

## 11.5 Rescission of Policy - Access to Information

REPORT BY THE GOVERNANCE CO-ORDINATOR  
TO 17 APRIL 2024 ORDINARY MEETING  
GOV400105, GOV40047

### RECOMMENDATION

#### That Council:

1. **receive the report by the Governance Co-ordinator on the Rescission of Policy - Access to Information;**
2. **acknowledge that the content of the Access to Information Policy is included in Council's Agency Information Guide;**
3. **endorse the rescission of the Access to Information Policy;**
4. **place the proposal for the rescission of the Access to Information Policy on public exhibition for 28 days; and**
5. **rescind the Access to Information Policy if no submissions are received following the public exhibition period.**

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### Executive summary

Council currently has an Access to Information Policy which was most recently adopted by Council in June 2022 as part of Council's Agency Information guide. Following review of the policy, it is recommended that it be rescinded to eliminate repetition with Council's Agency Information Guide.

### Disclosure of Interest

Nil

### Detailed report

Council's Access to Information Policy was previously incorporated into Council's Agency Information Guide (AIG) and was separated at the most recent review of the AIG in September 2023.

The AIG is a document that Council is required to have under the *Government Information (Public Access) Act 2009* (GIPA Act) and is reviewed annually. The policy was separated from the AIG at the most recent review due to the two documents referencing one another despite being presented as a single document.

On recent review of the Access to Information Policy it has been made clear that the policy merely states Council's commitment to disclosure of information and the requirements Council has to provide access to information under the GIPA Act. This information is duplicated in Council's AIG, which is referred to in the policy.

It has been ascertained that the policy does not provide any additional information or guidance and there is no requirement under legislation for Council to have a separate policy.

## Community Plan implications

<b>Theme</b>	<b>Good Government</b>
Goal	Good communications and engagement
Strategy	Improve communications between Council and the community and create awareness of Council's roles and responsibilities

## Strategic implications

### Council Strategies

Not applicable

### Council Policies

Agency Information Guide

### Legislation

Government Information (Public Access) Act 2009

## Financial implications

Not applicable

ASHLEIGH MARSHALL  
GOVERNANCE CO-ORDINATOR

SIMON JONES  
DIRECTOR COMMUNITY

2 April 2024

*Attachments:* 1. Access to Information Policy.  
2. Agency Information Guide.

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER



## POLICY Access to Information

*A prosperous  
and progressive  
community.*

<b>ADOPTED</b>	<b>VERSION NO</b> 2.2
COUNCIL MEETING MIN NO: 188/22	<b>REVIEW DATE</b> JUNE 2023
DATE: 15 JUNE 2022	<b>FILE NUMBER</b> INM700014

### Objective

To state the Council's commitment to being open and accountable in the exercise of its functions.

To acknowledge the lawful rights of citizen's access to information held by the Council.

To provide easy to understand information about the Council, its structure and functions, and how members of the public can make representations and participate in decisions.

To provide information on how to access council information.

To comply with legislation regarding disclosure of information, in particular the Government Information (Public Access) Act (GIPA), the Local Government Act (LGA), and the Environmental Planning and Assessment Act.

Council is also subject to the NSW Privacy and Personal Information Protection Act and Health Records Information Privacy Act that establish standards for information handling practices for personal and health information.

### Legislative requirements

- Local Government Act 1993
- Government Information Public Access Act 2009
- Environmental Planning and Assessment Act 1979
- NSW Privacy and Personal Information Protection Act 1998
- Health Records Information Privacy Act 2002

### Policy

#### Policy statement

Council is committed to:

- Openness, transparency and being held accountable in the exercise of its functions.
- Proactive disclosure and dissemination of information about operations, plans and decisions of Council.
- Providing opportunities for representations and personal participation in council decision making and functions.
- The provision of access to Council documents unless disclosure in a particular case would be contrary to the public interest.

**POLICY: ACCESS TO INFORMATION** | V 2.2, 15 JUNE 2022

## Commitments

Council will promote disclosure and dissemination of information about operations, plans and decisions, and information that promotes community advancement on its website wherever practicable, and will actively facilitate public access to information held by the council.

Documents required by law to be available for public inspection will be posted on the website, unless internet access poses an unacceptable risk of interference with privacy through potential data gathering and matching techniques or unless to do so would impose unreasonable additional costs on Council.

Any person is entitled to have information about their place of residence suppressed from documents available for inspection where disclosure would endanger personal safety, or removed from any register available for public inspection in accordance with the NSW Privacy and Personal Information Protection Act.

Other Council documents not posted on the website will be available for inspection unless disclosure on balance is contrary to the public interest.

Formal applications under the GIPA Act will not be required where documents are otherwise available under other legislation. Any member of the public may lodge a formal GIPA application, where information is not made available by other means, which will be dealt with in accordance with the Act's provisions.

Any individual has a lawful right to know what personal or health information Council holds about him or her, to access that information in accordance with the provisions of the NSW Privacy and Personal Information Protection Act and the NSW Health Records and Information Privacy Act, and to amend that information in certain circumstances.

## Limitations

Broad requests for access to a large number of unspecified documents which, if processed, would divert substantial Council resources from dealing with other requests, or from performing other Council functions may be refused on the grounds that such a diversion of resources is contrary to the public interest (Clause 60 GIPA Act).

## Agency Information Guide

Council has published an Agency Information Guide to assist members of the public in understanding the types of information that is available from the council and how that information is made available.

The Agency Information Guide is available at Councils Administration Centre's and from the council's website.

The Agency Information Guide also lists the categories of documents not available because of legislative restrictions or because disclosure is likely to be contrary to the public interest. Documents of this kind include those that contain information about the personal affairs of other ratepayers, commercially sensitive information, or information which if disclosed would have an adverse effect on Council's law enforcement or other functions, such as the identifying particulars of complainants.



*Good  
Government*

## AGENCY INFORMATION GUIDE

SEPTEMBER 2023

Prepared in accordance with provisions of Section 20 of the Government Information (Public Access) Act 2009.



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## Preface

This Agency Information Guide has been produced by Mid-Western Regional Council in accordance with s.20 of the Government Information (Public Access) Act 2009. The guide is to be reviewed annually.

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

- The structure and functions of Mid-Western Regional Council;
- The way in which the functions of Mid-Western Regional Council affect members of the public;
- The means by which members of the public can participate in policy development and the exercise of Council's functions;
- The type of information that is available from Mid-Western Regional Council and how this information is made available.

The Agency Information Guide is available on Council's website

[http://www.midwestern.nsw.gov.au/;](http://www.midwestern.nsw.gov.au/)

BRAD CAM  
GENERAL MANAGER



# 1. Structure and functions of Council

## 1.1 Introduction

Mid-Western Regional Council is constituted under the Local Government Act 1993 and was proclaimed on 26 May 2004. The Council is an undivided area, with nine (9) Councillors elected each 4 year term. The next Council elections will be held in September 2024. The Mayor is elected every two years by the Councillors from among their numbers.

## 1.2 Role of the Governing Body

The role of the Councillors, as members of the body corporate are:

- to direct and control the affairs of the Council in accordance with the Local Government Act 1993 (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 set out in Chapter 3 of the Act and the plans, programs, strategies and policies of the Council
- to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of Council
- to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of council resources to implement the strategic plans (including the community strategic plan) of Council and for the benefit of the local area
- to keep under review the performance of Council, including service delivery
- to make decisions necessary for the proper exercising of Council's regulatory functions
- to determine the process for appointment of the General Manger by Council and to monitor the General Manager's performance
- to determine the senior staff positions within the organisation structure of the Council
- to consult regularly with community organisations and 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, and
- the governing body is to consult with the General Manager in directing and controlling the Council



### 1.3 Role of a Councillor

The role of a Councillor is as follows:

- to be an active and contributing member of the governing body'
- to make considered and well informed decisions as a member of the governing body
- to participate in the development of the integrated planning and reporting framework
- to represent the collective interests of residents, ratepayers and the local community
- to facilitate communication between the local community and the governing body
- to uphold and represent accurately the policies and decisions of the governing body
- to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor, and
- a Councillor is accountable to the local community for the performance of the Council

### 1.4 Role of the Mayor

The role of the Mayor is as follows:

- to be the leader of the Council and a leader in the local community
- to advance community cohesion and promote civic awareness
- to be the principal member and spokesperson of the governing body, including representing the views of the Council as to its local priorities
- to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council
- to preside at meetings of the Council
- to ensure that meetings of the Council are conducted efficiently, effectively and in accordance with the Act
- to ensure the timely development and adoption of the strategic plans, programs and policies of the Council
- to promote the effective and consistent implementation of the strategic plans, programs and policies of the Council
- to promote partnerships between the Council and key stakeholders,
- to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of the Council,
- in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community
- to carry out the civic and ceremonial functions of the Mayoral office
- to represent the Council on regional organisations and at inter-Governmental forums at regional, State and Commonwealth level
- in consultation with the Councillors, to lead performance appraisals of the General Manager, and
- to exercise any other functions of the Council that the Council determines

## 1.5 Role of the General Manager

The General Manager of a Council has the following functions:

- to conduct the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council
- to implement, without undue delay, lawful decisions of the Council
- to advise the Mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the Council
- to advise the Mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the Council and other matters related to the Council
- to prepare, in consultation with the Mayor and the governing body, the Council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report
- to ensure that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions
- to exercise any of the functions of the Council that are delegated by the Council to the General Manager
- to appoint staff in accordance with the organisation structure determined under this chapter and the resources approved by the Council
- to direct and dismiss staff
- to implement the Council's workforce management strategy
- any other functions that are conferred or imposed on the General Manager by or under this or any other act

## 1.6 Senior staff

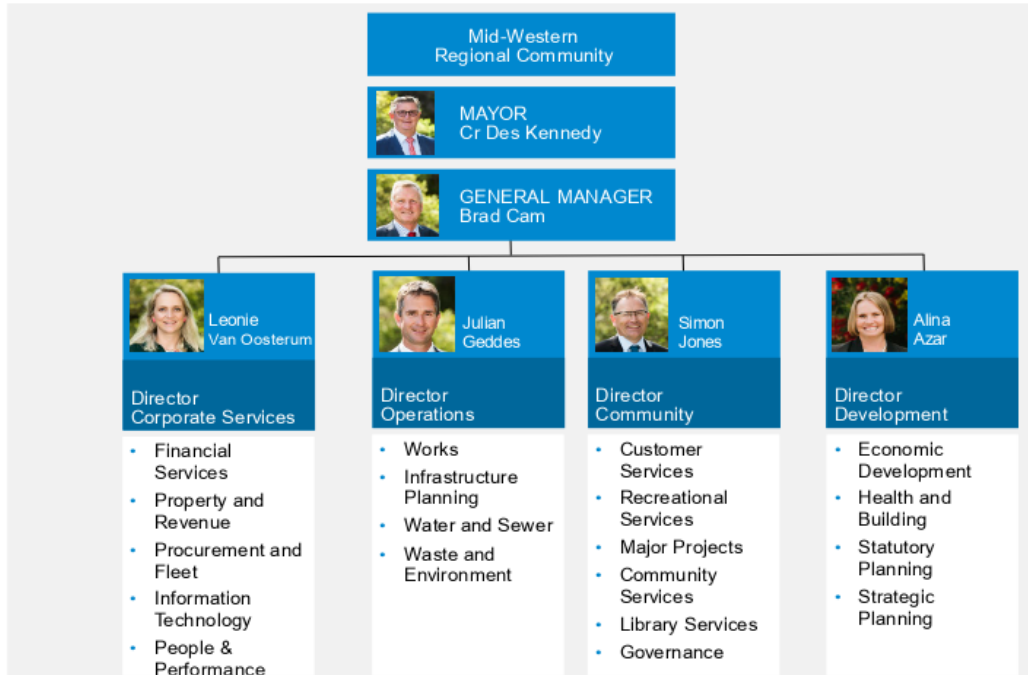
To assist the General Manager in the exercising of these functions, the General Manager in consultation with the Council has established four Directorates:

- Community
- Operations
- Development
- Corporate Services

Each Directorate is headed by a Director reporting to the General Manager. These positions and the General Manager are referred to as Council's senior staff.

The Council's Executive Team consists of the General Manager and the four directors.

## 1.7 Organisational structure



## 1.8 Council functions

Council has functions conferred or imposed on it by the Local Government Act, 1993 (the LGA). These functions are:

Service	Regulatory	Ancillary	Revenue	Administrative	Enforcement
<ul style="list-style-type: none"> <li>Provision of community – health, recreation, education &amp; information services</li> <li>Environmental protection</li> <li>Waste removal &amp; disposal</li> <li>Land &amp; property, industry &amp; tourism development &amp; assistance</li> <li>Civil - Infrastructure</li> <li>Planning Maintenance &amp; Construction</li> </ul>	<ul style="list-style-type: none"> <li>Approvals</li> <li>Orders</li> <li>Building Certificates</li> <li>Appeals</li> </ul>	<ul style="list-style-type: none"> <li>Resumption of land</li> <li>Powers of entry and inspection</li> </ul>	<ul style="list-style-type: none"> <li>Rates</li> <li>Charges</li> <li>Fees</li> <li>Borrowings</li> <li>Investments</li> <li>Grants</li> </ul>	<ul style="list-style-type: none"> <li>Employment of staff</li> <li>Community Strategic and Management plans</li> <li>Financial reporting</li> <li>Annual reports</li> </ul>	<ul style="list-style-type: none"> <li>Proceedings for breaches of the Local Government Act &amp; Regulations and other Acts &amp; Regulations</li> <li>Prosecution of offences</li> <li>Recovery of rates and charges</li> </ul>

As well as the Local Government Act 1993 (LGA), Council has powers under other Acts and Regulations including:

MID-WESTERN REGIONAL COUNCIL - AGENCY INFORMATION GUIDE

A to C	<ul style="list-style-type: none"> <li>Boarding Houses Act 2012</li> <li>Biodiversity Conservation Act 2016</li> <li>Biosecurity Act 2015</li> <li>Building and Development Certifiers Act 2018</li> <li>Children (Protection and Parental responsibility) Act 1997</li> </ul>	<ul style="list-style-type: none"> <li>Commons Management Act 1989</li> <li>Community Land Development Act 1989</li> <li>Community Land Management Act 2021</li> <li>Companion Animals Act 1998</li> <li>Companion Animals Regulation 2018</li> </ul>	<ul style="list-style-type: none"> <li>Contaminated Land Management Act 1997</li> <li>Cemeteries and Crematoria Act 2013</li> <li>Conveyancing Act 1919</li> <li>Crown Land Management Act 2016</li> <li>Crown Land Management Regulation 2018</li> </ul>
C to G	<ul style="list-style-type: none"> <li>Crown Lands (General Reserves) By- Laws 2006</li> <li>Dams Safety Act 2015</li> <li>Electricity Infrastructure Investment Act 2020</li> <li>Electricity Supply Act 1995</li> <li>Environmental Planning and Assessment Act 1979</li> </ul>	<ul style="list-style-type: none"> <li>Environmental Planning and Assessment Regulation 2021</li> <li>Fines Act 1996</li> <li>Fire and Rescue NSW Act 1989</li> <li>Fluoridation of Public Water Supplies Act 1957</li> <li>Food Act 2003</li> </ul>	<ul style="list-style-type: none"> <li>Game and Feral Animal Control Act 2002</li> <li>Geographical Names Act 1966.</li> <li>Government Information (Public Access) Act 2009</li> <li>Government Information (Public Access) Regulation 2018</li> <li>Graffiti Control Act 2008</li> </ul>
H to L	<ul style="list-style-type: none"> <li>Heritage Act 1977</li> <li>Holiday Parks (Long-term Casual Occupation) Act 2002</li> <li>Housing Act 2001</li> <li>Inclosed Lands Protection Act 1901</li> <li>Independent Pricing and Regulatory Tribunal Act 1992</li> </ul>	<ul style="list-style-type: none"> <li>Land Acquisition (Just Terms Compensation) Act 1991</li> <li>Land and Environment Court Act 1979</li> <li>Library Act 1939</li> <li>Library Regulation 2018</li> <li>Liquor Act 2007 and Liquor Regulation 2018</li> </ul>	<ul style="list-style-type: none"> <li>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021</li> <li>Local Government and Other Authorities. (Superannuation) Act 1927</li> </ul>
L to R	<ul style="list-style-type: none"> <li>Local Land Services Act 2013</li> <li>Major Events Act 2009</li> <li>Mining Act 1992</li> <li>Motor vehicle Sports (Public safety Act) 1985</li> <li>Ombudsman Act 1974</li> <li>Pesticides Act 1999</li> <li>Pipelines Act 1967</li> </ul>	<ul style="list-style-type: none"> <li>Privacy &amp; Personal Information Protection Act 1998</li> <li>Protection of the Environment Operations Act 1997</li> <li>Protection of the Environment Operations (Waste) Regulation 2014</li> <li>Public Health Act 2010</li> <li>Public Health Regulation 2012</li> </ul>	<ul style="list-style-type: none"> <li>Public Interest Disclosures Act 1994</li> <li>Public Spaces (Unattended Property) Act 2021</li> <li>Public Works and Procurement Act 1912</li> <li>Real Property Act 1900</li> <li>Recreation Vehicles Act 1983</li> <li>Restricted Premises Act 1943</li> </ul>
R to W	<ul style="list-style-type: none"> <li>Roads Act 1993</li> <li>Road Transport (General) Regulation 2021</li> <li>Road Transport Act 2013</li> <li>Rural Fires Act 1997</li> <li>Rural Fires Regulation 2013</li> <li>Service NSW (One-stop Access to Government Services) Act 2013</li> <li>State Emergency &amp; Rescue Management Act 1989</li> <li>State Emergency Service Act 1989</li> </ul>	<ul style="list-style-type: none"> <li>State Records Act 1998</li> <li>Strata Schemes Development Act 2015</li> <li>Strata Schemes Development Regulation 2016</li> <li>Strata Schemes Management Act 2015</li> <li>Surveying and Spatial Information Act 2002</li> <li>Swimming Pools Act 1992</li> <li>Swimming Pools Regulation 2018</li> </ul>	<ul style="list-style-type: none"> <li>Tattoo Parlours Act 2012</li> <li>Transport Administration Act 1988</li> <li>Trees (Disputes Between Neighbours) Act 2006</li> <li>Unclaimed Money Act 1995</li> <li>Valuation of Land Act 1916</li> <li>Water Management Act 2000</li> <li>Wilderness Act 1987</li> <li>Work Health Safety Act 2011</li> <li>Workers Compensation Regulation 2016</li> </ul>

## 2. Impact of Council functions on the public

As a service organisation, the majority of the activities of Mid-Western Regional Council have an impact on the public. The following is an outline of how the broad functions of Council affect the public.

FUNCTION	DESCRIPTION
Service	Service functions affect the public as Council provides services and facilities to the public. These include provision of human services such as Meals on Wheels, Family Day Care services and libraries, halls and community centres, recreation facilities, infrastructure and the removal of waste and recyclable materials.
Regulatory	Regulatory functions place restrictions on developments and buildings to ensure that they meet certain requirements affecting the amenity of the community and do not endanger the lives and safety of any persons. Members of the public must be aware of, and comply with, such regulations.
Ancillary	Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land. In these circumstances, only the owner of the property would be affected.
Revenue	Revenue functions affect the public directly, in that revenue from rates and other charges paid by the public, is used to fund services and facilities provided to the community.
Administrative	Administrative functions do not necessarily affect the public directly, but have an indirect impact on the community through the efficiency and effectiveness of the service provided.
Enforcement	<p>Enforcement functions only affect those members of the public who are in breach of certain legislation. Council has enforcement powers in relation to the following functions:</p> <ul style="list-style-type: none"> <li>■ Development and building control</li> <li>■ Pollution control</li> <li>■ Water, sewer and septic systems</li> <li>■ Biodiversity conservation</li> <li>■ Biosecurity weeds</li> <li>■ Environmental health</li> <li>■ Public health and safety</li> <li>■ Companion animals</li> <li>■ Fire safety</li> <li>■ Food safety</li> </ul>
Community planning and development	<p>Community planning and development functions affect areas such as cultural development, social planning and community profile and involves:</p> <ul style="list-style-type: none"> <li>■ Advocating and planning for the needs of our community. This includes initiating partnerships; participating on regional, State or Commonwealth working parties; and preparation and implementation of the Community Plan.</li> <li>■ Providing support to community and sporting organisations through provision of grants, training and information.</li> </ul> <p>Facilitating opportunities for people to participate in the life of the community through the conduct of a range of community events such as NAIDOC Week, Youth Week, Children's Week, as well as promoting other events</p>

## 3. Public participation in Local Government

Mid-Western Regional Council supports the principles of open Government and encourages community involvement in policy development and general activities of Council.

Council live streams its monthly meetings, which can be viewed online here:

<http://webcast.midwestern.nsw.gov.au/>

There are two broad ways in which the public may participate in policy development and the general activities of the Council. These are through representation and personal participation.

### 3.1 Representation

Councils in New South Wales are elected every four years. The next elections are to be held in September 2024.

At each election, voters elect nine Councillors for a four year term. All residents of the area who are on the electoral roll are eligible to vote. Property owners who live outside of the area and rate paying lessees can also vote, but must register their intention to vote on the non-residential roll. Voting is compulsory.

#### Councillors elected in December 2021

 <p><b>MAYOR</b> Des Kennedy</p> <p>c/- Mid-Western Regional Council PO Box 156 Mudgee NSW 2850 02 6378 2850 <a href="mailto:councillor.kennedy@midwestern.nsw.gov.au">councillor.kennedy@midwestern.nsw.gov.au</a></p>	 <p><b>DEPUTY MAYOR</b> Sam Paine</p> <p>c/- Mid-Western Regional Council PO Box 156 Mudgee NSW 2850 0407 225 285 <a href="mailto:councillor.paine@midwestern.nsw.gov.au">councillor.paine@midwestern.nsw.gov.au</a></p>	 <p><b>COUNCILLOR</b> Paul Cavalier</p> <p>PO Box 1213 Mudgee NSW 2850 0403 995 533 <a href="mailto:councillor.cavalier@midwestern.nsw.gov.au">councillor.cavalier@midwestern.nsw.gov.au</a></p>
 <p><b>COUNCILLOR</b> Katie Dicker</p> <p>c/- Mid-Western Regional Council PO Box 156 Mudgee NSW 2850 0407 234 849 <a href="mailto:councillor.dicker@midwestern.nsw.gov.au">councillor.dicker@midwestern.nsw.gov.au</a></p>	 <p><b>COUNCILLOR</b> Alex Karavas</p> <p>34 Spring Road Mudgee NSW 2850 0428 670 905 <a href="mailto:councillor.karavas@midwestern.nsw.gov.au">councillor.karavas@midwestern.nsw.gov.au</a></p>	 <p><b>COUNCILLOR</b> Robbie Palmer</p> <p>c/- Mid-Western Regional Council PO Box 156 Mudgee NSW 2850 0407 246 381 <a href="mailto:councillor.palmer@midwestern.nsw.gov.au">councillor.palmer@midwestern.nsw.gov.au</a></p>
 <p><b>COUNCILLOR</b> Peter Shelley</p> <p>c/- Rylstone Newsagency 78 Louee Street Rylstone NSW 2849 0403 156 405 <a href="mailto:councillor.shelley@midwestern.nsw.gov.au">councillor.shelley@midwestern.nsw.gov.au</a></p>	 <p><b>COUNCILLOR</b> Phil Stoddart</p> <p>c/- Mid-Western Regional Council PO Box 156 Mudgee NSW 2850 0407 208 730 <a href="mailto:councillor.stoddart@midwestern.nsw.gov.au">councillor.stoddart@midwestern.nsw.gov.au</a></p>	 <p><b>COUNCILLOR</b> Percy Thompson</p> <p>'Morningson' 325 Mebul Road Mebul NSW 2852 0428 740 226 <a href="mailto:councillor.thompson@midwestern.nsw.gov.au">councillor.thompson@midwestern.nsw.gov.au</a></p>

## 3.2 Personal participation

Residents are able to raise issues with, and make representations to the elected Councillors. The Councillors, if they agree with the issue or representation, may pursue the matter on the resident's behalf. It is the role of Councillors to represent the collective interests of residents, ratepayers and the local community.

Council encourages residents to make submissions when development applications and local policy is placed on exhibition. These exhibitions are advertised in local newspapers and on display at Council's three administration centres, Rylstone, Mudgee and Gulgong. They can also be accessed online using the link below;

<https://www.midwestern.nsw.gov.au/Council/Documents-on-exhibition>

Members of the public are able to attend Council meetings held on the third Wednesday of each month – except for January, when there are no meetings. Meetings are conducted in the Council Chambers, Administration Building, 86 Market Street, Mudgee.

Prior to meetings Council conducts a Public Forum which is an opportunity for persons to address Council on subjects that are matters of business for that meeting of the Council.

Council also has the following Community Committees comprising and including members of the public:

- Mudgee Showground Management Committee
- Mudgee Sports Council Sub Committee
- Gulgong Memorial Hall Committee
- Gulgong Sports Council Sub Committee
- Rylstone & Kandos Sports Sub Committee
- Mid-Western Regional Council Access Committee
- Mid-Western Regional Youth Council
- Red Hill Committee
- Botobolar Community Committee
- Rail Committee
- Mudgee District U3A Committee
- Cultural Development Committee

## 4. Access to Government information

Mid-Western Regional Council is committed to the principle of open and transparent Government. To facilitate public access to Council information, Council has adopted an Access to Information Policy. The object of this policy is to inform the public that they have lawful rights to access Council information and to describe the procedures for gaining access.

Under the provisions of the Government Information (Public Access) Act 2009 there is a right of access to certain information held by Council, unless there is an overriding public interest against its disclosure.

There are four main ways under the GIPA Act in which Council may provide access to information:

1. Mandatory Proactive Release
2. Proactive Release
3. [Informal Release](#)
4. [Formal Access Application](#)

### 4.1 Government information held by Council

Council holds a wide range of information, in both hard copy and electronic forms in respect of the wide range of functions. That information is contained in:

- Files – either physical or electronic
- Strategies and plans
- Policy documents
- General documents

### 4.2 Open access information

Schedule 1 of the GIPA Regulation prescribes information contained in certain records to be open access. The following open access information is available on Council's website:

- [the model code prescribed under section 440 \(1\) of the LGA and the code of conduct adopted under section 440 \(3\) of the LGA,](#)
- [code of meeting practice,](#)
- [annual report,](#)
- [annual financial reports,](#)
- [auditor's report,](#)
- [management plan,](#)
- [EEO management plan,](#)



- [policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors,](#)
- returns of the interests of [councillors](#) and [designated persons,](#)
- [agendas and business papers for any meeting of the local authority or any committee of the local authority \(but not including business papers for matters considered when part of a meeting is closed to the public\),](#)
- [minutes of any meeting of the local authority or any committee of the local authority, 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,](#)
- [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 LGA.](#)
- [register of investments,](#)
- [register of delegations,](#)
- register of current declarations of disclosures of political donations kept in accordance with section 328A of the LGA,
- the register of voting on planning matters kept in accordance with section 375A of the LGA.

The following open access information is not currently available on Council's website but can be viewed in person:

- land register
- register of graffiti removal work kept in accordance with section 13 of the [Graffiti Control Act 2008](#)
- information about development applications
- approvals, orders and other documents

### 4.3 Council's strategies and plans

Council's strategies and plans are prescribed as open access information under the GIPA Regulation and are available from Council's website. The following link will guide you to these documents <http://www.midwestern.nsw.gov.au/council/council-documents/>

### 4.4 Council policy information

Council's policies are prescribed as open access information under the GIPA Regulation and are maintained in an internal policy register. Council Policies are available to view on Council's website at <https://www.midwestern.nsw.gov.au/Council/Policies-plans-and-reporting/Policies>

### 4.5 Files – both physical and electronic

Prior to 1996, Council maintained a "hard copy" filing system, with material being held in physical, paper-based files. Archived hard copy files are maintained in storage, mainly consisting of development, building or construction information. These records will not be transferred to electronic form and will not be published to Council's website, however information from these files

may be made available either by informal release or via an access application, unless there is an overriding public interest against disclosure of the information, in accordance with the provisions of the Government Information (Public Access) Act (GIPAA).

## 4.6 Charges

Schedule 1 of the Government Information (Public Access) Regulation requires that prescribed open access Government information held by Council, is to be made publicly available for inspection, free of charge.

The public is entitled to inspect Government information either on Council's website (unless there is an unreasonable additional cost to Council to publish this Government information on the website) or at the offices of the Council during ordinary office hours or at any other place as determined by Council.

Part 10 of the Local Government Act 1993 commencing at clause 607A provides for the Council to charge and recover fees.

Where copies of information are requested, photocopying and printing charges apply as per the Administration Services fees published on Council's website,

Requests for information not considered open access information may be subject to processing charges of \$30 per hour as published in Council's fees and charges under Information Requests. Information that is considered personal information to the person that is requesting the information will have any processing charges waived for the for 20 hours. Any applicable photocopying and printing charges may be incurred in addition to the processing fee.

Councils fees and charges can be viewed at <https://portal.lgsolutions.net.au/Fees/Public/Mid-Western%20Regional%20Council>

Requests for information made under the GIPA Act are subject to statutory charges as per the legislation. A fee of \$30 is payable on application and counts toward the first 2 hours of processing time. Additional processing time is charged at \$30 per hour.

### Public registers

Council maintains other registers which are required by law to be available for public inspection.

Where the public register contains personal or health information, Council is required to ensure that access by a member of the public is for a purpose consistent with the purpose for which the register exists. The Local Government Code of Practice issued under the Privacy and Personal Information Protection Act (PPIPA) permits Council to provide access to such registers by way of inspection on Council premises and for the copying of an entry or page in the register without regard to the purpose of the person who seeks access.

Council reserves the right to seek to satisfy itself about the purpose of access and to require a statutory declaration from the person seeking access that personal information will only be used for a specified lawful purpose.

Council maintains some registers which are not available for public inspection. Particular entries in these registers, for example from Council's Rates Record and the Record of Property Taken Possession of by Authorised Offices required by the Public Spaces (Unattended Property) Act, are available to any person. In the case of an application for a certificate of an entry in the Rates Record under Section 603 of the LGA, a charge is payable.

### Access to other documents held by Council

Other Council documents are available for inspection under the GIPA Act unless disclosure is, on balance, contrary to the public interest. Any application must be received in writing and will be processed promptly and within the agreed timeframe.

The request should specify the documents sought, with a reference to any time or date limitations. Any application will be considered on its merits and considered in the light of the obligation to make documents available unless public interest considerations favour the withholding of the document(s).

### Information and documents not usually available

Information about the name of a property owner is in the public domain through internet access to the register maintained by the NSW Land and Property Information Service.

Council holds information about property ownership for the purpose of carrying out its functions. Council policy is not to make available information about the name of a property owner except in emergency circumstances or where the enquirer can establish a clear need to know.

Council will not supply bulk property data to third parties for the purposes of direct marketing.

Documents listed below will not usually be available because they are excluded from the right to access by an express provision in the LGA, or Council has concluded that disclosure of such documents, or documents containing information of the kind indicated would, in the usual case, be contrary to the public interest.

### Documents not available because of provisions in LGA

The following information will not be available:

- Papers submitted to Council for consideration in a closed session
- Documents containing information about personnel matters concerning particular individuals, the personal hardship of any resident or rate payer, trade secrets or other sensitive commercial information, or where disclosure would find an action for breach of confidence
- Documents that contain information, the release of which would constitute an offence against an Act

### Other documents not available

- Documents or parts of documents which would reveal the identifying particulars of persons who provide information to Council in connection with its law enforcement and regulatory responsibilities, or who otherwise contact Council about matters of interest or concern, including complaints about other persons conduct or activities, and matters that require investigation by Council

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- Documents which reveal confidential communications between the Council and its legal advisers, or documents which have been prepared by Council officers or others for the dominant purpose of use in proposed or anticipated legal proceedings
- Documents, the release of which are likely to endanger the life or safety of any person, or the security of any building or structure, or which would prejudice the conduct of a lawful investigation by Council or another authority
- Documents concerning Council functions or operations where disclosure would have a prejudicial effect on Council's property or financial interests, or would otherwise have an adverse effect on its regulatory functions, or its capacity to operate in an efficient and effective manner
- Council working documents prepared or received in connection with its decision making functions, prior to the making of a decision by Council, a committee of Council, or an officer exercising delegated authority

It should be noted that access through verbal advice as to the content of documents listed above is also not available.

### Large general requests for access to documents

Broad, general requests for a large number of documents, for example all documents of a certain kind, or documents held on a number of different Council files, or which otherwise require a substantial allocation of Council resources, may be refused after consideration of the public interest factors involved by Council's Public Officer/ Right to Information Officer.

The Officer may, in the light of an assessment of the work involved in identifying, locating, collating and assessing a large number of Council documents, conclude that access should be refused on the grounds that the substantial diversion of Council resources necessary to deal with the application would, on balance, be contrary to the public interest.

The Public Officer/Right to Information Officer shall, in reaching such a decision consider the following:

- an assessment of the work and time involved in responding to the application
- the extent to which the work involved in dealing with the request would result in Council resources being diverted from dealing with other access requests, or from other important functions
- the nature of the documents requested and any public interests to be advanced by disclosure generally, or disclosure to the particular applicant. Council acknowledges there is a public interest in disclosure of documents about Council operations and the exercise of its functions, and in a particular applicant gaining access to documents where there is a strong and justifiable right to know

However, the right to access documents free of charge to an individual also requires consideration of the effect the processing of such an application may have on the rights of others, and on the efficient and effective use of Council resources in the interests of all ratepayers.

### Refusal of access

Where access to documents is refused under the GIPA Act, Council will advise the applicant in writing of the reasons for the decision. In the case of refusal on grounds that dealing with the request would involve the substantial diversion of Council resources, the Public Officer/Right to

Information Officer will provide details to the applicant in writing, including an estimate of the time involved in responding to the application and consideration of the other factors mentioned in these guidelines, however before doing so will give the applicant a reasonable opportunity to amend the application.

Any applicant dissatisfied with Council's handling of a request for documents under GIPA Act may seek a review in accordance with Sections 82 - 88 of the GIPA Act, and may also seek a review of reviewable decisions through either the Information Commissioner or the NSW Civil and Administrative Tribunal (NCAT).

## Copyright

Copyright issues may arise when requests are made for copies of documents held by the Council. The Commonwealth Copyright Act (1968) takes precedence over State legislation therefore the right to copy documents under GIPA or EP&A does not override the Copyright Act.

If Council commissions a report from a consultant it will be under the terms of the contract whether it can be copied.

With regard to documents supplied with development applications, Council's development application form includes a statement whereby applicants give their permission to allow documents included with a development application to be access under the GIPA Act. This permission does not override the rights of any copyright holder.

## Access to information by Councillors and Administrators

The process for access to information by Councillors and Administrators is outlined in Part 8 of Council's Code of Conduct.

## GIPA Act

Access to the GIPA Act is available from the website of the NSW Legislation website at the following link:

<https://www.legislation.nsw.gov.au/#/view/act/2009/52>

## 4.7 Public access to Government information held by Council

As far as practicable, Government information held by Council will be accessible by members of the public during office hours.

Any amendment of records held by Council will be undertaken pursuant to the provisions of the Privacy and Personal Information Protection Act 1998.

Persons interested in obtaining access to Government information can access application forms on Council's website. Those who wish to seek an amendment to the Council's records concerning their personal affairs, should contact Customer Service who will refer you to the Privacy Officer or

the Right to Information Officer. If you experience difficulty in obtaining Government information you should contact Council's Public Officer.

## 4.8 Public Officer – Right to Information Officer

The Manager Customer Service & Governance has been appointed as the Public Officer.

Amongst other duties, the Public Officer may deal with requests from the public concerning the Council's affairs and to take delivery of documents on behalf of the Council.

The Governance Coordinator has been appointed as the Right to Information Officer.

The Right to Information Officer is responsible for determining formal applications for access to Government information (GIPA Act Access Applications) or for the amendment of records. If you have any difficulty in obtaining access to Government information.

Also, if you would like to amend a document of Council which you feel is incorrect, it is necessary for you to make written application to the Right to Information Officer in the first instance.

