

INFORMATION STATEMENT 2022 - 2023

Freedom of Information

Published in compliance with the *Freedom of Information Act 1992*

1.	Introduction	2
2.	Structure of the Shire	3
2.1.	Council	3
2.2.	Chief Executive Officer and Staff	4
3.	Functions of the Shire	5
3.1.	General Functions	5
3.2.	Legislative Functions	5
3.3.	Executive Functions	5
4.	Public Participation	6
4.1.	Council and Committee Meetings	6
4.2.	Deputations	6
4.3.	Petitions	6
4.4.	Public Question Time	6
4.5.	Community Consultation and Engagement, Notifications and Advertising	7
4.6.	Council Members	7
5.	Documents Held by the Shire	8
5.1.	Documents available outside the <i>Freedom of Information Act 1992</i>	8
5.2.	Documents available through the <i>Freedom of Information Act 1992</i>	10
6.	Documents available outside of the <i>Freedom of Information Act 1992</i>	11
6.1.	Access to Information by Police Officers	11
6.2.	Access to Copies of Building Plans	11
6.3.	Access to Closed Circuit Television (CCTV) Footage	11
7.	What is Freedom of Information?	12
7.1.	Lodging an Application for Access	13
7.2.	Time Limits	13
7.3.	Refusal	14
8.	Fees and Charges	15
8.1.	Deposits	15
8.2.	Waiver or Reduction of Fees	15
9.	Notice of Decision	17
9.1.	Access Arrangements	17
9.2.	Review Process	17
10.	Amending Personal Information	18

1. Introduction

Under Part 5 of the *Freedom of Information Act 1992* (FOI Act), Shire of Mundaring is required to prepare and publish an annual Information Statement. This document has been created to comply with that requirement and is correct as at June 2022.

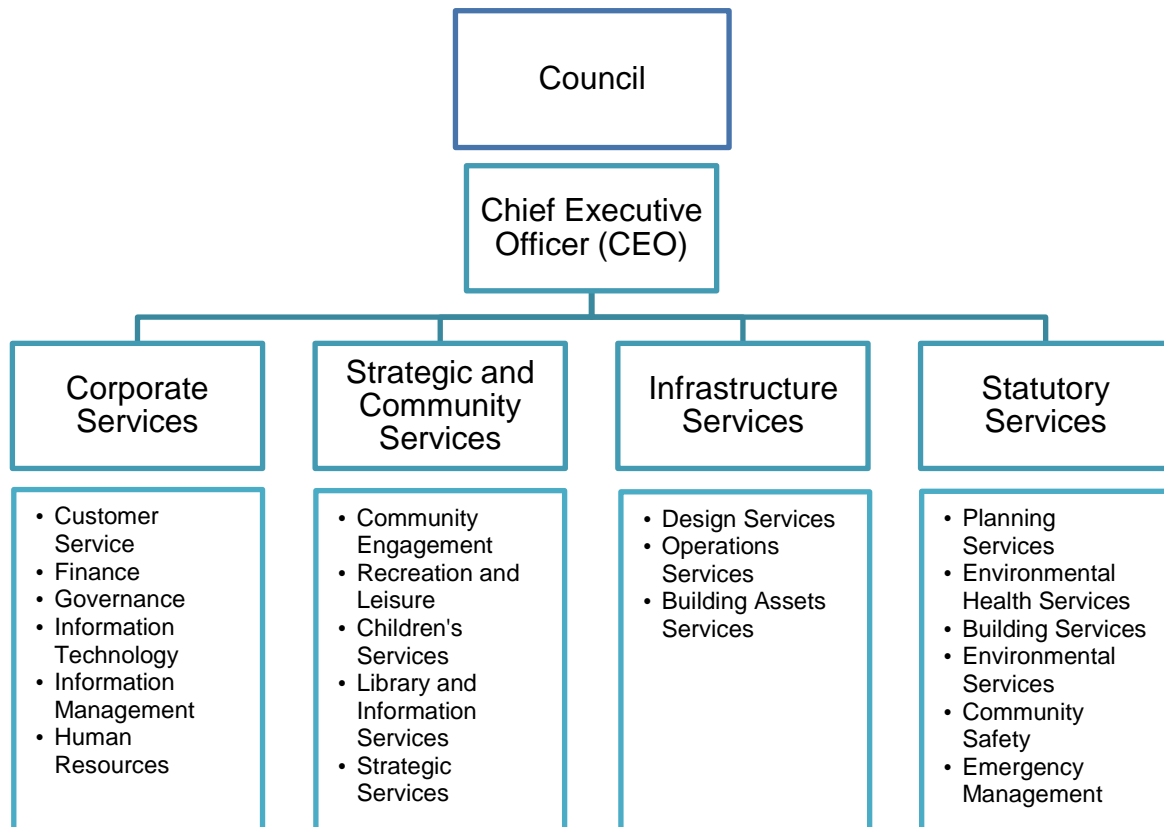
This document is available in alternative formats upon request and a copy of this Statement can be accessed on the Shire's website www.mundaring.wa.gov.au.

Further information can be provided during business hours Monday to Friday by contacting the Freedom of Information Coordinator via:

Phone: 9290 6666

Email shire@mundaring.wa.gov.au.

2. Structure of the Shire



2.1. Council

Council is the governing body of the local government and is made up of twelve council members. The role of Council and Councillors is defined in the *Local Government Act 1995* (the Act):

- To direct and control the local government's affairs; and
- To be responsible for the performance of the local government's functions.

The district of Shire of Mundaring is divided into four wards: Central, East, West and South. Each ward is represented by three council members, who are generally elected for a term of four years.

Local government elections take place every second year on the third Saturday in October, with half the Council retiring at each election. Retiring council members are eligible for re-election. After each election council members select a Shire President and Deputy Shire President from amongst themselves.

Council members do not have authority to act or make decisions as individuals: they are members of an elected body (Council) that makes decisions on behalf of the local government through a formal meeting process.

2.2. Chief Executive Officer and Staff

The Act states that a local government is to employ a Chief Executive Officer (CEO) and such other persons as the Council believes are necessary to carry out the functions of the local government and the Council.

Each Council employs staff to:

- Advise council members on matters to be discussed at meetings;
- Administer the day-to-day operations of Council; and
- Implement Council decisions.

The CEO acts as a conduit between Council and staff. All staff are ultimately responsible to the CEO.

The CEO is responsible to Council for the implementation of Council policies, decisions and budgeted works, the provision of accurate and timely advice to Council and the efficient administration of the Shire.

3. Functions of the Shire

The functions of the Shire are to provide services and facilities, by proper and democratic government, in an efficient and cost effective manner, subject to the Act and other legislation that provide the powers and directions for local government.

Under the Act the Shire has general, legislative and executive functions.

3.1. General Functions

Section 3.1 of the Act

The general function of a local government is to provide for the good government of people living and working within its district.

3.2. Legislative Functions

Section 3.5 of the Act

A local government may make local laws that are necessary or convenient for it to perform any of its functions.

3.3. Executive Functions

Section 3.18 of the Act

A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions.

4. Public Participation

Members of the public have a number of opportunities to participate in the formulation of the Shire's plans, policies and strategies as well as comment on the performance of the Shire's functions.

Members of the public can participate in in the following ways.

4.1. Council and Committee Meetings

Members of the public are encouraged to attend Council meetings and Committee meetings (where Committee meeting are open to the public). Members of the public may wish to contribute to the decision-making process or just generally observe proceedings.

In accordance with the Act, Council has established a number of Committees to support the operation of the Council. Committees make recommendations to Council in their specific areas of responsibility. The Committees are:

- Audit and Risk Committee
- Australia Day Citizenship Awards Committee
- Bushfire Advisory Committee
- CEO Performance Review Committee
- CEO Recruitment Committee
- Environmental Advisory Committee
- Grants Selection Committee
- Local Emergency Management Committee

4.2. Deputations

Deputations provide an opportunity for an individual or group in the community, to present their opinions at the meeting.

Members of the public may, during the deputations segment of the order of business and with the consent of the Presiding Member, make a public statement on any matter that appears on the agenda for that meeting in accordance with the Shire's *Meeting Procedure Local Law 2015*.

4.3. Petitions

A petition is a request for action from the community. It informs Council in a public way of the views of a section of the community and serves as a means of placing community concerns before Council.

The subject of a petition must be a matter on which Council has the power to act, for example, a matter that can be dealt with by the local government and be in accordance with the Shire's *Meeting Procedure Local Law 2015*.

4.4. Public Question Time

In accordance with the Shire's *Meeting Procedure Local Law 2015*, 15 minutes (with a possible extension of two extra 15 minute periods) are set aside at the beginning of each Council or Committee meeting to allow members of the public to ask questions of Council or the Committee.

Any member of the public can ask questions, not just electors or people who live in the district.

4.5. Community Consultation and Engagement, Notifications and Advertising

Council regularly seeks the views of the community for proposals or projects in which it is involved. The Shire's Community Engagement Policy sets out the principles that guides the Shire's approach to community engagement.

Community consultation, engagement and advertising can be conducted through a variety of means. This includes advertising in the local newspapers, the Shire's website, calling public meetings, written notification (letter, email or social media) or on-site signs.

Submissions regarding particular issues may be invited by completed a survey or writing to the Shire to express views.

4.6. Council Members

Members of the public can contact Councillors to discuss any policy, activity, function or service relevant to the Council. Council members welcome community input on important decisions which affect the way you live.

Contact details for council members can be found on the Shire's website.

5. Documents Held by the Shire

The Shire creates and stores records during the performance of its functions. Information and documents are held in the Shire's electronic and paper-based systems and are managed in accordance with the Shire's Record Keeping Plan and legislative requirements.

5.1. Documents available outside the *Freedom of Information Act 1992*

The following documents are available on the Shire's website and for public inspection at the Shire's customer service counter at the Shire Administration Office, 7000 Great Eastern Highway, Mundaring.

Charges may apply for hard copies of certain documents, as per the Adopted Fees and Charges.

Online	Available for inspection	Document Type
✓	✓	Agendas (Council, Committees and Elector's Meetings) – refer to item 5.1.1
✓	✓	Annual Budget from 2009/2010
	✓	Annual Financial Statements
✓ Returns Register	✓	Primary and Annual Returns Limitation: It should be noted that s5.88(3) of the Act requires that Returns are removed as soon as possible once a person stops being a 'relevant person' (designated employee or council member). Local Government Operational Guidelines states that 'Returns removed from the register will not be available for public inspection under this section of the Act'.
✓ from 2013/2014	✓	Annual Report
	✓	Burial Registers For Mundaring Cemetery and Wooroloo Cemetery
	✓	Business Continuity Plan
	✓	Business Plans Prepared under Section 3.59 of the Act
✓	✓	Candidate Profiles Available until 6pm on Election Day
	✓	Cemetery Maps For Mundaring Cemetery and Wooroloo Cemetery
✓	✓	Code of Conduct for Council Members, Committee Members and Candidates
✓	✓	Corporate Business Plan
✓	✓	Council Policies
✓	✓	Delegations Register
✓	✓	Disability Access and Inclusion Plan
✓	✓	District Map Map of the district including ward boundaries

Online	Available for inspection	Document Type
✓	✓	Council Members Expenses Register From 2020/2021
✓	✓	Council Members Training Register From 2019
✓	✓	Emergency Management Plan
✓	✓	Fees and Charges Prepared in accordance with section 6.16 of the Act
	✓	Financial Interests Register
✓	✓	Gifts Register Limitations: It should be noted that s5.89A(6) of the LG Act requires that gift declarations are removed as soon as possible once a person stops being a 'relevant person' (designated employee or council member). s5.89A(7) of the LG Act clarifies that for at least five years after a person stops being a 'relevant person' that information is still to be made available to the public for inspection. Therefore, up to 5 years after removal from the Gift Register access will be publicly available.
✓	✓	Information Statement (this document)
	✓	Internal Audit Plan
✓	✓	Local Laws
✓	✓	Local Planning Scheme
✓	✓	Local Planning Strategy
✓	✓	Minor Breaches Register Register of complaints of minor breach compiled under section 5.121 of the Act
✓	✓	Minutes (Council, Committees and Elector's Meetings) – refer to item 5.1.2
	✓	Precinct Plans
✓	✓	Schedule of Meetings (Council and Committees)
✓	✓	Strategic Community Plan
✓ From 2020/2021	✓	Tender Register

5.1.1 Agendas

The provision of agendas for Council and Committee meetings are made publically available prior to the meeting in accordance with the Act.

Electronic copies of agendas from the previous five years are available on the Shire's website.

Agendas that have been tabled or produced by the local government and presented at a Council, Committee or Electors meetings are available electronically from 2008 upon request.

Agendas prior to 2008 are in a hard copy format and are archived. Agendas may be stored offsite to ensure the documents are adequately protected. Copies of agendas and related searches conducted by Shire of Mundaring staff may incur charges.

5.1.2 Minutes

The provision of minutes for Council and Committee meetings are made publically available in accordance with the Act and are available for inspection at the Shire's office.

Electronic copies of minutes from the previous five years are available on the Shire's website.

Minutes are available electronically from 2008 upon request.

Minutes prior to 2008 are in a hard copy format and are archived. Minutes may be stored offsite to ensure the documents are adequately protected. Copies of minutes and related searches conducted by Shire of Mundaring staff may incur charges.

5.2. Documents available through the *Freedom of Information Act 1992*

The Shire maintains comprehensive records of all of its dealings including correspondence, emails, memoranda, file notes, reports, plans, sketches, maps, diagrams, documents pertaining to the keeping of records, applications, approvals and notices. Many of these documents are subject to the FOI Act.

6. Documents available outside of the *Freedom of Information Act 1992*

Access to documents other than those listed as accessible outside the FOI Act must be via a Freedom of Information Application.

6.1. Access to Information by Police Officers

Where a Police Officer requests access to Shire of Mundaring documents, access will be provided:

- Upon production of the Certificate of Authority (Warrant Card) of the Police Officer concerned; and/ or
- The receipt of an official email including contact details which will be used to confirm the identity of the Police Officer by phone.
- With the signature of the Police Officer concerned on a statement identifying the document(s) requested and verifying that they are required for a bona fide police enquiry or investigation; and/ or

Documents released under these circumstances are considered confidential and must not be divulged or released to any third parties without prior consent of the Shire.

6.2. Access to Copies of Building Plans

Where possible, the Shire will provide copies of building plans and associated effluent disposal system plans upon request.

Applications can be made by property owners or agents for the owner. If you are not the owner of the property, written consent or a signature from the property owner is required to process your request.

Before the search is completed, you will be notified of the fee payable.

6.3. Access to Closed Circuit Television (CCTV) Footage

CCTV is used in accordance with the Shire's Use of Closed Circuit Television Policy which provides the following in regards to the release of any footage.

"Members of the public and media organisations wishing to access CCTV footage are required to make an application under the Freedom of Information Act 1992.

Where State or Federal law enforcement agencies request a copy of footage captured on the Shire's CCTV for the investigation of possible criminal activity, the request must be made in writing. Upon receipt of a written request from State or Federal law enforcement, the Shire will provide the relevant footage wherever possible"

7. What is Freedom of Information?

The FOI Act gives the public a legally enforceable right to apply for access to documents held by the Shire.

An applicant's right to seek access cannot be affected by their reasons for wishing to obtain access and there is no requirement to demonstrate such reasons. You can apply for any record of information held by the Shire.

The Shire is required to:

- Assist the applicant in making the application;
- Assist the applicant in obtaining access to documents at a reasonable cost; and
- Ensure that personal information captured in documents is accurate, complete, up-to-date and not misleading.

While the Act provides a general right of access to documents, it also recognises some documents require a level of protection. This is applied to documents that meet the exemption criteria in Schedule 1 of the FOI Act.

The most common reasons for refusal to provide access to information are:

Reason for Refusal to Provide Access	Example Information	Clause
Personal information	Information that would reveal personal information about an individual (such as their name, contact details, signature etc.).	May be exempt under Schedule 1, Clause 3 of the FOI Act and s5.95 (8) of the Act.
Commercial or business information	<ul style="list-style-type: none"> • Information that would reveal trade secrets, • Information that has a commercial value (for example, documents containing technical designs that, if released, would harm the company), • Information about the professional, commercial or financial affairs of a person (for example, debts owed to the Shire) 	May be exempt under Schedule 1, Clause 4 of the FOI Act.

Reason for Refusal to Provide Access	Example Information	Clause
Deliberative processes	Material which forms part of the decision-making of the local government, when circumstances require confidentiality of those deliberations.	May be exempt under Schedule 1, Clause 6 of the FOI Act and s5.23 of the Act.
Legal professional privilege	Information that would reveal legal advice. Protects the confidentiality of communications made between a lawyer and their client. The privilege belongs to the client and may only be waived by the client.	May be exempt under Schedule 1, Clause 7 of the FOI Act.

7.1. Lodging an Application for Access

Application forms are available from the Shire office and on our website. It is not mandatory to use the application form, however an application must be in writing and:

- Give enough information to enable the requested document to be identified;
- Give an Australian address for correspondence;
- Be accompanied by the prescribed application fee if the document requested is for non-personal information.

Proof of identity may be required. If access to documents is sought on behalf of another person, the Shire will require written authorisation.

The application is considered as officially lodged when the application fee has been paid and both parties agree on a manageable scope.

Freedom of Information Requests should be addressed to:

Freedom of Information Coordinator

Shire of Mundaring

7000 Great Eastern Highway

MUNDARING WA 6073

7.2. Time Limits

A Notice of Decision must be issued within 45 days from when the application was lodged. The Shire aims to respond as soon as practicable to any application and will negotiate with the applicant on an extension to the 45-day limit should the application be unusually large, or require consultation with a significant number of Third Parties.

The applicant has 30 days in which to lodge an application for an Internal Review if dissatisfied with the Shire's Notice of Decision. The Shire must respond within 15 days.

The applicant has 60 days in which to lodge an application for an External Review if dissatisfied with the Shire's Internal Review decision. The Information Commissioner must respond within 30 days.

Please note, all time limits are in calendar days

7.3. Refusal

Section 20 of the FOI Act states that an agency may refuse to deal with application in certain cases.

- (1) *If the agency considers that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency has to take reasonable steps to help the applicant to change the application to reduce the amount of work needed to deal with it.*
- (2) *If after help has been given to change the access application the agency still considers that the work involved in dealing with the application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency may refuse to deal with the application.*

8. Fees and Charges

The scale for fees and charges is set under the *Freedom of Information Regulations 1993*. Apart from the compulsory application fee for non-personal information, all charges are discretionary, meaning that it is left to the Shire's discretion whether a charge will apply or not.

Straightforward applications usually incur only the application fee.

Lodgement Charges	
Application fee for personal information (about the applicant)	Free of charge
Application fee for non-personal information	\$30
Processing Charges	
Processing the application (per hour, pro rata)	\$30
Access time supervised by staff (per hour, pro rata)	\$30
Photocopying – staff time (per hour, pro rata)	\$30
Photocopying (per page)	\$0.20
Transcribing from tape, film or computer (per hour, pro rata)	\$30
Duplicating a tape, film or computer information	Actual cost
Delivery, packaging and postage	Actual cost

No charges apply for searching, identifying or collating the documents.

8.1. Deposits

Under section 17 of the FOI Act, the Shire is required to provide the applicant with an estimated cost should the charges for dealing with the application exceed \$25.00.

An advance deposit of 25% of the estimated cost may be required as a sign of good faith that full payment will be provided once the Notice of Decision is issued. This is in accordance with Section 6 of the *Freedom of Information Regulations 1993*.

8.2. Waiver or Reduction of Fees

Under Section 3 of the *Freedom of Information Regulations 1993* fees may be reduced where the applicant:

- Is impecunious, or
- Is the holder of a valid pensioner concession card.

The reduction or waiver of fees only applies to associated processing costs, not the original application fee (if applying for non-personal information).

8.2.1 Impecunious

The FOI Act does not specify what constitutes being 'impecunious', leaving this at the discretion of agencies.

The dictionary definition of impecunious is "*having little or no money*". Source: Oxford Dictionary

The Shire therefore requires such a claim to be supported by written evidence from an independent third party (such as a letter from Centrelink).

8.2.2 Pensioner Concession

The Shire requires that the Pensioner Concession Card be sighted upon request. If the applicant holds a currently valid pensioner concession card, the charge payable is reduced by 25%.

9. Notice of Decision

As soon as possible, but within 45 days from receiving the application fee, applicants will be given a written Notice of Decision. This notice will include the following information:

- The date when the decision was made.
- The name and designation of the employee who made the decision.
- The reason why a document is considered exempt or why access is given to an edited document.
- Information on the right of review and the procedures to be followed to exercise those rights.

9.1. Access Arrangements

You can request access to documents by way of:

- inspection,
- a copy of a document
- a copy of an audio or video tape
- a transcript of a recorded document or of words recorded in shorthand or encoded form
- a written document in case of a document where words can be reproduced in written form

9.2. Review Process

The FOI Act provides for a review and appeal process as follows:

9.2.1 Internal Review

If the applicant is dissatisfied with the decision of the Shire's FOI Decision Maker, an application for internal review can be made in within 30 days of being notified of the original decision.

There is no charge for an internal review.

9.2.2 External Review

If after the internal review has been completed the applicant is still dissatisfied with the Shire's decision, an external review by the Information Commissioner can be sought. External review requests must be made within 60 days of being notified of the original decision must be in writing to the Information Commissioner and must give details of the decision to which the complaint relates.

There is no charge for an external review.

10. Amending Personal Information

The right to amend personal information held by the Shire ensures information does not unfairly harm the person referred to, misrepresent facts about them or give a misleading impression.

An application can be made to the FOI Coordinator to correct or amend any documents containing an individual's personal information.

The application must be in writing, providing details and if necessary documentation to support claims that the information the applicant seeks to have amended is inaccurate, incomplete, out of date or misleading.

Furthermore, applicants must indicate whether they wish the amendment to the information to be made by altering, striking out or deleting the information or inserting information or a note in relation to the information.

The Shire will inform the applicant of its decision and its reasons and will advise the applicant of their right of review should they be dissatisfied with the Shire's decision.