

 <p><b>Mackay</b> REGIONAL COUNCIL</p>	<b>COUNCIL POLICY</b>	
	<b>Information Privacy Policy</b>	
	POLICY NO	046
	DEPARTMENT	Organisational Services
	PROGRAM	Governance & Safety
	ADOPTED BY COUNCIL	24 February 2021 Resolution: ORD-2021-55

## 1.0 Scope

This Policy applies to personal information held by Mackay Regional Council (MRC) which Councillors, MRC employees, contractors and volunteers are responsible for complying with.

This Policy sets out the MRC's approach to managing the personal information that MRC is provided, produces and holds.

## 2.0 Purpose

MRC collects and manages personal information in the course of performing its activities, functions and duties.

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

## 3.0 Reference

- *Information Privacy Act 2009*
- *Information Privacy Regulation 2009*
- *Right to Information Act 2009*
- *Right to Information Regulation 2009*
- 077 - Closed Circuit Television (CCTV) Policy
- 078 - Provision and Use of Recording Devices Policy
- 086 - Remotely Piloted Aircraft Policy and Procedure

## 4.0 Definitions

To assist in interpretation, the following definitions shall apply:

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

**Application** shall mean an Application made to access information under the *Right to Information Act 2009* and *Information Privacy Act 2009* and shall apply to all of MRC's business activities.

**Collection** means gathering, acquiring or obtaining personal information from any source and by any means, including information that the MRC has come across by accident or has not asked for.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**IP Act** shall mean *Information Privacy Act 2009*

**Mackay Safe Night Precinct** shall mean Mackay's Central Business District encompassing an area between Milton to Tennyson Streets and River to Shakespeare Streets, Mackay.

**MRC** shall mean Mackay Regional Council.

**MRC Facility** shall mean premises, or any MRC property, which is visited by members of the general public, where employees, volunteers or contractors work, or any part of such premises or property.

**Personal Information** 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 whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**RTI Act** shall mean *Right to Information Act 2009*.

**Surveillance** shall mean surveillance of a facility or workplace by means of a camera that monitors or records visual images or activities on premises or in any other place.

## 5.0 Background

The IP Act commenced on 1 July 2009, replacing Information Standards 42 and 42A: Information Privacy.

The IP Act establishes a personal information privacy framework (under the Information Privacy Principles (**IPPs**)) and a personal information access and amendment regime which is separate from the *Right to Information Act 2009* (RTI Act).

## 6.0 Policy Statement

MRC is committed to protecting the personal information that it holds in accordance with the requirements of the IP Act. As part of this, MRC will comply with the IPPs contained in the IP Act namely:

- IPP 1: Collection of Personal Information (lawful and fair);
- IPP 2: Collection of Personal Information (requested from an individual);
- IPP 3: Collection of Personal Information (relevance);
- IPP 4: Storage and Security of Personal Information;

- IPP 5: Providing Information about Documents Containing Personal Information;
- IPP 6: Access to Documents Containing Personal Information;
- IPP 7: Amendment of Documents Containing Personal Information;
- IPP 8: Checking of Accuracy of Personal Information before use by MRC;
- IPP 9: Use of Personal Information only for Relevant Purpose;
- IPP 10: Limits on Use of Personal Information;
- IPP 11: Limits on Disclosure;

## **6.1 Anonymity**

MRC will, wherever it is lawful and practicable, offer individuals the option of not identifying themselves when entering into transactions with the MRC.

## **6.2 Personal Information**

MRC collects personal information so that it can properly conduct its functions, powers, operations and commercial activities. This means that MRC collects personal information for a range of purposes including:

- to review and consider any applications or submissions submitted to the MRC (for example, development and building applications, applications for food or entertainment permits);
- to process any MRC related payments or transactions made with the MRC (for example, payment of MRC rates and water bills);
- to conduct any MRC compliance inspections (for example, building inspections and food or health inspections, CCTV monitoring and recording);
- to inform members of the public of MRC local news and developments or events where members of the community have requested to be notified of (for example, MRC newsletters and notices);
- to enable MRC to respond to complaints and concern raised by members of the public;
- to answer any search requests submitted by a member of the public for publicly available information (for example, property-related searches);
- to register pets;
- to apply for funding
- to respond to any communications and correspondence from members of the public (which includes answering any queries, and dealing with any feedback or complaints);

- for MRC employees or persons who have applied for employment or employment related activities at MRC - to process employment applications, and to process any employment related tasks at any time (for example, to verify employment related matters and information, grant building and IT access, to manage salary arrangements) and generally to facilitate and enable the employment, development and management of employees, volunteers, and contractors in an appropriate and efficient manner;
- to maintain any MRC information databases (e.g., community organisation databases), memberships (e.g. library membership) records or registers including those that are required under Federal or State legislation to maintain;
- to administer and enforce any legislation which MRC is required to administer and enforce;
- to provide services in respect of MRC owned software;
- to undertake surveys to inform service delivery planning and review;
- to otherwise perform MRC functions, duties and activities. This includes but is not limited to any statutory duties MRC has including those to other government bodies.

MRC collects personal information for these purposes in a number of ways including when people contact MRC directly by writing a letter, by telephone, email, internet or other form of electronic communication. When people visit and/or communicate with MRC through our websites (for example through an online enquiry form) or social media sites or when people participate in a competition or promotion run by MRC, personal information may also be collected.

This means that the MRC may collect and hold a range of personal information including:

- names;
- residential and postal addresses;
- dates of birth and gender;
- contact details including work and private email addresses and telephone numbers;
- photos and video images (for example, from security cameras at MRC-controlled venues);
- tax file numbers;
- customer or account numbers assigned to individuals by MRC;
- Australian Business Numbers;

- property ownership and/or occupier details;
- animal ownership;
- payment histories;
- pensioner / concession card details; and
- library membership;
- employment related personal information including personnel files; including, but not limited to:
  - a person’s salary, bank account or financial details;
  - emergency contact information and next of kin;
  - diversity identifiers such as ATSI, disability, gender, age and multilinguistic;
  - performance and conduct file notes and disciplinary matters;
  - allegations of wrongdoing against a person or details of wrongdoing or offences they may have committed;
  - skills, certifications and educational qualifications;
  - the fact that a person is a member or leader of an association and their attendance at meetings;
  - medical details or health information;
  - membership of a trade union or professional body;

Personal information includes some information people may not normally consider to be private, for example:

- Opinions given as part of a person’s employment;
- The fact that a person is the author of a report;
- A person’s name appearing in work documents;
- A letter written in a person’s official capacity, such as a letter from the president of a club.

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

- Determining rates;
- Delivery waste services;

- Assessing property development;
- Library and other memberships;
- Employment and employment related engagement of individuals;
- Processing applications for registration, permits and licenses; and
- Maintaining MRC run facilities and functions.

### 6.3 Exemptions from IPPs

The IPPs do not apply to information that is in the public domain. This includes personal information that is in a document generally available from a library, art gallery, museum, website or the Queensland State Archives.

MRC is not required to comply with certain IPPs in relation to an individual's personal information if that information has previously been published, or given for the purpose of publication, by the individual.

Under the IP Act, publish means publish to the public by way of television, newspaper, radio, the internet or other form of communication.

The IPPs do not apply where another Act requires MRC to make certain personal information publicly available (i.e. Development information on PD online - requirement under the *Planning Act 2016*). The IP Act will defer to any other Act which provides for the collection, storage, handling, management, use or disclosure and transfer of personal information. A requirement to use or disclose personal information under another Act overrides the relevant IPPs.

Where an act or a practice of MRC is necessary for the performance of a contract which was entered before the commencement of the IP Act, the IPPs do not apply to that act or practice.

Under the IP Act, deceased people cannot have personal information. The definition of an individual is a "natural person". A natural person can only be a living person. In some circumstances, information about a deceased person may also be personal information about a living person, e.g. family records, therefore the IPPs would apply.

In general, a commercial business or a community organisation does not have personal information. Disclosure of information about a company or a community organisation may not be a breach of the IPPs unless the personal information of an individual within that company or organisation was disclosed.

### 6.4 Transfer of Personal Information Outside Australia

In complying with its obligations under s.33 of the *IP Act*, MRC may 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
- MRC 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:
  - MRC 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 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;
  - MRC 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.

## **6.5 Access to, and Amendment of, Documents Containing Personal Information**

An *individual* may request in writing to access their own personal information under the *Information Privacy Act 2009*.

MRC will provide access to the 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.

Applications to access and amend personal information are to be made via the following Queensland State Government forms:

- (a) [Right to Information Privacy Access Application](#) – for an individual to apply to access their personal information; and
- (b) [Information Privacy Personal Information Amendment Application](#) – for an individual to apply to amend their personal information.

All applications are coordinated by the Governance & Safety program which nominates the appropriate decision maker to deal with the application in accordance with the Act.

## 6.6 Use and Disclosure of Personal Information

MRC will only use the information it holds for the purpose for which it was collected. Other uses of that information will only occur when required by law or with the express permission of the relevant individual or their appointed representatives.

It is MRC's policy that personal information will not be divulged, sold, traded or made available to third parties outside of MRC for their independent use unless the person to which the information relates has authorised, in writing, for MRC to do so, or the disclosure is required or allowed by law.

It is MRC's policy that personal information will not be made available in a public forum without the express written permission of the third party and other individuals detailed in any correspondence or collected in any way.

Where MRC out-sources functions that involve the collection, utilisation and/or holding of personal information, contractual measures will be taken to ensure that the contractors and subcontractors do not act in a way that would amount to a breach of the Privacy Principles.

These measures include undertaking a privacy impact assessment to identify the impact that the project undertaken by the contractor might have on the privacy of individuals, and sets out recommendations for managing, minimising or eliminating that impact in accordance with the Office of the Information Commissioner "[Guide to undertaking privacy impact assessments](#)".

This assessment acknowledges the need to maintain the confidentiality of personal information and abide by all applicable laws. MRC will not permit third parties to sell or use the information for their own purposes.

Contracts with third parties will include clear provisions about the purposes for which the contractor is to use the information and other provisions necessary to ensure the contractor does not make unauthorised disclosures. They will also contain provisions about how the contractor is to keep the information secure, and what it must do with the information when it has completed the works under the contract.

## 6.7 Documents to which the Privacy Principles DO NOT Apply

These documents to the extent they contain personal information include:

- (a) arising out of, or in connection with, a controlled operation or controlled activity under the *Police Powers and Responsibilities Act 2000* or the *Crime and Corruption Act 2001*; or
- (b) arising out of, or in connection with, the covert undertaking of an operation, investigation or function of a law enforcement agency; or
- (c) obtained under a warrant issued under the *Telecommunications (Interception and Access) Act 1979 (Cwlth)*; or



- (d) a document to the extent it contains personal information about a person who is included in a witness protection program under the *Witness Protection Act 2000* or who is subject to other witness protection arrangements made under an Act; or
- (e) arising out of a complaint under the *Police Service Administration Act 1990*, Part 7; or
- (f) arising out of a complaint, or an investigation of corruption, under the *Crime and Corruption Act 2001*; or
- (g) contained in a public interest disclosure under the *Public Interest Disclosure Act 2010*; or
- (h) that has been collected in an investigation arising out of a public interest disclosure under the *Public Interest Disclosure Act 2010*; or
- (i) a document to the extent it contains personal information that is also the subject of the Right to Information Act, Schedule 3, Section 1, 2 or 3; or
- (j) a document to the extent it contains personal information arising out of a commission of inquiry; or
- (k) generally available publication; or
- (l) kept in a library, art gallery or museum for the purposes of reference, study or exhibition; or
- (m) a public record under the *Public Records Act 2002* in the custody of Queensland State Archives that is not in a restricted access period under that Act; or
- (n) a letter, or anything else, while it is being transmitted by post.

## 6.8 CCTV Systems and Recording Devices

MRC may have CCTV coverage over areas that are not MRC worksites but are in areas available for public use. As the imagery collected may provide the opportunity to identify an individual, the use of these cameras is also covered by *Information Privacy Act 2009* and the *Commonwealth Privacy Act 1988*.

Currently the activities associated with these include:

- surveillance and monitoring of areas for gathering evidence of illegal dumping or other compliance activities;
- motor vehicle identification as part of mobile parking infringements monitoring;
- surveillance of Mackay's central business district encompassing an area between Milton to Tennyson Streets and River to

Shakespeare Streets in conjunction with the Queensland Police Service;

- part of operations at leased/contractor operated sites e.g. recycling facilities, sewerage plants etc. where access restrictions and site security are in place;
- mobile devices on contractor vehicles (i.e. waste collection vehicles);
- general public safety in public areas (boat ramps, parks etc).

All the groups responsible for managing the information collected as a result of these activities will adhere to Privacy Act provisions.

These systems will 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.

Access to CCTV footage for incidents occurring in public areas (i.e. non-MRC facilities, Mackay central business district etc.) must be made via an application for information under the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

Contact should be made with MRC before making an application to ensure footage is still available. Depending on the storage capacity of the CCTV system, CCTV footage may only be store for short time periods. Footage after this time period will be written over by the system and this footage will not be able to be viewed or available under an application.

## **6.9 Remotely Piloted Aircraft (Drones)**

MRC may use drones to record images and audio in compliance with the privacy obligations in the *Information Privacy Act 2009*.

In ensuring that its use of drones is in a private respectful way MRC will:

- have a clearly defined purpose to ensure the information is complete and relevant and minimise potential drone intrusions;
- know and comply with all applicable laws, such as civil aviation regulations or laws about audio recording of conversations;
- design the drone program with privacy in mind at the outset enabling MRC to address issues more easily, including conducting of a privacy impact assessment prior to flight;
- engage with the community via a clear and comprehensive communication strategy to inform the community about the drone use event;
- develop policies and procedures to govern the drone activities to meet privacy obligations and communicate these to all employees;

- take all steps to safeguard the personal information in the air and on the land captured by the drone;
- ensure contracted service providers are contractually bound to comply with these same privacy obligations; and
- enable the community to exercise their right to access information held by government.

## 6.10 Surveys

MRC is committed to engaging with employees and the community by undertaking surveys in order to improve performance and service delivery, and to better plan services and facilities for the community.

MRC is required to meet the IPP requirements when conducting internal and external surveys.

MRC will ensure that when conducting surveys, the following will be taken into consideration:

- Provide a relevant collection notice for each individual survey, advising:
  - why the information is being collected;
  - whether there is a legislative authority for collection;
  - how the information will be use; and
  - who the information will be shared with.
- Collect only what personal information is relevant;
- Will conduct a survey in a lawful and fair manner so it is not an unreasonable intrusion;
- Ensure survey questions are relevant to the survey purpose. MRC will be mindful of the types of questions which may identify an individual i.e. demographic characteristics, gender, age, occupation, nationality, free text options etc. (Please note that specific surveys may require this information).
- Storage and disposal of the data collected. Where possible responses will be de-identified;
- Information collected will only be used for that purpose;
- Where possible will not use a survey tool which transfers information outside of Australia;

Information in relation to [conducting surveys](#) is available on the Office of Information Commissioner's website.

## 6.11 Privacy Impact Assessments

[Privacy impact assessments](#) will be used to assess the privacy impacts of any major MRC project or new initiatives and where necessary identify ways in which the obligations set out in the IP Act can be met.

Templates for the documents can be located on the Office of Information Commissioner's website.

## 6.12 Training

MRC will ensure that all appropriate officers undertake training in relation to the management of personal information.

Specialised training will be provided every three years to those employees undertaking compliance, enforcement, right to information and information privacy complaint management.

## 6.13 Complaints

### 6.13.1 External Complaints

If a member of the public is not satisfied with the manner in which MRC has dealt with their personal information or handled their request for access/amendment to their personal information, they may lodge a formal complaint under MRC's Administrative Action Complaints Policy, a copy of which can be found on the MRC's website.

### 6.13.2 Internal Complaints

MRC employees may raise any complaint about the handling of their personal information with their manager or the Manager Governance & Safety for investigation and response.

### 6.13.3 Investigation of Complaints

The Governance & Safety Program, in consultation with the relevant program, will assess each complaint received and determine the appropriate complexity according to the criteria outlined in the table below in order to establish the service delivery standard for processing time against which performance will be measure:

Type of complaint	Criteria	Decision Timeframe
<b>Low Complexity Complaints</b>	Low complexity complaints require no investigation and can be easily addressed through the provision of information, or through negotiating a desired outcome, perhaps through face-to-face or over the phone - a written response may not be required. Low	Up to 10 business days

Type of complaint	Criteria	Decision Timeframe
	complexity complaints should be managed at the program level.	
<b>Medium Complexity Complaints</b>	Medium complexity complaints may require some research into the matter; it might also require some negotiation/facilitated discussion with the complainants or consultation with other areas of MRC. They are rated a medium complexity and typically include issues that relate to a single incident or a decision. Some investigation or fact finding of the complaint issues may be required. Typically, medium complexity complaints contain a small number of issues. A written response is required.	Up to 30 business days
<b>High Complexity Complaints</b>	<p>High Complexity Complaints are matters where there are a large number of complaint issues; or where the complaint issues may refer to possible systemic concerns. These matters will typically involve complainants providing very detailed and lengthy background information that requires time to address.</p> <p>The matters can be of a very complex nature which may involve working with a number of programs in order to reach an outcome. Formal investigation may be required, involving assessment of information, and may involve interviews or discussions with employees and other relevant persons, including external consultation.</p>	Up to 45 business days

If necessary, the Manager Governance and Safety may extend the timeframe for processing an administrative action complaint to 60 business days. If an extension is granted, the complainant is required to be notified before the expiry of the initial timeframe.

## 7.0 Review of Policy

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

1. The related documents are amended or replaced; and/or
2. Other circumstances as determined from time to time by a resolution of the Council.

Notwithstanding the above, this Policy is to be reviewed at intervals of no more than three (3) years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendments made to content of document	Council	16.12.15
3	Review of Policy	Amendments to document	Council	22.02.17
4	Review of Policy	Amendment to document	Council	13.11.19
5	Review of Policy	Amendments to document	Council	24.02.21