

1. Policy intent

- 1.1 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 Local Government employees, contractors and Councillors when dealing with confidential information.
- 1.2 The policy complies with the *Information Privacy Act 2009*.

2. Scope

- 2.1 This policy applies to all representatives of the Tablelands Regional Council.
- 2.2 For the purpose of this policy, "Council representatives" includes persons who are or have been:
 - a. a Councillor
 - b. an employee
 - c. contracted staff a volunteer
- 2.3 The policy applies to information Council representatives have acquired whilst engaged by (or duly elected to) the TRC.

3. Background/supporting information

- 3.1 The following legislation should be read in conjunction with this policy:
 - a. Section 171 of the *Local Government Act 2009* sets out provisions relating to the use of information, including confidential information, by Councillors.
 - b. Section 200 of the *Local Government Act 2009* sets out provisions relating to the use of information, including confidential information, by local government employees and contractors.
 - c. 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.
- 3.2 In summary, the IPPs are:
 - a. Personal information may only be collected for a lawful purpose directly related to a function or activity of the agency.
 - b. The agency must make the individual aware of the purpose for which the information is being collected and the identities of any agencies it plans to pass the information on to.
 - c. The agency must ensure that an individual's information is complete, up-to-date and fit-for-purpose. The collection of personal information must not be an unreasonable intrusion into the personal affairs of the individual.
 - d. Personal information must be secured.
 - e. Upon request, individuals must be informed about their personal information and the purpose it is used for.

- f. Information may only be used for the purposes it was collected for.
 - g. Disclosure of personal information is limited.
- 3.3 For the purposes of this policy confidential information also includes information that contains personal details.

4. Policy statement

- 4.1 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.
- 4.2 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.

5. Definitions

- 5.1 '*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, emails, electronic media, and/or other forms of information including discussions during formal and informal meetings.
- 5.2 The following types of information shall be deemed to be confidential to Council unless or until formally released in a particular instance:
- a. Commercial in confidence information including where the release of information would affect a third party's competitive advantage;
 - b. Information derived from government departments or ministers that has been classified as confidential;
 - c. Information of a personal nature or about personal affairs, for example personal details of Councillors, employees and members of the public;
 - d. Information relating to property disposal or acquisition procedures where release of the information may prejudice Council;
 - e. Financial and legal analysis where the disclosure of that information may compromise Council or a third party;
 - f. Information that could result in action being taken against Council for defamation;
 - g. Information involving legal advice to council or a legal issue or matter before the courts;
 - h. Information that is expressly given to councillors or staff in confidence;
 - i. Information about the appointment, dismissal or discipline of employees or industrial matters affecting employees;
 - j. Information about the dismissal or discipline of Councillors (other than required by law to be released)
 - k. Information about Council's budget including rating concessions unless cleared for public release;
 - l. Contracts proposed to be made by Council;
 - m. Personal details relating to breaches of local laws;

- n. Personal details relating to rates in arrears;
- o. Matters involving potential or actual insurance claims and liability
- p. Information that the Mayor, CEO or CEO's delegate has declared (or Council has resolved) to be confidential information, until declared to the contrary.

6. Requirements

- 6.1 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.
- 6.2 Council information must only be used in ways that promote and maintain the public's trust and confidence in the integrity of the Tablelands Regional Council
- 6.3 Confidential information as per the Definitions at 4.1 must not be released unless cleared by the appropriate authority or required by legislation. Release of information includes:
 - a. Orally telling any person about the information or part of the information;
 - b. Providing or letting someone see the original or a copy of documentation or any part of documentation which is confidential;
 - c. Paraphrasing (putting into your own words) any confidential information and providing that in writing or orally.
- 6.4 Councillors and employees must exercise due care when handling or using confidential information.
- 6.5 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.
- 6.6 Confidential information should be clearly identified as confidential.
- 6.7 Information containing personal details will be assumed to be confidential.
- 6.8 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.
- 6.9 A breach of this policy must be reported to the CEO as soon as possible.

7. Responsibility

Council is responsible for the adoption, amendment and repeal of the Policy and the Chief Executive Officer is responsible for the development and amendment of any associated procedures and guidelines relevant to the Policy.

8. Review

It is the responsibility of the General Manager Organisational Services to monitor the adequacy of this policy and recommend appropriate changes. This policy will be formally reviewed every three years or as required by Council.

This Policy is to remain in force until otherwise amended/repealed by resolution of Council.

This Policy repeals the former Tablelands Regional Council Policy titled "Confidentiality Policy" adopted 20 September 2012.

JUSTIN COMMONS
CHIEF EXECUTIVE OFFICER