



Confidentiality Policy

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1. POLICY INTENT

This policy is made by the Chief Executive Officer pursuant to Sections 171 and 200 of the Local Government Act 2009 and sets out the obligations of staff and Councillors when dealing with confidential information.

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. BACKGROUND

Section 171(3) of the *Local Government Act 2009* sets out provisions relating to the release of confidential information by Councillors.

Section 200 (5) of the *Local Government Act 2009* sets out provisions relating to the release of confidential information by local government employees.

Section 27 of the *Information Privacy Act 2009* requires agencies including local governments to comply with the Information Privacy Principles (IPPs) set out in schedule 3 of the Act.

In summary, the IPPs are:

- The information must be necessary for the agency's work, and collected fairly and lawfully.
- An agency must take steps to tell individuals why they are collecting personal information, what laws give them the authority to collect it, and to whom they usually disclose it.
- An agency must take steps to ensure the personal information it collects is relevant, up-to-date and complete and not collected in an unreasonably intrusive way.
- Personal information must be stored securely to prevent its loss or misuse.
- An agency must take steps to record the type of personal information that they hold and to give individuals access to personal information about them. Personal information can be amended or corrected if it is wrong.

- An agency must keep accurate, complete and up-to-date personal information; using information for a relevant purpose; and only using the information for another purpose in special circumstances, such as with the individual's consent or for some health and safety or law enforcement reasons.
- An agency may disclose personal information to someone else, for example, another agency. This can only be done in special circumstances, such as with the individual's consent or for some health and safety or law enforcement reasons.

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

4. 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 the local government.

4.1 DEFINITIONS

'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.

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.

- 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 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.

4.2 REQUIREMENTS

- Personal information collected by Council must comply with IPP3 (Schedule 3 of the *Information Privacy Act 2009*). 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 unreasonable intrusion into the personal affairs of the individual.
- 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.
- 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 defined by legislation, policies, procedures, Council business requirements and/or Council decisions.
- Personal information will be assumed to be confidential.
- If there are any doubts 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 resolved by an authorised officer or a subsequent meeting of Council.
- A breach of this policy must be reported to the CEO as soon as possible.

5. BREACH OF POLICY

Any breach of this policy and applicable legislation may result in disciplinary action being taken, up to and including referral to the tribunal or imprisonment.

6. REVIEW

It is the responsibility of the Director Corporate and Community Services to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed every two years or as required by Council.

7. REFERENCES

Local Government Act 2009 Queensland, <https://www.legislation.qld.gov.au/>

Information Privacy Act 2009 Queensland, <https://www.legislation.qld.gov.au/>