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Scope

This Policy applies to all Mackay Regional Council (MRC) Councillors and Staff in the collection and management of Personal Information in performing its activities, functions and duties.

Objective

The purpose of this Policy is to set MRC's position in relation to the management of Personal Information as required by the *Information Privacy Act 2009* and the management of confidential information by the *Local Government Act 2009*.

This Policy aims to:

- Demonstrate to the community how MRC meets its obligations under the *Information Privacy Act 2009 (IP Act)*;
- Provide guidance to MRC Councillors and Staff who deal with Personal Information; and
- Illustrate MRC's commitment to respecting the privacy rights of Councillors, Staff and the community.

Policy Statement

The responsible management of Personal Information is a key aspect of good governance. MRC is committed to upholding the requirements of the Information Privacy Principles (IPPs) contained in the *Information Privacy Act 2009*.

This Policy takes into consideration the diverse range of activities and functions undertaken by Council and provides an overview on compliance will be achieved.

Council considers that to the extent this Policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

This process to remain in force until otherwise determined
by Mackay Regional Council

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0 Principles

The responsible management of Personal Information is a key aspect of good governance.

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)*.

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; and
- IPP 11: Limits on Disclosure.

1.1 Anonymity

MRC will, wherever, lawful and practicable, offer individuals the option of anonymity in certain circumstances when dealing with MRC.

1.2 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, the use of Recording Devices);
- to inform members of the public of MRC local news and developments or events where members of the community have requested to be notified (for example, MRC newsletters and notices);

- to enable MRC to respond to complaints and concerns 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 (including answering any queries, and dealing with any feedback or complaints);
- for MRC Staff 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 Information Services access, to manage salary arrangements) and generally to facilitate and enable the employment, development and management of Staff 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 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; and
- 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.

1.2.1 *How MRC Collects Information*

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:

- customer name – including previous names;
- residential and postal addresses – including address history;
- dates of birth and gender;
- ethnicity;
- contact details including work and private email addresses and telephone numbers;
- photographs and CCTV footage (for example, from security cameras at MRC-controlled venues);
- audio and/or visual recordings;
- 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;
- licence/permit expiry dates;
- customer restrictions;
- financial information;
- pensioner / concession card details;
- library membership; and
- 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; or
- 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; or
- A letter written in a person's official capacity, such as a letter from the president of a club.

1.2.2 *Routine Personal Work Information*

Routine personal work information solely to the work duties of public-sector Staff and is found in almost all documents held by MRC.

When disclosing routine personal work information for a legitimate function of MRC, the infringement of a public-sector Staff right to privacy would, generally, be minimal or non-existent as the disclosure would be a matter of expectation in the legitimate course of their employment.

Routine personal work information includes (but not limited to):

- Staff name, work email address and corporate telephone extension number;
- A professional opinion given wholly in a professional capacity;
- A position classification, for example 'planning officer'; or
- A work responsibility, for example, that the officer is the contact person in response to a complaint or query from a member of the public, information about qualifications held where they are required for the officer's position, for example, where a Senior Engineer holds an engineering degree.

1.2.3 *Social Media*

MRC has a number of official social media accounts to engage with the community. Any personal information shared on these accounts will only be used for MRC functions and activities. Users of these accounts must be aware of their own individual social media site's terms of use and privacy conditions prior to use.

MRC will not disclose personal details to third parties without the individual's consent, unless required or authorised to do so by law.

1.2.4 *Mobile Apps*

Mobile applications or 'apps' are software programs designed to run on a smartphone, tablet computer or other mobile device. MRC currently has a range of mobile apps that are capable of capturing Personal Information such as location, device or contact details. Personal Information that is collected via applications are only used by Council for the purpose it was collected and managed in accordance with the IPPs.

1.2.5 Cloud computing

Cloud computing is a term for moving functions from a computer and agency-owned server to an online environment, usually as a solution for the storage, management, and processing of data. Sometimes cloud computing servers are located outside of Australia, and as a result, Personal Information is transferred overseas. MRC will manage the Personal Information in accordance with the IP Act.

1.3 How MRC Manages Personal Information

1.3.1 *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.

1.3.2 *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.

1.3.3 *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 Corporate Governance team which nominates the appropriate decision maker to deal with the application in accordance with the Act.

1.3.4 *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, unless otherwise permitted or required by law.

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.

1.3.5 *Documents to which the Privacy Principles DO NOT Apply*

The IPPs do not apply to documents to the extent they contain Personal Information:

- (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) that is also the subject of the RTI Act, Schedule 3 Exempt information; or
- (j) 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.

1.4 Surveys

MRC is committed to engaging with Staff 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:

- The inclusion of 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 used; and
 - who the information will be shared with.
- MRC will only collect Personal Information that is relevant to the purpose of the survey;
- MRC will conduct the survey in a lawful and fair manner so it is not an unreasonable intrusion;

- MRC will 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 certain 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 the identified purpose; and
- Where possible, will not use a survey tool which transfers information outside of Australia.

Guidelines about [conducting surveys](#) are available on the Office of Information Commissioner's website.

1.5 Privacy Impact Assessments

[Privacy impact assessments](#) will be used to assess the privacy impacts of MRC projects or new initiatives. Where necessary, these assessments will 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.

1.6 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 Staff undertaking compliance, enforcement, right to information and information privacy complaint management.

2.0 Recording Devices

MRC have Recording Devices in MRC Facilities, but which may not be considered MRC worksites.

As these Recording Devices may provide the opportunity to identify an individual, the use of these devices is covered by IP Act and the *Commonwealth Privacy Act 1988*.

For example, Recording Devices may be used in the following circumstances:

- CCTV surveillance and monitoring in public spaces and MRC controlled facilities and land or as part of other compliance activities;
- motor vehicle identification as part of mobile parking infringements monitoring;

- body worn cameras and electronic recording devices used by Authorised Officers that are undertaking compliance activities; and
- desktop and mobile telephone recording devices for training, performance measuring and protection.

All MRC Programs responsible for managing the information collected as a result of these activities must adhere to IP Act provisions.

These systems will be operated in a way that minimises intrusion upon individual privacy while still allowing the Recording Devices to serve the objectives for which they were installed.

Access to Recording Devices must be made via an application for information under the RTI Act and the IP Act.

Contact should be made with MRC before making an application to ensure the recordings are still available. Depending on storage capacity, Recording Devices may only store recordings for a short period of time before being written over or deleted by the Recording Device and therefore may not be available under an application.

2.1 Remotely Piloted Aircraft (Drones)

MRC may use drones to record information in compliance with the privacy obligations in the IP Act.

In ensuring that its use of drones is in a private respectful way, MRC will comply with the Principles in Clause 1 of this Policy and, in particular, will:

- have a clearly defined purpose to ensure the information is complete and relevant to 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;
- maintain policies and procedures to govern the drone activities to meet privacy obligations and communicate this with Staff;
- take all steps to safeguard the Personal Information 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.

2.2 Body Worn Cameras (BWCs)

Implementation of BWCs in law enforcement agencies has demonstrated benefits including:

- improvement in customer experience through a reduction in response time for complaint management, as accessibility to image and voice data reduces the time associated with investigating complaints;
- efficiency improvements in the digital evidence management workflow; and
- Increases safety of Staff.

When using BWCs, Council will comply with the Principles in Clause 1 of this Policy.

3.0 Complaints

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

3.1 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 this Policy can be found on MRC's website.

3.2 Internal Complaints

MRC Staff may raise a complaint about the handling of their Personal Information with their manager or the Coordinator Corporate Governance for investigation and response.

3.3 Investigation of Complaints

The Corporate Governance team, 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 measured:

Type of complaint	Criteria	Decision Timeframe
Low Complexity Complaints	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 complexity complaints should be managed at the program level.	Up to 10 business days
Medium Complexity Complaints	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
High Complexity Complaints	<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 Staff and other relevant persons, including external consultation.</p>	Up to 45 business days

If necessary, the Coordinator Corporate Governance 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.

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 RTI Act and IP Act and shall apply to all of MRC's business activities.

Body Worn Camera (BWC) shall mean a portable camera worn with captures audio and visual recordings used by MRC Staff.

Close Circuit Television (CCTV) shall mean Close Circuit Television systems installed by MRC to electronically record video and/or audio of any public place or MRC Facility.

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 all elected representatives, including the Mayor, of MRC.

Councillors shall mean an elected representative, including the Mayor of MRC.

IP Act shall mean *Information Privacy Act 2009*

MRC shall mean Mackay Regional Council.

MRC Facility (Facility) shall mean premises, or any MRC property, which is visited by members of the general public, where Staff 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.

Recording Device/s shall mean and include GoPro cameras, close circuit television cameras and systems, body worn cameras, voice recorders, MRC desk and mobile phones with recording voice/audio capability and the storage of files, and the like.

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

Staff shall mean all persons employed by MRC on a permanent, temporary, casual basis, or otherwise engaged by MRC including those under a contract of service or a volunteer program.

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 Review of Policy

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

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

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

6.0 Reference

- *Information Privacy Act 2009*
- *Information Privacy Regulation 2009*
- *Right to Information Act 2009*
- *Right to Information Regulation 2009*
- *Public Records Act 2002*
- 113 - Management of Recording Devices Policy and its associated Corporate Standards:
 - 113.01 Close Circuit Television Systems
 - 113.02 Body Worn Camera Devices
 - 113.03 Telephone Recording Devices
- 086 - Remotely Piloted Aircraft (Drone) Policy and Procedure
- MRC – Code of Conduct

Version Control:

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6	Review of Policy	Updated/Amendments	Council	24.05.23