

HANDLING OF CONFIDENTIAL INFORMATION POLICY (ADMINISTRATIVE POLICY)

1 Scope:

This policy applies to current and former Councillors, employees, volunteers and contractors of the Rockhampton Regional Council.

2 Purpose:

To:

- Provide guidance in complying with section 250 of the *Local Government Act 1993* and sections 171 and 200 the *Local Government Act 2009* regarding the proper handling of confidential information; and
- Assist Council in determining what might be considered confidential information and how this information should be handled.

3 Related Documents:

Primary

Nil

Secondary

Crime and Corruption Act 2001

Integrated Planning Act 1997

Local Government Act 1993 (Until June 30 2010)

Local Government Act 2009 (From 1 July 2010)

Right to Information Act 2009

Sustainable Planning Act 2009

Code of Conduct

Complaint Management Policy

Information Security Policy

Information Security and Handling Guidelines – Crime and Misconduct Commission advisory publication

Privacy Complaint Handling Procedure

Reporting Official Misconduct Policy

Right to Information Policy

4 Definitions:

To assist in interpretation, the following definitions apply:

CCC	Crime and Corruption Commission
CEO	<i>Chief Executive Officer</i> A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position

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Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Council	Rockhampton Regional Council
Council Table	The body of elected Councillors of Rockhampton Regional Council
Councillor/s	The Mayor and Councillors of Rockhampton Regional Council, within the meaning of the <i>Local Government Act 2009</i> .
Employee	<i>Local government employee:</i> (a) the chief executive officer; or (b) a person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Information	information in any number of forms including letters, reports/documents, facsimiles, attachments, tapes, emails, electronic media, and/or other forms of information including discussions during meetings
Manager	3 rd line management – Rockhampton Regional Council Structure and Band 3 under Council's Human Resource Management Delegations Policy
Volunteer	Any person, who of their own free will, offers to undertake unpaid work for Council and is accepted as a Volunteer by the Chief Executive Officer and/or his authorised delegates

5 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 the Council table and its Committees. 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, employees, volunteers and contractors will be in receipt of confidential information that may or may not be part of a formal Council meeting. 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.

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 items in closed meetings.

5.1 Responsibilities

Councillors, employees, volunteers and contractors must be aware of their responsibilities and agree (either through the Oath of Office or Code of Conduct) that they should:

- Exercise due care when handling or using information acquired in their role;
- Acknowledge that there will be information that must be treated as confidential, because to release it would prejudice public trust and confidence in the integrity of Council;
- Acknowledge that disclosure of confidential information constitutes a breach of the *Local Government Act 2009* and that Council may take disciplinary action for any damages caused;

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- If uncertain, presume information is confidential and seek advice from the CEO or manager/general manager 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.
- Not use confidential information to gain improper advantage for themselves or any other person or body; and
- Not use confidential information to cause harm or detriment to Council or any other person or body.

5.2 Confidential Information

The following types of information are deemed to be confidential to Council unless or until the Council table resolves to the contrary:

- Commercial in confidence information, including where the release of information would affect a company's competitive advantage (particularly including competitive tender situations);
- 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 employee;
- 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 relating to clients of Council;
- Information not owned or controlled by Council;
- Information that could result in any action being taken against Council for defamation;
- Information involving legal advice to Council or a legal issue or a matter before the courts;
- Information that is expressly given in confidence; or
- Information about:
 - The appointment, dismissal or discipline of employees;
 - Industrial matters affecting employees;
 - The local government's budget;
 - Rating concessions;
 - Contracts proposed to be made by it;
 - Starting or defending legal proceedings involving it; or

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- Any action to be taken by Council under the *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009*, including deciding applications made to it under the Act.

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

5.3 Confidential Information at Council Meetings

As a minimum, the following may occur relating to matters addressed at the Council table or Committee meetings:

- The CEO may make a declaration that information concerning a specific matter is to be treated as confidential to Council and the information will remain confidential unless or until Council resolves to the contrary;
- An item on a Council or Committee meeting agenda, including the information contained in the documentation or supporting material, that is declared confidential by the CEO is to remain confidential unless or until the Council table or relevant Committee resolves to the contrary;
- If the Mayor or a Councillor in a meeting asks that a matter be treated as confidential, the Council table will formally resolve as to whether all information concerning the matter is confidential;
- If a meeting of a Committee resolves an item, including the information contained in the documentation or supporting material, is to be confidential it will remain confidential unless or until the Council table resolves to the contrary;
- If the Council table exercises its powers to close a meeting to members of the public, all information in relation to the matters discussed during that closed meeting or the closed portion of the meeting is confidential, unless and until the Council table resolves to the contrary;
- Confidential information will be clearly identified, where possible, as confidential;
- Any information of a type deemed to be confidential (as per section 5.2) is presumed to be confidential to Council and must not be released without seeking advice from the CEO or manager/general manager; or
- If there is any doubt as to whether Council considers information to be confidential, it should be assumed that Council intends the information to be confidential until the doubt is resolved at a subsequent meeting at the Council table.

5.3 Release of Confidential Information

Any release of confidential information for any purpose to any person or organisation (other than to those who are entitled to the information) is a breach of the *Local Government Act 1993* (until 1 July 2010) and the *Local Government Act 2009* (beyond 1 July 2010).

Release of information can include:

- Orally telling any person about the information or any part of the information;
- Providing the original or a copy of documentation or any part of the documentation that is marked confidential; or
- Paraphrasing any confidential information and providing that in writing or orally.

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5.4 Breach of this Policy

Legislation makes it clear that when Councillors, employees, volunteers or contractors, in the course of carrying out their duties, receive information that is not available to the public they must not misuse the information, particularly for personal gain.

A person may make a complaint about a statutory breach by a Councillor of this provision by giving written notice of the complaint to the local government's CEO.

A person may make a complaint about a statutory breach by an employee, volunteer or contractor in line with Council's Complaint Management Policy.

6 Review Timelines:

This policy will be reviewed when any of the following occur:

- 6.1. The related information is amended or replaced; or
- 6.2. Other circumstances as determined from time to time by the Council.

7 Responsibilities:

Sponsor	Chief Executive Officer
Business Owner	Chief Executive Officer
Policy Owner	Manager Governance Support
Policy Quality Control	Corporate Improvement and Strategy

EVAN PARDON
CHIEF EXECUTIVE OFFICER

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