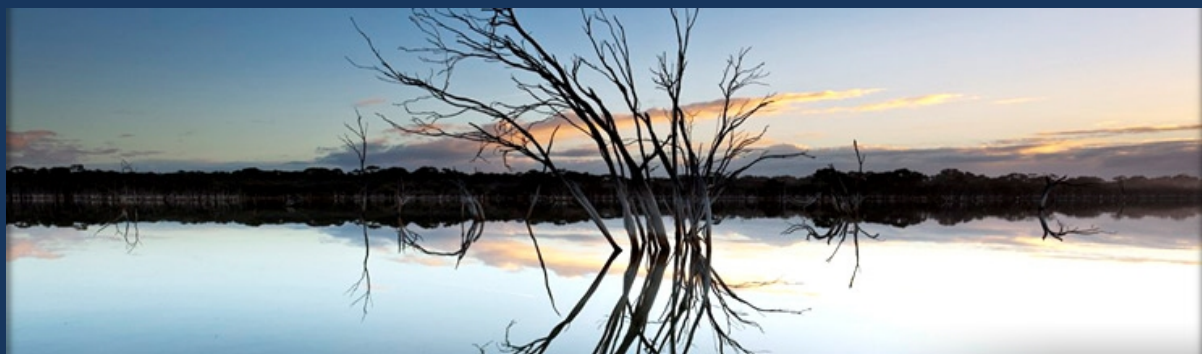


Council Members Access to Information



“Working with our Rural & Coastal Communities”

	GOV-POL-06 –COUNCIL MEMBER REQUEST FOR INFORMATION	Version No:	1.2
		Issued:	October 2023
		Next Review:	November 2026

Responsible Department:	Corporate Services
Policy Adopted:	18/10/2023
Minutes reference:	OCM/23/111
Applicable Legislation:	<i>Local Government Act 1999, S59-62</i>
Related Policies / Codes:	Elected Members Code of Conduct GOV-PRO-01 – Council Members conduct, complaints handling Code of Practice – Public Access to Council meetings GOV-POL-11 – Internal review of Council decision
Review Frequency:	Following Council Elections

1. INTRODUCTION

Council members require access to certain information in order to perform their functions and duties, in particular to assist them in making informed decisions. The Local Government Act 1999 (The LG Act) provides the legislative basis for this access.

This policy seeks to facilitate appropriate access by Council members to relevant documents and other information held by Council.

2. OBJECTIVES

The objectives of this policy are:

- To promote the accessibility of information to Council members.
- To balance the important considerations of access to information by Council members, and the need to carefully manage sensitive, personal, private and confidential information, the public availability of which may cause detriment to the Council, the community or another party; and
- To facilitate informed decision making in an environment of mutual trust and respect for the respective functions, roles and responsibilities of Council members and staff.

3. LEGISLATION

The primary legislative provisions regarding Council members' access to information are Section 61 of the LG Act and Regulation 19 of the Local Government (Procedure at Meetings) Regulations 2000. Essentially this entitles a member of Council *“without charge, to access any relevant council document” “at any reasonable time, in conjunction with the performance or discharge of the functions or duties of the member”*.

Section 59 of the LG Act sets out the role of a Council member. Section 62(3) of the LG Act covers improper use of information. Section 251(1) of the Criminal Law Consolidation Act 1935 addresses the issue of abuse of public office.

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4. POLICY APPLICATION

In general, a Council member will be provided access to all documents held by Council unless they are irrelevant to the member’s function or duties.

Council members will not be granted access to documents regarding the personal affairs of Council staff, except for the Register of Interests that is required to be maintained under Section 166 of the LG Act and be made available for Council member’s inspection upon request (LG Act, Section 118).

5. POLICY PROCEDURES

5.1 General Duties

- Members must at all times act honestly. Reasonable care and diligence in the performance and discharge of official functions and duties;
- A member or former member must not, whether within or outside the State, make improper use of information acquired by virtue or make improper use of their position as a member to gain, directly or indirectly, an advantage for themselves, or another person or cause detriment to the council.

5.2 Integrity provisions

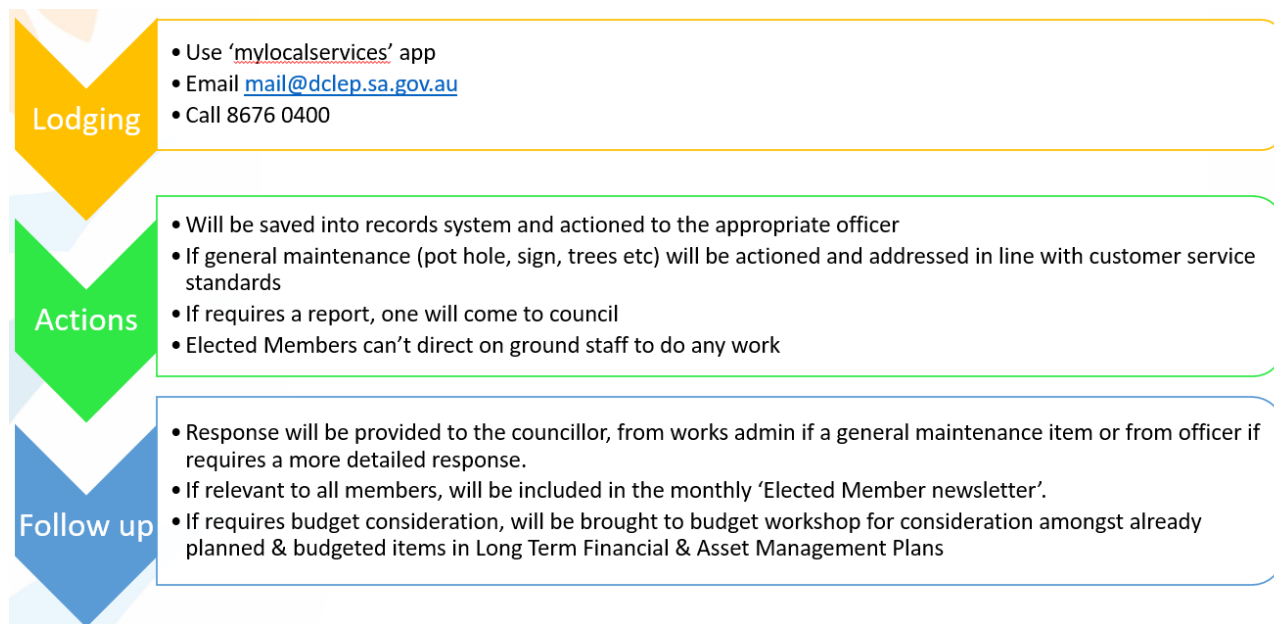
A request for access must meet the integrity provisions outlined within Section 62(4d) of the Local Government Act:

- Members must ensure requests for information or documents from Administration, requests for the performance of work, or the taking of action by an employee of the council, are made in accordance with the requirements set out by the Chief Executive Officer
- Work to be performed is determined through the budget process and long term financial plan, administration then schedule work in accordance with known resourcing, weather, grant requirements etc
- Requests for information need to relate to the performance of members duties as a Councillor (e.g. requests for a list of ratepayers in debt recovery or prices received for a sale of property will not be accommodated).

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5.3 Requests for Access

The CEO has set out the following process for requests from members:



5.4 Consideration of request

Unless there is a clear reason to the contrary, a Council member will be provided access to the document/s if they are held by Council. Where access to a document is not provided, the reason is to be provided to the Council Member in writing.

5.5 Provision of Access to Documents

The form of access to the document/s will be negotiated with the Council Member to accommodate the particular needs of the member and administrative efficiency.

Where the document is publicly available, eg posted on Council's website, the member may be provided with a hard copy or sent a link to the relevant page on the website.

Where access is granted to a document that is not publicly available and there is no sensitivity to the document, a copy of the document will be provided to the member in an agreed form and may be provided to other members if relevant.

Where there is a degree of sensitivity or there are other reasons to restrict distribution of the document/s (eg if the documents contain legal advice, confidential information or internal corporate information) access may be limited to 'view only' access at a mutually convenient time at the principal office, 38 Railway Terrace, Cummins. Email advice confirming the 'view only' access arrangements will be sent to the member. A Council member may seek to have the decision to only grant 'view only' access reviewed by Council.

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6. REQUESTS FOR OTHER INFORMATION

Where the information being sought is not in the form of existing Council document/s, and the request requires more than a simple response, it will be treated as a request for a report to Council. The timeframe for reporting will be driven, to an extent, by the time required to research the information and prepare the report in a way that responds effectively to the issues raised and the urgency of the matter.

7. OTHER CONSIDERATIONS

This policy does not limit the rights of a Council member to use the Questions on Notice (Reg 10) or the Notice of Motion (Reg 13) provisions of the Local Government (Procedures at Meetings) Regulations 2000 to seek answers to questions or to request that a report be prepared on certain issues.

Nor does this policy restrict a Council member from exercising their rights as a citizen to use the provisions of the Freedom of Information Act 1991 to seek access to certain documents held by Council.

7.1 Disclosure of Information

A member or former member of a council must not disclose information or a document:

- (a) in relation to which there is an order of a council or council committee in effect under section 90 or 91(7) of the Act requiring the information or document to be treated confidentially; or
- (b) that the member or former member knows, or ought reasonably to know, is information or a document that is otherwise required to be treated confidentially.

Nothing in subsection (a) prohibits the disclosure of information or a document that is required or authorised by law.

8. RECORDS

All requests for information by members will be recorded in a register accessible at the principle office of Council, 38 Railway Terrace, Cummins.

DOCUMENT HISTORY		
Version:	Issue Date:	Description of Change:
1.2	21/06/2023	Updated with reviews made to the LGA Act 1999 and updates to the current process for requests from members.