



**BYRON
SHIRE
COUNCIL**

Government Information (Public Access) Act 2009

Information Guide 2024

Information about this document

Date Approved by Public Officer	2/9/2024
Responsibility	Right to Information Officer
Review Timeframe	Annually
Last Review Date	September 2024
Next Scheduled Review Date	September 2025

Document History

Doc No.	Date Amended	Details/Comments e.g. Resolution No.
E2017/102874	10/10/2018	Updated as required by GIPA Act
E2018/86894	12/12/2018	Updated as required by GIPA Act
E2019/4697	10/12/2019	Updated as required by GIPA Act
E2019/90213	8/7/2021	Updated as required by GIPA Act
E2021/89297	9/1/2023	Updated as required by GIPA Act
E2023/2495	8/7/2024	Updated as required by GIPA Act
E2024/78218	24/9/2024	Updated as required by GIPA Act

Further Document Information and Relationships

Related Legislation	<ul style="list-style-type: none"> - Government Information (Public Access) Act 2009 <li style="padding-left: 20px;">Privacy & Personal Information Protection Act - Government Information (Public Access) Regulation 2018
Related Policies	E2018/66845 - Standard: Records Management 2019
Related Standards, Procedures, Statements, documents	

CONTENTS

	Government Information (Public Access) Act 2009	1
1.	Context	4
1.1.	Introduction to the Government Information (Public Access) Act 2009	4
1.2.	What is the Act intended to do?	4
2.	Definitions	5
3.	About Byron Shire Council	6
3.1.	Basis of Constitution	6
3.2.	Organisational Structure and Resources	6
3.3.	The Chief Executive Officer of the Council is the General Manager	7
4.	Our Vision	8
5.	Our functions	10
5.1.	Functions of Byron Shire Council - The Local Government Act 1993	10
6.	How Council’s functions affect members of the public	11
6.1.	Functions	11
6.1.1.	Service Functions	11
6.1.2.	Regulatory Functions	11
6.1.3.	Ancillary Functions	11
6.1.4.	Revenue Functions	11
6.1.5.	Administrative Functions	11
6.1.6.	Enforcement Functions	11
6.2.	Services provided by Council	12
7.	How can the public participate in the work of Council?	13
7.1.	Section 355 Committees	13
7.2.	Panels	13
7.3.	Guide to Operations for Advisory Committees	14
8.	Our information services	14
8.1.	Mandatory Proactive (Open Access) Release	14
8.1.1.	Policy Documents	14
8.1.2.	General Documents	15
8.1.3.	Registers	15
8.1.4.	Guidelines, Plans & Reports	16
8.1.5.	Other Information	17
8.2.	Authorized Proactive Release of Information	18
8.3.	Informal Release of Information	18
8.4.	Exemptions to access	18
8.5.	Accessing information and making an application.	20
8.6.	Time limits	21
8.7.	Rights of review and appeal	21



9.	How members of the public may access our information.....	22
10.	Where can I get more information about right to information?	22

1. Context

1.1. Introduction to the Government Information (Public Access) Act 2009

The Government Information (Public Access) Act 2009 (the GIPA Act) aims to make government more open, transparent and accountable by giving the community greater access to government information. The Act requires that access to information be provided unless, on balance, there is an overriding public interest against disclosure.

The GIPA Act replaced the Freedom of Information Act 1989 and Section 12, 12A, 12B and 13 of the Local Government Act 1993 and came into effect on 1 July 2010: There are four main ways information is made available under the GIPA Act, namely:

- Mandatory proactive release (open access information)
- Authorised proactive release
- Informal release
- Through a formal access application.

Section 20 of the GIPA Act requires Byron Shire Council to have an Information Guide. The Guide is intended to provide an outline of Council's structure, functions, the information it holds and how this can be accessed by the community. The Guide also sets out how members of the community can participate in the formulation of Council policy and the exercise of Council's functions. This Guide will be updated annually. In addition, Council will review its approach to the release of information annually to ensure it is making as much information available as possible.

1.2 What is the Act intended to do?

Section 3 of the GIPA Act sets out clearly the intention of the legislation. Section 3 states that:

“In order to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective, the object of this Act is to open government information to the public by:

- a) authorising and encouraging the proactive public release of government information by agencies, and
- b) giving members of the public an enforceable right to access government information, and
- c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.”

Section 3 continues.

“It is the intention of Parliament:

- a) that this Act be interpreted and applied so as to further the object of this Act, and
- b) that the discretions conferred by this Act be exercised, as far as possible, so as to facilitate and encourage, promptly and at the lowest reasonable cost, access to government information.”

In summary the GIPA Act seeks to establish a framework for proactive public release of government information. This is supported by an enforceable right to access government information and a requirement that access to government information only be restricted when there is an overriding public interest against disclosure.

2. Definitions

Access Application (Formal) means an application for access to government information under Part 4 the Government Information (Public Access) Act 2009 Act that is a valid access application under that Part.

ADT and ADT Act means the Administrative Decisions Tribunal and the Administrative Decisions Tribunal Act 1997.

Disclosure Log means a disclosure log kept by an agency under Part 3 (Open access information) of the Government Information (Public Access) Act 2009.

External review means a review by an agency external to Council such as the NSW Office of the Information Commissioner or Administrative Decisions Tribunal.

Information Commissioner means the Information Commissioner under the Government Information (Information Commissioner) Act 2009.

Internal Review means a review by a council officer more senior than the council officer who made the original information access determination.

PIIP Act means the Privacy and Personal Information Protection Act 1998, which aims to provide for the protection of personal information and for the protection of the privacy of individuals generally.

Information Guide means a guide that:

- a) describes the structure and functions of Council, and
- b) describes the way in which the functions (including, in particular, the decision-making functions) of Council affect members of the public, and
- c) specifies any arrangements that exist to enable members of the public to participate in the formulation of Council’s policy and the exercise of Council’s functions, and
- d) identifies the various kinds of government information held by Council, and
- e) identifies the kinds of government information held by Council that Council makes (or will make) publicly available, and
- f) specifies the manner in which Council makes (or will make) government information publicly available, and

- g) identifies the kinds of information that are (or will be) made publicly available free of charge and those kinds for which a charge is (or will be) imposed.

Public Officer means an officer employed by Council and appointed under Chapter 11 of the Local Government Act 1993 with delegated authority to deal with:

- a) requests from the public concerning Council's policies and procedures,
- b) assisting the public to gain access to publicly available documents of the Council,
- c) accepting service of documents on behalf of Council,
- d) representing the Council in any legal or any other proceedings.

Register of Government Contracts means a register of information about each contract between Council and a private sector entity that has (or is likely to have) a value of \$150,000 or more (class 1 contracts) for:

- a) a specific project (such as construction, infrastructure or property development project).
- b) providing specific goods or services (such as information technology services), other than a contract of employment.
- c) where a party agrees to transfer real property to another party to the contract.
- d) a lease of real property

Right to Information Officer means an officer employed by Council who has been given specific authority and responsibility to meet some of Council's day-to-day obligations under the Government Information (Public Access) Act 2009 Act. This includes dealing with formal applications for access to information, and other responsibilities in relation to both the proactive and informal release of information.

3. About Byron Shire Council

3.1 Basis of Constitution

Byron Shire Council is constituted under the Local Government Act 1993.

3.2 Organisational Structure and Resources

The leadership of Byron Shire Council is provided by nine councillors, (one of whom is the Mayor), working together for the benefit of the council. The councillors were elected on 4 December 2021.

The Mayor presides at meetings of the Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body politic, between its meetings and performs any other functions that the council determines.

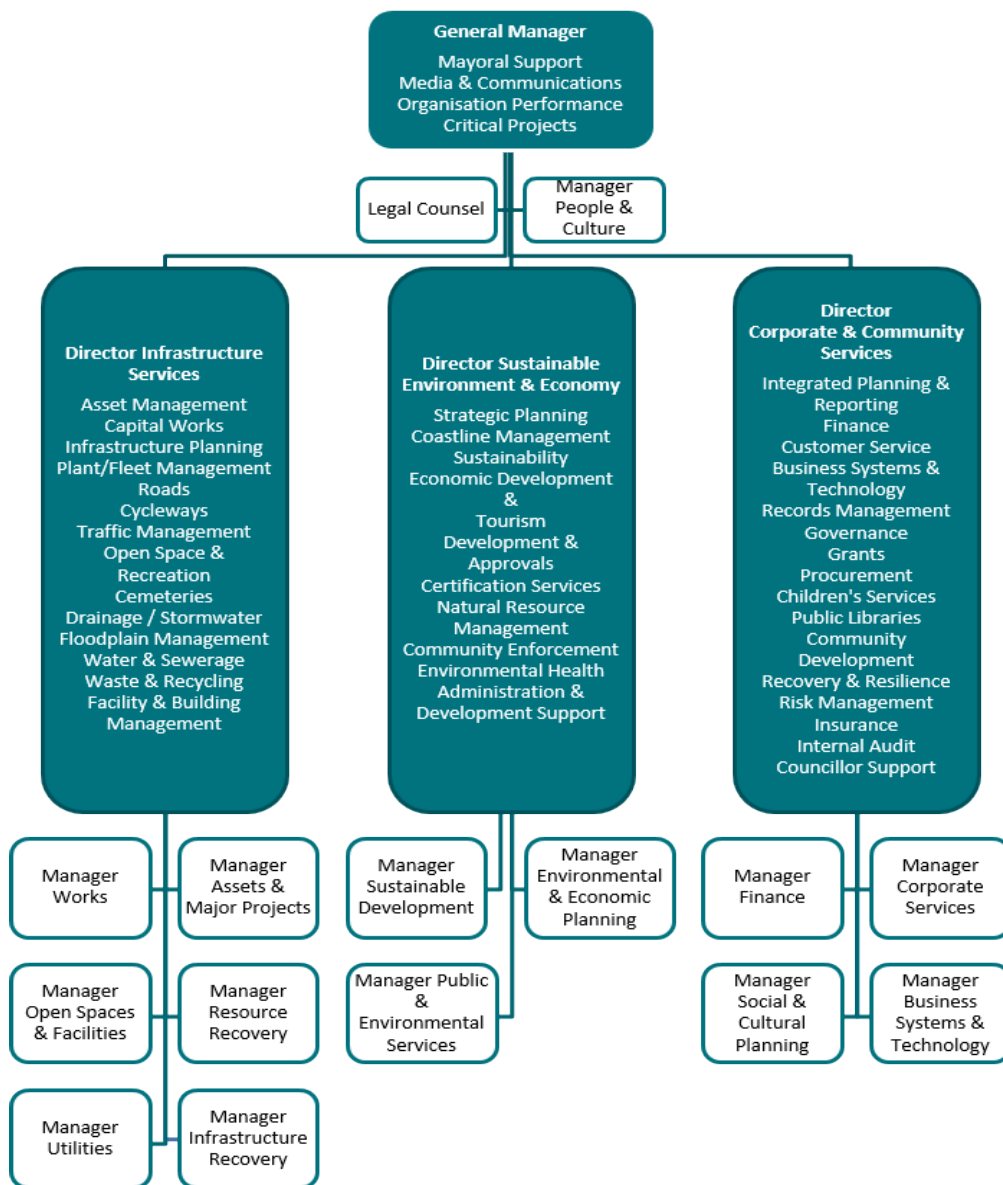
The councillors have responsibility for policy making/administration and good governance of the Council.

3.3 The Chief Executive Officer of the Council is the General Manager

The General Manager is responsible for the operation of the Council’s organisation and for implementing decisions of the Council. The General Manager is also responsible for the day-to-day management of the Council; the exercise of any functions delegated to him by the Council; the appointment of staff; the direction and dismissal of staff and the implementation of Council’s Equal Opportunity Management Plan.

The General Manager is assisted in the exercise of these functions through three Directorates of Council and Organisational Support. These Directorates are: Infrastructure Services, Corporate & Community Services and Sustainable Environment & Economy. Each of the divisions is headed by a Director. Each division is divided into a number of units which are headed by a Manager.

Organisation structure



Location of Offices: Byron Shire Council
70 Station Street, Mullumbimby
PO Box 219, Mullumbimby NSW 2482

Front Counter Enquires: 8.30am - 4.00pm Monday - Friday
Switchboard: 8.30am - 4.30pm Monday - Friday
Telephone: (02) 6626 7000
Email: council@byron.nsw.gov.au
Website: www.byron.nsw.gov.au

4. Our Vision



Byron Shire is a ‘meeting place’: where people can come together to connect, share, grow, inspire, and create positive change.

This vision, together with our priorities and aspirations for the future are encompassed in the Byron Shire Community Strategic Plan 2023 and then translated into actions and activities in our four-year Delivery Program and annual Operational Plan.

Community Objectives



Effective Leadership

We have effective decision making and community leadership that is open and informed



Inclusive Community

We have an inclusive and active community where diversity is embraced and everyone is valued



Nurtured Environment

We nurture and enhance the natural environment



Ethical Growth

We manage growth and change responsibly



Connected Infrastructure

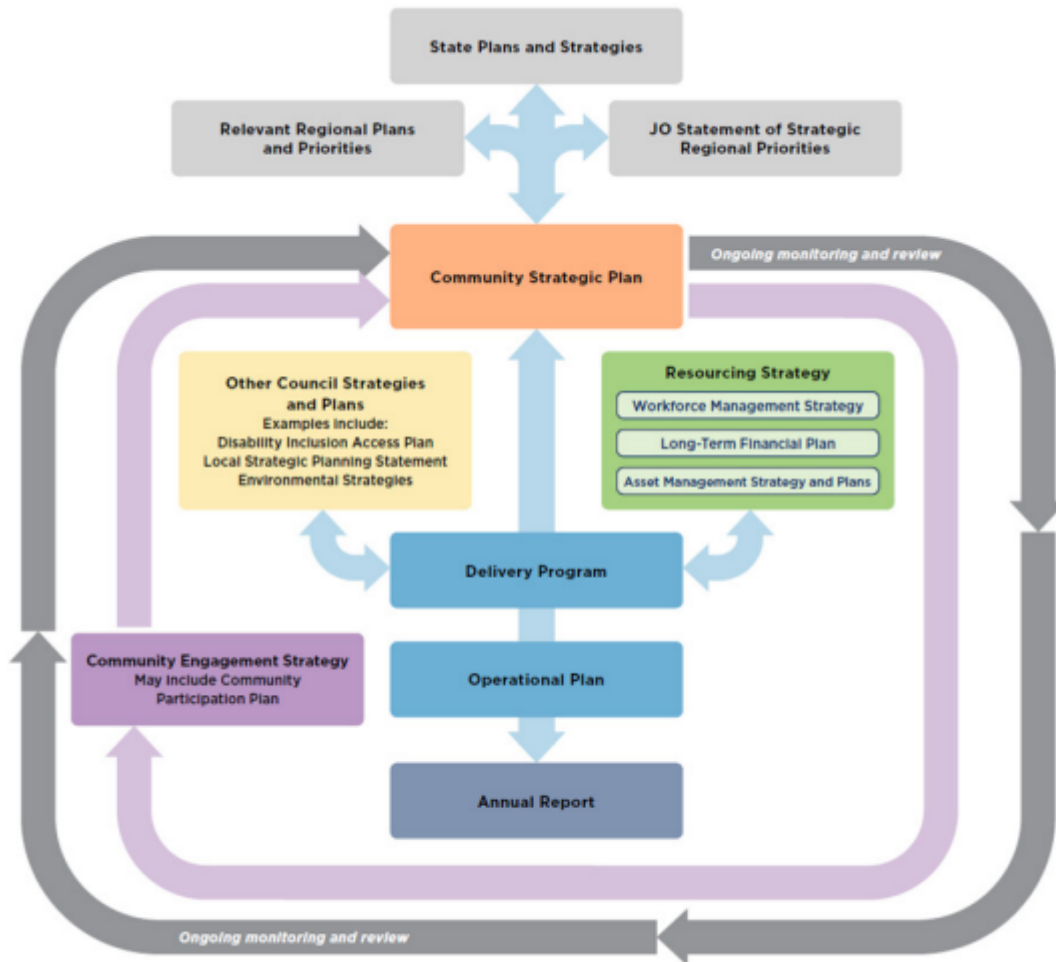
We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable.

The NSW Government's Integrated Planning and Reporting framework outlines how local government's capture the community's main priorities and aspirations for the future and outlines how these will be achieved.

All councils must have a:

- e) Community Strategic Plan
- f) Community Engagement Strategy
- g) Resourcing Strategy that includes:
 - o Long Term Financial Plan
 - o Workforce Plan
 - o Asset Management Plan
- h) Delivery Program
- i) Operational Plan, including a statement of revenue policy, and a detailed annual budget.

These documents are linked through a series of cascading actions that detail how the community's long-term aspirations and outcomes will be achieved.



5. Our functions

5.1 Functions of Byron Shire Council - The Local Government Act 1993

As well as the Local Government Act 1993, Council has powers under a number of other Acts in accordance with appropriate delegated authority. Some of the Acts include, but are not limited to:

- A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth)
- Annual Holiday Act 1944
- Administrative Decisions Review Act 1997
- Anti Discrimination Act, 1977
- Biosecurity Act 2015
- Charitable Fundraising Act 1991
- Children and Young Persons (Care and Protection) Act 1998
- Coastal Management Act 2016
- Community Land Development Act 1989
- Community Welfare Act 1987
- Companion Animals Act 1998
- Contaminated Land Management Act 1997
- Conveyancing Act 1919
- Copyright Act 1968
- Crimes Act 1900
- Crown Land Management Act 2016
- Dividing Fences Act 1991
- Environmental Planning and Assessment Act 1979
- Fire and Rescue NSW Act 1989
- Food Act 1989
- Fringe Benefits Tax Assessment Act 1986 (Commonwealth)
- Health Records and Information Privacy Act 2002
- Heritage Act 1977
- Impounding Act 1993
- Independent Commission Against Corruption Act 1988
- Industrial Relations Act 1996
- Interpretation Act 1987
- Land Acquisitions (Just Terms Compensation) Act 1991
- Library Act 1939
- Liquor Act 2007
- Local Government Act 1993
- Long Service Leave Act 1955
- Ombudsman Act 1976
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Real Property Act 1993
- Recreation Vehicles Act 1983
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency and Rescue Management Act 1989
- State Emergency Service Act 1989
- State Records Act 1998
- Strata Schemes Development Act 2015
- Strata Schemes Management Act 2015
- Trade Practices Act 1974 (Commonwealth)
- Swimming Pools Act 1992
- Unclaimed Money Act 1995
- Valuation of Land Act 1916
- Waste Avoidance and Resource Recovery Act 2001
- Workers Compensation Act 1987
- Privacy & Personal Information Protection Act 1998

6. How Council's functions affect members of the public

6.1 Functions

Nearly all the functions of Byron Shire Council have an effect on members of the public. The following is an outline of how the broad functions of Council affect the public.

6.1.1 Service Functions

Service functions affect the public in that services and facilities provided by the Council are for use by the public, for example, halls and centres, recreation facilities, child care services and removal of garbage.

6.1.2 Regulatory Functions

Regulatory functions place restrictions on developments and buildings that are erected to ensure they meet certain requirements that will not endanger the lives and safety of any person. Members of the public must be aware of, and must comply, with such regulations.

6.1.3 Ancillary Functions

Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land if necessary or if Council's officers need to enter onto any person's land.

6.1.4 Revenue Functions

Revenue functions affect the public directly in that revenue from rates and other charges paid by the public is utilised for services and facilities that are provided to the community.

6.1.5 Administrative Functions

Administrative functions do not necessarily affect the public directly but have an impact on the administration of the community. For example, Council develops an Annual Management Plan which outlines the strategies of the Council over both the short and long term.

6.1.6 Enforcement Functions

Enforcement functions only affect those members of the public that are in breach of certain legislation, such as the non payment of rates and charges, unregistered dogs and parking fees.

6.2 Services provided by Council

Corporate & Community Services

- Community donations
- Customer service
- Community arts and cultural development
- Early childhood services
- After school and vacation care
- Aboriginal and Indigenous projects
- Youth services and activities
- Ages, disability and access
- Financial management and governance
- Libraries, local museums and heritage

Infrastructure Services

- Roads, bridges and on-street parking
- Footpaths and cycle ways
- Community buildings maintenance
- Parks, gardens and reserves
- Sporting grounds and facilities
- Public landscaping and furniture
- Community Buildings maintenance
- Street lighting and signage
- Cemeteries
- Water supply
- Sewerage and recycled water
- Waste management, recycling and education
- Stormwater drainage and reuse
- Traffic management
- Fleet and plant management
- Caravan parks
- Public swimming pools

Economic Services

- Business and industry development
- Supporting links between retail, commercial, professional and manufacturing sectors
- Advice and referrals for new business
- Tourism management and support
- Support for sustainable employment creation
- Advocate for investment and diversification
- Advice on funding/grant opportunities

Compliance Services

- Animal registration, shelter and education
- Dogs on and off leash areas
- Parking and compliance
- Environmental health services and food safety Inspections
- Environmental Services
- Strategic land use planning
- Town planning
- Construction certification
- Coastline management
- Bush regeneration
- Environmental education services
- Support for conservation on private land

7. How can the public participate in the work of Council?

There are many ways in which the public can participate in the policy development and the general activities of Council. These are through representation and personal participation. To become involved:

- Attend Council meetings
- Make an appointment to speak with the Mayor or Councillors
- Make an appointment to speak with the General Manager or the Directors and their staff
- Write, email or telephone Council about the issues important to you
- Attend a public meeting or forum to discuss special issues
- Join a Council Committee Panel or Project Reference Group
- Subscribe to Council's electronic newsletters at www.byron.nsw.gov.au
- Complete Council surveys when they arise
- Complete a Customer Action Request
- Join the discussion on Council's Facebook page
- Visit Council's website

7.1 Section 355 Committees

Under the Local Government Act 1993 Section 355, Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community people to manage its facilities or functions through a committee of management.

The committees provide a mechanism by which interested persons can have an active role in the provision/ management of Council facilities or services. Memberships consist of a Councillor and community representatives. Community members are appointed for a four year term; the same as Councillors. There are presently ten Section 355 Committees. Further information on Council's Section 355 Committees can be found on Council's website at www.byron.nsw.gov.au/Council/Leadership/Committees/Community-Hall-Committees.

7.2 Panels

This is a group consisting of Councillors and specialist key stakeholders, with a particular interest in or expertise in the subject of the panel, which will assist Council in decision making relating to a particular matter. Advisory Committees do not have any executive power or authority to implement actions and all recommendations from these panels are reported to Council via a staff report for decision.

Advisory Committees are usually appointed for a 4 year term in line with Council elections unless otherwise resolved by Council.

Further information on Advisory Committees can be found on Council's website at www.byron.nsw.gov.au/Council/Leadership/Committees/Advisory-Committees

7.3 Guide to Operations for Advisory Committees.

Committees provide a mechanism by which interested persons can play an active role in the formulation of Council policy and practice. Advisory Committees and Panels are an important link in Council's communication strategy with the community.

The primary aim of Advisory Committees is to provide a channel for direct community input into Council affairs on matters referred to the committee or panel.

8. Our information services

8.1 Mandatory Proactive (Open Access) Release

Byron Shire Council holds information which relate to a number of varying issues. This information can be grouped into five categories:

- Policy Documents
- General documents
- Registers
- Guidelines, Plans and Reports
- Other Information

Council's website, www.byron.nsw.gov.au, has links to a significant amount of information which the public can view and download copies. Public seeking a copy of or request to view information described below that is not on the website, should contact Council's Right to Information Officer (refer to contact details at section 9 of this document).

8.1.1 Policy Documents

Council is required by legislation to have certain policies, such as the Code of Conduct and Code of Meeting Practice. Whilst to function in accordance with various legislation, Council has adopted a considerable number of local policies. These policies are reviewed and amended or deleted as required. Any changes to policies must be adopted by Council. Copies can be found at www.byron.nsw.gov.au/policies.

8.1.2 General Documents

Any other document not described in the sections below and not on the Council website, may require the lodgement in the initial instance of an informal access application with Council's Right to Information Officers:

- Annual Financial Reports
- Annual Report
- Auditor's Report
- Development Control Plans Sections – Whole of Shire
- Development Control Plans Sections – Specific Sites
- Disaster Plan
- Equal Employment Opportunity Management Plan
- Fees and Charges
- Planning Agreements
- Management Plan, including Financial Management Plan
- Minutes and Agenda of Council Meetings
- Planning Service Guidelines
- Plans of Management for Community Land
- Residential Development Strategy
- Section 94 Contribution Plans
- State of the Environment Report
- Byron Futures
- Byron Local Environment Plan 2014

8.1.3 Registers

Council is required by legislation to maintain the following registers, which must be made available to the public either proactively on the website or informally through a Right to Information Officer:

- Contracts over \$150,000 that Council has with the private sector
- Council Land
- Delegations
- Development Consent
- Disclosure of Donations
- Disclosure of Interests
- Graffiti Removal
- Investments
- Lease
- Mandatory Data Breach
- Planning Committee
- Political Donations
- Returns of the Interests of Councillors, Designated Persons and Delegates
- Section 94 Contributions
- Subdivision
- Tender

8.1.4 Guidelines, Plans & Reports

Council has a significant number of guidelines, plans and reports which are either available to the public to view and download from the website at www.byron.nsw.gov.au or through an Informal Access Application to a Right to Information Officer.

- Council lists many of its current publications on its website at www.byron.nsw.gov.au/publications:
- Building Application Register and Plans (excluding floor plans)
- Codes/Policies Manuals
- Community Services publications
- Complaints Management policy
- Compliance Priorities Program
- Development application register
- Development applications and plans (excluding floor plans) post 1/7/2010
- Development Control Plans
- Drainage plans
- Engineering design plans
- Environmental Impact Statements
- Flood Mitigation Reports
- General technical reports on water supply and sewerage, planning design and operations
- General technical reports on water supply and sewerage, planning, design and operations
- Guidelines for the Submission of Reports on Contaminated Land 1992
- Heights of Building Map
- Land Use Guidelines for Acid Sulphate Soils
- Landscape Manual
- Lease Register
- Local Environmental Plan
- Mapping Database
- Maps of the Council area
- Quarterly Financial Reviews
- Quarterly Performance Reporting
- Residential Development Strategy
- Road opening permits
- Section 94 Contribution Plans and register
- Settlement strategies
- Sewer Plans
- Traffic volumes/data
- Tree Preservation Order
- Byron River Estuary Bank Management 2000
- Byron Urban and Employment Lands Release Strategy
- Flood Studies
- Vegetation Management Strategy
- Water Plans
- Works Programs
- Zoning information

8.1.5 Other Information

Development Applications and Associated Documents

Access to information about Development applications and their associated documents lodged after 1/7/2010 are free of charge and should be available on Council’s website via the DA Tracker.

As per the GIPA Regulations 2018, Development applications and their associated documents lodged prior to 1/7/2010 are no longer proactive mandatory (Open Access) documents and therefore Council requires the applicant to lodge an Historical Property search. This application is available on Council’s website page “Request Council Information”.

The Copyright Act 1968 (CA) still applies to documentation. Copyright issues arise when providing copies of, or online access to, documents such as building and development applications, and other documentation received by Council such as letters, plans and reports. Except for material produced by its staff, or which it has commissioned and acquired copyright in, Council is unlikely to be the owner or licence holder of copyright. Allowing a member of the public to view a paper document does not require copyright owner’s consent. However, the copyright owner’s consent is required if any part of a document is to be copied and provided to the public.

Approvals, orders and other documents

Information contained in the following records (whenever created) are also prescribed as mandatory proactive open access information—

- (a) applications for approvals under Part 1 of Chapter 7 of the LGA and any associated documents received in relation to such an application
- (b) applications for approvals under any other Act and any associated documents received in relation to such an application,
- (c) records of approvals granted or refused, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals,
- (d) orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA,
- (e) orders given under the authority of any other Act,
- (f) records of building certificates under the *Environmental Planning and Assessment Act 1979*,
- (g) plans of land proposed to be compulsorily acquired by the local authority,
- (h) compulsory acquisition notices,
- (i) leases and licences for use of public land classified as community land,
- (j) performance improvement orders issued to a council under Part 6 of Chapter 13 of the LGA.

8.2 Authorized Proactive Release of Information

Council will publish as much other information on its website or make the information available at the lowest reasonable cost in another format, for example in hard copy format for inspection at the Council Administration Office. This other information could include any other information held by Council that has been frequently requested or information of public interest that has been released as a result of other requests. This other information can be authorised for public release, by an appropriately delegated Council officer, as provided for under Part 2, Division 1, Section 7 of the GIPA Act.

8.3 Informal Release of Information

Council will endeavour to release other information it holds, in response to an informal request for information, subject to any reasonable conditions as Council thinks fit to impose. Informal access requests are to be authorised for public release, by an appropriately delegated Council officer, as provided for under Part 2, Division 1, Section 8 of the GIPA Act. This information will be made available by whatever means deemed appropriate by Council. Informal access to information requests can be made via the Informal/Open Access Request form, available on Council's website.

Notwithstanding the lodgement of an Informal/Open Access Application Form, Council may require a Formal Access Application Form (also available from the Records Department) to be submitted where the information sought:

- 2.1. is of a sensitive nature that requires careful weighing of the considerations in favour of and against disclosure, or
- 2.2. contains personal or confidential information about a third party that requires consultation, or
- 2.3. would involve an unreasonable amount of time and resources to produce, for example if it takes in excess 20 minutes for one staff member.

8.4 Exemptions to access

Council may refuse a request for information if there is an overriding public interest against disclosure.

Part 2, Division 2, Section 14 of the GIPA Act provides a table of allowable public interest considerations against disclosure. These are the only considerations against disclosure that Council will consider in applying the public interest test.

Considerations in the table are grouped under the following headings:

1. responsible and effective government
2. law enforcement and security
3. individual rights, judicial processes and natural justice
4. business interests of agencies and other persons
5. environment, culture, economy and general matters
6. secrecy provisions (in legislation other than those listed in Schedule 1 of GIPA Act)
7. exempt documents under interstate Freedom of Information legislation.

In considering whether there is an overriding public interest against disclosure of Council information, determinations will be made in accordance with the principals set out in Part 2, Division 2, Section 15 of the GIPA Act, which are:

1. Council must exercise its functions so as to promote the objectives of the GIPA Act
2. Council must have regard to any relevant guidelines issued by the Information Commissioner
3. The fact that disclosure of information might cause embarrassment to, or a loss of confidence in, the Government is irrelevant and must not be taken into account.
4. The fact that disclosure of information might be misinterpreted or misunderstood by any person is irrelevant and must not be taken into account.
5. In the case of disclosure in response to an access application, it is relevant to consider that disclosure cannot be made subject to any conditions on the use or disclosure of information.

Schedule 1 of the GIPA Act lists 12 categories of information (eight of which appear to affect local government) for which there is a conclusive presumption of an overriding public interest against disclosure. These eight are:

1. Information subject to an overriding secrecy law (26 specifically named Acts)
2. Information that would constitute contempt of court, or contravene any order or direction of a body with the power to receive evidence on oath
3. Information subject to legal professional privilege
4. 'Excluded information' (judicial and prosecutorial information, information about complaints handling and investigative functions, competitive and market sensitive information and information in relation to specific functions of the Public Trustee)
5. Documents affecting law enforcement and public safety
6. Specific information relating to transport safety
7. Specific reports concerning the care and protection of children
8. Specific information relating to Aboriginal and environmental heritage.

In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test.

Generally, under the GIPA Act, Council must not publish and must refuse requests to disclose information in the above categories. Formal Access to Information Requests for 'excluded information' are invalid under GIPA Act.

Council will always explain to the applicant its reasons for applying an exemption. Council will not classify information as exempt unless there are clear reasons for doing so. Where documents contain exempt information, any remaining information contained within the requested document will be available under the GIPA Act.

In dealing with informal applications Council will apply the same decision making framework.

8.5 Accessing information and making an application.

The public may obtain access to information as follows:

- a) by searching the Council’s website to see if it is already available
- b) by contacting Council and requesting the information. Council will advise whether the information requested:
 - i) is mandatory proactive (open access) information that is available free of charge and where and how to get the information.
 - ii) could be made available as part of a proactive authorised release of information.
 - iii) can be disclosed through an informal release, for example where no third party personal, legal and/or commercially sensitive information is involved. (Please note that a \$30 search fee may apply).
 - iv) requires a formal access to information request, for example because consultation with a third party is required or an unreasonable amount of time and resources would be required to produce the information

To access Development applications and their associated documents lodged prior to 1/7/2010, Council requires the applicant to lodge and Historical Property search. This application is available on Council’s website page “Request Council Information” and a search fee of \$90 is payable upon application.

To make an Informal Request under GIPA Act for other information, Council will require the completion of an Informal/Open Access Application Form. A search fee of \$30.00 may be payable, depending on what type of information you are seeking to access.

To make a Formal Access Application under GIPA Act, the Formal Access Application Form should be completed. The Formal Application fee is \$30.00 and further processing charges of \$30 per hour may be applicable (there is no GST in relation to these charges). An acknowledgement of such application will be provided by Council within five working days.

If photocopies of documents are provided under the GIPA Act, a fee is payable as listed in Council’s adopted Fees and Charges.

This Guide and the applicable access to information forms are available on <http://www.byron.nsw.gov.au/Council/Report-Requests-Feedback/Request-Council-Information>.

8.6 Time limits

In respect of Formal Access Application, Council will notify applicants of the decision on an application within 20 working days, unless the applicant agrees to extend the time. Council may also extend the time by up to 15 working days where consultation with a third party is required, or if Council needs to retrieve records from archives.

If access is deferred by Council, then Council will notify the applicant and include the reason for deferral and the date on which the applicant will be given access. A decision to defer access is reviewable (see Rights of Review and Appeal). If Council does not decide the applicant's access application within the above timeframes, it is deemed 'refused'. Council will refund the application fee and the applicant may seek internal or external review (see Rights of Review and Appeal) of this refusal. This will not apply if an extension of time has been arranged or payment of an advance deposit is pending.

For all other information requests Council will endeavour to provide the information within 10 working days.

8.7 Rights of review and appeal

Where a member of the public is refused access under a Formal Access to Information Request, staff will provide details of the reasons for refusal to the member of the public in writing. An applicant who has been refused access by Council to information requested under a formal request for access to information under the GIPA Act has three options of review available.

Applicants can apply to Council for an internal review. This is a review by someone more senior than the original decision maker and there is a \$40 fee. Applicants have 20 working days from receiving notice of a decision to ask for an internal review.

If an applicant is not satisfied with the internal review, or does not want one, they can ask for a review by the Information Commissioner. Applicants have eight weeks from being notified of a decision to ask for this review.

If an applicant is not satisfied with the decision of the Information Commissioner or the internal reviewer or if they do not want to take these options they can apply to the Administrative Decisions Tribunal (ADT). If the applicant has already had a review by the Information Commissioner, they have four weeks from notification of the decision to make this application. If they haven't had a review by the Information Commissioner, they have eight weeks from notification of the decision to make this application.

It is noted that there are no rights of review in respect of Informal Access to Information Request, but the applicant may make a Formal Access to Information Request at any time.

9. How members of the public may access our information

A Council Officer can either advise the public where the information is located or request that the applicable application form (depending on the type of information required) be lodged with Council. Application forms can be found on Council's website at www.byron.nsw.gov.au/Council/Report-Requests-Feedback/Request-Council-Information. A search fee may payable upon application, depending on what type of information you are seeking to access. The Officer will also discuss how the information can be supplied, including likely timeframes.

The public will also be offered the opportunity to inspect and obtain copies of the information from Council's Mullumbimby Administration Office between the hours of 8.30am to 4.00pm Monday to Friday (except public holidays).

In some circumstances, Council Officers will inform an applicant that their access to information will require the lodgement of a "Formal Access Application Form" with Council. The applicant will be required to pay an application fee of \$30.00 and may be required to pay an additional charge for processing the application (\$30.00 per hour). For information about Formal Access to Information applications contact Records Management Coordinator on 02 6626 7000.

10. Where can I get more information about right to information?

Go to: **www.ipc.nsw.gov.au**

Email: **ipcinfo@ipc.nsw.gov.au**

Mail: **GPO Box 7011 Sydney NSW 2001**

Visit: **Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000**

Call: **1800 472 679 between 9.00am to 5.00pm, Monday to Friday (excluding public holidays)**

Members of the public seeking access to Council information should initially search Council's website www.byron.nsw.gov.au. If the information is not referenced in this section, the public should contact Council's Administration Office on (02) 6626 7000.