



TITLE: COUNCIL MEMBERS ACCESS TO INFORMATION POLICY

REFERENCE NUMBER:	Doc/18/51954
RESPONSIBLE DEPARTMENT:	Deputy CEO / Infrastructure and Projects
APPLICABLE LEGISLATION:	Local Government Act 1999 Freedom of Information Act 1991
MOUNT BARKER 2035 – DISTRICT STRATEGIC PLAN:	Governance and Leadership GL 1: Acting democracy and effective representation
RELATED POLICIES:	Code of Conduct – Council Members Caretaker Policy
SUPPORTING PROCEDURES:	<ul style="list-style-type: none">Council Members Access to Information Procedure
ENDORSED BY COUNCIL:	4 June 2018
NEXT REVIEW DATE:	May 2021

1. POLICY STATEMENT

To ensure that Council Members have access to relevant documents and information necessary to perform their functions and duties to enable them to make informed decisions pursuant to the *Local Government Act 1999*.

2. SCOPE

This policy is applicable to all requests for information by Council Members to staff of the Mount Barker District Council.

3. POLICY OBJECTIVES

To ensure Council Members are aware that they have access to information that will assist them to perform their duties and functions.

4. DEFINITIONS

Information shall mean any reports, correspondence, work papers or other items held by the Council.

Council Members shall mean the duly elected representatives of the community, including the Mayor and all Councillors.

Employee: Shall mean any person engaged by Council under an employment contract.

5. ROLES & RESPONSIBILITIES

Council

Adopt a policy that clarifies the ability to access information

Chief Executive Officer

- Ensure that sufficient Council resources are provided to fulfil the Policy;

General Managers and Managers

- Liaise with Council Members on the type of information requested

6. SPECIFIC POLICY INFORMATION

- 6.1 Pursuant to Section 61 of the *Local Government Act 1999*, a member of Council is entitled at any reasonable time, in connection with the performance or discharge of the functions or duties of a member, without charge, to have access to any relevant Council document including (but not limited) to:
- A copy of a written contract entered into by the Council, or a copy of a document relating to a contract that is proposed to be entered into by the Council;
 - Accounting records kept by the Council; and
 - Financial statements and other documents prepared by Council.
- 6.2 All Council Members will have equal access to information to assist them in performing their functions and duties and making informed decisions.
- 6.3 This Policy will take into consideration the need to maintain confidential, private or sensitive information, such as Whistleblower allegations and investigations.
- 6.4 Personal information regarding employees will not be provided to Council Members. However, Council Members have the ability to make a request to the Chief Executive Officer to inspect a staff Register of Interest as per Section 118 of the *Local Government Act 1999*.

7. REVIEW

This Policy will be reviewed every three years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the Risk and Governance Officer.

8. ACCESS TO THE POLICY

The Policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website www.mountbarker.sa.gov.au.

9. FURTHER INFORMATION

For further information on this Policy, please contact:

Title: Risk & Governance Officer

Address: PO Box 54, Mount Barker
South Australia, SA, 5251

Telephone: 8391 7231

Email: rmcdougall@mountbarker.sa.gov.au



TITLE: COUNCIL MEMBERS' ACCESS TO INFORMATION PROCEDURE

REFERENCE NUMBER:	Doc/18/51953
RESPONSIBLE DEPARTMENT:	Deputy CEO/Infrastructure & Projects
APPLICABLE LEGISLATION:	<ul style="list-style-type: none">• Local Government Act 1999• Freedom of Information Act
MOUNT BARKER 2035 - DISTRICT STRATEGIC PLAN:	Governance and Leadership GL 1: Acting democracy and effective representation
RELATED POLICIES / CORPORATE GUIDELINE:	<ul style="list-style-type: none">• Code of Conduct – Council Members• Caretaker Policy
APPROVED:	4 June 2018
NEXT REVIEW DATE:	May 2022

1. PURPOSE

The purpose of this procedure is to provide clear direction to Council Members and staff in relation to requests for access to information by Council Members and the manner in which information is to be provided by staff.

2. PROCEDURE

Requests for information by Council Members may be made via face-to-face contact, telephone, email or in writing. Council Members will be provided with the information unless there is a clear reason not to.

Requests for information are to be directed to the relevant Manager, General Manager or Chief Executive Officer who may determine that a member of their staff provide this information to the Council Member.

Requests for information are not permitted to be made directly to other Council staff (other than Customer Service staff). If this occurs, the staff member is required to refer it to their Manager.

Council Members may inspect Council files but may not remove them from the Local Government Centre.

2.1 Information relating to Routine Matters

All requests for information relating to routine / day-to-day matters may be resolved directly between the Council Member and the responsible Manager or General Manager.

This information will be provided verbally or via email to the requesting Council Member.

There is no requirement to provide this information to all Council Members.

2.2 Publicly Available Information

All requests for information that is ordinarily available to the public will be provided to the Council Member.

This information will be provided either verbally or via email , depending on the type and amount of information.

2.3 Information Relating to the Discharge of Roles & Responsibilities

All requests for information relating to the discharge of Council Members' roles and responsibilities under the *Local Government Act 1999* (Attachment A) may be provided to the Council Member.

If the request for information and the relationship to the Council Member's roles and responsibilities is unclear, the Manager is to refer the matter to the relevant General Manager for determination / clarification.

Approved information will be provided by Memorandum (Section 2.8).

2.4 Information Relating to a Council Report

All requests for information relating to a report published in the Agenda of a Council Meeting may be provided to the Council Member. Consideration needs to be given to commercial in confidence material.

If the request for information and the relationship to an item before Council for deliberation remains unclear, the Manager is to refer the matter to the relevant General Manager for determination / clarification.

Approved information will be provided by Memorandum (Section 2.8) or email to all Council Members.

2.5 Register of Interest - Employees

All requests for staff personal and / or employment information must be referred to the Chief Executive Officer.

The Chief Executive Officer will discuss the request and will provide the Council Member with the ability to inspect a staff member's Register of Interest pursuant to Section 118 of the *Local Government Act 1999*.

2.6 Staff Initiated Information

Where a staff member believes information may be of interest or use by all the Council Members they should first obtain approval of the relevant General Manager, and include CGG in the distribution list. Consideration is to be given to include other council staff in the distribution.

It may be provided by:

- Loading to the extranet with an email to advise of this action
- Email (Section 2.7)
- Memorandum (Section 2.8);
- Council Information Report (Section 2.9);
- Hot Topics Email (Section 2.10); or
- Council Informal Briefing (Section 2.11).

2.7 Emails

Emails must be addressed to the Council Member using their formal title, for example Mayor Bill or Councillor Smith with a cc to the Manager or General Manager (if they are not the author of the email).

All email correspondence must be concise and provide supporting information as an attachment to the email.

If the information is of relevance to all Council Members the information should be loaded to the Council Members' Extranet and an email sent notifying of this addition.

The email must be saved in the Council's record management system (Container: relevant subject file).

2.8 Memorandum

Information relating to the roles and responsibilities of Council Members, Council Reports (requested sufficiently in advance of a Council Meeting) and all other matters to be communicated to Council Members may be via Email or Memorandum .

Memorandums must be authorised by the relevant General Manager and signed by either the relevant Manager or General Manager and scanned with the signature.

The "Information Memorandum" - {doc/15/88763} or "Action Memorandum" – Trim doc/15/90057) templates must be used and addressed to all Council Members. If via Email it should be provided to all Council Members. Attachments must be loaded to the Extranet and not sent via email.

Memorandums should be loaded to the Extranet and must be no more than two (2) pages in length and provide supporting information as an attachment(s). An email must be sent notifying Council Members of the addition and copied to CCG of this addition.

The scanned signed Memorandum must also be saved in the Council's record management system in the relevant subject file.

2.9 Council Information Report

Council Information Reports should be used to provide information to Council Members, which would also be of interest or benefit to the community.

The Council Information Report Template (doc/18/21126) Standard Operating Procedure DOC/18/21097 and workflow DOC/17/ should be followed.

2.10 Hot Topics Email

A short summary of the information (2 – 3 sentences) may be provided in the fortnightly Hot Topics email with the relevant staff members contact details. This information must be emailed to the Administration Officer Corporate Services before close of business on the Thursday of the week it is loaded to the Extranet . CGG Members will confirm the content.

The Standard Operating Procedure: DOC/18/53594.

2.11 Council Informal Briefing/Gathering

Council Informal Briefing Gatherings are held pursuant to Section 90(8),8(a) – 8(d).

The use of Council Informal Gatherings must first be approved by the relevant General Manager prior to booking.

To book a Council Informal Gathering ; the Informal Gathering Template must first be completed (doc/18/17667) An informal gathering will only be arranged if there is sufficient demand.

Council Member Informal Gathering Procedure DOC/18/15310.

2.2 Freedom of Information (“FOI”)

This Procedure does not remove the ability for a Council Member to request information held by Council under *Freedom of Information Act 1991*.

More information on the Freedom of Information process is available under the Council Documents / Freedom of Information menu on the Council’s website or from the Records Team.

2.3 Fees & Charges

Council Members will not be charged any fees or charges for access to information provided for within this Procedure, excluding requests made under the FOI provisions.

3. REVIEW

This Standard Operating Procedure will be reviewed every 4 years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the Risk and Governance Officer.

4. ACCESS TO THE PROCEDURE

The Standard Operating Procedure is available on Council's website under Council/Documents/Policies and By-Laws and:

- to staff via the Policies & Operating Guidelines section of the Intranet.
- To Council Members via the Code, Policies & Procedures button on the Extranet
-

5. FURTHER INFORMATION

For further information on this Standard Operating Procedure, please contact:

Title: Ros McDougall, Risk & Governance Officer

Extension: 8391 7231

Email: rmcdougall@mountbarker.sa.gov.au

ATTACHMENT A – Extracts from the Local Government Act 1999:

59—Roles of members of councils

- (1) The role of a member of a council is—
 - (a) as a member of the governing body of the council—
 - (i) to participate in the deliberations and civic activities of the council;
 - (ii) to keep the council's objectives and policies under review to ensure that they are appropriate and effective;
 - (iii) to keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review;
 - (iv) to ensure, as far as is practicable, that the principles set out in section 8 are observed;
 - (b) as a person elected to the council—to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the council.
- (2) A member of a council may, with the principal member's authorisation, act in place of, or represent, the principal member.
- (3) A member of a council has no direct authority over an employee of the council with respect to the way in which the employee performs his or her duties.

61—Access to information by members of councils

- (1) A member of a council is entitled at any reasonable time, in connection with the performance or discharge of the functions or duties of the member (whether under this or another Act), without charge, to have access to any relevant council document, including (but not limited to)—
 - (a) a copy of a written contract entered into by the council, or a copy of a document relating to a contract that is proposed to be entered into by the council;
 - (b) accounting records kept by the council;
 - (c) financial statements and other documents prepared by the council under Chapter 8.
- (2) A request for access to a document under subsection (1) should be directed to the chief executive officer, or another officer specified by the chief executive officer for the purposes of this section.
- (3) The chief executive officer or another officer providing access to a document under subsection (1) may indicate to the member that information contained in the document is, or should be considered as, confidential.

62—General Duties

- (1) A member of a council must at all times act honestly in the performance and discharge of official functions and duties.
- (2) A member of a council must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties.
- (3) A member or former member of a council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.

Maximum penalty: \$10 000 or imprisonment for two years.

- (4) A member of a council must not, whether within or outside the State, make improper use of his or her position as a member of the council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the council.

Maximum penalty: \$10 000 or imprisonment for two years.

- (5) If a person is convicted of an offence against this section, the court by which the person is convicted may, if it thinks that action under this subsection is warranted, in addition to (or in substitution of) any penalty that may be imposed under a preceding subsection, by order do one or more of the following:
 - (a) require the person to attend a specified course of training or instruction, or to take other steps;
 - (b) suspend the person from any office under this Act for a period not exceeding two months;
 - (c) disqualify the person from any office under this Act;
 - (d) disqualify the person from becoming a member of a council, a committee of a council or a subsidiary of a council for a period not exceeding five years.
- (6) If a person is disqualified under subsection (5)(c), the office immediately becomes vacant but proceedings for a supplementary election to fill the vacancy (if required) must not be commenced until the period for appealing against the conviction of an offence against this section has expired or, if there is an appeal, until the appeal has been determined.
- (7) The provisions of this section extend—
 - (a) to committees and to members of committees established by councils as if—
 - (i) a committee were a council; and
 - (ii) a member of a committee were a member of a council; and
 - (b) to subsidiaries and to board members of subsidiaries as if—
 - (i) a subsidiary were a council; and
 - (ii) a board member of a subsidiary were a member of a council.