

POLICY DOCUMENT

13.63.1

Policy Name	PRIVACY
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Responsible Department:	Corporate & Community
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Next review date:	Council will review this policy 4 years after adopted date or following significant change to legislation or aspects included within this policy.
Applicable Legislation:	Local Government Act 1999 Privacy Act 1988 Planning, Development and Infrastructure Act 2016 Freedom of Information Act 1991 State Records Act 1997 Commonwealth Copyright Act 1968 (IPPS) Instruction (Cabinet Administrative Instruction) SA State Govt.
Related Policies:	Employee Code of Conduct Elected Members Code of Conduct Records Management Policy Social Media Policy
Related Documents:	Request for Personal Information 13-36-T2 State Records - Freedom of Information Application form Request for Personal Information Ratepayer or Resident 13-36-T3

1. PURPOSE

The Council is committed to a culture that protects privacy of individuals and will endeavour to protect the personal information it collects, stores, discloses and uses. This Policy outlines the “best practice” approach adopted by Council to the management of personal information and access to information.

The Privacy Act sets out the principles which must be followed by Commonwealth Government agencies and many private organisations in relation to the collection, maintenance and use of personal information. The provisions of the Privacy Act do not directly apply to Councils within South Australia, however Council acknowledges that the Privacy Principles contained within the Privacy Act set an appropriate standard for privacy protection and this Policy is intended to achieve “best practice” consistency with those standards.

The provisions of the *Copyright Act 1968* creates property rights that Council are bound by, including the right to prevent copying of written and artistic works. Information frequently received, considered and retained by Councils such as engineering and other expert reports, plans, diagrams and drawings are protected by copyright, such that their reproduction, other than in accordance with the *Copyright Act*, may give rise to an actionable copyright infringement.

2. **SCOPE**

This Policy applies to the personal information that Council collects from all sources and stores, including the reproduction of documents under the Planning, Development and Infrastructure Act 2016, State Records Act 1997 and Freedom of Information Act 1991, and the provision of copies of relevant documents or personal information to the public.

All staff, volunteers, Elected Members, work experience placements, trainees, contractors and consultants are bound by this Policy.

3. **DEFINITIONS**

The following definitions will apply throughout this Policy:

“the Council” means City of Port Lincoln;

“Access” means providing to an individual, information themselves that is held by the Council. This may include allowing that individual to inspect personal information or to obtain a copy;

“Collection” means gathering, acquiring or obtaining personal information from any source and by any means, including information that the Council has come across by accident or has not asked for;

“Consent” means voluntary agreement to some act, practice or purpose;

“Disclosure” means the release of information to persons or organisations outside the Council. It does not include giving individuals information about themselves;

“Personal Information” means information, documentation 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 a natural living person whose identity is apparent, or can reasonably be ascertained, from the information or opinion, including a photograph or other pictorial representation of a person;

but does **not** include information that is:

- in generally available publications;
- in material kept in public records and archives such as the Commonwealth or State archives;
or
- in anything kept in a library, art gallery or museum for the purpose of reference, study or exhibition.

“Use” means the handling of personal information within a Council including the inclusion of information in a publication.

“Work” has the same meaning as this term in the Copyright Act. ie a literary, dramatic, musical or artistic work.

4. COLLECTION AND USE OF PERSONAL INFORMATION

All personal information collected by the Council is to be used only for the purpose of conducting Council business in accordance with the Local Government Act, 1999 (and other relevant Acts under which the Council is charged with any responsibility including the Planning, Development and Infrastructure Act 2016) and in the provision of Council services to the City's residents and/or ratepayers; this includes the assessment record (Local Government Act 1999 Section 172).

The type of personal information that is collected and held will depend on the services provided to residents and ratepayers, but may include: -

- Telephone numbers
- Name and address (both postal and residential addresses)
- Age &/or date of birth
- Property Ownership and/or Occupier details
- Details of resident's/ratepayer's spouse or partner
- Development Applications including plans of buildings
- Email addresses
- Electoral Roll details
- Payment History
- Financial, rental or income details
- Pensioner/concession information
- Library membership details

All information will be collected in a fair and lawful manner and as required/permitted by law. The Council is committed to ensuring that residents and/or ratepayers are aware of the purpose of collection of the information and aware that the collection is authorised or required by law.

In satisfying the collection and use of personal information obligations, which the Council has to its residents and/or ratepayers, the Council assumes that:

- a) Any personal information provided by residents and/or ratepayers is free from errors and omissions, is not misleading or deceptive, is accurate and current, and complies with all relevant laws; and
- b) Residents and/or ratepayers have the necessary authority to provide any personal information submitted to the Council;

The Council relies on the personal information provided to it. The Council may obtain information concerning ratepayers or residents from a number of sources including Centrelink, the State Electoral Office, Officer of the Valuer General, SA Water, and from ratepayers and residents. The Council may not check or verify the accuracy of any personal information it obtains from residents and/or ratepayers or other persons.

It is the responsibility of residents and/or ratepayers to provide the Council with details of any changes to their personal information as soon as reasonably practicable following such change in order to maintain accurate information.

In some instances the personal information held by the Council about residents and/or ratepayers may incorporate or summarise views, guidelines or recommendations of third parties. The Council will endeavour to assemble and record such personal information in good faith, but cannot guarantee that it will necessarily involve a considered review of the information.

5. MAINTENANCE AND STORAGE OF INFORMATION

Council will take reasonable steps and use appropriate security mechanisms to ensure that the personal information held by Council is protected from misuse and loss, and from unauthorised access, modification or disclosure.

Security breaches are investigated promptly and appropriate actions taken.

Council will maintain its record keeping systems to ensure that all personal information collected is up-to-date and complete as is reasonably practical, in accordance with the State Records Act 1997 as applicable to local government agencies.

Any person who, on behalf of Council, uses or discloses personal information held by Council must have appropriate authorisation to do so. Breaches may result in disciplinary action.

The Council does not track residents' and/or ratepayers' Internet activity when they visit the Council's website.

6. DISTRIBUTION OF PERSONAL INFORMATION

The Freedom of Information Act 1991 (Act) came into effect on 1st January 1992. It extends to every person the right to:

- Obtain access to information held by SA State and Local Government;
- Ensure that those records are not incomplete, incorrect etc.

Exemptions apply, including where disclosure of the held information would breach privacy, or cause damage to business, intergovernmental relations or law enforcement.

6.1. *Generally available Public Information*

Information that is generally available in publications, such as the telephone book, Voters Roll, Councils Assessment Record (Local Government Act 1999 Section 174) or is available through public records may be given to third parties.

6.2. *Disclosure of Personal Information to Third Parties*

The Council will not permit the disclosure of any other personal information it holds on residents and/or ratepayers to third parties, except:-

- Where a written request for minimal personal information, such as a postal address for fencing purposes, about a third party has been made, and if deemed necessary that third party has been contacted by Council and has subsequently given their written approval for the information to be supplied

(13-36-T2 – Request for Personal Information)

- In regard to a request for 'significant' information, such as a third party development application documents, a request for information should be made under the Freedom of Information Act 1991. Fees are applicable for the lodgement of the request and for the time taken for council staff to process and make a determination on the request. The lodgement fee is non-refundable even if the request is denied once assessed. The copying of plans may be restricted by copyright laws.

[\(State Records - FOI Application\)](#)

- Plans are protected by the copyright laws and any person requesting a copy of the plans should obtain written consent from the copyright owner i.e. architect.
- Where the owner of copyright cannot be located (e.g. where an architect is no longer in business, deceased or not contactable), Council may provide copies of the plans to the person who requested them, provided that the person requesting the plans has a reasonable basis for their request.
- A current owner of a property may inspect information/plans etc. about their property. A charge may be made for any copies as per our fees and charges schedule and subject to copyright laws.

(13-36-T3 – Request for Personal Information Ratepayer or Resident)

- Where the provision of personal information is for the purpose of distributing materials for the sole purpose of and on behalf of the Council (eg. the provision of address data for use by a mailing service provider to post Rates Notices);
- Where the third party has been contracted by the Council to provide advice or services for the sole purpose of assisting the Council to provide benefits to residents and/or ratepayers (eg. State Electoral Office, Office of the Valuer General, insurers);
- Where the Council is required by legislation to provide personal information to a third party (eg provision of personal information to the State Electoral Office) or to the public at large in accordance with the Local Government Act or to an applicant under the Freedom of Information Act where the information is not otherwise exempt; and
- Where the resident and/or ratepayer has been advised of the Council's usual practice of disclosing personal information to that third party or a third party of that type for a particular purpose and the disclosure is consistent with that purpose.
- As part of the public notification required, and related to lodgements of a development application.
- Where it is required or authorised by law; or
- For the enforcement of the criminal law or law imposing a pecuniary penalty.

Before the Council provides personal information to a third party service provider that is subject to the provisions of the Privacy Act, that supplier will be required to provide a signed 'Privacy Undertaking' to Council stating that it will comply with the Privacy Act and the National Privacy Principles in respect to the collection, use and handling of personal information supplied by the Council.

The Council does not accept any responsibility for any loss or damage suffered by residents and/or ratepayers because of their reliance on any personal information provided to them by the Council or because of the Council's inability to provide residents and/or ratepayers with any requested personal information.

Before relying on any personal information the Council provides to residents and/or ratepayers, the Council expects that residents and/or ratepayers will first seek confirmation from the Council about the accuracy and currency of such personal information..

7. DISABILITY CLAIMS AND FINANCIAL HARDSHIP APPLICATIONS

Personal information obtained in relation to claims for disability benefits and financial hardship claims will be used solely for the purposes of facilitating the claim to which the personal information relates, unless the residents and/or ratepayers have specifically given permission in writing for it to be used for other applications or to be provided to a third party.

8. ACCESS AND AMENDMENT TO PERSONAL INFORMATION

Residents and/or ratepayers who wish to access their own personal information that the Council holds can do so by applying to Council in Writing. These requests will be dealt with as soon as is reasonably practicable, having regard to the nature of the information requested. The person making the request will need to satisfy Council as to their identity prior to the information being released and may need to submit a written request and may be required to pay a fee.

When an enquiry is not made in person (eg. by email), information will only be sent to the current postal or residential address or be collected from the Civic Centre administration office with prior arrangement, provided that suitable identification is provided at time of collection.

If resident and/or ratepayer can show that the personal information held by Council is not accurate or complete, it will be amended by Council staff.

9. SUPPRESSION OF PERSONAL INFORMATION

Personal information may be suppressed from the Council's assessment record and from the Council's Voters Roll where the CEO of the Council is satisfied that the inclusion of the name and/or address on the assessment record and/or roll would place at risk the personal safety or wellbeing of a resident / ratepayer, a member of that person's family, or any other person.

Enquiries regarding suppression of personal information should be directed to Customer Service staff in the first instance.

10. COMPLAINTS

Council staff must be aware of their obligations regarding confidentiality and privacy of information and breaches of these obligations will be dealt with under the Employee Code of Conduct.

Residents and/or ratepayers who have any concerns regarding how the Council handles personal information or require further information should contact the Manager People, Governance & Communication in the first instance.

If the Manager People, Governance & Communication cannot satisfy the resident's and/or ratepayers concerns, the Resident and/or Ratepayer may lodge a formal complaint. Complaints should be made in writing to:

Chief Executive Officer
City of Port Lincoln
PO Box 1787
PORT LINCOLN SA 5606

11. RELEVANT DELEGATED POWERS AND DUTIES

Any actions or decisions made regarding this policy will be enacted upon as per Council's current Delegations Register.