

Right to Information Policy



Policy Number:	KASC-STRAT-037
Responsible Manager:	Chief Executive Officer
Legislation:	Local Government Act 2009 Local Government Regulation 2012 Right to Information Act 2009 Right to Information Regulation 2009 Information Privacy Act 2009 Information Privacy Regulation 2009
Associated Documents:	Right to Information Procedure
Approval Date:	26 April 2023

1. Purpose

- 1.1. This policy aims to ensure Council remains compliant with the legislative obligations and functions of Right to Information Act 2009 (RTI Act) and the Information Privacy Act 2009 (IP Act).
- 1.2. The Council aims:
 - to maximise the amount of corporate information that is publicly available.
 - to promote proactive release of information and encourages Council officers to actively support activities to make corporate information available to the public in accordance with the RTI Act and IP Act.
 - to remain committed to openness and transparency by way of Council documents being made publicly available and easily accessible unless it is specifically exempt by law, or the release of the document is contrary to public interest.

2. Scope

- 2.1. This policy refers to the release or sale of any information that is held or controlled by the Council.
- 2.2. This policy and guidelines apply to all Council employees, contracted service providers and Councillors.

3. Terms and Definitions

3.1. In this policy:

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| Council: | Means Kowanyama Aboriginal Shire Council |
| Access application: | Refers to an application for access to information under the Right to Information Act. |

Administrative release:	Refers to access to information, in full or part, in certain types of administrative or operational records. Such records are generally released as a matter of course, in response to a request, without the need for a formal application under legislative authority.
Disclosure log:	Is a list of documents released following a decision about an application for access under the Right to Information Act. Disclosure Log documents may be published on Council's website or made available on request
Document:	<p>The Act defines 'document' as a document in the possession, or under the control of Council whether brought into existence or received in the Council, and includes:</p> <ul style="list-style-type: none"> • a document to which Council is entitled to access; and • a document in the possession, or under the control, of an officer of Council in the officer's official capacity. <p>Documents may be:</p> <ul style="list-style-type: none"> • in hardcopy or electronic form; • any paper or other material on which there is writing; • any paper or other material on which there are marks, figures, symbols or perforations having a meaning for a person qualified to interpret them; and • any disc, tape or other article or any 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).
Public record:	Means, as per the Public Record Act 2002, any documents created, received, or kept by Council in the exercise of its statutory, administrative, or other public responsibilities or for a related purpose. Council public records are the same as corporate record.
IP Act:	Means the Information Privacy Act 2009 (and Regulation).
Officers:	Includes employees, contractors, volunteers, and all others who perform work on behalf of the Council.
Personal information:	Means 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 a natural living person whose identity is apparent, or can reasonably be ascertained, from the information or opinion, including a photograph or other pictorial representation of a person.
Publication scheme:	Means the kinds of information that Council has available and the terms on which it will make the information available, including any charges that may be necessary.
RTI Act:	Means the Right to Information Act 2009 (and Regulation).

4. Acronyms and Abbreviations

4.1. In this policy:

KASC:	Means Kowanyama Aboriginal Shire Council
RTI Act:	Right to Information Act 2009
IP Act	Information Privacy Act 2009

CEO: Chief Executive Officer

5. Responsibilities

- 5.1. Council's CEO is delegated by Council as the Principal Officer for the purposes of the RTI Act and IP Act and is responsible for Council's obligations under the RTI Act and IP Act.
- 5.2. The CEO has authority to delegate the role of "Decision maker" to nominated officers to make decisions regarding the release of documents. These officers are authorised to view any relevant documentation to assess the content to determine if the documents can be released. These officers for the purpose of this policy will be referred to as Delegated Officer.
- 5.3. These Delegated officers and the responsibilities are outlined in the below table:

Role	Responsible for
Executive Manager Corporate & Financial Services	<ul style="list-style-type: none"> Ensuring that delegated officers have endorsed access and pricing arrangement for Council information for which the custodian is responsible. Signing written agreements between Council and other parties using approved licence agreements.
Acting Governance Manager	<ul style="list-style-type: none"> Ensuring that delegated officers have endorsed access and pricing arrangement for Council information for which the custodian is responsible. Signing written agreements between Council and other parties using approved licence agreements Implementing agreements, including registering the agreement in the appropriate register, maintaining point of contact, managing compliance with agreement conditions. Conducting reviews on access to documents and amendments to information.
Councillors	<ul style="list-style-type: none"> Seeking advice, if necessary, on how to appropriately release information. Reporting any infringement of the use of Council information to the CEO or delegated officer. Assisting the delegated officer in identifying, locating, and providing documentation for an application that relates to their role within Council. Ensuring that information relating to RTI applications remains confidential and is not deliberately or inadvertently released to the public.
Governance Officer	<ul style="list-style-type: none"> Administering processes associated with the public making a RTI request. Responding to RTI requests. Administering processes to provide the public with an avenue of access to their personal information. Administering processes to enable the public to update their personal information. Updating and publishing information to the Publication Scheme Conducting reviews on access to documents and amendments to information at the directive of the Acting Governance Manger.

5.4. The Internal Review Officer is delegated the role of "Decision maker" in a senior capacity. Council delegated officers who have the scope of internal review are responsible for:

- Management of any internal review requests received by Council. This officer will review the process and decisions handed down by the initial decision maker in accordance with the RTI and IP Acts;
- Conducting reviews on access to documents and amendments to information.

5.5. The Internal Review Officer must:

- Be a person other than the original decision maker
- Not be less senior than the original decision maker
- Have delegated authority to undertake a review of the original decision.

6. Publication Scheme

6.1. The publication scheme is administered by Corporate and Financial Services. Council will publish a Publication Scheme that explains information that the public can access. This scheme sets out classes of information and the terms on which Council will make the information available via Council website.

6.2. The CEO must ensure that Corporate and Financial Services are made aware of any new information that is to be covered by the publication scheme, in accordance with the Ministerial Guidelines for Publication Scheme.

6.3. The Publication Scheme is available on the Council's website and refers to the seven (7) classes of information:

1. About Council
2. Council's services
3. Council's finances
4. Council's priorities
5. Council's decisions
6. Council's policies
7. Council's lists

6.4. Documents to be listed in the Publication Scheme include:

Class of Information required		Information provided by Council
About Us	Information on who we and what we do	About the Kowanyama Aboriginal Shire Council Council contact and location Mayor and Councillors Making a complaint
Council's services	Information on services that Council offer	Essential Services News and public notices Publications and reports Online services and payments Local Fare Scheme
Council's finances	Information on what and how Council spends funds	Budget and financial documents Fees and charges Annual Reports Tendering to Council
Council's priorities	Information on what are Council's priorities and how we measure	Master Planning Report Corporate Plan Operational Plan Planning Scheme

		Projects
Council's decisions	Information on how Councils proposals and decisions	Local Laws Council Meetings Council Agenda Minutes Community Meetings
Council's policies	Information on policies within our Statutory, Operational, Financial and Governance framework	Policies are listed on Council website
Council's lists	Information on Council lists and registers	Councillor conduct registers Contracts register Register of Interests

- 6.5. The Publication Scheme must contain information that is significant and appropriate. Appropriate information means that a document must not be exempt from public release, or the release must not be contrary to the public interest as determined by the RTI Act or the IP Act. Consideration must be given to any relevant legislation and/or Council policy.
- 6.6. Publication Scheme documents may be edited by Council to remove any personal or sensitive information being disclosed.
- 6.7. Where possible, Council documents are to be easily accessible directly from the Publication Scheme.
- 6.8. Council actively promotes the publication of accurate and appropriate information to the Publication Scheme.
- 6.9. Information custodians, such as delegated officers of the Governance team must ensure that all new documents, such as documents with new or revised legislation or policy, a new publication or a significant organisational change document are suitable for the Publication Scheme.
- 6.10. Information custodians will also ensure any inaccurate or out of date documents are removed from the Publication Scheme.
- 6.11. The publication and removal of documents from the Publication Scheme is subject to approval by delegated Officers, such as those listed in section 5.2.
- 6.12. There is no charge for examining any document and/or information published in the Publication Scheme contained on Council's website. However, there may be a charge if a large volume of printed material is required, or it involves significant Council resources. Any charges will be advised to individuals at the time of their request.

7. Disclosure Log

- 7.1. The Disclosure Log is to be available on the Council website and managed by Corporate and Financial Services. The Disclosure Log contains documents or references or links to certain documents that have been made available to an applicant in accordance with the provisions of the RTI Act.
- 7.2. Where it is not reasonably practical to publish a particular document that has been disclosed under the RTI Act, the Disclosure Log will provide details identifying the document and how it may be accessed.
- 7.3. A document is published to the Disclosure Log no sooner than 24 hours after it is accessed by an applicant and no later than five (5) business days.

8. Administrative Access Applications

- 8.1. Administrative access applications are ad hoc request for a Council document or part of a document.
- 8.2. Where an individual requests access to a Council document, or part of a document, they should initially be referred to the Council's website, Publication Scheme, Disclosure Log, library, or other source where Council documents are routinely made available. If the document is not publicly available, then the individual may apply for administrative access to information.

- 8.3. The administrative release of a document will be at the discretion of the CEO and delegated officers in section 5.2 subject to any legislative provisions and Council policy.
- 8.4. The administrative release of information is to be in accordance with transparent governance and reduce the need for a formal RTI or IP access application.
- 8.5. Before the administrative release of information occurs, delegated officer should ensure they consider information that is exempt from disclosure as per Part 5 section 48 of the RTI Act or Part 4 section 59 of the IP Act. Schedule 1 and 3 of the RTI Act and Schedule 1 of the IP Act provides guidance to delegated officers on information that is exempt.
- 8.6. Before the administrative release of information occurs, delegated officer should consider those who will be affected by the disclosure of information and who should be consulted with in relation to the disclosure of information. The administrative release of information is appropriate where there is no substantial harm to an individual, the Council or other organisation. Delegated officer will ensure consideration of public interest in accordance with Schedule 4 of the RTI Act.
- 8.7. Where the provision of a document or documents will incur administrative, printing or retrieval costs, Council may charge a fee for the cost of providing the document or documents. Upon application the applicant will be provided an estimate of fees (if applicable).
- 8.8. If a Council document is not publicly available, or available via an administrative access request, an individual can make a formal application to Council to access a Council document under the provisions of the RTI Act.
- 8.9. The CEO and delegated officers are responsible for the decisions making and/or recommendations regarding the release of documents.
- 8.10. The CEO and delegated officers are responsible for providing the documents relating to RTI access applications.
- 8.11. A formal RTI access application must:
 - Be in the approved form and accompanied by the prescribed fee (where applicable).
 - Give sufficient information to enable the identification of the documents requested.
 - State an address where the notice issued under the RTI Act or IP Act are to be sent.
- 8.12. The RTI application applies only to documents that are, or may be, in existence on the day the application is received. Access applications do not apply to documents that are available from an alternative source, such as the Publication Scheme or via administrative access.
- 8.13. Generally, documents that are approved for release will be made available in electronic form, subject to any conditions and alternative arrangements can be made upon request, however they must be stated at the time of the application.
- 8.14. The RTI Act provides Council with 25 business days, from Councils receipt of the application to receive a decision. At any time before the processing period expires, Council may ask the applicant for an extension of the processing period with a view to making a considered decision.
- 8.15. If an access application is outside the scope of the legislative provisions, Council will advise the applicant within 10 business days after receiving the application.
- 8.16. Where an access application does not meet all the requirements of a valid application under the provisions of the RTI Act, Council will advise the applicant within 15 business days. Council will ensure it complies with its legislative obligations in assisting an applicant to make a valid application.
- 8.17. Where an access application is made for a document that contains the applicant's personal information, Council will advise the applicant within 15 business days that the application could have been made under the Information Privacy Act 2009 without any application fees or processing charges being payable.
- 8.18. There is a fee for an access application. Additional cost may be incurred for printing or additional administration. Before the end of the processing period Council will provide the applicant with a schedule of relevant documents (unless this is waived by the applicant), a charge estimates notice and the applicants option to consult with a view to amending the application to reduce the charges.
- 8.19. The CEO or delegated officer assesses each application in accordance with the public interest test and other exemptions prescribed in section 49 of the RTI Act. If the delegated officer considers on balance, the disclosure of the information would be contrary to public interest, the information will not be released.

- 8.20. Council may refuse to deal with an access application if it would substantially and unreasonably divert Council's resources. Council can also refuse to deal with an access application if the application was previously made for access to the same documents.
- 8.21. Once an access application has been assessed the delegated officer provides the applicant with a written notice of its decision and, if access to certain information is denied, a statement of reasons in accordance with the RTI Act.

9. Access to Personal Information

- 9.1. In pursuant with Chapter 3, Part 2, section 43 – 45 of the IP Act, an individual, or another person on behalf of an individual including a parent or guardian of a child under 18 years, can apply to access their personal information that is held and controlled by Council.
- 9.2. The IP Act provides Council with 25 days from Council's receipt of the application to receive a decision. If an access application is outside the scope of legislative provisions, Council will advise the applicant within 10 business days after receiving the application.
- 9.3. Where an applicant formally applies for access to their personal information, they must provide Council with evidence of their identity within 10 business days of making the application.

Acceptable documents that provide sufficient evidence of identity include:

- Current driver license
- Passport
- Birth Certificate
- Copy of a prisoner's identity card certified by a corrective service officer
- Statutory declaration of an individual who has known the applicant for at least 1 year.

Where an application is made on an individual's behalf, a copy of the letter of authorisation to act is required. Both parties must provide evidence of their identity.

- 9.4. Where an application does not meet all the requirements of a valid application under the provisions of the IP Act, Council will advise the applicant within 15 business days. Council will ensure it complies with its legislative obligations in assisting an applicant to make a valid application.
- 9.5. Where an application to access an individual's personal information is made under the provisions of the IP Act, there is no application fee applied. Additional costs however may be incurred for printing or additional administration.
- 9.6. The delegated officer will assess applications in accordance with provisions of the RTI and IP Acts. Once an application has been assessed, the delegated officer will provide the applicant with written notice of the decision, any access charge payable and the period in which the applicant may access the document(s).
- 9.7. If access to certain documents or parts of a document is denied, Council will provide the applicant with a statement of reasons in accordance with provisions of the IP Act.

10. Internal and External Review

- 10.1. Where an individual is not satisfied with the decision made by the Council's delegated officer in relation to their formal RTI or IP access application, they may apply to have their decision reviewed internally. Prior to a request for internal review, consideration should be given to section 94 of the IP Act and 81 of the RTI Act.
- 10.2. A request for internal review must be in writing to the CEO and made within 20 business days after the date of the written notice of decision.
- 10.3. Pursuant to section 85 of the RTI Act and 99 of the IP Act, individuals requesting an external review are to be referred to the Office of the Information Commissioner.

11. Policy Review

- 11.1. The policy is to be reviewed in accordance with the Policy Framework.
- 11.2. Kowanyama Aboriginal Shire Council reserves the right to vary, replace, or terminate this policy from time to time.

12. Approval

- 12.1. This policy was duly authorised by the Chief Executive Officer on 26 April 2023 as Kowanyama Aboriginal Shire Council's Right to Information Policy and shall hereby supersede any previous policies of the same intent.