

Access to Information Policy

GOV-CORP 011

Authority and Other Information	
Date of approval	28 September 2016
Source of approval	Council Resolution No. 15.041/16*
Date of commencement	28 September 2016
Source of authority	<i>Right to Information Act 2009</i>
Legislative Reference	Section 23 of the <i>Right to Information Act 2009</i>
Delegations	Section 64 of the <i>Local Government Act 1993</i>
Strategic Plan Reference	5
Date of review	At least once every four years but not later than September 2020 or as required as a result of any legislative change
Previous policies withdrawn or amended	<i>Access to Information Policy, June 2011</i> adopted 13 July 2011 by Council Resolution No. 18.053/11*
Department responsible for implementation	Regulatory and Development Services
Department responsible for policy	Regulatory and Development Services
Publication of policy	A copy of the Policy be placed on Council's website and copies be made available for inspection at and free of charge from Council's Customer Service Centre.

1. Purpose and Background:

1.1 Background

The Huon Valley Council is a public authority as defined under the *Right to Information Act 2009* (the Act).

The Council holds information, for and on behalf of the Huon Valley residents, in order to perform its functions and those of its Councillors.

The definition of information in the possession of the Council under the Act clarifies that it only covers information which relates to the official business of the Council and excludes information which is in the possession of the Council for the sole purpose of collation or forwarding to body other than another public authority.

Section 7 of the Act gives a person a legally enforceable right to be provided with official information in the possession of the Council, unless the information is exempt information.

Section 9 provides that a person is not entitled to certain information that is otherwise available including:

- Information that may be inspected by the public in accordance with another Act or
- Information that may be purchased at a reasonable cost in accordance with arrangements made by a public authority.

Section 17 provides that Council may defer providing information if a decision has been made that the information will be disclosed as the required disclosure or routine disclosure within a period of time specified by the Council but not exceeding 12 months from the date of the application.

Under section 205(1)(d) of the *Local Government Act 1993* Council may impose fees and charges in respect of providing information or materials, or providing copies of, or extracts from, records of Council.

1.2 Purpose

Section 23 of the Act requires the General Manager as principal officer to prepare and promulgate policies and procedures for the release of information under the Act.

This Policy is adopted by Council to further the Act and explains the disclosure policy in the Council for the four types of information disclosure specified in Section 12 (2) of the Act being:

- Required Disclosure,
- Routine Disclosure,
- Active Disclosure and
- Assessed Disclosure.

This Policy will guide Council Officers in making decisions about what information is released and the method of making that information available.

2. Definitions:

In this Policy:

“Active disclosure” means a disclosure of information by HVC in response to an application in accordance with section 13 of the Act.

“Assessed disclosure” means a disclosure of information by HVC in response to a request from a person made under Division 2 of Part 2 of the Act.

“Exempt information” as defined in Part 3 of the Act.

“Excluded information” includes information that is:

1. by its nature that is exempt from release, including, but not limited to, information (reports, agendas and documents) associated with a Closed Session of Council pursuant to regulation 15 of the *Local Government (Meeting Procedures) Regulations 2015*;
2. *prima facie* exempt but subject to the public interest test and may not be in the public interest to release;
3. prevented by other law or agreements to be released; or
4. owned by a third party and subject to intellectual property rights such as under the *Copyright Act 1936 (Cth)*.

“Information” means:

- (a) anything by which words, figures, letters or symbols are recorded and includes a map, plan, graph, drawing, painting, recording and photograph; and
- (b) anything in which information is embodied so as to be capable of being reproduced.

“Officer” within the meaning of the Act, means an HVC employee and, where applicable an HVC contractor or a consultant.

“Required disclosure” means a disclosure of information by HVC where the information is required to be published by the Act or any other Act, or where disclosure is otherwise required by law or enforceable under an agreement.

“Routine disclosure” means a disclosure of information by HVC which the public authority decides may be of interest to the public, but which is not a required disclosure, an assessed disclosure or an active disclosure.

“The Act” means the *Right to Information Act 2009*

3. Policy Statement:

3.1 Policy Statement

Information held by the Council will be made available taking into account the following principles:

- The Council will make official information in its possession, publicly available when it is relevant, appropriate and in the public interest to do so and not subject to an exemption set out in the Act.
- Some of the information that the Council holds is not able to be released because it is Excluded Information.
- Applications for personal information by an individual to whom the personal information relates should be dealt with under the *Personal Information Protection Act 2004*.
- Information that is not otherwise Excluded Information or otherwise made available under the Act may be purchased and fees may apply for processing requests for information in accordance with a fee and charge schedule determined by Council. Where fees and charges are determined by Council for the purchase of information, the Purchase fee is reduced by 50 per cent if the request relates to information relating to the Applicant’s Property, personal affairs or business dealing with Council.
- Information will be considered for release in accordance with the Disclosure Principles in this Policy.
- The Council Officers who are involved in the release of information to the public will make decisions which are consistent with the objects and provisions of the Act.

3.2 Disclosure Principles

3.2.1 Required Disclosure

Examples of Required Disclosure includes publication of information such as Strategic Plans, Annual Plans, Annual Reports and other reports which HVC must make available under law.

At minimum information released under Required Disclosure will be made available at Council's website and for inspection at Council Offices or as otherwise required at law.

3.2.2 Routine Disclosure

3.2.2.1 Classes of Information for Publication:

The classes of information that will be published on Council's website as routine disclosure are as follows:

- About us – who we are and what we do
- Our services – services we offer or deliver
- Our priorities – what our priorities are and how we are doing
- Our finances – what we spend and how we spend it
- Our decisions – how we make decisions
- Our policies – our policies and procedures
- Our strategies – our strategies and plans
- Our lists – lists and registers
- Our decision making – Council agendas, reports, minutes and attachments (excepting planning authority attachments). In some instances fees and charges may apply in accordance with the relevant Act and Regulations.

Information within each class will be made up of different types of information and will progressively be published in accordance with this Policy.

The information will be updated and added to from time to time, with each new item reflecting current information.

3.2.2.2 Routine Disclosure Considerations

In approving types of information under each class as suitable to be routinely disclosed the following matters must be considered:

- What information may be material to the community – i.e. what is significant, relevant and meaningful?
- What information key stakeholders and the community might reasonably expect to be able to access?
- The extent of public or other demand for the information.
- How useful the information would be to the public in dealing with the Council.
- Whether publication would improve the public's ability to contribute to the work of the Council or to decision-making by the Council.
- Whether publication would provide increased transparency about the operations of the Council such as information about the Council's expenditure.
- Whether publication would promote greater accountability by HVC, for example by showing the basis of its decisions.
- Whether the information promotes community wellbeing.

Other questions relevant to a decision to routinely disclose are:

- Does the Council possess the information?
- Does the information relate to the official business of the Council?

- Has the information been archived or is it out of date or otherwise inaccessible?
- Is it impracticable or resource intensive to prepare the material for routine release?
- Is the information significant – is it about important aspects of the Council such as major projects, key initiatives or policy documents?
- Is the information preliminary or deliberative or does it represent the final and approved position/decision?
- Does the information tell the public what we do, how we do it or how we spend public money?
- Is the release of the information lawful - having regard to the Act, other legislation and any other legal obligation such as an agreement or copyright?
- Is the release appropriate - having regard to issues such as privacy principles, defamation, third party and security issues?
- Is the information accurate? All efforts should be made to ensure that information is up-to-date and accurate.
- What is the cost and time involved in producing the information? The release of information should be at the lowest reasonable cost.
- Is the information otherwise exempt - having regard to Part 3 of the Act?
- Is it in the public interest to release – having regard to Schedules 2 and 3 of the Act?

3.2.3 Active Disclosure

For all requests for information that are not otherwise available under Required Disclosure or Routine Disclosure Officers will:

- Direct the person to the information if it is already publicly available (including directing the person to a commercially available source if the information is required in hard copy and is available for sale by the Council, e.g. information that is available for purchase (not including Excluded Information) in accordance with any fees and charges for purchase of Information as determined by Council or information available from the State such as property information on the LIST website.
- Consider asking for a request in writing to provide greater clarity around the information being sought, and to whom the information is to be provided
- Decide whether the information can be released to the person in full or in part, taking into consideration factors such as:
 - third parties – who may have provided commercial in confidence information or information provided strictly in confidence by third parties
 - personal privacy – decisions must be consistent with Council's *Privacy Policy* adopted under the *Personal Information Protection Act 2004*
 - confidentiality – information provided in confidence (commercial or otherwise)
 - copyright or ownership of the material - In these circumstances, provided no relevant exemption applies, an application may be made to inspect or view the information however copies will not be provided. Copies of these documents will only be available for purchase to owners of the relevant documents and properties or with permission of the person who owns the intellectual property in the information. An interested third party will only be able to inspect them
 - the exemptions outlined in the Act
 - contractual obligations that may relate to the information
 - whether the information contains material of a defamatory nature
 - if the information is part of an ongoing investigation or legal action
- Release any of the requested information that can be disclosed and where applicable inform the person of any relevant information that cannot be disclosed in this way and provide the person with advice on their rights to apply for an assessed disclosure to obtain access to any information which cannot be actively disclosed

3.2.4 Council Consideration

Council when adopting, endorsing or approving of a document will determine:

- Whether or not a document will be available to the public.
- The manner in which it will be made available.
- Any cost for purchase of the information if not to be in accordance with the schedule of fees and charges.

3.2.5 Assessed Disclosure

Assessed disclosure is the method of disclosure of last resort. In other words, where possible, Council will make information voluntarily available, whether free of charge or by purchase and so reducing the need for assessed disclosure.

4. Application:

This Policy applies to all information held by the Council and all Council Officers who deal with information in their particular areas of responsibility.

All Officers are responsible and accountable for:

- keeping records of all official information produced, received or acquired;
- making records to support what they do; and
- registering documents in the Council's records management system.

5. Procedures:

5.1 The General Manager will establish procedures for the keeping of information as required under any legislation including the *Archives Act 1983*.

5.2 The General Manager will otherwise determine procedures as necessary for implementation of this Policy in accordance with the requirements of section 23(1)(a) of the Act and will appoint and delegate General Manager functions to Officers to assist in undertaking General Manager functions under the Act.