Privacy Policy

Keywords: Privacy, Personal, Sensitive

Corporate Plan:	*Goal 5 – Strong Internal Capability and Capacity* *Objective 2 – We will continuously improve process ensuring a focus on monitoring and evaluation.*
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Council File Reference:	
Applicable Legislation:	*Chapter 3, Part 2, Division 40 section 30-32 and Part 4, Division 1, section 62 – Local Government Act 1999*
Relevant Policies:	*Internal Control Framework Policy, ICT Strategy Policies*
Related Procedures:	*Code of Conduct*
Delegations:	*Berri Barmera Council Delegations Register*

1. Purpose

The Berri Barmera Council recognises the importance of openness and transparency of information to stakeholders whilst protecting the privacy of individuals.

2. Definitions

Access	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 the personal information.
Collection	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	Voluntary agreement to some act, practice or purpose.
Disclosure	The release of information to persons or organisations outside the Council. It does not include giving individuals information about themselves.
Eligible Data Breach	An eligible data breach for Council is when the unauthorised access, disclosure or loss of TFN information is likely to result in serious harm to one or more individuals.

	Council will need to notify the Australian Information Commissioner and affected individuals of an eligible data breach concerning TFN information.
Notifiable Data Breach (NDB) Scheme	Councils are subject to the NDB Scheme under the Privacy Act 1988 (Commonwealth) to the extent that TFN information is involved in an eligible data breach. The NDB Scheme places a notification obligation on councils when a data breach, involving TFN information, is likely to result in serious harm to any individual whose TFN information was involved in the breach.
Personal Information	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; • material kept in public records and archives such as the Commonwealth or State archives; or • anything kept in a library, art gallery or museum for the purpose of reference, study or exhibition.
Sensitive Information	Information or an opinion that may give rise to discriminatory practices based on 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; • gender; • criminal record; or • health.
TFN	Tax File Number TFN information includes information, whether recorded in a material form or not, that records the tax file number of a person in a manner connecting it with a person's identity (e.g., a person's name and date of birth). Council, as an employer, is in receipt of TFN information.
Use	The handling of personal information within a Council including the inclusion of information in a publication.

3. Principles

This Policy outlines how the Council will approach the collection, storage, disclosure and use of personal information.

This policy applies to all people with access to Council information systems and stores (computer-based or otherwise):

(a) Council staff;

(b) Council members;
(c) Volunteers;
(d) Work experience placements;
(e) Trainees; and
(f) Independent contractors and consultants.

This policy applies to all TFN Data and Open Data owned by Council or in Council's custody and control, and to Council's management of information in regards to privacy and confidentiality.

4. Policy Statement

This Privacy Policy has adopted principles and approaches from:

- The Commonwealth Privacy Act 1988;
- Previous Ombudsman's finding in relation to Freedom of Information Request reviews; and
- The Department of the Premier and Cabinet's Information Privacy Principles Cabinet Administrative Instruction.

Although this legislation and administrative instruction do not directly apply to councils within South Australia, principles from within each have been adopted to ensure a suitable standard is applied within the Council.

Members of the public should be aware that the following principles apply when personal information is being considered and handled within the Berri Barmera Council.

a. Only information reasonably required for the operation and effective delivery of Council programs and services is collected and maintained.
b. Where possible the full purpose for information collection is disclosed at the time of collection. Noting that at times that purpose may be broad, for example to enable the effective communication with residents and stakeholders regarding projects and programs occurring within the Council area.
c. Information is stored within Council's systems considering its need for security and confidentiality.
d. Council is a file number recipient for the purposes of the Commonwealth Privacy Act 1988. A file number recipient is any person who is in possession or control of a record that contains Tax File Number (TFN) information. Council, as an employer, is in receipt of TFN information and has a notification obligation when a data breach, involving TFN information, is likely to result in serious harm to any individual whose TFN information was involved in the breach.
e. Council is subject to the Freedom of Information Act 1991. The objects of the Freedom of Information Act 1991 are:
    - To promote openness in government and accountability of Ministers and the Crown and other government agencies and thereby to enhance respect for the law and further the good government of the State; and
    - To facilitate more effective participation by members of the public in the processes involved in making and administration of laws and policies.

These objects are to be achieved as follows:

- Ensuring that information concerning the operations of government (including information concerning the rules and practices followed by government in its dealings with members of the public) is readily available to members of the public and to Members of Parliament; and

- Conferring on each member of the public and on Members of Parliament a legally enforceable right to be given access to document held by government, subject only to such restrictions as are consistent with the public interest (including maintenance of the effective conduct of public affairs through the free and frank expression of opinions) and the preservation of personal privacy; and
- Enabling each member of the public to apply for the amendment of such government records concerning his or her personal affairs as are incomplete, incorrect, out-of-date, or misleading.

In addition, the Freedom of Information Act 1991 provides that Parliament's intention is that the provisions of the Act be interpreted so as to further the objects of the Act. As such, discretions conferred by the Freedom of Information Act will be exercised as far as possible so as to favour the disclosure of information without infringing the right to privacy.

Collection of Personal Information

All personal information collected by the Council is used only for the purpose of conducting council business and in the provision of council services to its customers.

The type of personal information that may be collected and held by the Council includes, but is not limited to:

- Names and addresses (postal, residential and email addresses)
- Telephone numbers
- Age and/or date of birth information
- Property ownership and/or occupier details
- Dog ownership
- Electoral Roll details
- Payment history
- Financial, rental or income details
- Pensioner/Concession information
- Payment history
- Library membership details

All information is collected in a fair and lawful manner and as required/permitted by law. The Council is committed to ensuring that residents and/or ratepayers are aware of the purpose of collection of the information.

In satisfying the collection and use of personal information obligations the Council has to its residents and/or ratepayers, the Council assumes that:

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

The Council may obtain information concerning ratepayers or residents from a number of sources including Centrelink, the State Electoral Office, Office of the Valuer General, SA Water and from ratepayers and residents. The Council may not necessarily check or verify the accuracy of any personal information it obtains from residents and/or ratepayers or other persons.

It is the responsibility of residents and/or ratepayers to provide the Council with details of any changes to their personal information as soon as reasonably practicable.

Maintenance and Storage of Personal Information

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

In the event of a data breach involving TFN information, Council will take the following steps:

4.1. contain the data breach;
4.2. As soon as practicable in any event not more than 30 days; assess if the data breach is an eligible data breach;
4.3. take remedial action to prevent the unauthorised access or disclosure of TFN information;
4.4. notify the Australian Information Commissioner and affected individuals where there is an eligible data breach;
4.5. review the incident, report to other relevant bodies and take preventative action to seek to ensure that a similar incident does not occur again.

Council will maintain its record keeping systems to ensure that all personal information collected is up to date and complete as is reasonably practical.

Any person who, on behalf of the Council, uses or discloses personal information held by the Council must have appropriate authorisation to do so.

Use of Personal Information

Council will take reasonable steps to:

- use personal information only for the operation and effective delivery of Council programs and services or relevant projects and programs occurring within the Council area ;
- ensure that the information is accurate, up to date and complete prior to use;
- ensure access to TFN information is only provided for authorised purposes;
- apply the objects and methods of the Freedom of Information Act 1991 in such a way to favour the disclosure of information without infringing the right to privacy while meeting legal requirements;
- prevent disclosure of personal information for a purpose that is not relevant or incidental to, or connected with that purpose, unless;
- Council first takes reasonable steps to obtain the consent of the person concerned to use his or her personal information for that other purpose;
- Council believes, on reasonable grounds, that use of the personal information is necessary to prevent or lessen a serious and imminent threat to the life or health of the subject or of some other person;
- the use of the personal information is required and authorised by law; or
- the use of the personal information for that other purpose is reasonably necessary for the enforcement of the criminal law or law imposing a pecuniary penalty.

Disclosure of Personal Information

When considering disclosure of personal information, Council will apply the objects and methods of the Freedom of Information Act 1991 in such a way to favour the disclosure of information without infringing the right to privacy while meeting legal requirements.

The Council will not provide personal information it holds on residents and/or ratepayers to third parties unless specifically required to by law and after following relevant consultation requirements, except:

- where the resident and/or ratepayer has made a written request for personal information to be provided to a third party;
- where the provision of personal information is for the purpose of distributing materials for the sole purpose of and on behalf of the Council (eg the provision of address data for use by a mailing service provider to post or electronically transmit Rates Notices);
- where 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 residents and/or ratepayers (eg State Electoral Office, Office of the Valuer General, insurers);
- where the Council is required by legislation to provide personal information to a third party (eg provision of personal information to the State Electoral Office) or to the public at large in accordance with the Local Government Act or to an applicant under the Freedom of Information Act where the information is not otherwise exempt;
- where the resident and/or ratepayer 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;
- As part of the public notification required and related to lodgement of a development application.

Before the Council will provide personal information to a third-party service provider that is subject to the provisions of the Privacy Act, that supplier will be required to provide a signed Privacy Undertaking to Council that it will comply with the Privacy Act 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 a request made by the individual.

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

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

Access to, and Amendment of, 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 Customer Services staff at the Council Office. These requests will be dealt with as soon as is reasonably practical, based on the nature of the information requested. The person making the request will need to satisfy Customer Services staff of their identity.

For enquires not made in person (e.g., via phone, fax or email), information will only be sent to a currently held postal or residential address, not by return fax, email account or provided over the phone. Information may also be collected from Council Office Customer Services staff with prior arrangement, provided that suitable identification is provided at time of collection.

If a resident and/or ratepayer can show that the personal information held by Council is not accurate or complete, it will be amended by the Customer Services staff.

Council acknowledges that it has certain personal information in its possession that it is legislatively required to make available for access by members of the public. There is also provision under the Freedom of Information Act for members of the public to apply for information from Council.

Open Data

Open data is defined as:

(a) available online
(b) free wherever possible
(c) published using agreed open standards
(d) machine readable
(e) openly licensed for commercial and other re-use.

Open data will be accessible and easily discoverable on Data SA, the Government of South Australia's data directory. Council is committed to releasing and publishing of data, as far as is reasonably practicable, that can be used and reused by the community and businesses.

This includes information from datasets and databases owned and held by the Council and stored in formats including hardcopy, electronic (digital), audio, video, image, graphical, cartographic, physical sample, textual, geospatial or numerical form.

Open Data will not be available or released if it breaches privacy, confidentiality, public safety, security and law enforcement, public health or compliance with the law. Only data owned by the Council or sufficiently licensed to the Council will be released under this policy. Data will not be released, or not released in full, where any of the following conditions cannot be avoided:

- Privacy- where personal information is involved;
- Security- because of the nature of the data which may expose citizens to increased risk in some form at any level of jurisdiction;
- Confidentiality- because of the nature of the data or because contractual promise has been made in relation to the data;
- Legal privilege- attaches to legal advice; or
    - Public interest- where public interest considerations against disclosure outweigh public interest considerations in favour of disclosure.
    - Copyright – where release of data would breach the Copyright Act 1968

Data Availability

- Cost could apply where labour is associated with managing, collating and 'cleaning' data for release or the cost of the materials on which the data is provided.
- Data availability is also subject to the availability of relevant staff to release data.
- There will be a delay in release of certain data so as not to prejudice current/ongoing events.

Data Currency

- Council will have to maintain the currency and accuracy of data, non-current data will not be released if it is not relevant to the situation or intended use.

Data Misuse

- Misuse or misrepresentation of data by others will not be tolerated and is a reportable offence.

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 the inclusion of the name and/or address on the Assessment Record and/or Voters Roll would risk the personal safety of that person, a member of the person's family, or any other person. (e.g. normally due to legislation for Domestic Violence Cases, etc.)

Enquiries regarding the suppression of information should be directed to Customer Services staff.

Complaints
Residents and/or ratepayers who have any concerns regarding how the Council handles personal information or require further information should contact the Customer Services staff at the Council Office in the first instance.

If Customer Services staff cannot satisfy the residents and/or ratepayers concerns, the person may lodge a formal complaint. Complaints can be made in writing to:

Manager Corporate Services
Berri Barmera Council
5 Riverside Drive
BERRI SA 5343

5. Confidentiality

Any information provided will be treated as strictly confidential. Information provided to the Council's Chief Executive Officer (CEO) will be securely retained within Council's records.

Electronic version on the Intranet is the controlled version.
Printed copies are considered uncontrolled.
Before using a printed copy, verify that is the current version.