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INFORMATION PRIVACY

POLICY

1. Purpose

The purpose of this Policy is to formally state The Flinders Ranges Council's (the Council's) position in regard to the collection, maintenance and use of any individual's personal information by Council.

Council will adopt a 'best practice' approach to the management of personal information to ensure the protection of privacy.

2. Legislative Framework

Local Government entities in South Australia are required to collect, maintain and provide certain information to third parties in accordance with the provisions of specified Acts of Parliament, including, but not limited to:

- the *Development Act 1993*, in respect of some development application details;
- the *Local Government Act 1999* in respect of some rating and property assessment information, as well as community land and leasing proposals;
- the *Local Government (Elections) Act 1999* in respect of electoral rolls; and
- the *Land & Business (Sale & Conveyancing) Act 1994* for "Section 7" Statements.

The Council is not bound by the Privacy Act 1998 (Cth) or by the State Government Information Privacy Principles Instruction (Cabinet Administrative Instruction) No 1 of 1989 ("the Privacy Principles"). Whilst these documents apply to a number of public sector agencies in South Australia, they do not apply to Local Government. Accordingly, the Council is not bound by privacy legislation when dealing with information collected in the course of the Council's business.

However, while the Council acknowledges that it is not bound by the *Privacy Act 1988* (Cth) or the Information Privacy Principles, it will endeavour, as far as is reasonably practicable, to ensure that its policies and practices in relation to personal information are consistent with the principles set out in these documents.

3. Principles

The following principles apply to the collection, storage and use of personal information by the Council:

- only information required by law or reasonably required for the effective operation of Council services and programmes will be collected and maintained;
- where possible, the reason for the collection of the information will be disclosed at the time of its collection;
- information is stored within Council's record management systems, having due regard to its level of confidentiality and security; and
- other than for generally accepted Council operations, Council will not, without prior consent of the individual concerned, provide personal information to a third party unless required to do so by law.

4. Definitions

In this Policy, unless specifically noted otherwise:

'access' means providing to an individual, 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 that information.

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‘collection’ means gathering, acquiring or obtaining personal information from any source and by any means, including information that the Council has come across by accident or has not asked for.

‘consent’ means voluntary agreement to some act, practice or purpose.

‘Closed Circuit Television (CCTV)’ is a system used for video surveillance using video cameras and transmitting the recorded data to a recording device or monitor(s).

‘disclosure’ means the release of information to persons or organisations outside the Council. It does not include giving individuals about themselves.

‘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, but does **not** include information that is:

- in generally available publications;
- in material kept in public records and archives such as the Commonwealth or State Archives; or
- in anything kept in a library, art gallery or museum for the purpose of reference, study or exhibition.

‘personal information’ may include images captured by CCTV or Security Cameras.

‘security cameras’ is the camera part of a system used for video surveillance using video cameras and transmitting the recorded data to a recording device or monitor(s).

‘sensitive information’ means information or an opinion about an individual’s:

- racial or ethnic origin;
- political opinions;
- membership of a political association, a professional or trade association or a trade union;
- religious beliefs or affirmations;
- philosophical beliefs;
- sexual preferences or practices;
- criminal record; or
- health,


‘use’ means the handling of personal information within the Council including the inclusion of information within a publication.

5. Policy Statement

All personal information collected by the Council is to be used only for the purpose of conducting business in accordance with the *Local Government Act 1999*, and other relevant Acts under which the Council is charged with any responsibility, and in the provision of Council services to the Council’s residents and/or ratepayers and/or visitors to the Council area.

The type of personal information that is collected and held by Council will depend on the service provided to residents and ratepayers, but may include:

- name and address, (both residential and postal);
- telephone numbers and/or e-mail address;
- age and/or date of birth;
- details of resident’s spouse or partner;
- property ownership and/or occupier details;

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- development applications including plans of buildings;
- dog ownership;
- Electoral Roll details;
- sensitive information regarding health and/or disability details only;
- pensioner/concession Information;
- payment history; and
- images captured by CCTV or Security Camera systems.

5.1 Information Accuracy

In satisfying the collection and use of personal information obligations, the Council assumes that:

- any personal information provided by residents and/or ratepayers and/or visitors to the Council area is free from errors and omissions, is not misleading or deceptive and complies with all relevant laws; and
- residents and/or ratepayers and/or visitors to the Councils area have the necessary authority to provide any personal information submitted to the Council.

The Council relies on the personal information provided to it. The Council may obtain information concerning residents and/or ratepayers and/or visitors to the Council area from a number of external sources including State or Federal Government Departments, and other residents and ratepayers.

It is the responsibility of residents and/or ratepayers and/or visitors to the Council's area to advise the Council in writing of any changes to their personal information as soon as reasonably practicable following such change.

5.2 Information Maintenance and Storage


The Council will take reasonable steps to ensure that the personal information held by the Council is protected from unauthorised access, disclosure, misuse, modification or loss.

The Council will provide such security safeguards as are reasonable in the circumstances and will maintain its records management system to ensure that, as far as is reasonably practicable, all personal information collected is up to date and complete.

5.3 Disclosure of Personal Information

The Council will not provide access to personal information it holds on residents and/or ratepayers and/or visitors to the Council area to third parties, except where:

- the resident and/or ratepayer and/or visitor to the Council area has made a written request for personal information to be provided to a third party;
- the provision of the personal information is for the purpose of distributing materials for the sole purpose of, and on behalf of, the Council (for example, the provision of address data for use by mailing service to post Rate Notices);
- the third party has been contracted by the Council to provide advice or services for the sole purpose of assisting the Council to provide benefits to the residents and/or ratepayers and/or visitors to the Council area (for example, the State Electoral Office, the Office of the Valuer General, or the Council's insurers);
- the Council is required by legislation to provide personal information to a third party (for example provision of personal information to the State Electoral Office, the Ombudsman, or making available the Assessment Record, Dog Register, or Building Application Register) or to the public at large in accordance with the *Local Government Act 1999*, or other specific Acts of Parliament, or the *Freedom of Information Act 1991* where the information is not otherwise exempt; and

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- the resident and/or ratepayer and/or visitor to the Council area has been advised of the Council's usual practice of disclosing personal information to that third party, or a third party of that type for a particular purpose and the disclosure is consistent with that purpose.

Before the Council discloses personal information to a third party service provider that is subject to the provisions of the *Privacy Act 1988* (Cth), that supplier will be required to provide a signed Privacy Undertaking to the Council that it will comply with the provisions of the *Privacy Act 1988* (Cth) and the National Privacy Principles in respect to the collection, use and handling of personal information supplied by the Council.

The Council may supply personal information about an individual to that individual as part of a standard communication or pursuant to request made by that individual.

The Council does not accept any responsibility for any loss or damage suffered by residents and/or ratepayers and/or visitors to the Council area because of their reliance on any personal information provided by the Council, or because of the Council's inability to provide residents and/or ratepayers and/or visitors to the Council area with any requested personal information.

Before relying on any personal information the Council provides, the Council expects the residents and/or ratepayers and/or visitors to the Council area will first seek confirmation from the Council about the accuracy and currency of such personal information.

5.4 Resident and/or Ratepayer Access to their Personal Information

Residents and/or ratepayers who wish to access the personal information that the Council holds in relation to them can do so by contacting the Records Management Officer at the principal Council Office in Quorn. These requests will be dealt with as soon as practicable, having regard to the nature of the information requested. The person making the request will need to satisfy the Records Management Officer as to his/her identity.

If a resident and/or ratepayer can show that the personal information held by the Council is not accurate or complete, the Records Management Officer will take the appropriate steps to have the information amended.

For enquiries made remotely (for example, by telephone, fax, or e-mail) information will only be sent to a postal or residential address, and not to a return fax, e-mail or over the telephone. Information may also be collected from the Council Office Customer Service Staff by prior arrangement, provided that suitable identification is provided at the time of collection.

The Council will not distribute private e-mail addresses to persons outside the Council unless the relevant person has had the opportunity to have their e-mail details suppressed.


5.5 Suppression of Personal Information

A person's name and/or address may be suppressed from the Council's Assessment Record and Voters Roll where the Chief Executive Officer of the Council is satisfied that that the inclusion of the name and/or address in those records could pose a risk to the safety of that person, a member of the persons family, or any other person.

Enquiries regarding the suppression of personal information should be directed to the Council's Records Management Officer in the first instance.

5.6 Grievances or Complaints

Residents and/or ratepayers who have any concerns regarding how the Council handles personal information or who require further information on the matter, should contact the Council's Records Management Officer in the first instance.

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If that Officer cannot satisfy the resident and/or ratepayer's concerns, the person may lodge a formal complaint in writing, addressed to:

Chief Executive Officer
The Flinders Ranges Council
1 Seventh Street,
Quorn SA 5333

Telephone 08 8648 6031
Email council@frc.sa.gov.au

RESPONSIBILITIES

The Chief Executive Officer is accountable for ensuring the proper operation of this Policy.

LEGISLATION

Local Government Act 1999
Local Government (Elections) Act 1999
Development Act 1993
Freedom of Information Act 1991
Land and Business (Sale and Conveyancing) Act 1994

REFERENCES


Appendix 1 Records Required to be Available for Public Inspection by Specific Acts of Parliament
Appendix 2 Legislative Requirements for Public Access to Documents
Appendix 3 Assessment Record and Public Inspection of it
Privacy Act 1988 (Commonwealth)
Information Privacy Principles Instruction, (SA Government)

REVIEW

To be reviewed within 12 months after a General Election, in line with legislation and any legislative changes or by resolution of Council.

Adopted by Council 14 August 2012
Resolution 164/2012

Review Date	Version Number	Change	Resolution
13 August 2013	1	Nil	180/2013
30 June 2015	2	Nil (Reviewed by Policy Review Reference Committee – Minutes endorsed by Council approved for consultation 21 July 2015)	229/2015
8 March 2016	3	Updated by Kelledy Jones to incorporate CCTV Policy	102/2016

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APPENDIX 1

PUBLIC DOCUMENTS AVAILABLE FOR INSPECTION AT ANY TIME DURING OFFICE HOURS

Local Government Act 1999

Schedule 5—Documents to be made available by councils

Reviews of council constitution, wards and boundaries

Reports on reviews of council composition or ward structure (Chapter 3 Part 1 Division 2)

Reports to the Minister under Chapter 3 Part 2 Division 4 or 5 provided to the council by the Boundary Adjustment Facilitation Panel

Summary of issues surrounding a proposal to be submitted to a poll under Chapter 3 Part 2 Division 5

Registers required under this Act or the Local Government (Elections) Act 1999, other than the Register of Interests kept for the purposes of Chapter 7 Part 4 Division 2

Campaign donations returns under the Local Government (Elections) Act 1999

Codes of conduct or codes of practice under this Act or the Local Government (Elections) Act 1999

Notice and agenda for meetings of the council, council committees and electors

Minutes of meetings

Documents and reports to the council or a council committee that are able to be supplied to members of the public

Recommendations adopted by resolution of the council

Record of delegations under this Act (other than delegations made by the Minister)

Contract and tenders policies

Policy for the reimbursement of members' expenses

Strategic management plans

Annual budget (after adoption by council)

Audited financial statements

Annual report

Extracts from the council's assessment record

Rating policy

List of fees and charges

Public consultation policies

Management plans for community land

Policy on the making of orders

Procedures for the review of council decisions (Chapter 13 Part 2)

Charter for subsidiaries established by the council or for which the council is a constituent council

The most recent information statement of the council under the Freedom of Information Act 1991

Any policy document of the council within the meaning of the Freedom of Information Act 1991 (if not already referred to above)

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APPENDIX 2

PUBLIC ACCESS TO DOCUMENTS

Local Government Act 1999

Administrative and financial accountability:

Section 132 – Access to Documents

(1) a member of the public is entitled:

- (a) to inspect a document referred to in Schedule 5 at the principal office of the council during ordinary office hours without charge; and
- (b) to purchase a document referred to in Schedule 5 at the principal office of the council during ordinary office hours for a fee fixed by the council.

(2) A council may make a document available in electronic form for the purposes of subsection (1)(a).

(3) A council should also, so far as is reasonably practicable, make the following documents available for inspection on the Internet within a reasonable time after they are available at the principal office of the council:

- (a) agendas for meetings of the council or council committees;
- (b) minutes of meetings of the council or council committees;
- (c) codes of conduct or codes of practice adopted by the council under this Act or the Local Government (Elections) Act 1999;
- (d) the council's contract and tenders policies, public consultation policy, rating policy and order making policies;
- (e) a list of fees and charges imposed by the council under this Act;
- (f) by-laws made by the council;
- (g) procedures for the review of decisions established by the council under Part 2 of Chapter 13.

(4) The Governor may amend Schedule 5 from time to time by regulation.

(5) This section does not limit or affect—

- (a) the operation of the Freedom of Information Act 1991 to council documents; or
- (b) the operation of any other section of this Act or the Local Government (Elections) Act 1999.

Rates and charges:

Section 187 – Certificate of Liabilities

(1) A council must, on application by or on behalf of a person who has an interest in land within the area, issue to that person a certificate stating:

- (a) the amount of any liability for rates or charges on the land imposed under this Part (including rates and charges under this Part that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under this Part); and
- (b) any amount received on account of rates or charges on the land imposed under this Part that is held in credit against future liabilities for rates or charges in relation to the land.

(2) A person has an interest in land for the purposes of this section if and only if that person is -

- (a) the owner of a registered estate or interest in the land; or
- (b) an occupier of the land; or
- (c) a person who has entered or declares to the council that he or she proposes to enter into a contract to purchase the land; or
- (d) a mortgagee or prospective mortgagee of the land.


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- (3) An application for a certificate under this section-
- (a) must be in writing; and
 - (b) must identify the land to which the application relates; and
 - (c) must state the nature of the applicant's interest in the land; and
 - (d) should be directed to the chief executive officer of the council; and
 - (e) must be accompanied by the fee fixed under this Act.
- (4) If a certificate is issued under this section, the council is, as against the person to whom it is issued, estopped from asserting that any liabilities to the council for rates or charges on the land under this Part existed, as at the date of the certificate, in respect of the land to which the certificate relates beyond the liabilities disclosed in the certificate.
- (5) Except as provided by subsection (4), a council incurs no liability in respect of a certificate issued under this section.

Meetings:

Section 91 – Minutes and release of documents

- (4) A copy of the minutes of a meeting of the council must be placed on public display in the principal office of the council within five days after the meeting and kept on display for a period of one month.
- (5) A person is entitled to inspect, without payment of a fee, at the principal office of the council—
- (a) minutes kept under this section; and
 - (b) reports to the council or a council committee received at a meeting of the council or committee; and
 - (c) recommendations presented to the council in writing and adopted by resolution of the council; and
 - (d) budgetary or other financial statements adopted by the council.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of any documents available for inspection under subsection (5).
- (7) However, subsections (4), (5) and (6) do not apply to a document or part of a document if—
- (a) the document or part relates to a matter dealt with by the council or council committee on a confidential basis under Part 3; and
 - (b) the council or council committee orders that the document or part be kept confidential.

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APPENDIX 3

ASSESSMENT RECORD

Local Government Act, 1999

Section 172

- (1) The chief executive officer of a council must ensure that a record (the "assessment record") is kept in which is entered—
 - (a) (i) a brief description of each separate piece of rateable land in the area; and
(ii) the rateable value of the land; and
 - (b) if a service charge is imposed by the council on non-rateable land in the area—a brief description of that land; and
 - (c) the name and address of the owner of the land; and
 - (d) if the owner is not the principal ratepayer in respect of the land—the name and address of the principal ratepayer; and
 - (e) so far as is known to the chief executive officer, the name of any occupier of the land (not being an owner or principal ratepayer in respect of the land); and
 - (f) if the land is rated on the basis of a particular land use—that land use; and
 - (g) other prescribed information.
- (2) An occupier of land may, with the consent of the owner, apply to the chief executive officer of a council, in a manner and form approved by the chief executive officer, to have the occupier's name entered in the assessment record as the principal ratepayer in respect of the land.
- (3) If an application is duly made under subsection (2), the chief executive officer must enter the occupier's name in the assessment record as the principal ratepayer.
- (4) Despite subsection (1), if the chief executive officer is satisfied that the inclusion in the assessment record of the name or address of a person would place at risk the personal safety of that person, a member of that person's family or any other person, the chief executive officer may suppress the name or address from the assessment record.
- (5) If the chief executive officer is satisfied that a person's address is suppressed from the roll under the Electoral Act 1985, the chief executive officer must—
 - (a) if the person's residential address is included in respect of rateable property that the person owns but does not occupy—suppress the person's residential address from the assessment record;
 - (b) if the person's residential address is rateable land described in the assessment record—suppress the person's name from the assessment record in relation to that land.
- (6) The chief executive officer may, as he or she thinks fit—
 - (a) keep the assessment record in any form that allows for the accurate recording of information and easy access to that information; and
 - (b) make any alteration to the assessment record that may be necessary to keep the record in a correct and up to date form.

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Inspection Of Assessment Record Section 174

- (1) A person is entitled to inspect the assessment record at the principal office of the council during ordinary office hours.
- (2) A person is entitled, on payment of a fee fixed by the council, to a copy of an entry made in the assessment record.

Duty of Registrar General to supply information Section 175

- (1) If—
 - (a) an estate in fee simple or an estate of freehold in Crown land is granted to a person; or
 - (b) a lease of Crown land is granted to a person, or a transfer of a lease (or part of a lease) of Crown land is consented to,
 and the estate, lease or transfer is registered in the Lands Titles Registration Office, the Registrar General must furnish to the council for the area within which the land is situated for noting in the assessment record—
 - (c) the full name of the person in whose name the estate or lease is so registered, or of the transferee; and (d) the particulars of the estate or lease.
- (2) A notice furnished under subsection (1) is, unless the contrary is proved, sufficient evidence of the matters stated in the notice for the purposes of this Chapter.