



FREEDOM OF INFORMATION

Information Statement



CONTENTS

1.0	INTRODUCTION	3
2.0	COMMUNITY VISION AND VALUE STATEMENT	3
3.0	LEGISLATION ADMINISTERED BY COUNCIL	3/4
4.0	STRUCTURE	4
5.0	COMMITTEES	4
5.1	Standing and Occasional Committee	4
5.2	List of Committees	4/5
6.0	ROLE OF THE COUNCILLOR	5
7.0	PUBLIC ACCESS	5
8.0	ACCESS OF INFORMATION – FREEDOM OF INFORMATION ACT	6
9.0	DOCUMENTS AVAILABLE TO THE PUBLIC – NOT COVERED BY THE FREEDOM OF INFORMATION ACT	6/7
10.0	DETAILS OF OTHER DOCUMENTS WHICH MAY NEED TO APPLIED FOR UNDER FOI PROVISIONS	7/8
11.0	FEES AND CHARGES	8
12.0	APPLICATION FOR ACCESS TO DOCUMENT(S)	8
13.0	FORMS OF ACCESS	8

14.0	REVIEW AND APPEAL PROCESS	8
14.1	Internal Review	8
14.2	External Review by the Information Commissioner	9
14.3	Appeals to the Supreme Court	9
15.0	DOCUMENTS AVAILABLE THROUGH OTHER AVENUES	9
16.0	CONTACT OFFICER	9

SHIRE OF MUKINBUDIN

FREEDOM OF INFORMATION ACT 1992

INFORMATION STATEMENT (SECT 94)

1. **Introduction**

The Shire of Mukinbudin is required to publish annually a Freedom of Information Statement, in accordance with the *Freedom of Information Act 1992, Part 5, Section 94*.

The Information Statement must describe:

- the agency's structure and functions;
- how the agency's functions affect the public;
- how the public may participate in agency policy development;
- the kinds of documents the agency holds: and
- how the members of the public may access and amend agency documents.

This document is current as at the 21st May 2024.

2. **Community Vision and Value Statement**

Vision

"To assist our community towards a prosperous future by providing a positive environment in which to work and live."

Values

- Community connectedness and great lifestyle
- Friendly people
- Safety
- Relevant and well maintained facilities
- Recognition of the need to care for the environment in a balanced approach
- Effective communication and cooperation

3. **Legislation administered by Council**

In addition to the Local Government Act 1995 which is the principal statute, other statutes affecting Council are as follows:

Building Act 2011	Bushfires Act 1954
Cat Act 2011	Conservation and Land Management Act 1984
Dog Act 1976	Environmental Protection Act 1986
Fire and Emergency Services Act 1998	Freedom of Information Act 1992
Public Health Act 2016	Heritage of Western Australia Act 1990
Income Tax Assessment Act 1936	Library Board Act 1951
Liquor Licensing Act 1988	Litter Act 1979/1981
Local Government Act 1960	Main Roads Act 1930
Noise Abatement Act 1972	Parliamentary Commissioner Act 1971
Planning & Development Act 2005	Privacy Act 1998 (amendments 2000, 2005)
Public Works Act 1902	Rates and Charges (Rebates & Deferments) Act 1992
Road Traffic Act 1974	State Planning Commission Act 1985
State Records 2000	Strata Title Act 1985 (amendment Act 1995)

4. **Structure**

Council comprises of:

President	Elected bi-annually by other Councillors and is the Chairperson of meetings of Council
Councillors	Elected bi-annually by electors on a rotational basis for a four (4) year term
Staff	Appointed by Council to administer and implement the day to day matters and policies of the Council
Electors	Residents of the Council district

5. **Committees**

Committee members, delegates, the President and Deputy President are elected at the first meeting following the Local Government Election.

5.1 **Standing and Occasional Committees**

The powers and duties of committees are determined by delegation from Council except for power to borrow money and impose rates which cannot be delegated.

Standing Committees are permanent Council committees and Occasional Committees are appointed to deal with specific matters and cease to operate once the matter has been dealt with.

The number of members a Council may appoint to a Standing Committee must be less than one half of the total members of Council.

5.2 List of Committees

Standing Committees of the Shire of Mukinbudin are:

<u>Committee</u>	<u>Meets</u>
Audit	When required

Other – Where Council is represented by Delegates:

- Great Eastern Zone - WALGA
- NEWROC
- Kununoppin Medical Practice Committee
- Central Eastern Accommodation and Care Alliance (CEACA)
- Local Emergency Management Committee (LEMC)
- North East Wheatbelt Sub Regional Road
- NEWTRAVEL
- Local Health Advisory Group (LHAG)
- Development Assessment Panel (WA Department of Planning)

6. Role of the Councillor

Councillors do not have any authority to act or make decisions as individuals. They are members of a corporate body working for the community. Decisions must be consensus decisions of the corporation.

Nevertheless, Councillors play a major role in the policy-making of a Council and thus have responsibility for:

- The ultimate direction and control of the affairs of the municipality
- The making of key decisions on project priorities in the municipality and the plans to attain them
- The periodical review of Council's programmes and performance.

Councillors have a major role in communicating information between electors and the Council. The Councillor has a duty to present the view of the electors to the Council but must also be willing to take an overall and sometimes opposing approach to issues where necessary, for the good of the community as a whole.

The role of a Councillor involves:

- Initiating new policies and activities
- Evaluating Council attitudes
- Controlling Council finances
- Keeping in touch with electors
- Attending meetings – Council and committee
- Deciding upon issues
- Approving programme of works and services

7. Public Access

Under the provisions of the Local Government Act 1995 the public has the right to attend ordinary and special meetings of Council except where a motion to exclude them has been carried.

Generally, Council will discuss confidential business after exclusion of members of the public which is done by a Council resolution which may be moved without notice.

The Shire of Mukinbudin allows members of the public a question time during the first fifteen (15) minutes of any meeting.

8. Access of Information – Freedom of Information Act

The Freedom of Information Act 1992 came into operation in November 1993 and applies to State and Local Government.

Any Councillor, elector or creditor may inspect and take a copy from the book of record, including:

- Accounts of money spent and received including the purpose of transactions
- Particulars of land subject to charges for work and details of the charges
- Particulars of contracts, deeds and other legal documents executed by the Council

9. Documents available to the Public – Not covered by the Freedom of Information Act

These documents are available at the Council Office during normal office hours and are available for viewing free of charge.

- Code of Conduct;
- Register of Financial Interest;
- Annual Report
- Annual Budget
- Schedule of Fees and Charges
- Plan of Principal Activities (Strategic Community Plan/Corporate Business Plan);
- Proposed Local Law of which the Shire has given Statewide Public Notice under Sec.3.12 of the Local Government Act 1995;
- Local Laws made by the Shire in accordance with Sec.3.12 of the Local Government Act 1995;

- Regulations made by the Governor under Sec.9.60 of the Local Government Act 1995 that operates as if they were Local Laws of the Shire;
- Text that –
 - Is adopted (whether directly or indirectly) by a Local Law of the Shire or by a regulation that is to operate as if it were a Local Law of the Shire; or
 - Would be adopted by a proposed Local Law of which the Shire has given Statewide public notice under Sec.3.12(3):
- Subsidy legislation made or adopted by the Shire under any written law other than the Local Government Act 1995;
- Any written law having a provision in respect of which the Shire has a power or duty to enforce;
- Rate record;
- Confirmed minutes of Council or Committee Meetings;
- Minutes of Electors Meetings;
- Notice papers and agenda relating to any Council or Committee Meeting and reports and other documents that have been –
 - Tabled at a Council or Committee Meeting; or
 - Produced by the Shire of Mukinbudin or a Committee for presentation at a Council or Committee Meeting and which have been presented at a meeting;
- Report of a review of a Local Law prepared under Sec.3.16(3) of the Local Government Act 1995;
- Business plan prepared under Sec.3.59 of the Local Government Act 1995;
- Register of Owners and Occupiers under Sec.4.32(6) of the Local Government Act 1995 and Electoral Roll;
- Contract under Sec.5.39 of the Local Government Act 1995 and variation of such contract;
- Such other information relating to the Shire –
 - Required by a provision of the Local Government Act 1995 to be available for public inspection; or
 - As may be prescribed.

It should be noted that the Local Government Act 1995 specifies a number of limitations on the rights of those wanting to inspect the Shire's information. Despite these limitations, nothing in the Local Government Act 1995 affects the operation of the Freedom of Information Act 1992.

Specific finance, accounting rating and valuation records are kept for varying lengths of time in accordance with the *General Retention and Disposal Schedule for Local Government* as prepared by the Records Management Office of State Archives of Western Australia.

The following documents are also available for inspection free of charge at the administration office of the Council during office hours. The list is not exhaustive.

- Policy Manual
- Delegations Register
- Corporate Business Plan
- Workforce Plan
- Strategic Resource Plan
- Burial Register
- Cemetery Plan
- Town Planning Scheme No 2

Photocopies of the above documents are available at a cost included in the adopted fees and charges.

10. Details of Other Documents which may need to be applied for under FOI provisions

The Freedom of Information Act give the general public a right to access documents held by the Shire of Mukinbudin subject to limitation listed below.

The access provisions of the FOI Act do not apply to documents that:

- Are available for purchase by the public or free distribution to the public;
- Are available of inspection under Part 5 of the FOI Act (i.e., Information statements and internal manuals) or under another enactment.
- Can be inspected in the State archives.
- Are publicly available library material held by agencies for reference purposes.
- Are made or acquired by an art gallery, museum or library and preserved for public reference or exhibition purposes.

When a FOI application is made for documents that relate to another government agency, the FOI application may be transferred to that agency.

Documents accessible under the FOI Act include paper records plans and drawings photographs tape recordings, films videotapes or information stored in a computerised form.

The Shire holds its general documents in both hard and electronic formats. However, nearly all current accounting records, excluding creditor invoices, are held on computer and are backed up on tape and hard drives on a daily basis.

11. Fees and Charges Payable under the Freedom of Information Act

- No fees for access applications relating to personal information and amendment for personal information
- An application fee of \$30 for other access applications (non-personal information)
- No fees applicable for internal or external review
- A fee of \$30 per hour of staff time for dealing with an application
- Photocopies per hour of staff time for dealing with an application
- Actual cost to the Shire charged for postage, special arrangements for access and for specialised access such as reproductions and the like
- A 25% reduction in charges for financially disadvantaged applicants or those in receipt of Health Benefits

12. Application for Access to Document(s)

(Standard application forms are available from the Shire Office)

A valid application must:

- Be in writing
- Contain enough information to identify the documents
- Specify an Australian address for correspondence
- Be accompanied by the fee
- Lodged at the main office

13. Forms of Access

- Inspection of documents
- Copy of a document

14. Review and Appeal Process (under the Freedom of Information Act 1992)

14.1 Internal Review (S. 39 – 40 and 54)

If you are dissatisfied or aggrieved by certain decisions of an agency regarding access to documents or amendments of personal information, you can apply to the agency concerned for an internal review of its decision.

To apply for an internal review, you must write a letter or fill in an internal review application form and send the letter to, or lodge the form with the agency which made the decision within 30 days after being given notice of the decision.

The application must give details of the decision you wish to have reviewed and give an address in Australia to which notices can be sent.

There is no right to an internal review of a decision made by a Minister or the principal officer of an agency.

14.2 External Review by the Information Commissioner (S. 65 – 66)

If, after an internal review has been completed, you are still dissatisfied with the agency's decision, you can make a complaint to the Information Commissioner. The Information Commissioner may allow a complaint to be made even though an internal review has not been sought or has not been completed, if you can show that there are good reasons why you should not apply for an internal review or why an internal review should not be completed.

An application for external review to the Information Commissioner must:

- be in writing and include an Australian address;
- give particulars of the decision to be reviewed including details of the part(s) of the decision the applicant wants the Commissioner to review; and
- include a copy of the internal review notice of the decision sent to the applicant by the agency.

An application for internal review form is available from the website of the Office of the Information Commissioner at: [Home » Shire of Mukinbudin](#)

If you are seeking access to documents or amendment of personal information, your complaint must be lodged within 60 days after being given written notice of the decision.

If you are a third party to an application for access to personal or commercial or business information concerning yourself, your complaint must be lodged within 30 days after being given written notice of the decision.

14.3 Appeals to the Supreme Court (S. 85)

Any party to a complaint may appeal to the Supreme Court on any question of law arising out of a decision of the Information Commissioner, except for a decision as to the deferral of access to a document, the charges to be imposed for dealing with an access application and the payment of a deposit on account of charges.

The procedures relating to appeals to the Supreme Court are established by the Court.

15. Documents available through other avenues

The Act does not apply to documents that are already available through other avenues:

- Documents that are available for purchase or free of charge
- Documents that are available for inspection under another enactment
- Documents that can be inspected in the State archives
- Library material held by agencies for reference purposes
- Art gallery, museum or library material for public reference or exhibition purposes

16. Contact Officer

Freedom of Information Officer

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Chief Executive Officer

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Internal Review

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