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## CONFIDENTIALITY POLICY

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*Version 1 adopted on 17 September 2014 by Council Resolution 1014/014.*

### 1. PURPOSE

The purpose of this policy is to set out the obligations of Council Representatives when dealing with confidential information.

### 2. REPEAL

This policy repeals the *Handling Confidential Information for Councillors Policy 2008*.

### 3. SCOPE

This policy applies to all Council Representatives and the information they have acquired in the course of their duties or as a result of their dealings with Council.

### 4. RESPONSIBILITIES

The administration of this policy is the responsibility of the CEO when dealing with Council Representatives other than councillors.

It is the individual responsibility of each councillor to comply with this policy and their obligations under the *Local Government Act 2009*.

### 5. DEFINITIONS

**CEO** means the Chief Executive Officer of Council.

**Council Representative** means all persons acting on behalf of Council or providing services to Council, including councillors, staff, suppliers, volunteers, consultants and contractors engaged by Council.

**Deemed Confidential Information** means –

- a) all information containing personal details or information of a personal nature or about personal affairs;
- b) any information declared to be confidential by the CEO or CEO's authorised delegate until otherwise resolved by Council;
- c) all information discussed in or dealt with in closed meetings of Council;
- d) commercial-in-confidence information which may affect a third party's competitive advantage or be detrimental to Council's commercial interests;

- e) information obtained from ministers, government departments or any other source that has been classified as confidential, or in the circumstances could reasonably be expected to be kept confidential;
- f) information related to property acquisition or disposal, including pricing;
- g) financial and legal advice and analysis that may compromise the interests of Council or a third party;
- h) information that could result in action being taken against Council or a Council representative for defamation;
- i) information that is expressly given to Council representatives in confidence;
- j) information about the appointment, termination or disciplinary action of Council representatives or industrial matters affecting employees;
- k) information about individual drug and alcohol test results;
- l) information about Council's budget planning, discussions and draft budgets, including rating, unless approved by Council for public release;
- m) contracts or agreements proposed to be made by Council;
- n) matters involving potential or actual insurance claims and liability, including public liability and work-related claims;
- o) information that the Mayor has declared to be confidential until declared to the contrary by the Mayor or by resolution of Council.

**Information** means knowledge or details communicated or received directly or indirectly concerning some fact, matter or circumstance of relevance to Council. The form of information may include but is not limited to documents, letters, reports, memorandums, facsimiles, emails, electronic media, discussions, statements and advice, whether obtained formally or informally, or whether access to the information is authorised or unauthorised.

**Relevant Purpose** means a purpose as required by law, policies, procedures, business requirements and by resolution of Council and is a purpose directly relevant to the role and responsibilities of the Council representative.

## 6. POLICY

- a) In the interests of transparent and open government, Information is available to the public unless it is Deemed Confidential Information;
- b) Personal information collected by Council must only be used for the purpose for which it was collected and pursuant to Council's *Information Privacy Policy* and the *Information Privacy Act 2009*;
- c) Information must only be used in ways that maintain and promote public confidence in the integrity and ethics of Council;
- d) Deemed Confidential Information must not be released to another person unless expressly authorised by Council, the CEO or CEO's delegate. The release of information includes –
  - i. informing any person by any means about the information or part of the information;
  - ii. allowing a person to see a document or part of a document that is confidential;
  - iii. paraphrasing any confidential information;
- e) Council representatives must exercise due care when handling or using Deemed Confidential Information;

- f) Council representatives must only access Deemed Confidential Information for a Relevant Purpose;
- g) If there are any doubts as to whether or not information is confidential, a Council representative must act on the assumption that it is confidential until declared otherwise.
- h) Breaches of this policy by a Council representative must be reported to the CEO as soon as practicable.
- i) Breaches of this policy may result in disciplinary action pursuant to the *Local Government Act* including –
  - i. by councillors – referral to the tribunal for misconduct (s171(3));
  - ii. by employees (which is defined to include contractors pursuant to the *Local Government Act*) –
    - maximum penalty of 100 penalty units or 2 years imprisonment (s200 (5));
    - dismissal, demotion, deduction in pay of up to two penalty units, written reprimand or warnings (*Local Government Regulation 2012*, Chapter 8, Part 3).

## 7. REFERENCES

*Local Government Act 2009* – s171(3) (Use of information by councillors) and s200 (Use of information by local government employees).

*Information Privacy Act 2009.*

*Information Privacy Policy – Carpentaria Shire Council.*

## 8. SUPPORTING INFORMATION

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

Section 200 of the *Local Government Act* sets out provisions relating to the use of information, including 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 that Act. In summary, the IPPs are—

1. Personal information may only be collected for a lawful purpose directly related to a function or activity of the agency.
2. 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.
3. The agency must ensure that an individual's information is complete, up-to-date and fit for purpose.
4. The collection of personal information must not be an unreasonable intrusion into the personal affairs of the individual.
5. Personal information must be secured.
6. Upon request, individuals must be informed about their personal information and the

- purpose it is used for.
7. Information may only be used for the purposes it was collected for.
  8. Disclosure of personal information is limited.

## 9. NEXT REVIEW

This policy is to remain in force until otherwise determined by Council.

## 10. RESOLUTION

Adopted by Council on the 17 September 2014 by Council Resolution 1014/014.



Chief Executive Officer