

 <p>Mackay REGIONAL COUNCIL</p>	COUNCIL POLICY	
	Right to Information	
	POLICY NO	047
	DEPARTMENT	Organisational Services
	PROGRAM	Governance & Safety
APPROVED BY COUNCIL 13 November 2019, Folio 65141		

1.0 Scope

This policy applies to the activities of Councillors and employees of Mackay Regional Council (MRC) and members of the public accessing information held by MRC.

2.0 Purpose

To ensure that MRC complies with legislative obligations and functions under the *Right to Information Act 2009 (RTI Act)* and *Information Privacy Act 2009 (IP Act)* to enable the public to access MRC documents.

3.0 Reference

- *Right to Information Act 2009*
- *Right to Information Regulation 2009*
- *Information Privacy Act 2009*
- *Information Privacy Regulation 2009*
- *Acts Interpretation Act 1954*
- *Public Records Act 2002*
- *046 - Information Privacy Policy*
- *019 - Confidentiality Policy*
- *077 - Workplace Security Monitoring & CCTV Systems*
- *086 - Remotely Piloted Aircraft Policy and Procedure*

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Administrative Scheme shall mean documents that are released as a matter of course as they are considered to be public documents or are permitted or required to be released by law.

Council shall mean the Mayor and Councillors of Mackay Regional Council.

Disclosure Log shall mean a list of documents released by Council under the RTI Act and published on MRC's website.

Document shall mean a document in the possession or under the control of MRC whether brought into existence or received by the agency and includes:

- (a) A document to which MRC is entitled to access;
- (b) A document in the possession or under the control of an officer of MRC in the officer's official capacity.

A document can include:

- (a) Any paper or other material on which there is writing, marks, figures, symbols or perforations having a meaning for a person qualified to interpret them;
- (b) Any disk, tape or other article or material from which sounds, images, writings or messages are capable of being produced or reproduced (with or without the aid of another article or device).

IP Act shall mean the *Information Privacy Act 2009*.

MRC shall mean Mackay Regional Council.

Personal Information shall mean information or an opinion, including information or an opinion forming part of a database, whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Principal Officer shall mean the Chief Executive Officer of Mackay Regional Council.

Publication Scheme shall mean information that MRC has available and the terms on which MRC will make the information available including any charges.

RTI Act shall mean the *Right to Information Act 2009*.

RTI Officer shall mean a MRC Officer delegated to undertake Right to Information decisions.

5.0 Background

The *RTI Act* and the *IP Act* commenced on 1 July 2009, replacing the *Freedom of Information Act 1992* and Information Standards 42 and 42A: Information Privacy.

The *RTI Act* establishes a public right of access to documents in MRC's possession or under MRC's control with a view of achieving a more open, accountable and transparent government.

The *RTI Act* sets out specific processes and procedures that must be followed in seeking access to MRC documents as well as the grounds of exemption which can apply to prevent the disclosure of certain information and documents.

MRC's promotes proactive release of information and is committed to make access to information as easy as possible for the general community. MRC encourages MRC employees to actively support the release of corporate information in accordance with the *RTI Act*.

6.0 Policy Statement

MRC is committed to providing access to MRC documents in accordance and consistent with legislative requirements including requirements prescribed under the *RTI Act*.

MRC information and documents are available to the public via:

- MRC's website;
- MRC's Publication Scheme;
- MRC libraries and administrative centres;
- MRC's Disclosure Log;
- Under administrative access arrangements.

An individual who requests access to an MRC document, or part of a document, should initially be referred to sources of information which are publicly available including MRC's website, Publication Scheme, Disclosure Log (where required), library or other source where MRC documents are routinely made available to the public.

If the document is not publicly available, an individual may apply to access the document or information under an administrative access arrangement.

If access cannot be given under one of the above mechanisms, an individual may choose to submit an RTI access application in accordance with the provisions of the *RTI Act* or *IP Act*.

6.1 Responsibility

Section 30 of the *RTI Act* states that any access application must be determined by the 'Principal Officer'. In MRC's case the 'Principal Officer' is the Chief Executive Officer or another MRC Officer ('RTI Officer') who has been delegated power from the Chief Executive Officer.

The RTI Officer has the responsibility of making initial decisions regarding the release of relevant documents within the time periods stipulated within the *RTI Act*. The RTI Officer may deal with any RTI application and liaise with the relevant Departments or Programs within MRC regarding access to documents.

Under the *RTI Act* the RTI Officer is authorised to view all relevant documents including any confidential documents in order to assess the documents to determine if the documents are able to be released.

Where there is an internal review of a decision made on an RTI application, the CEO or nominated delegate (the delegate must be no less senior than the officer who made the original decision) will be responsible for determining the internal review.

6.2 Administrative Access Scheme

The Administrative Access Scheme is a way of providing the public with access to information. 'Administrative Access' refers to the release of

information by means other than a formal access application under the RTI or IP acts.

Where possible MRC will release information under its administrative access scheme.

Examples of information that may be released under the administrative access scheme include:

- (a) a person requests a copy of their own correspondence sent to or received from MRC. As long as MRC can ensure that it has verified the relevant person's identification (e.g. cited driver's licence or a certified copy), MRC could release the information administratively;
- (b) open data, where de-identified data sets held by MRC are released to the public via federal, state or local government websites;
- (c) where other legislation authorises the release of the information to the person requesting the information;
- (d) information published on MRC's website such as the publication scheme and disclosure log;
- (e) a court order authorises the release of the information requested; or
- (f) statistical information.

Information that will not be released under the administrative access scheme includes:

- (a) information that is prohibited from release under law;
- (b) information that is exempt under the RTI Act or the IP Act;
- (c) information in draft form; or
- (d) information that is no longer readily available as it has been archived or is difficult to access for similar reasons.

An administrative access requests should be referred to Corporate Governance who will assess and determine if the document can be released administratively.

6.3 [Publication Scheme](#)

MRC will maintain a publication scheme on its website in accordance with the *RTI Act*. This scheme will identify the type of information which MRC will make routinely available, including any terms or charges.

The publication scheme includes information in accordance with the Ministerial Guidelines for Publication Schemes. Documents to be listed in the publication scheme include:

Class of Information	Type of Information	How MRC Currently addresses
About MRC	What MRC does - background information on MRC and the Mackay Region	<ul style="list-style-type: none">• History of MRC;• Privacy/disclaimer;• Other Laws and policies;• MRC's role in government;

Class of Information	Type of Information	How MRC Currently addresses
		<ul style="list-style-type: none"> • Contact MRC; • MRC Meetings; • Organisational Structure.
MRC Services	The service that MRC offers - a description of what services are offered by MRC including advice and guidance, booklets and leaflets, media releases.	<ul style="list-style-type: none"> • Forms and applications; • News and media centre; • Libraries; • PD online; • Online services and payments; • Road Works; • Water Restrictions; • Services; • Emergency Action Guide; • Design and Construction requirements; • A_Z Guide to MRC facilities; • Facilities opening Times; • eAccounts; • myh20; • Citizenship; • Waste & Recycling.
MRC Finances	What MRC spends and how it is spent - financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.	<ul style="list-style-type: none"> • Fees & charges; • Rates; • Suppliers' guide; • Tenders and purchasing; • Operational plan and quarterly reports.
MRC Priorities	What MRC's priorities are and how MRC are doing - MRC's strategic and performance documents	<ul style="list-style-type: none"> • Operational Plan and Quarterly Review; • Planning Scheme; • Emergency Action Guide; • Community; • Environment; • Service; • MRC meetings; • Open space, sports and recreation strategy; • Sports and recreation; • Facilities.
MRC Decisions	How MRC makes decisions	<ul style="list-style-type: none"> • MRC Meetings; • Community consultation; • Petitions - how to lodge.
MRC Policies	Policies and Procedures - the current written protocols for delivering	<ul style="list-style-type: none"> • Local laws & policies; • Code of conduct for MRC employees;

Class of Information	Type of Information	How MRC Currently addresses
	MRC functions and responsibilities	<ul style="list-style-type: none"> • Code of conduct for Councillors; • Forms and applications; • Privacy disclaimer; • Petitions.
MRC Lists	Lists and registers - information held in registers required by law and other lists and registers relating to the functions of MRC.	<ul style="list-style-type: none"> • Legislative registers; • Disclosure logs; • Delegations.

6.4 [Disclosure Log](#)

MRC will maintain a disclosure log making publicly available those decisions and documents disclosed to Applicants (excluding personal information).

This information will be published in the disclosure log no sooner than 24 hours after it has been accessed by the Applicant, but no later than five business days after this access.

6.5 [Right to Information Application](#)

If the MRC document is not publicly available or available via an administrative access request, a right to information application must be made to access the document under the provisions of the *RTI Act*.

An RTI Application must:

- Be on the approved [application form](#) and accompanied by the prescribed application fee;
- Give sufficient information concerning the document to enable the identification of the document;
- State an address to which notices may be sent to the applicant;
- State whether access of the document is sought by the applicant or another entity (which is required to be names)
- Evidence of identity of the applicant (certified copy of driver's licence);
- If an agent is acting for an applicant - evidence of the agent's authority and evidence of identity is required (i.e. signed consent by client)

The RTI Application applies to documents that are, or may be, in existence to the day the application is received by MRC.

The *RTI Act* provides delegated decision makers 25 business days from the receipt of the application to the

6.6 [Internal and External Review](#)

Applicants have the right to seek an internal review if they disagree with the decision of the RTI Officer. An internal review is a process established under the *RTI Act* which allows the decision made by RTI Officer to be reviewed by

the Principal Officer, namely the Chief Executive Officer. The Chief Executive Officer may delegate this power to another officer.

Applicants may apply to the Office of Information Commissioner if they are not satisfied with the result of the internal review. Alternatively, the Applicant may wish to forgo the opportunity to seek an internal review of the RTI Officer's decision and proceed directly to an external review with the Office of Information Commissioner.

7.0 Review of Policy

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendment of Policy	Council	26.10.16
3	Review of Policy	Amendment of Policy	Council	13.11.19