Proactively release as much information as possible without the need for a formal application.
- c) Maintain a publication scheme on Council's website that describes the information routinely available from Council.
- d) Process access and amendment applications in a timely manner, in accordance with the RTI Act.
- e) Assist applicants to make and progress their applications, including by explaining the application process and helping to define the scope of requests.
- f) Minimise the charges payable by applicants, and waive charges where appropriate.
- g) Protect the privacy of individuals in accordance with the Information Privacy Act 2009 (Qld) when processing and releasing information.

### 6.2. Proactive Disclosure

6.2.1. Council recognises that proactive disclosure of information reduces the need for formal access applications and demonstrates Council's commitment to transparency and accountability.

#### 6.2.2. Publication scheme

- a) Council must maintain a publication scheme on its website in accordance with the RTI Act.
- b) The publication scheme must include:
  - i) Council's structure and functions;
  - ii) How Council's functions affect members of the public;
  - iii) Any arrangements that enable members of the public to engage with Council's functions;
  - iv) The types of information held by Council;
  - v) The types of information Council makes publicly available and how that information is made available;
  - vi) Procedures for asking for information, including any fee or charge that may be payable;
  - vii) Any additional information required by regulation.
- c) Information listed in the publication scheme should be accessible through direct website links. Where information is available in hard copy only, the publication scheme must describe how to obtain it.
- d) The publication scheme must be kept current and reviewed at least annually.

#### 6.2.3. Disclosure log

- a) Council may maintain a disclosure log on its website, recording documents that have been released in response to access applications under the RTI Act, where it considers such disclosure would be of public interest.
- b) Council must not include in the disclosure log any information that would be contrary to the public interest to disclose, including personal information of third parties.
- c) Where a document is published to the disclosure log, it should be published no sooner than twenty-four (24) hours after it is accessed by the applicant and no later than five (5) business days after access is given.

#### 6.2.4. Administrative access

- a) Council will make information available through administrative access wherever possible. Administrative access may include providing information in response to verbal or written requests, publishing information on Council's website, and providing information at Council's public office.
- b) Where information can be provided through administrative access, Personnel should assist the requester to obtain the information without the need for a formal application.

### 6.3. **Access Applications**

6.3.1. Where information is not available through proactive disclosure or administrative access, any person may make a formal access application under the RTI Act.

#### 6.3.2. Making an application

- a) Access applications must be made in writing and must provide sufficient information to enable Council to identify the documents sought. The application form approved by the Office of the Information Commissioner may be used and is available from the OIC website.
- b) Applications must be accompanied by the prescribed application fee, except where the application is limited to documents containing the applicant's personal information or where the applicant is eligible for a fee waiver.
- c) Applications should be directed to the RTI Officer.
- d) Where an application is for access to documents containing the applicant's personal information, the applicant must provide evidence of their identity within ten (10) business days of making the application. Acceptable evidence includes a current driver licence, passport, birth certificate or statutory declaration from an individual who has known the applicant for at least one year. Where an application is made on the individual's behalf, both parties must provide evidence of identity and the representative must provide written authorisation to act.
- e) A parent or guardian may make an access or amendment application on behalf of a child under eighteen (18) years of age. The parent or guardian must provide evidence of their identity and relationship to the child.

#### 6.3.3. Non-compliant and outside scope applications

- a) If an application does not comply with the requirements of the RTI Act (for example, it does not provide sufficient information to identify the documents sought, or is not accompanied by the prescribed fee), Council must advise the applicant within fifteen (15) business days and take reasonable steps to assist the applicant to make a valid application.
- b) If an application, or part of an application, is outside the scope of the RTI Act, Council must advise the applicant within twenty five (25) business days. Where an access application is

limited to documents containing the applicant's personal information, Council must advise the applicant that no application fee is payable.

#### 6.3.4. Processing an application

- a) Council must process access applications within twenty-five (25) business days of receiving a compliant application, unless an extension of time is permitted under the RTI Act.
- b) Where an application relates to documents that contain information about a third party, Council must consult with the third party before deciding whether to release the information.
- c) Council must give the applicant a schedule of relevant documents and a charges estimate notice within the processing period.

#### 6.3.5. Deciding an application

- a) In deciding an access application, Council must apply the pro-disclosure bias. Access must be granted unless, on balance, disclosure of the information would be contrary to the public interest.
- b) The RTI Act sets out factors that must be considered in the public interest balancing test, including factors favouring disclosure (such as accountability and transparency) and factors favouring non-disclosure (such as privacy, legal privilege and law enforcement).
- c) Certain categories of information are exempt from disclosure under the RTI Act, including Cabinet information, Executive Council information, and information where disclosure is prohibited by another Act.
- d) Council's decision must be provided to the applicant in writing, with reasons for any refusal of access.

#### 6.3.6. Charges

- a) No application fee is payable for access applications limited to documents containing the applicant's personal information.
- b) For other applications, fees and charges are prescribed under the Right to Information Regulation 2009 (Qld). No processing charge is payable where the application takes less than five (5) hours to process.
- c) Council must take reasonable steps to minimise the charges payable by applicants. Charges may be waived for concession card holders and for non-profit organisations experiencing financial hardship.

#### 6.3.7. Refusal to deal with an application

- a) Council may refuse to deal with an access application if dealing with the application would substantially and unreasonably divert Council's resources from their use in the performance of Council's functions.
- b) Council may also refuse to deal with an access application if a previous application was made by the same applicant for access to the same documents, unless there is a reasonable basis for the further application.
- c) Other rights of refusal are available under the RTI Act.
- d) Where Council refuses to deal with an application, it must give the applicant written notice of the refusal, including reasons and information about the applicant's review rights.

## 6.4. Amendment Applications

- 6.4.1. Any person may apply to Council to amend personal information contained in a document held by Council, where the information is inaccurate, incomplete, out-of-date or misleading.
- 6.4.2. Amendment applications must be made in writing and directed to the RTI Officer. No application fee is payable.
- 6.4.3. Council must process amendment applications within twenty-five (25) business days of receiving a compliant application.
- 6.4.4. Where Council decides not to amend the information, the applicant is entitled to request that a notation be attached to the document recording that the applicant claims the information is inaccurate, incomplete, out-of-date or misleading.

## 6.5. Review Rights

- 6.5.1. If an applicant is dissatisfied with Council's decision on an access or amendment application, the applicant has the following review rights:
  - a) **Internal review.** The applicant may apply for an internal review of the decision. The internal review must be conducted by a different, more senior officer of Council. The application for internal review must be made within twenty (20) business days of receiving the decision. Internal review is not a prerequisite for external review.
  - b) **External review.** The applicant may apply to the OIC for an external review of the decision. The application for external review must be made within twenty (20) business days of receiving the internal review decision, or the original decision if no internal review was sought.
- 6.5.2. Council must include information about the applicant's review rights in every decision notice.

## 7. Recordkeeping

- 7.1. All records relating to access and amendment applications, including applications, decisions, third party consultations, review outcomes and the disclosure log, must be managed in accordance with the Public Records Act 2023 (Qld) and Council's records management requirements.
- 7.2. A single repository of information must be maintained to document each matter and the response, including all key decision-making records.
- 7.3. Council must maintain an annual record of the number and type of applications received, the number of applications decided within the statutory processing period, the outcomes of applications, and the fees and charges collected and waived.

## 8. Training and Awareness

- 8.1. All Personnel must receive training on their obligations under the RTI Act as part of induction, and at least annually thereafter.
- 8.2. Training must include:
  - a) The pro-disclosure bias.

- b) How to assist requesters to access information through proactive and administrative channels.
- c) The obligation not to destroy, conceal or alter documents.
- d) How to refer formal applications to the RTI Officer.

## 9. Human Rights Consideration

- 9.1. Council is a public entity under the Human Rights Act 2019 (Qld) and must act and make decisions in a way that is compatible with human rights.
- 9.2. This policy has been assessed for compatibility with the human rights protected under the Human Rights Act 2019 (Qld). This policy engages the right to freedom of expression, which includes the freedom to seek and receive information. The policy supports and promotes this right by establishing Council's obligations and procedures for providing access to information held by Council.
- 9.3. To the extent that access to particular information may be refused under the RTI Act, any resulting limitations on the right to freedom of expression are prescribed by law, serve legitimate purposes (such as protecting privacy, legal privilege and public safety), and are proportionate. These limitations are considered reasonable and demonstrably justifiable.

## 10. Evaluation of Policy

- 10.1. The success of this policy will be measured by:
  - a) Compliance with the RTI Act, including statutory processing timeframes.
  - b) Volume and timeliness of proactive and administrative disclosures.
  - c) Percentage of access applications decided within the statutory processing period.
  - d) Outcomes of internal and external reviews.
  - e) Completion rates for Personnel RTI training.
  - f) Audit outcomes relating to information access and recordkeeping.

## 11. Related Legislation and Policies

- a) Right to Information Act 2009 (Qld)
- b) Right to Information Regulation 2009 (Qld)
- c) Information Privacy Act 2009 (Qld)
- d) Information Privacy and Other Legislation Amendment Act 2023 (Qld)
- e) Local Government Act 2009 (Qld)
- f) Local Government Regulation 2012 (Qld)
- g) Public Records Act 2023 (Qld)
- h) Human Rights Act 2019 (Qld)
- i) Information Privacy Statutory Policy
- j) Data Breach Statutory Policy
- k) Code of Conduct
- l) Councillor Code of Conduct

## 12. Publication

- 12.1. This policy must be published on Council's website in accordance with the RTI Act.

## 13. Policy Breaches

- 13.1. Failure to comply with this policy may result in disciplinary action and may also result in decisions being reviewed, suspended, or set aside where required to address risk, probity, or legal compliance.
- 13.2. Suspected misconduct, fraud, improper influence, or serious probity concerns must be reported in accordance with Council's relevant reporting processes and applicable Code of Conduct.

## 14. Policy Review

- 14.1. This policy is to be reviewed in accordance with the Governance Framework, and at least annually or following any material change to the RTI Act, to ensure it remains current and effective.
- 14.2. Council reserves the right to vary, replace, or terminate this policy from time to time.

## 15. Approval

This policy was duly adopted by resolution of Mornington Shire Council on [Insert date] (Resolution No. [Insert resolution number]) and shall hereby supersede any previous policies of the same intent.