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## CONFIDENTIAL INFORMATION POLICY

### ***INTENT***

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To ensure that Councillors and Council staff fully understand their legislative obligations when dealing with confidential information.

### ***SCOPE***

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This policy applies to all Councillors and Council Staff and to all confidential information acquired or accessed whilst engaged by (or duly elected to) Council.

### ***DEFINITIONS***

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| TERM                            | DEFINITION   |
|---------------------------------|--|
| <b>Councillors</b>              | Any elected representative who has held office with Council either current or past.  |
| <b>Confidential Information</b> | Is information generally not known by, or available upon request to, the public which: <ul style="list-style-type: none"> <li>• Identifies and relates to a particular individual; or</li> <li>• Carries a risk that – if released or improperly used – would cause harm to Council or a member of the community, or give an unfair advantage to someone.</li> </ul>         |
| <b>Information</b>              | 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. |
| <b>Personal Information</b>     | 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   |

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| TERM         | DEFINITION   |
|--------------|--|
|              | whose identity is apparent, or can reasonably be ascertained, from the information or opinion.   |
| <b>Staff</b> | Any person who has been an employee of Council (permanent, part-time and/or casual), volunteers, work experience, contractors or consultants either current or past. |

## **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.

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.

It is accepted that Councillors and staff will be in receipt of confidential information acquired during the normal conduct of their duties with Council. It is Council's responsibility to ensure that such information is treated confidentially, so as not to harm, prejudice or compromise the interests of Council or any individual or organisation, or enable any individual or organisation to gain a financial advantage.

However, it should be noted that this policy does not override an individual Councillor's or staff statutory obligations in respect of the use of information, nor does it override Council's obligations under legislation or subordinate legislation to disclose or publish information where this is required by law.

### **CONFIDENTIAL INFORMATION**

The following types of information shall be deemed to be confidential to Council unless or until Council resolves to the contrary in a particular instance:

- Commercial in confidence information — including where the release of information would affect a third party's competitive advantage; this is particularly relevant in a competitive tender situation.
- Information derived from government departments or Ministers that have been classified as confidential.
- Information of a personal nature or about personal affairs, for example the personal details of Councillors or Council staff.
- Information relating to a property disposal or acquisition process where release of the information may prejudice Council. Financial and legal analysis where the disclosure of that information may compromise Council or someone else.
- Information that could result in action being taken against Council for defamation.
- Information involving legal advice to Council or a legal issue or a matter before the

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courts.

- Information that is expressly given to Councillors or staff in confidence.
- Information examined or discussed at Councillor workshops or briefing sessions, unless the CEO or relevant General Manager declares that such information (or part thereof) is not confidential.
- Information examined or discussed in a Closed Council Meeting pursuant to the *Local Government Regulation 2012*.

It is acknowledged that some of the above classes of information may need to be disclosed from time to time for legal proceedings or in accordance with the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

### **CLOSED SESSION REPORTS**

Whilst endeavouring, in the interests of public accountability, to limit the number of matters which are considered in confidential sessions, Council acknowledges that it is appropriate to consider certain matters in closed meetings.

Under Section 254J of the *Local Government Regulation 2012* Council may resolve that a meeting be closed to the public if its Councillors or members consider it necessary to close the meeting to discuss –

- the appointment, discipline or dismissal of the chief executive officer; or
- industrial matters affecting employees; or
- the local government's budget; or
- rating concessions; or
- legal advice obtained by the local government or legal proceedings involving the local government including, for example, legal proceedings that may be taken by or against the local government;
- matters that may directly affect the health and safety of an individual or any group of individuals;
- negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of a local government;
- negotiations relating to the taking of land by the local government under the *Acquisition of Land Act 1967*;
- a matter the local government is required to keep confidential under a law of, or formal arrangement with, the Commonwealth or State.

The Chief Executive Officer has the responsibility of preparing the agenda for a Council meeting. In doing that, the agenda will indicate items in open and closed session. A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed and the resolution (other than a procedural resolution) must not be made in a closed meeting.

### **RESPONSIBILITIES OF COUNCILLORS AND STAFF**

Councillors and staff must make themselves aware of the types of information Council deems to be confidential and the personal responsibilities they have to ensuring there is no disclosure of this information:

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- exercise due care when handling or using information acquired in their role with Council;
- acknowledge that there will be information that must be treated as confidential because to release it would reduce public trust and confidence in the integrity of the Council;
- acknowledge that disclosure of confidential information constitutes a breach of the *Local Government Act 2009* and this policy, and that the individual could face personal liability for damages caused to third parties;
- if uncertain, presume information is confidential, and seek advice from the Chief Executive Officer prior to any release of it;
- undertake not to disclose, and to use their best endeavours to prevent disclosure of, confidential information to any person or organisation, specifically:
  - avoid discussing confidential Council information with family, friends and business associates; and
  - ensure documents containing confidential information are properly safeguarded at all times – including materials stored at private or business residences.

## RELEASE OF CONFIDENTIAL INFORMATION

A breach of this policy and/or legislation in releasing confidential information by a Councillor and/or staff member will be a breach of relevant Code of Conduct and accordingly will be referred to the applicable authority to instigate any appropriate action deemed necessary.

## KEY RESPONSIBILITIES

| RESPONSIBLE OFFICER | RESPONSIBILITY  |
|---------------------|---|
| Mayor & Councillors | To ensure they are familiar with legislative and policy obligations when dealing with confidential information. |
| Council Staff       | To ensure they are familiar with legislative and policy obligations when dealing with confidential information. |

## REFERENCES, LEGISLATION AND GUIDELINES

*Local Government Act 2009*

*Local Government Regulation 2012*

*Public Sector Ethics Act 1994*

*Right to Information Act 2009*

*Information Privacy Act 2009*

*Code of Conduct for Councillors in Queensland (August 2020)*

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## **RELATED DOCUMENTS**

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D20/5552 -Code of Conduct Policy (Staff)

## **IMPLEMENTATION/COMMUNICATION**

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Requirements of this policy will be communicated to Councillors and staff through induction programs.

## **APPROVED BY**

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Council resolution 2022/171

## **REVIEW**

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|  |                         |
|--|-------------------------|
| <b>SPONSOR:</b>                        | Chief Executive Officer |
| <b>OFFICER RESPONSIBLE FOR REVIEW:</b> | Governance Coordinator  |
| <b>ADOPTION DATE:</b>                  | 26 July 2022            |
| <b>REVIEW DATE:</b>                    | July 2025               |

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***THIS POLICY IS TO REMAIN IN FORCE UNTIL OTHERWISE DETERMINED BY COUNCIL***

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## AMENDMENT HISTORY

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| VERSION | AMENDMENT DETAILS | AMENDMENT DATE | APPROVAL                    |
|---------|-------------------|----------------|-----------------------------|
| V1.0    | New Policy        | July 2019      | Council Resolution 2019/175 |
| V2.0    | Amendments        | July 2022      | Council Resolution 2022/171 |

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