

## Information Privacy and Confidentiality

<b>Policy type</b>	Council
<b>Function</b>	Governance
<b>Policy Owner</b>	Governance
<b>Effective date</b>	12 November 2009

### 1. Purpose

This policy records the Council's commitment to preserving the confidentiality and privacy of information held by the Council and the privacy of all individuals including staff.

### 2. Scope

This policy applies to all Councillors, Council employees, Contractors and Volunteers.

The policy also applies to all information that is or should be reasonably known as confidential and/or private which is held by Council and aims to provide clear guidelines to support Councillors and Council employees in balancing the right and duty to inform the public and consult with residents and constituents about Council business with the interest Council has in preventing unauthorised disclosure of confidential or private information.

It is paramount to accept that discretion must be used as it is possible and/or likely that even material which does not bear the words "confidential" or "private" specifically may nevertheless be confidential by its very nature.

### 3. Definitions

**Confidential information** – is information generally not, known by or available upon request, to the public which could be specifically referred to as such information that may relate to Council's commercial or other activities and may include legal advice obtained by Council. Such confidential information includes discussions, documents, electronic data/media, tape recording, emails, facsimiles or attachments.


**Councillors** – duly elected councillors of Cassowary Coast Regional Council

**Information Privacy** - is the obligations on Council when it deals with personal information under the privacy principles in the *Information Privacy 2009*.

**Local Government Employee** – means—

- (a) the chief executive officer; or
- (b) a person holding an appointment under [section 196](#) of the *Local Government Act 2009*.

**Personal information** – is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.



**Privacy Officer** – is a role held by a Governance Officer as appointed from time to time by the Chief Executive Officer as defined within this policy.

#### 4. Principles

Council holds information about a range of matters relating to Council business and information relating to private individuals and commercial entities. Council cannot always know in advance which information – if released – will cause negative outcomes for the Council and residents.

To minimise risks to the Council and residents, the Council will preserve the privacy and confidentiality of information held by Council to the fullest extent possible.

There are a number of laws which require the council to make available information to members of the public or government bodies. The Council will fully comply with its obligations under those laws while also ensuring Council complies with the privacy principles contained in the *Information Privacy Act 2009*.

#### 5. Responsibility

Non-compliance with this policy could place Council in breach of both Sections 171(3) and 200 of the *Local Government Act 2009* and/or the *Information Privacy Act 2009*. It is important to note that an individual could face personal liability and/or criminal prosecution if damage is caused to third parties in some circumstances.

It is a requirement on the part of all those stated above to make themselves aware of the types of information Council deems to be confidential and the personal responsibilities they have to ensuring there is no disclosure of this information.

That requirement extends to—

- exercising due care when handling or using information acquired in your role with Council;
- if you are uncertain, presume information is confidential and seek advice from your supervisor, Chief Executive Officer or Governance Team;
- acknowledge that from time-to-time there will be information that must be treated as confidential because to release it would reduce public trust and confidence in the integrity of Council;
- do not discuss personal information conveyed to you by a local government employee with a third party (also local government employee) unless you have been provided with appropriate consent do so by the individual concerned;
- do not discuss confidential Council information with family, friends and business associates; and
- ensure documents containing confidential information are properly safeguarded at all times.

In order to promote strong privacy governance, the Chief Executive Officer shall ensure that Council has a duly appointed Privacy Officer. The Privacy Officers role is to:

- provide privacy advice internally;
- liaise with the Office of the Australian Information Commissioner and Queensland Information Commissioner;

- co-ordinate the handling of internal and external privacy enquiries, privacy complaints, and requests for access to, and correction of, personal information;
- maintaining a record of Council's personal information holdings;
- assisting with the preparation of Privacy Impact Assessments; and
- measuring and documenting Council's performance against Council's Performance Management Plan.

## 6. Acknowledgement

It is acknowledged that some of the classes of information as stated above may need to be disclosed from time to time for legal proceedings or in accordance with the *Right to Information Act 2009* and/or the *Information Privacy Act 2009*.

When an external party is requesting access to Council records, it should be assumed that there will be information either produced, managed by or given to Council that will be confidential. Access can only be provided to external parties under the relevant legislation, local law, policy or through administrative access.

Where there is a dispute and/or confusion about access, the external party has a legal right to apply under the *Right to Information Act 2009* or *Information Privacy Act 2009* for access.

Council ensures that privacy and confidentiality of information it holds and takes all reasonable precautions to ensure that personal information (about individuals), commercial-in-confidence information (about organisations), or other sensitive information is not misused, intentionally or unintentionally, either within the council or shared with third parties.

In accordance with the *Human Rights Act 2019* (Qld) (**HR Act**) it would be unlawful for Council to make a decision or take an action that is not compatible with human rights, or to make a decision and fail to give proper consideration to relevant human rights. There are exceptions which include where Council could not reasonably have acted differently or made a different decision because of another law. Human rights may also be limited where that limit is justified and reasonable.

## 7. Collection, retention and use of information

Any information supplied to Council will only be used for the purpose for which it was supplied or as required under applicable legislation. Guidelines are in place for the proper storage, access and handling of all confidential information including but not limited to—

- (a) when working with confidential/private information outside of the work place, consideration to:
  - (i) Loss of information
  - (ii) Accidental disclosure
  - (iii) Use of USB Flash Drives and other electronic or telecommunications devices
- (b) maintain privacy by:
  - (i) not discussing work matters with persons not entitled to know such information; and
  - (ii) safeguarding confidential files and information; and
  - (iii) ensuring collected information is only used in a manner consistent with the purpose for which it was originally collected or as required under applicable legislation.
- (c) ensuring physical security by:
  - (i) locking filing cabinets and servers
  - (ii) restricting access to certain areas

- (iii) positioning computer terminals so they cannot be seen by unauthorised personnel
- (iv) questioning unaccompanied or unrecognised visitors
- (v) disposing of paper records and digital storage devices securely.
- (vi) speaking discreetly so as not to allow third parties to overhear information

The personal information that may be collected will depend on the particular purpose for which it is collected and may include but is not limited to:

- telephone numbers
- name and addresses (postal, residential and e-mail addresses);
- age and/or date of birth;
- property ownership and/or occupier details;
- details of resident's/ratepayer's spouse or partner;
- development applications including plans or specifications of buildings;
- pet ownership;
- pensioner/concession information;
- payment history;
- financial, rental or income details;
- details of land valuation;
- power of attorney details;
- wills;
- preferred addresses and methods of contacts;
- details of employment; and
- insurance details.

Council has in place a Social Media Policy that outlines how staff should express opinions and share information in a fashion that, despite it occurring in staff members private lives and during times outside of normal working hours, it could be seen to relate to Council services and corporate initiatives. Any sharing of Council information and/or making statements that are about the Council on social media platforms may be in breach of this policy and/or the Code of Conduct.

## **7.1 Collection Notices**

All personal information that is collected by Council will be collected in a fair and lawful manner. Where possible, Council will publish a collection notice to advise the public that their information is being collected. Collection notices may be included on public forms, on Council's Website and may be displayed at public events.

The Council will take reasonable steps to inform the person whose personal information it collects:

- of the purpose(s) for which the personal information is being collected; and
- if the collection of the information is authorised or required by law, that the collection is so authorised or required; and
- in general terms of its usual practices with respect to the use and disclosure of personal information of the kind collected.



The Council will take reasonable steps to ensure that personal information collected by it, is relevant to the purpose(s) of collection and is up to date and complete.

The Council will take reasonable steps to ensure that the collection of personal information does not unreasonably intrude upon an individual's personal affairs.

The Council may collect information concerning persons from a number of private and public sector agencies, which may include, but is not limited to Centrelink – Services Australia, Office of the Valuer General, Telstra and from individual persons.

## **7.2 Collection of Sensitive Information**

The Council will not collect sensitive information about an individual unless:

- the individual has consented;
- the collection is required by law;
- the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any person; or
- the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

If the Council collects sensitive information about an individual in accordance with the provisions of this Policy, the Council will take reasonable steps to de-identify the information before the Council discloses it.

## **7.3 Maintenance and Storage of Personal Information**

Council will take adequate and reasonable steps to assure appropriate data security.

The Council will take reasonable steps to:

- protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure; and
- maintain its record keeping systems to ensure that all personal information collected is up to date, accurate and complete as far as reasonably practicable; and
- ensure that any person who, on behalf of the Council, uses or discloses personal information held by the Council has appropriate authorisation to do so.

## **7.4 Direct Marketing**

Reasonable expectation to use or disclose:

If Council holds personal non-sensitive information about an individual, it must not use or disclose the information for the purpose of direct marketing except when Council has collected the information from the individual and the individual would reasonably expect Council to use or disclose the information for that purpose (except for sensitive information).

No reasonable expectation to use or disclose:

In the event that the individual would not reasonably expect Council to use or disclose non-sensitive information for direct marketing, the individual needs to have given consent to the use or disclosure of the information for that purpose.

## 8. Confidential Information

Council operates in an environment of public accountability in which it seeks to inform the public of issues under consideration and the nature of decisions made by Council and its committees. Therefore, information should ordinarily be released to the public unless there are compelling reasons which indicate that this is not in the public interest.

Full details of the areas in which information would **always** be treated as confidential and **not** released can be found in the *Information Privacy & Confidentiality Guidelines* Document.

## 9. Personal Information

Personal information **must not be released** to any person unless—

- the information relates only to that person (that is, it is solely information about the person); or
- it is information that relates only to a person, and that person has provided the Council with written authority to release the information to someone else; or
- the Council is obliged under law to release the information to that person.


In accordance with the Code of Conduct for staff, Council staff should only access personal information and records they require to perform their official Council duties.

## 10. Risk Management

This Policy, in part serves to mitigate against the risks associated with the collection, storage, use and disclosure of personal information. Council is committed to ensuring that all staff and elected members are aware of and know how to apply the privacy principles to the information they deal with when performing their duties. Council's Code of Conduct for Employees along with record management procedures helps to reduce the risk of private information being accessed, stored or used incorrectly.

<b>Related forms, policies and procedures</b>	Code of Conduct for Employees Councillor Code of Conduct Social Media Policy
<b>Relevant legislation</b>	Local Government Act 2009 Local Government Regulation 2012 Planning Act 2016 Right to Information Act 2009 Information Privacy Act 2009 Crime and Corruption Act 2001 Human Rights Act 2019 Invasion of Privacy Act 1971
<b>Reference and resources</b>	Office of the Information Commissioner LGAQ

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