

# CONFIDENTIAL INFORMATION POLICY

## SCOPE

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All Councillors of Banana Shire Council.

## LEGISLATION

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*Local Government Act 2009.*

## OBJECTIVE

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To provide guidance to Councillors in complying with section 171(3) of the *Local Government Act 2009* regarding the proper handling of confidential information.

*Local Government Act 2009 Section 171 (3)*

"A Councillor must not release information that the Councillor knows, or should reasonably know, is information that is confidential to the local government."

NOTE: A contravention of subsection (3) is misconduct that is dealt with by the tribunal.

To assist Council in determining what might be considered confidential information and how this information should be handled.

## DEFINITIONS

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CEO	Chief Executive Officer of Banana Shire Council
Councillor briefing sessions	Non-decision making forums convened by Councillors, the CEO and, as directed by the CEO, other Council officers that create an opportunity for Councillors and officers to discuss matters of proposed policy or other strategic or community sensitive issues, as well as providing a forum for Councillors to be made aware of issues of significance to the organisation and/or to the community. Includes workshops, portfolio briefings and the like.
Department	The State Government department charged with administering the <i>Local Government Act 2009</i>
Information	Information comes 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.
LGA	<i>Local Government Act 2009.</i>

## **POLICY**

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It is accepted that Councillors will be in receipt of confidential information that may or may not be part of a formal Council meeting. Councillors must use Council information in a way that promotes and maintains the public's trust and confidence in the integrity of the local government.

This procedure aims to support Councillors in balancing the right and duty to inform the public and consult with constituents about Council business with the interest Council has in preventing disclosure of confidential information.

This procedure does not override an individual Councillors' statutory obligations in respect of the use of information, nor does it override Council's obligations under the LGA or any other legislation or subordinate legislation to disclose or publish information where this is required by law.

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 Council 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 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 matters in closed meetings.

### **Responsibilities of Councillors**

Councillors must be aware of their responsibilities and agree they should:

- Exercise due care when handling or using information acquired in their role as a Councillor.
- Acknowledge that there will be information that must be treated as confidential because to release it would reduce public trust and confidence in the integrity of the Council;
- Acknowledge that disclosure of confidential information constitutes a breach of the LGA;
- If uncertain, presume information is confidential, and seek advice from the CEO 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.

### **Confidential Information**

The following types of information shall be deemed to be confidential to Council unless or until Council resolves to the contrary in a particular instance:

- Commercial in confidence information — including where the release of information would affect a third party's competitive advantage; this is particularly relevant in a competitive tender situation.
- Information derived from government departments or ministers that has been classified as confidential.
- Information of a personal nature or about personal affairs, for example the personal details of councillors or council staff.
- Information relating to a property disposal or acquisition process where release of the information may prejudice Council (see also section 171(1) of the LGA)
- Financial and legal analysis where the disclosure of that information may compromise Council or someone else.
- Information that could result in 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 to councillors in confidence.
- Information examined or discussed at councillor briefing sessions, unless the CEO declares that such information (or part thereof) is not confidential.
- Information about:
  - The appointment, dismissal or discipline of employees
  - Industrial matters affecting employees
  - The Council's budget
  - Rating concessions
  - Contracts proposed to be made by Council
  - Starting or defending legal proceedings involving Council
  - Any action to be taken by the local government under the *Planning Act 2016*, including deciding applications made to it under that Act.

## PROCEDURE

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Procedures as approved and issued by the Chief Executive Officer, and subject to further revision, amendment and issue under the authority of the Chief Executive Officer.

## CERTIFICATION

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**CHIEF EXECUTIVE OFFICER**  
**BANANA SHIRE COUNCIL**



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**DATE**