

Confidentiality Policy

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Responsible Officer	Manager Development & Governance	Date Approved:	15/11/2023
Review Officer:	Manager Development & Governance	Review Due:	15/10/2027
Author:	Senior Advisor Governance & Compliance	Commencement:	15/11/2023

1. PURPOSE

To set out the obligations of staff and Councillors in relation to handling of confidential information in accordance with requirements under the *Local Government Act 2009* (Qld).¹

2. SCOPE

This policy applies to all representatives of Mareeba Shire Council.

For the purpose of this policy, "Council representatives" includes persons who are or have been:

- a Councillor
- an employee
- contracted staff or supplier
- a volunteer

The policy applies to confidential information Council representatives have acquired whilst engaged by (or duly elected to) Council.

3. POLICY STATEMENT

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. Therefore, information should ordinarily be released to the public unless there are compelling reasons which indicate that this is not in the public interest, or such release is prevented by legislation.

At the same time, Council is conscious of the need to handle Council information in a way that promotes and maintains the public's trust and confidence in the integrity of local government.

For the purposes of this policy, personal information is deemed to be confidential information.

3.1 REQUIREMENTS

- Personal information collected by Council must comply with Information Privacy Principle (IPP) 3 (Schedule 3 of the *Information Privacy Act 2009* (Qld)). The purpose that the information is being collected for must be stated at the time of collection; the information must be relevant to the purpose for which it is collected and the manner of collecting the information must not be an

¹ See *Local Government Act 2009* (Qld) s 200 (employees). See also s 171 (Councillors).

unreasonable intrusion into the personal affairs of the individual.²

- Council confidential information must only be used in ways that promote and maintain the public's trust and confidence in the integrity of Council.
- Confidential information must not be released unless cleared by the appropriate authority or required by legislation. Release of information includes:
 - verbally telling any person about the information or part of the information;
 - providing or letting someone see the original or a copy of documentation or any part of documentation which is confidential;
 - paraphrasing (putting into your own words) any confidential information and providing that in writing or verbally.
- Any incident that results in the inadvertent release of personal information to an unintended or incorrect recipient(s) must be reported to the CEO.
- Councillors and employees must exercise due care when handling or using confidential information.
- Councillors and employees may only access confidential information for a relevant purpose as declared by legislation, formally adopted Council and administrative policies and procedures, established Council business protocols and/or formally ratified Council decisions.
- where any doubts exist as to whether the information is considered to be confidential, the Councillor or employee is to act on the assumption that it is confidential until the doubt is removed by an *authorised person* or via a subsequent meeting of Council.
- A breach of this policy must be reported to the CEO immediately upon detection.

3.2 CONFIDENTIAL INFORMATION

The following types of information shall be deemed to be confidential to Council unless or until formally released in a particular instance:

- Commercial in confidence information including where the release of information would affect a third party's competitive advantage.
- Information derived from government departments or ministers that has been classified as confidential.
- Information of a personal nature or about personal affairs, for example, personal details of Councillors, employees, and members of the public.
- Information relating to property disposal or acquisition procedures where the release of the information may prejudice Council.
- Financial and legal analysis where the disclosure of that information may compromise Council or a third party.

² See also *Information Privacy Act 2009* (Qld) sch 3 s 2(3), sch 3 s 10(1)(a).

- Information that could result in action being taken against Council for defamation.
- Information involving legal advice to council or a legal issue or matter before the courts.
- Information that is expressly given to councillors or staff in confidence.
- Information about the appointment, dismissal or discipline of employees or industrial relations matters affecting employees.
- Information about the dismissal or discipline of Council employees or elected members.
- Information about Council's budget including rating concessions unless cleared for public release.
- Contracts proposed to be made by Council.
- Personal details relating to breaches of local laws.
- Personal details relating to rates in arrears.
- Matters involving potential or actual insurance claims and liability.
- Information that the Mayor, CEO or CEO's delegate has declared (or Council has resolved) to be confidential information, until declared to the contrary.

4. REPORTING

No additional reporting is required.

5. DEFINITIONS

Authorised person – means a person who holds office as appointed by the CEO under s 202 of the *Local Government Act 2009* (Qld).³

Information – is knowledge communicated or received concerning some fact or circumstance; news and knowledge on various subjects, however acquired. Information comes in any number of forms including letters, reports/documents, facsimiles, attachments, tapes, e-mails, electronic media, and/or other forms of information including discussions during formal and informal meetings.

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.⁴

6. RELATED DOCUMENTS AND REFERENCES

Information Privacy Act 2009 (Qld)
Local Government Act 2009 (Qld)

³ See especially *Local Government Act 2009* (Qld) ss 202(1)-(2).

⁴ See *Information Privacy Act* (Qld) s 12.

7. REVIEW

It is the responsibility of the Manager Development & Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.