PUBLIC ACCESS TO GOVERNMENT INFORMATION

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Relevant delegations	
Responsible officer	Public Officer

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1. Summary

1.1 This document establishes the Brewarrina Shire Council's policy with respect to the publication and disclosure of information held by Brewarrina Shire Council. The policy details and internally assigns Brewarrina Shire Council's responsibilities under the *Government Information (Public Access) Act 2009* (GIPA).

2. Purpose and Scope

2.1 To update council's existing Freedom of Information Policy to reflect the replacement of Section 12 of the Local Government Act 1993 and the Freedom of Information Act 1989 with the Government Information (Public Access) Act 2009.

2.2 This policy applies to all information held by Brewarrina Shire Council and details the manner in which Brewarrina Shire Council discharges its obligations under the GIPA Act. In addition, the policy aims to promote Brewarrina Shire Council's commitment to open and transparent governance generally.

3. Background and context

3.1 On 1 July 2010 the Government Information (Public Access) Act 2009 came into effect, replacing the former Freedom of Information Act & Section 12 of the Local Government Act.

The new legislation:

- creates new rights to information that are designed to meet community expectations of more open and transparent government
- encourages government agencies to proactively release government information.

Access to information collected and held by Brewarrina Shire Council is now made available in accordance with the provisions of the Government Information (Public Access) Act 2009. The Act creates an enforceable right to information unless there is an overriding public interest against disclosure.

Many of the provisions of the Act are consistent with councils existing Freedom of Information policy. The key differences include:

- mandatory and non mandatory proactive release where council is required to publish certain information on the internet and is encouraged to make as much information available as possible;
- informal release, making access simpler for easy requests; and
- formal release, which is similar to the previous FOI regime.

4. Legislative requirements

4.1 Pursuant to section 4 of the *Government Information (Public Access) Act 2009*, Brewarrina Shire Council is deemed to be a public authority for the purposes of the GIPA Act and is therefore subject to its provisions.

4.2 Council's functions are specified in the Local Government Act 1993, Chapter 5. While the main function of Council are provided under this Act, Council also has functions under other Acts and Regulations (refer to Brewarrina Shire Council Publication Guide - Legislation & Regulations that Empower Council).

5. Replacement of existing policy or procedure

5.1 Upon its commencement, this policy shall supersede the Brewarrina Shire Council's *Freedom of Information Policy.*

6. Open Access information

6.1 Pursuant to section 18 of the GIPA Act, Brewarrina Shire Council will make Brewarrina Shire Council's 'open access information' publicly available via the Brewarrina Shire Council Website – www.breshire.com. In the event such publication imposes an unreasonable cost to Brewarrina Shire Council, such information will be made available free of charge by another means specified by the Brewarrina Shire Council Publication Guide.

Brewarrina Shire Council Publication Guide

6.2 Brewarrina Shire Council is required by Division 2 of the GIPA Act to adopt a 'publication guide'.

6.3 The Public Officer will determine what information held by Brewarrina Shire Council will be made publicly available pursuant to section 7 of the GIPA Act, and on what terms it is to be made available.

6.4 The Public Officer will ensure a review of Brewarrina Shire Council's program for the release of information under section 7 of the GIPA Act is undertaken annually, pursuant to section 7(3) of the GIPA Act.

6.5 The Public Officer will ensure that Brewarrina Shire Council makes information publicly available, as provided by the Brewarrina Shire Council Publication Guide.

Brewarrina Shire Council Register of Certain Contracts

6.6 The Assets and Contracting Manager in liaison with the Rights to Information Officer is responsible for ensuring compliance with Brewarrina Shire Council's obligations pursuant to Div 5 of the GIPA Act.

7. Informal Release of Information

7.1 The Public Officer may authorise the release of information held by Brewarrina Shire Council in response to an informal request by a person, pursuant to Division 1 section 8 of the GIPA Act.

8. Access applications

8.1 Brewarrina Shire Council will deal with, and determine, access applications made under the GIPA Act*,* in accordance with the legislation and any directions made by the Information Commissioner NSW, and in the spirit in which the GIPA Act was enacted.

8.2 Determination of, and all decisions pertaining to the dealing with access applications made under Part 4 of the GIPA Act (except decisions made pursuant to s127 of the GIPA Act; see 7.6), are the responsibility of the Public Offer or such other Brewarrina Shire Council Officer under specific written delegation of the Public Officer.

8.3 Internal Review of Brewarrina Shire Council's determination of access applications made under the GIPA Act, pursuant to Div2 of Part 5 of the GIPA Act shall be conducted by: the Right to Information Officer on delegation of the Public Officer, provided he/she did not make the initial determination; or another Brewarrina Shire Council officer under specific written delegation of the Public Officer, provided he/she did not make the initial determination and is suitably situated in relation to the officer who made the initial determination.

Fees and Charges

8.4 Fees and charges shall be levied by Brewarrina Shire Council pursuant to the GIPA Act and any directions of the Information Commissioner NSW.

8.5 Applicants are to be kept fully informed of any applicable fees and charges and shall be provided with cost estimates prior to the levying of charges.

8.6 Where the Public Officer is of the view that it is appropriate, any fee or charge payable or paid under the GIPA Act may be waived, reduced or refunded pursuant to section 127 of the GIPA Act.

Reports to Parliament

8.7 Pursuant to section 125 of the GIPA Act, Brewarrina Shire Council shall prepare, as part of the Brewarrina Shire Council Annual Report, within 4 months of 30 June each year, a report on the fulfilment of Brewarrina Shire Council's obligations under the GIPA Act*.*

9. Communication and promotion

9.1 This policy is to be made available to staff via Brewarrina Shire Council's Policy folders in each department and to the general public on the Brewarrina Shire Council Website; www.breshire.com

10. Authorities and accountabilities

10.1 The following table identifies the authorities and delegations relating to Brewarrina Shire Council obligations under the GIPA Act:

GIPA Act Reference	Obligation	Officer Responsible
S6(1)	To determine whether there is an overriding public interest against disclosure of 'open access information' that is held by Brewarrina Shire Council.	Public Officer Right to Information Officer
S6(1) & Part 3 (except s20 & Div 5)	Ensuring open access information held by Brewarrina Shire Council, for which there is not a overriding public interest against disclosure, is publicly available free of charge.	Access to Information Officers
S6(5)	Maintaining the record of open access information that is not made available due to an overriding public interest against disclosure.	Access to Information Officers
S7(1)	Authorise the proactive disclosure of information held by Brewarrina Shire Council.	Public Officer
S7(3)	Annual review of Brewarrina Shire Council's program of proactive disclosure.	Public Officer Right to Information Officer
S8(1)	Informal release of information held by Brewarrina Shire Council in response to an informal request.	Right to Information Officer Access to Information Officers
S9 & Part 4 (except s127)	The making of decisions in connection with access applications (except the discretion to waive, reduce or refund any fee or charge payable or paid pursuant to s127).	Brewarrina Shire Council officer under specific written delegation of the Public Officer.
S 16	To provide advice and assistance to a person in relation to accessing Brewarrina Shire Council information.	Public Officer Right to Information Officer Access to Information Officers
S20(1)& S21	Approval of a Publication Guide.	Public Officer
S20(2)	Ensuring information held by Brewarrina Shire Council is made publicly available as per Brewarrina Shire Council's Publication Guide.	Right to Information Officer Access to Information Officers
S21	Annual review of the Publication Guide.	Public Officer Right to Information Officer
Ss 23 & 24	To determine what 'policy documents' are required to be made available.	Right to Information Officer
Part 3 Div 4	Maintenance of Brewarrina Shire Council's Disclosure Log of Access Applications.	Access to Information Officers
Part 3 Div 5	Maintenance of Brewarrina Shire Council's Government Contracts Register.	Assets & Contract Manager Access to Information Officers
Part 5 Div 2.	Internal review of reviewable decisions made in dealing with access applications made in respect to information held by Brewarrina Shire Council.	Another Brewarrina Shire Council officer under specific written delegation of the Public Officer, provided he/she did not make the initial determination and is suitably situated in relation to the officer who made the initial determination.
S125	Preparation of annual report on the Brewarrina Shire Council's obligations under the GIPA Act for the Minister of Aboriginal Affairs.	Right to Information Officer
S 127	Decision to waive, reduce or refund any fee or charge payable or paid in connection with an access application.	Public Officer