

# Information Privacy Policy

Information Privacy Act 2009

## 1. Policy Statement

Townsville City Council (Council) collects and manages personal information in the course of performing its activities, functions and duties.

The way in which the Council manages personal information is governed by the *Information Privacy Act 2009* (Qld) (IP Act). This Policy sets out how Council collects and manages the personal information that it holds in accordance with the requirements of the IP Act.

## 2. Principles

In dealing with personal information, Council complies with the obligations imposed on personal information requirements and obligations prescribed under the IP Act and the Information Privacy Principles (IPPs).

## 3. Scope

This policy applies to Workers and Councillors.

## 4. Responsibility

All Councillors and Workers are responsible for ensuring this policy is understood and adhered to at all times.

## 5. Definitions

**Access** - means providing an individual with personal information about himself or herself that is held by the Council. This may include allowing that individual to inspect personal information or to obtain a copy of the personal information.

**CCTV system** - includes any system installed by the Council to electronically record and display video or audio/video of any public place or Council facility.

**Collection** - means gathering, acquiring or obtaining personal information from any source and by any means.

**Consent** - in relation to solicited information, means a voluntary agreement (express or implied) to some act, practice or purpose. The individual must be adequately informed before giving consent and must have the capacity to understand and communicate their consent.

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**Disclosure** - means the release of personal information to persons or organisations outside the Council (**receiving entity**) where the receiving entity does not know the personal information and the Council ceases to have control over the receiving entity in relation to who will know the personal information in the future. It does not include giving individuals personal information about themselves.

**IP Act** - means the *Information Privacy Act 2009* (Qld).

**Manager** - means an individual responsible for overseeing and coordinating specific functions, departments, teams or projects within Townsville City Council.

**Personal information** - means 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 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.

**Use** - means the handling of personal information within Council including the inclusion of personal information in a publication, taking personal information into account in the making of a decision, or transferring the information from one part of the Council with particular functions to another part of the Council having different functions.

**Workers** - includes employees, contractors, volunteers and all others who perform work on behalf of Council.

## 6. Policy

The IP Act sets out the ways in which Council must handle personal information. It also gives individuals the right to request a copy of their personal information and request for documents to be amended if they are inaccurate or out of date.

When assessing whether it is in the public interest to disclose personal information, the Council will consider the factors detailed in the *Right to information Act 2009* (RTI Act) namely the matters that:

- are irrelevant to deciding the public interest;
- favour disclosure in the public interest; and,
- favour non-disclosure in the public interest.

### 6.1. Openness

A copy of this policy will be available for public access at Council's Customer Service Centres and on its website at [www.townsville.qld.gov.au](http://www.townsville.qld.gov.au).

Types of personal information held by Council include:

- names and addresses;
- telephone numbers;
- dates of birth;
- age and gender information;
- car registration and driver's licence details;
- email addresses;
- Tax File Numbers;

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- Medicare numbers;
- customer or account numbers assigned to individuals by Council;
- employment details;
- photographs or video of individuals;
- property ownership and/or occupier details;
- animal ownership;
- payment histories;
- pensioner / concession details; and
- library membership.

The Council collects and holds personal information for many purposes, including:

- determining rates;
- delivering waste services;
- assessing property development;
- processing applications for registration, permits and licenses; and
- maintaining Council run facilities.

Disclosure of personal information is only made after prior written consent of the individual or for purposes stated in clause 6.4.10.

## 6.2. Transfer of Personal Information Outside Australia

In complying with its obligations under s.33 of the IP Act, Council will transfer an individual's personal information to someone outside Australia only if:

- the individual agrees to the transfer; or
- the transfer is authorised or required by law; or
- Council is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- two or more of the following apply:
  - Council reasonably believes that the recipient is subject to a law, binding scheme or contract that effectively upholds the principles for the fair handling of personal information that are substantially similar to the IPPs;
  - the transfer is necessary for the performance of Council's functions in relation to the individual;
  - the transfer is for the benefit of the individual and it is impracticable to seek their consent, but if it were practicable, the individual would be likely to consent;
  - Council has taken reasonable steps to ensure that personal information it transfers will not be held, used or disclosed by the recipient in a way that is inconsistent with the IPPs.

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## 6.3. Contracted Service Providers

Council will take all reasonable steps to ensure that contracted service providers comply with the requirements of the IP Act (Chapter 2, Parts 1 and 3) when they are provided with, or collect, personal information in order to provide services on the Council's behalf.

## 6.4. Information Privacy Principles (IPP)

### 6.4.1 Collection of Personal Information (Lawful & Fair) (IPP1)

All personal information collected by Council will be used only for the purpose of conducting Council business and for the provision of services to the community.

Council will only collect personal information in a lawful and fair manner for a purpose directly related to and necessary to fulfil a function or activity of Council.

### 6.4.2 Collection of Personal Information (Requested from an Individual) (IPP2)

When Council requests personal information or information of a type that would include the personal information from an individual, it will take all reasonable steps to ensure that the individual is generally aware of the purpose of the collection.

Council will advise the individual if the collection of the personal information is authorised or required under a law and the applicable law authorising the collection.

Where the Council's usual practice is to pass on personal information to another entity, Council will advise the individual of the name of that entity either before the personal information is collected or as soon as practicable after the personal information is collected.

Council installs closed circuit television (CCTV) systems in public areas for the purpose of promoting public safety and minimising damage or theft of Council assets. All CCTV systems are to be operated in a way that minimises intrusion upon individual privacy while still allowing the system to serve the objectives for which it was installed. The way Council manages CCTV systems is detailed in the Management, Operation and Use of Closed Circuit Televisions and Recording Devices Policy.

### 6.4.3 Collection of Personal Information (Relevance) (IPP3)

Council will take all reasonable steps to ensure that personal information collected is relevant to the purpose for which it is collected, is complete and up to date. The collection of personal information will not be done in a way that is an unreasonable intrusion into the personal affairs of the individual.

### 6.4.4 Storage and Security of Personal Information (IPP4)

Council will ensure that any personal information contained in a document under its control is protected against misuse, loss, unauthorised access, unauthorised use, modification, disclosure or any other abuse.

Data security includes physical security, operational security and security of transmission. Council will take all reasonable steps to prevent unauthorised use or disclosure of personal information by service contractors contracted for the provision of a service to Council. Information is stored on Council's databases which are protected by passwords and other security measures with back-up copies stored at offsite facilities.

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### 6.4.5 Providing Information about Documents Containing Personal Information (IPP5)

Council will take all reasonable steps to ensure that a person can find out whether it has control of any documents containing personal information, the type of personal information, the main purpose which the personal information is used and how an individual can obtain access to a document containing their personal information.

### 6.4.6 Access To, And Amendment Of, Documents Containing Personal Information (IPP6 & 7)

An individual may request in writing access to their own personal information under the IP Act. Council will provide access to requested information unless it is authorised or required under an access law to refuse to give the access the individual is seeking or the document is excluded from the operation of an access law. Suitable identification must be provided prior to an individual accessing the documents requested.

An individual may apply for amendment of their personal information if the information is inaccurate, incomplete, out of date or misleading.

The Council's Information Privacy Brochure contains further details about the process for seeking access to, and amendment of, personal information. Information privacy applications must be made using the approved form which is available online (<https://www.townsville.qld.gov.au/payments-rates-and-permits/forms-and-permits>).

Unless a different processing time is agreed with the individual, Council will process information privacy applications within twenty five business days, provided that the application meets all the requirements. If an application does not comply with all application requirements, Council must make reasonable efforts to contact the individual within fifteen business days of receiving the application, so as to provide an individual with a reasonable opportunity to comply with the application requirements.

If an individual does not take steps to make an application compliant, Council may refuse to process it. In this case, Council will provide the individual with notice of the decision within ten business days after making the decision.

There are no application fees where an individual is applying to access or amend their personal information. However, for applications which contain one or more documents which do not concern an individual's personal information, there is an application fee. In addition, if the application takes more than five hours to process, a processing charge may be payable for the time spent searching for or retrieving a document or making a decision about access. If there is a processing charge, an individual will be given a "charges estimates notice" before their application is progressed.

### 6.4.7 Checking of Accuracy of Personal Information Before Use By Council (IPP8)

Council will take all reasonable steps to ensure that, having regard to the purpose for which the personal information is proposed to be used, the information is accurate, complete and up to date.

### 6.4.8 Use of Personal Information Only Relevant Purpose (IPP9)

Council will only use the parts of personal information that are directly relevant to fulfilling the particular purpose for which it was collected.

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## 6.4.9 Limits on Use of Personal Information (IPP10)

Personal information collected by Council for a particular purpose will not be used for another purpose unless:

- Council is satisfied on reasonable grounds that the use is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- use of personal information for another purpose is authorised or required under law; or
- Council is satisfied on reasonable grounds that use of the personal information for another purpose is necessary for 1 or more of the following by or for a law enforcement agency:
  - the prevention, detection, investigation, prosecution or punishment of criminal offences of breaches of laws imposing penalties or sanctions;
  - the enforcement of laws relating to the confiscation of the proceeds of crime;
  - the protection of the public revenue;
  - the prevention, detection, investigation or remedying of seriously improper conduct;
  - the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal,provided that, in each case, the Council includes with the document a note of the use.
- the other purpose is directly related to the purpose for which the information was obtained; or
- the use of the personal information is necessary for research or the compilation or analysis of statistics in the public interest; does not identify any particular individual the subject of the personal information; and it is not practicable to obtain the agreement of each individual the subject of the personal information before the use.

## 6.4.10 Limits on Disclosure (IPP11)

Council will not disclose personal information to a person, body or agency (other than the individual concerned) unless:

- the individual concerned is reasonably likely to have been aware, or made aware under IPP 2, that information of that kind is usually passed to that person, body or agency; or
- the individual concerned has consented (either expressly or impliedly) to the disclosure; or
- the Council is satisfied on reasonable grounds that the disclosure is necessary to prevent or lessen a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- the disclosure is required or authorised by or under law; or
- the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue; or
- the disclosure is reasonably necessary for the prevention, detection, investigation or remedying of seriously improper conduct or the preparation for, or conduct of, proceedings of a court or tribunal, or implementation of the orders of a court or tribunal; or
- a duly authorised Australian Security Intelligence Organisation (ASIO) officer has requested that the information be disclosed and has certified that the personal information is required in connection with the performance of ASIO's functions and the disclosure is made to a duly authorised ASIO officer; or

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- the disclosure is necessary for research or the compilation or analysis of statistics in the public interest; does not identify any particular individual the subject of the personal information; it is not practicable to obtain the agreement of each individual the subject of the personal information before the disclosure; and Council is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.

Where personal information is disclosed for the purposes of enforcement of the criminal law or of a law imposing a pecuniary penalty or for the purpose of the protection of the public revenue or for purposes connected to remedying seriously improper conduct or the implementation of court or tribunal orders, the Council shall include in the record containing that information a note of the disclosure.

A person, body or agency to whom personal information is disclosed under this clause shall not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency. The information may be used for a commercial purpose involving the Council's marketing of anything to the individual only if the Council is satisfied on reasonable grounds that:

- it is impracticable to seek the consent of the individual before the personal information is used for the purposes of the marketing; and
- the person, body or agency will not charge the individual for giving effect to a request from the individual that the individual not receive any marketing communications; and
- the individual has not made a request that the individual not receive any marketing communications; and
- the person, body or agency prominently displays a notice in each marketing communication, or draws to the individual's attention, that the individual may ask not to receive any further marketing communications; and
- each written marketing communication from a person, body or agency to the individual states the business address and telephone number of that person, body or agency.

Council will ensure that disclosure of personal information does not occur unless the disclosure is:

- for the purpose of distributing materials for and on behalf of the Council; or
- when a third party has been contracted by Council, for the sole purpose of assisting Council in providing services to its community; or
- required to be made by law or for a law enforcement purpose.

## 6.5. Internal and External Review

An individual may seek internal review of a decision by the Council. The application for internal review must:

- be in writing;
- state an address to which notices may be sent to the applicant for internal review;
- be made within 20 business days after the date of the written notice of the decision; and
- be lodged at an office of the Council.

Instead of an internal review, an individual may seek external review of the Council's initial decision by the Queensland Information Commissioner. The application for external review must:

- be in writing;
- state an address to which notices may be sent to the applicant for external review;

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- give details of the decision for review;
- be made within 20 business days from the date of the written notice of the decision; and
- be lodged with the Queensland Information Commissioner.

## 6.6. Complaints

An individual can make a complaint about any act or practice that breaches the Council's obligations under the IP Act about the individual's personal information.

An individual should contact the Council and discuss the complaint with Legal Services or the Council's complaints section. An individual may also make a formal written complaint to the Council that outlines the act or practice that has breached the Council's obligations under the IP Act. The Council will treat all complaints in accordance with its Complaints Management Policy.

If an individual is not satisfied with the Council's response, they may make a privacy complaint to the Queensland Information Commissioner, provided that at least 45 business days have elapsed since the complaint was first made.

## 7. Legal Parameters

*Local Government Act 2009*

*Local Government Regulation 2012*

*Information Privacy Act 2009*

*Information Privacy Regulation 2009*

*Right to Information Act 2009*

*Right to Information Regulation 2009*

*Human Rights Act 2019*

## 8. Associated Documents

Confidentiality Policy

Complaints Management Policy

Right to Information Policy

Information Privacy Brochure

Management, Operation and Use of Closed Circuit Televisions and Recording Devices Policy

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