

PURPOSE

This policy sets out how Council will manage and disclose its information in accordance with the Right to Information Act 2009 (**the Act**).

SCOPE

This policy has been prepared in accordance with s 23 of the Right to Information Act 2009. This Act requires the principal officer to develop policies and procedures in relation to the disclosure of information held for use by Council and to publish details of required, routine and assessed disclosures accepted and refused by Council.

STRATEGIC PLAN ALIGNMENT

Making Lives Better

- Objective 1.1 Know our communities and what they value
- Strategy 1.1.1 Guide decision making through continued community engagement based on our community plan

Leading Our Community

- Objective 4.1 Govern in the best interests of our community
- Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency
- Strategy 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes
- Objective 4.2 Prioritise our resources to achieve our community’s goals
- Strategy 4.2.1 Deploy the Council’s resources effectively to deliver value

STATUTORY REQUIREMENTS

Acts	<i>Right to Information Act 2009 Personal Information Protection Act 2004 Archives Act 1993</i>
Regulations	<i>Right to Information Regulations 2010</i>
Australian/International Standards	<i>N/A</i>

DEFINITIONS

Active Disclosure is the disclosure of information by Council in response to a request where the Principal Officer decides to release information outside of Division 2 of Part 2 of the Act (requiring a formal application for assessed disclosure).

Applicant means a person who has requested information from Council.

Assessed Disclosure means a disclosure by Council in response to an application and following a decision by the Principal Officer, in accordance with s. 13 of the Act.

Delegated Officer means a person specified in an instrument of delegation in accordance with section 24 of the Act.

Exempt information is information that is exempt by virtue of a provision of Part 3 of the Act.

Information is:

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

Officer includes a member of Council, a member of the staff of Council and any person employed by or for Council.

Ombudsman means the Ombudsman appointed under the Ombudsman Act 1978.

Personal Information means any information or opinion in any recorded format about an individual:

- whose identity is apparent or is reasonably ascertainable from the information or opinion; and
- who is alive or has not been dead for more than 25 years.

Principal Officer means principal administrative officer of Council under the RTI Act.

Required Disclosure means disclosure of information by Council where the disclosure is required by to be published by a statute, regulation or other enforceable contract entered into by the Council.

Routine Disclosure means proactive disclosure of information where Council decides it may be of interest to the public and where this disclosure is not an active, assessed or required disclosure under the Act.

RTI Act means the *Right to Information Act 2009*.

POLICY STATEMENT

Right to Information Principles

The Right to Information Act 2009 commenced on 1 July 2010 and provides for greater access to information held by government bodies by:

- Authorising and encouraging greater routine disclosure of information held by government bodies without the need for requests or applications;

- Authorising and encouraging greater active disclosure of information held by government bodies in response to informal requests without the need for applications;
- Giving members of the public an enforceable right to information held by government bodies; and
- Providing that access to information held by government bodies is restricted in only limited circumstances which are defined in the Act.

Our Information Holdings

The Council is a government body for the purposes of the Act. The Council holds significant records related to its general functions under the *Local Government Act 1993*. It also acts as a regulatory body for other legislation such as the *Building Act 2016*, *Land Use Planning and Approval Act 1993* and the *Food Act 2003*. Some of this legislation restricts the information we are allowed to release. For example, building permits can usually only be provided to the current owner of the affected property.

Council manages infrastructure in the Glenorchy municipality including local highways, watercourses, the public stormwater system, landfill sites, dog pounds, parks, car parks, gardens, playgrounds, sports fields, community clubrooms and the Moonah Arts Centre. We also manage local government services like roadside waste collection and recycling, community engagement, certain childcare services, immunisation programs, environmental health, management of nuisances, animal management, arts programs and cultural events.

We are subject to the *Archives Act 1983* and are permitted to destroy or archive certain records in accordance with Archives Office of Tasmania guidelines. For example, this generally allows for destruction of operational financial records more than 7 years old. Most of Council's business records are stored electronically, but we also retain some paper files, especially for old building and planning permits.

The scope of Council's services, functions and powers are set out on our website www.gcc.tas.gov.au. Our website also shows the physical boundaries of the municipality.

How we disclose information

Council is required by the Act to make information available to the public through proactive disclosure. This means we routinely make information available which will assist the public in understanding what we do and how we do it. Applicants will be directed to our on-line source if the material requested is already published.

Most of the information Council holds is stored as an electronic record, which is usually released as a set of paper printouts. Applicants can ask for alternative means of disclosure.

Ways of disclosing information

Routine Disclosure and Required Disclosure

Officers are encouraged to routinely disclose information in the public domain that might reasonably be of public interest, especially where this will help to reduce the need for the community to make further approaches for copies of popular items. As recommended in the Ombudsman's Manual (July 2010), media communication officers within Council will endeavour to identify the types of information that should be routinely or actively disclosed and put measures in place to regularly publish this information.

This may be done via our website (<https://www.gcc.tas.gov.au/>), through publications (e.g. fact sheets, By-Laws, or discussion papers), and via reports (e.g. our Annual Report, Strategic Plan, Community Plan, etc). Council believes disclosing this information is in the public interest.

Additionally, sometimes Council is required by legislation to disclose information (e.g. *Local Government Act 2009* Ministerial Directions)

If the requested information cannot be found on Council's website or Facebook page, contact the Council and we may be able to assist in finding it.

Active Disclosure:

If an officer does not see the requested information as sensitive (see the dot points below) they may disclose it without asking for a formal RTI Act application. Active disclosure should be considered for each request, in accordance with the objects of the Act (s.3) which include to "...to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information".

When information is provided to the applicant, the officer should endeavour to identify in correspondence that the release is "an active disclosure under the *Right to Information Act 2009*."

Council officers should take care to ensure that active disclosure is not likely to:

- identify another person, especially a complainant,
- cause a commercial disadvantage to a business by disclosing itemised prices or trade secrets,
- release protected legal advice,
- release documents relating to a closed Council meeting;
- compromise an official investigation; or
- information that would do some other kind of harm to the public interest, breach confidentiality, or the rights of a third party. Council usually needs to protect the interests of the affected parties by notifying them of a possible future disclosure, in accordance with the provisions of the Act.

If these situations appear likely to exist, an application for assessed disclosure will need to be undertaken.

It may be possible to negotiate with the applicant to remove items of sensitive information from a document if it is not critical to a request. Doing so may speed up a response to a request.

Assessed Disclosure:

Some information needs to be released after careful and formal examination. This is because it is not suitable for routine or active disclosure. The information needs to be assessed against the exemptions in the *Right to Information Act 2009* prior to disclosure. This is to be used as a last resort, as formal applications for assessed disclosure can be a time-consuming for all the parties involved.

Council officers will assist persons wishing to make an application for an assessed disclosure.

Negotiation

Council will contact applicants to talk about a request wherever practicable. It is important to discuss what information is available, refine the request, discuss timelines, and to ensure that the applicant will be given the information they are seeking as much as is reasonably possible.

While it is useful to ask, applicants are not required to detail what they want the information for. If the request appears to an Officer to be misdirected, attempts should be made with the applicant to disclose any limitations of the information held by Council and identify higher quality information that could be provided on the same subject.

Applicants should be invited to discuss ways of trimming a very large requests to more useful key documents. In some circumstances, the Principal Officer and their delegates can decide to refuse processing an excessively large request.

Fees and Fee Waiver

Council's application form details the relevant fee for an Assessed Disclosure can be found here: <https://www.gcc.tas.gov.au/your-council/legislation/right-to-information.aspx>.

No fees are payable where the applicant is:

- a Member of Parliament acting in connection with their official duties;
- a journalist employed by a recognised news service;
- a representative of a recognised advocacy group or a person who has some other similar public interest purpose; or
- impecunious (has no money to pay the fees). This waiver action is at the discretion of the delegated officer and is to be decided on the basis of evidence of income supplied by the applicant. It is usually enough to obtain evidence informally, by questioning the applicant.

Decision-making responsibilities of the Principal Officer

The person authorised to make a decision on an application for assessed disclosure is the Principal Officer. The Principal Officer of Council for the purposes of the Act is the General Manager. The Principal Officer may formally delegate this role to another appropriately qualified and experienced Officer of Council under section 24 of the Act.

Assessing RTI Applications

In accordance with the Ombudsman Manual (July 2010) the Principal Officer and their delegates must have regard to the objectives as described in s. 3 of the Act. These are:

- (1) The object of this Act is to improve democratic government in Tasmania –
 - (a) by increasing the accountability of the executive to the people of Tasmania; and*
 - (b) by increasing the ability of the people of Tasmania to participate in their governance; and*
 - (c) by acknowledging that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.**
- (2) This object is to be pursued by giving members of the public the right to obtain information held by public authorities and Ministers.*
- (3) This object is also to be pursued by giving members of the public the right to obtain information about the operations of Government.*
- (4) It is the intention of Parliament –
 - (a) that this Act be interpreted so as to further the object set out in subsection (1) ; and*
 - (b) that discretions conferred by this Act be exercised so as to facilitate and promote, promptly and at the lowest reasonable cost, the provision of the maximum amount of official information.**

Additionally, s. 7 of the RTI Act states:

“A person has a legally enforceable right to be provided, in accordance with this Act, with information in the possession of a public authority or a Minister unless the information is exempt information”.

The basic principle behind the Act is that citizens are to be given access to information held by Council, except to the extent that releasing it would be harmful to the public interest. Section 12(3) of the Act provides the guiding principle that “Assessed Disclosure” of information should only occur as a last resort. The information the Council is allowed to withhold is limited by the Act exemption provisions.

If an application for assessed disclosure is made, the words of each exemption provision in the RTI Act are to be examined carefully, with the objects of the Act in mind. These objects require that Council reasonably maximise disclosure rather than exempt documents from release. Exemptions are affected by many restrictions. An example is a request for information related to closed meetings of council (s 32). This provision seems to be exempt all such information from release without even having to consider a public interest test. However, even this exemption does not apply to a document that is more than 10 years old.

The Ombudsman’s website provides further manuals and other guidance material on the assessment of RTI applications, exemptions, decision statements, notifications and appeals:

www.ombudsman.tas.gov.au.

Cooperation with the Principal Officer

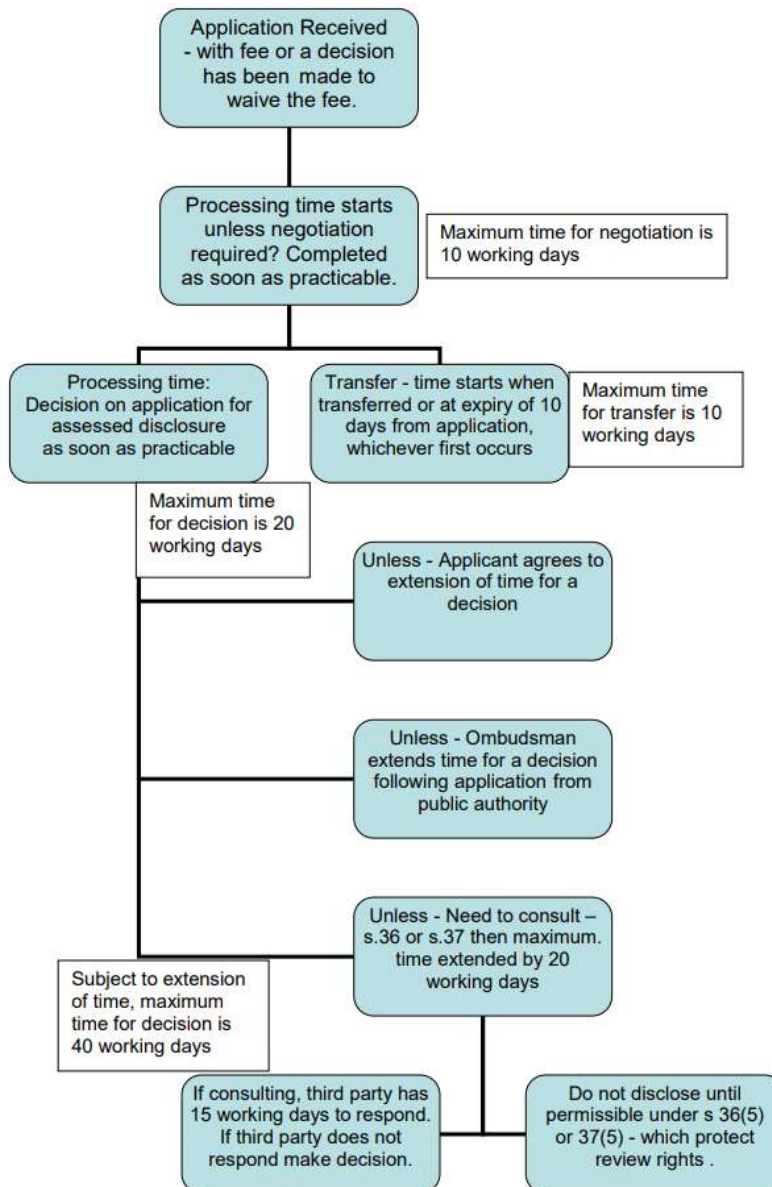
Officers are expected to assist the Principal Officer and their delegates by:

- first considering requests for information as possible routine or active disclosures;
- assisting the Principal Officer in finding alternatives to a formal application, e.g. perhaps by calling the applicant to answer a simple query;
- assisting people to understand the Council’s records holdings, how to access them, and how to apply for formal disclosure of information;
- when requested, promptly finding and collating all the requested material that may be held in their department.

Council Officers must not:

- attempt to improperly influence the independent decisions of the Principal Officer and their delegates including the Internal Review Officer, or
- obstruct the provision of information, including by hiding or destroying information.

Relevant Timeframe for Assessed Disclosure



DOCUMENT CONTROL

Version:	1.0	Adopted	26 April 2021	Commencement Date	27 April 2021
Minutes Reference	Council minutes, Item 11, 26 April 2021			Review Period	4 Years from adoption
Previous Versions:	n/a (new policy)				
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