



POLICY REGISTER

Government Information

(Public Access)

Act 2009

Agency Information Guide

Policy

Document Control

Issue.	Prepared/Revised by and Date	Action/Amendment Description	Approved By and Date
1.0	May 2022		Council Minute No. 2022/96

Contents

DEFINITIONS:	4
PART 1 - ABOUT GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009	6
1.1 Introduction	6
1.2 Object of Act (extract from GIPA Act 2009)	6
PART 2 - UNDERSTANDING YOUR COUNCIL AND ITS FUNCTIONS	7
2.1 Structure and Functions of Balranald Shire Council (BSC)	7
2.2 Functions Relating to Balranald Shire Council (BSC)	7
2.3 How Council Functions Affect Members of the Public	7
PART 3 - PUBLIC PARTICIPATION	7
PART 4 - OPEN ACCESS INFORMATION	9
4.1 Documents Held by Council	9
4.2 Electronic and "Physical" Files	9
4.3 General Documents	9
1. Information about Council	10
2. Plans and Policies	10
3. Information about Development Applications	10
4. Approvals, Orders and Other Documents	10
4.4 Policy Documents	10
4.5 Register of Government Contracts	11
4.6 Disclosure Log	11
4.7 Accessing Information in the Disclosure Log	11
PART 5 - HOW MEMBERS OF THE PUBLIC MAY ACCESS INFORMATION	12
5.1 Accessing Information	12
5.2 Accessing Information identified in the Publication Guide	12
5.3 Types of Applications	12
5.4 Making a Formal Application	13
5.5 Submitting your Application	13
5.6 Fees & Charges	13
PART 6 - REVIEW OF DECISIONS	14
6.1 Internal Review	14
6.2 External Review	14
6.3 Internal Hierarchy Chart Relating to Access to Information	15
PART 7 - FEEDBACK AND ENQUIRIES	16
7.1 Contact Arrangements	16
7.2 Office of the Information Commissioner - NSW	16
CHARTS	
Chart One: Organisational structure flowchart: - Balranald Shire Council	7
Chart Two: Internal Hierarchy Chart Relating to Access to Information	15

Definitions:

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

Agency Information Guide means a guide that:

- a) describes the structure and functions of Council, and
- b) describes the ways 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.

Disclosure Log means a disclosure log kept by an agency under Part 3 (Open access information).

External review means a review by another agency excluding Council eg. Office of the Information Commissioner NSW.

Government Information (Public Access) Act means the legislation that now governs access to government information in NSW.

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

Internal review means a review by the head or chief executive officer (however designated) of Council.

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

Principal Officer of Council means the head or General Manager (however designated) of Council or the person of greatest seniority.

Public Officer means an officer employed by Council delegated authority to deal with:

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

Register of Government Contracts means a register of the following contracts between Council and a private sector entity:

- (a) a contract under which a party agrees to undertake a specific project (such as construction, infrastructure or property development project)
- (b) a contract under which a party agrees to provide specific goods or services (such as information technology services), other than a contract of employment
- (c) a contract under which 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 capable of providing information from a particular area for an *informal* application.

Senior Right to Information Officer means an officer employed by Council to determine and process a *formal* application made under the GIPA Act 2009 and is senior to a Right to Information Officer.

1.1 Introduction

Government Information (Public Access) Act, (GIPA Act) is the New South Wales Government's approach to giving the community greater access to government information.

The New South Wales' Government has made a commitment to provide access to information held by the Government, unless on balance there is an overriding public interest against disclosure.

The GIPA Act is the legislation replacing the previous **Freedom of Information Act 1989 (FOI Act)** and Section 12, 12A, 12B and 13 of the **Local Government Act 1993** that came into effect on 1 July 2010.

In addition there have been amendments to the NSW **Privacy and Personal Information Protection Act 1998 (PPIPA)** that transferred amendment provisions of the FOI Act to PPIPA.

There are four main ways information is made available under the GIPA Act, namely;

- Mandatory proactive release;
- Authorized proactive release;
- Informal release; and
- Access applications.

The Right to Information reform aims to:

- make more information available;
- provide equal access to information across all sectors of the community; and
- provide appropriate protection for individuals' privacy.

1.2 Object of Act (extract from GIPA Act 2009)

(1) 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.**

(2) 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.**

Part 2 - Understanding Your Council and Its Functions

2.1 Structure and Functions of Balranald Shire Council (BSC)

Balranald Shire Council is a Council constituted under Section 387 of the Local Government Act 1993.

The Principal Officer of the Council is the General Manager. The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of the Council, the exercise of any functions delegated by the Council, the appointment, direction and where necessary, the dismissal of staff.

To assist the General Manager in the exercise of these functions, there is a multi-skilled service delivery team.

The following is a depiction of Council's organisational structure.

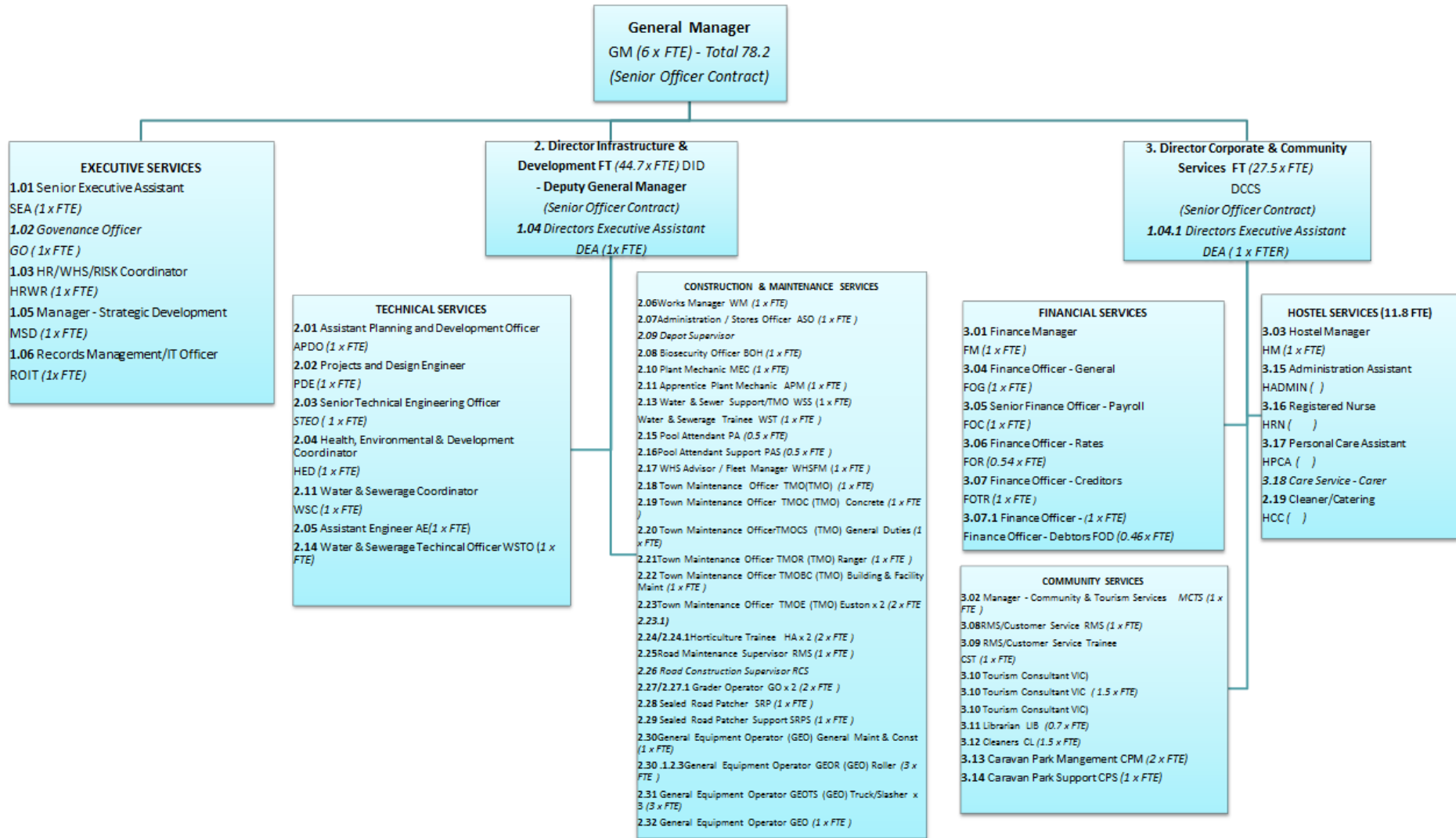


CHART 1: ORGANISATIONAL STRUCTURE FLOWCHART: BALRANALD SHIRE COUNCIL

2.2 Functions Relating to Balranald Shire Council (BSC)

The General Manager is assisted by two Executive Managers and Administration staff which are involved in administrative support, civil engineering, planning, building approvals, road upgrades and community and health services.

As well as the Local Government Act, Council has powers under a number of other Acts including:

Government Information (Public Access) Act 2009.

Environmental Planning and Assessment Act

Biosecurity Act 2015.

Privacy & Personal Information Protection Act 1998.

Protection of the Environment Operations Act 1997.

Roads Act 1993.

2.3 How Council Functions Affect Members of the Public

Balranald Shire Council is a multipurpose council within the meaning of the Local Government Act 1993 and is responsible for service provisions and regulation of activities as defined by various items of legislation.

Part 3 - Public Participation

Members of the public may become involved in Council's decision making process in a number of ways.

This can be by personal attendance at Council meetings, making representations to Council, or individual Councillors, or by nominating for election to any one of the constituent Councils.

Formal written submissions are accepted for consideration and should be addressed to the General Manager.

In NSW, local government elections are held every four years. The next elections are to be held in September 2024 due to Balranald Shire being under Administration.

As a Local Government organisation, Council is focussed on servicing the local community it represents, consultation, opinions, comments, concerns and suggestions are actively sought and welcomed to ensure that Council's decisions are timely, relevant and reflect contemporary standards and expectations.

Council meets on a monthly basis on the third Tuesday of the month at the Council administration office at 70 Market Street Balranald.

4.1 Documents Held by Council

Council holds documents (hard copy and/or electronic form) that relate to a number of different issues concerning the BSC area. These documents are grouped into four categories:

- Electronic Documents
- Physical Files
- Policy and Procedure Documents
- General Documents

Documents included in Clause 4.4 of this Publication Guide may be made available to the public on request unless there is an overriding public interest not to do so.

Some documents may require a formal access application in accordance with the Government Information (Public Access) Act.

4.2 Electronic and Physical Files

Council currently has a hard copy/physical file system and an Electronic Document Management System (EDMS).

The current filing system captures information against the following categories:

- Property inspection records.
- Weed treatment records.
- Staff records.
- Administration records.
- Financial records.
- Council meetings - agendas, business papers, minutes.

This information is made available in accordance with the GIPA Act, unless there is an overriding public interest against disclosure of the information as outlined in Section 14 of the GIPA Act. People seeking access to this information can do so by contacting Council at 70 Market Street Balranald during office hours between 9.00am and 4.30pm Monday to Friday.

4.3 General Documents

The following list of general documents held by Council has been divided into four sections as outlined in Government Information (Public Access) Regulation 2009:

- Information about Council;
- Plans and Policies;
- Information about Development Applications;
- Approvals, Orders and other Documents.

The Government Information (Public Access) Regulation requires that these documents held by Council, are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the offices of the Council during ordinary office hours or at any other place as determined by the Council. Any current and previous documents of this type may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges.

These documents are:

1. Information about Council

The model code prescribed under section 440 (1) of the LGA Councils adopted Code of

Conduct Code of Meeting Practice Annual Report Annual Financial Reports Annual

Operational Plan Auditor's Report Business Activity Strategic Plan 4 Year delivery Plan

Annual Operational Plan EEO Management Plan

Policy concerning the Payment of Expenses Incurred by, and the Provision of Facilities to, Councillors

Any Codes referred to in the LGA

Returns of the Interests of Councillors, Designated Persons and Delegates

Agendas and Business Papers for any meeting of Council or any Committee of Council

Minutes of any meeting of Council or any Committee of Council

Register of Investments

Register of Delegations

Register of current Declarations of Disclosures of Political donations

2. Plans and Policies

Local Policies adopted by Council concerning approvals and orders

3. Information about Development Applications

Not applicable to BSC.

4. Approvals, Orders and Other Documents

Applications for approvals under any other Act and any associated documents received;

Orders given under the Authority of any other Act.

4.4 Policy Documents

Council has a register of policy documents which is maintained by Council's Right to Information Officer and is available from Council's offices at 70 Market Street Balranald. Council's policies are available from Council's website <http://www.balranald.nsw.gov.au/council-documents/policies/>

4.5 Register of Government Contracts

Council must keep an updated register of all contracts valued at \$250,000 (incl GST) or more, which are entered into with a private sector entity for a project, goods and services, or the sale, purchase or lease of real property. This Register can be accessed at Council's office at 70 Market Street Balranald.

This register is updated upon signing new contracts. Council will keep contracts on the register only for the 'public access period'. The 'public access period' is the period until the project to which the contract relates is complete, the goods and services concerned have been provided under that contract, the term of the lease has expired or the real property has been transferred.

4.6 Disclosure Log

Council's disclosure log will show information released under a formal access application under the GIPA Act since 1 July, 2010 that is considered to be of interest to the wider public. Under the GIPA Act, information that is:

- of a sensitive nature for example personal information
- considered commercial-in-confidence

has been removed from the documents prior to their release. It should be noted applicants can object to inclusion in Council's disclosure log.

4.7 Accessing Information in the Disclosure Log

To obtain copies of any of the released documents shown in Council's disclosure log, you can either: a) Email a request to council@balranald.nsw.gov.au

b) Send a written request to:

The General Manager PO Box 120 Balranald
NSW 2715

5.1 Accessing Information

Balranald Shire Council is committed to providing the community with open and transparent access to information about our services, activities and business operations. Much of this information is routinely provided in our corporate documents, which are identified in our Agency Information Guide (available at Council's office at 70 Market Street Balranald). Council may release information in response to an informal request, unless there is an overriding public interest against disclosure. Reasonable copy charges may apply under Council's fees and charges.

5.2 Accessing Information identified in the Agency Information Guide

Information identified in the Agency Information Guide is available upon request by contacting staff at our Council office at 70 Market Street Balranald, including the Guide itself.

5.3 Types of Application

In addition to accessing information on Council's web site and from Council's office, the public can also access information in the following two ways. No. 1 is an INFORMAL request and No. 2 is a FORMAL application.

1. **INFORMAL** requests for example:

- The informal release where Council is encouraged to release information in response to a request either via our email, telephone, post or in person.

There is no timeframe imposed on Council by the Act to provide this information.

NB: The Government Information (Public Access) Regulation 2009 provides that the documents held by Council, are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council's website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the office of the Council during ordinary office hours.

2. **FORMAL** Application for example:

- In limited circumstances, access to information will require a formal access application.

Under the Act, agencies (Council) have twenty (20) working days to make a decision on an access application. This process is explained in more detail below (5.4).

Please see 5.6 Fees & Charges for fees payable.

5.4 Making a Formal Application

While we proactively release information to the community about our activities, the Government Information (Public Access) Act 2009 provides a formal means of requesting access to information held by Council that is not normally publicly available.

Requests for access to information (formal requests) must be made via the approved form and be accompanied by an application fee. You must provide sufficient detail to enable Council to identify the information requested.

Please note, an application will be invalid if it seeks access to excluded information of Council or does not meet the formal requirements for an access application. An application must

- be in writing;
- specify it is made under the GIPA Act;
- state an Australian Postal address;
- be accompanied by the \$30 fee; and
- provide sufficient detail to enable Council to identify the information requested.

The relevant application forms can be obtained from Council's office located at 70 Market Street Balranald.

It should be noted Council may undertake third party consultation on public interest considerations where necessary.

5.5 Submitting your Application

Completed applications should be sent to:

The General Manager PO Box 120
BALRANALD NSW 2715
or email: Council@balranald.nsw.gov.au

5.6 Fees & Charges

The formal application processing fee is \$30.00 (GST free). Cheque or money-order must be made payable to Balranald Shire Council.

In addition to the application fee, you may be charged for the following:

Processing charge is \$30/hour (GST free). The Processing charge is for the time necessarily spent dealing efficiently with the application.

Clause 9 of the GIPA Regulation provides that: ***An agency is required to reduce, by 50%, the processing charge payable under the Act for dealing with an access application if the applicant provides evidence that the applicant:***

- (a) is the holder of a Pensioner Concession card issued by the Commonwealth that is in force ,or***
- (b) is a full-time student, or***
- (c) is a non profit organisation (including a person for or on behalf of a non-profit organisation).***

Section 127 further provides that agencies have a general discretion to waive, reduce or refund any fee or charge under the GIPA Act in circumstances where they consider this is appropriate.

Part 6 - Review of Decisions

What to do for a review if you are not satisfied with any decision about your right to information application.

6.1 Internal Review

Step 1 - Request an internal review (optional)

You may wish to apply to Council for an internal review of the original decision. If you have any difficulty in obtaining access to Council documents, you may wish to refer your enquiry to the Public Officer. Also, if you would like to amend a document of Council which you feel is incorrect it is necessary for you to make written application to the Public Officer in the first instance.

Your application for internal review must be made within 20 working days after the date of the written notice of the decision and be accompanied by the \$40 fee as provided for under section 85 of the GIPA Act.

A person authorised by the General Manager and senior to the original decision-maker will review your application and inform you of the review decision as soon as practicable but no later than 20 business days after the internal review application is made to Council. Reasons will be given if access or amendment is still refused.

To apply for an internal review, submit application form to:

The General Manager
Balranald Shire Council P.O
Box 120 Balranald NSW 2715

or email: Council@balranald.nsw.gov.au

or telephone (03) 5020 1300 during office hours 8.30am - 4.30pm Monday to Friday.

6.2 External Review

Step 2 - Request an external review

If you are not satisfied with the Council's internal review decision, you may wish to apply to the Office of the Information Commissioner for an external review.

Alternatively, you can apply directly to the Office of the Information Commissioner for an external review of Council's original decision.

The Information Commissioner may change or confirm the decision made on your application or try to mediate a settlement between parties.

For more information about requesting an external review, visit the Office of the Information Commissioner New South Wales.

6.3 Internal Hierarchy Chart Relating to Access to Information

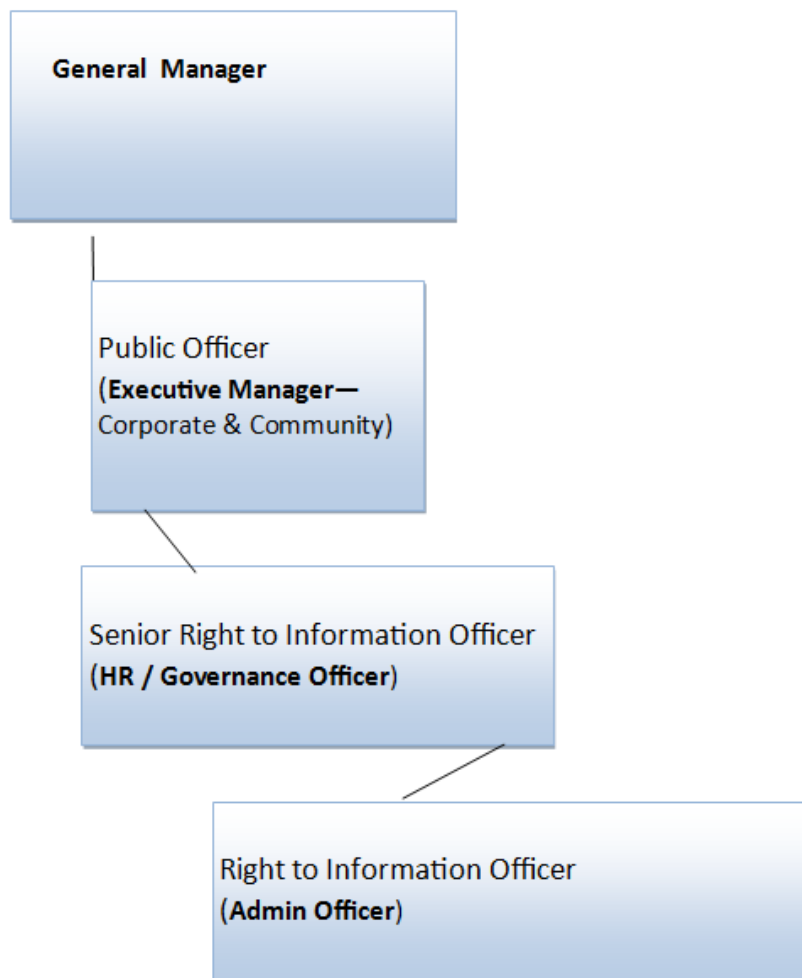


Chart Two: Internal Hierarchy Chart Relating to Access to Information

Part 7 - Feedback and Enquiries

As mentioned previously, Council has a range of documents that can be accessed in varying ways. Most documents can be inspected at and obtained from Council's Administration offices between the hours of 9.00 am and 4.30 pm, Monday to Friday (except public holidays).

For further enquiries about any document, the Right to Information Officer should be contacted.

If you experience any difficulty in obtaining documents or information, you should contact the Senior Right to Information Officer.

7.1 Contact Arrangements

Applications and enquiries regarding Government Information (Public Access) Act should be addressed to:

The General Manager Balranald Shire Council P.O Box 120 Balranald NSW 2715

or email: Council@balranald.nsw.gov.au

or telephone (03) 5020 1300 during office hours 9.00am - 4.30pm Monday to Friday.

7.2 Office of the Information Commissioner - Information & Privacy Commission NSW

Please note for further information the Office of the Information Commissioner should be contacted at ipcinfo@ipc.nsw.gov.au or telephone 1800 472 679 or visit the New South Wales Office of the Information & Privacy Commission website at www.ipc.nsw.gov.au/contact-us-0

For further details about the NSW Privacy and Personal Information Protection Act, will be on the Privacy NSW website at www.privacy.nsw.gov.au