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1. PREAMBLE

The City of Holdfast Bay is committed to maintaining a culture that respects each individual’s right to privacy. This Policy outlines Council’s commitment to the management of personal information.

1.1 Background

The Commonwealth *Privacy Act 1988 and the Privacy Amendment Act (Privacy Amendment (Enhancing Privacy) Act 2012)* set out the principles that must be followed by Commonwealth Government agencies and many private organisations in relation to the management, collection, use, storage and disclosure of personal information.

The provisions of the Privacy Act do not apply to South Australian Councils, however it is the intention of Council that its policies and practices in relation to privacy should be, so far as is reasonably practicable, consistent with the Information Privacy Principles and the National Privacy Principles set out in the Act, as Council acknowledges that these set an appropriate standard for privacy protection and apply for some funding arrangements.

1.2 Purpose

This policy outlines Council’s process for the collection, use, storage and disclosure of personal information by Council.

1.3 Scope

This policy applies to Elected Members, employees, volunteers, contractors and agents of the City of Holdfast Bay.

1.4 Definitions

Personal Information- is defined by the *Privacy Act 1988* as ‘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’.

Personal information can include:

- (a) written records about a person,
- (b) a photograph or image of a person,
- (c) information about a person that is not written down but is in the possession or control of the Council. Even if the person is not named the

test is whether or not the person's identity can 'reasonably be ascertained' from the information. As long as information is being communicated to someone who can identify the person it is about, the information may meet the definition of 'personal information'.

Personal information does not include:

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

Access - may include allowing an individual to inspect personal information or to obtain a copy of information about himself or herself that is held by the Council.

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.

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

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 Council including the inclusion of information in a publication.

1.5 Strategic Reference

Culture: Supporting excellent, efficient operations

2. PRINCIPLES

2.1 Collection of Personal Information

2.1.1 The Council will not collect personal information unless:

- (a) The personal information is collected for a lawful purpose directly related to a legislative function or power of the Council or Council business operations;
- (b) Collection of the personal information is necessary for or directly related to that purpose; and
- (c) Permission has been given by the person whose personal information is being collected.

- 2.1.2 The personal information that may be collected will depend on the particular purpose for which it is collected, and may include but is not limited to:
- Telephone numbers;
 - Name and addresses (postal, residential and e-mail addresses);
 - Age and/or date of birth;
 - Property ownership and/or occupier details;
 - Details of resident's/ratepayer's spouse or partner;
 - Development applications, including plans or specifications of buildings;
 - Pet ownership;
 - Electoral roll details;
 - Pensioner / concession information;
 - Payment history;
 - Financial, rental or income details;
 - Details of land valuation;
 - Preferred addresses and methods of contacts;
 - Details of employment; and
 - Insurance details.
- 2.1.3 All personal information that is collected by Council will be collected in a fair and lawful manner.
- 2.1.4 All personal information that is collected by Council for the purposes of research will be treated within the Market and Social Research Privacy Principles (Refer to the Market and Social Research Privacy Code).
- 2.1.5 The Council will take reasonable steps to inform the person whose personal information it collects:
- (a) Of the purpose(s) for which the personal information is being collected;
 - (b) If the collection of the information is authorised or required by law, that the collection is so authorised or required; and
 - (c) In general terms, of its usual practices with respect to the use and disclosure of personal information of the kind collected.
- 2.1.6 The Council will take reasonable steps to ensure that personal information collected by it, is relevant to the purpose(s) of collection.
- 2.1.7 The Council will take reasonable steps to ensure that the collection of personal information by it does not unreasonably intrude upon an individual's personal affairs.
- 2.1.8 The Council may collect information concerning persons from a number of private and public sector agencies, which may include, but is not limited to the Office of the Valuer General, SA Water, Telstra and from individual persons.

2.2 Collection of Sensitive Information

- 2.2.1 The Council will not collect sensitive information about an individual unless:
- (a) The individual has consented;
 - (b) The collection is required by law;
 - (c) The collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any person; or
 - (d) The collection is necessary for the establishment, exercise or defence of a legal or equitable claim.
- 2.2.2 If the Council collects sensitive information about an individual in accordance with the provisions of this Policy, the Council will take reasonable steps to de-identify the information before the Council discloses it.

2.3 Maintenance and Storage of Personal information

- 2.3.1 The Council may disclose some personal information to an offshore third party cloud computing services provider. In this event, Council will take adequate and reasonable steps to assure appropriate data security.
- 2.3.2 The Council will take reasonable steps to:
- (a) Protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure; and
 - (b) Maintain its record keeping systems to ensure that all personal information collected is up to date, accurate and complete as far as reasonably practicable; and
 - (c) Ensure that any person who, on behalf of the Council, uses or discloses personal information held by the Council has appropriate authorisation to do so.

2.4 Use of Personal Information

- 2.4.1 Where the Council collects personal information for a particular purpose (the primary purpose), it will not use that personal information for any other purpose (secondary purpose), unless:
- (a) The Council first takes reasonable steps to obtain the consent of the individual concerned to use his or her personal information for that secondary purpose; or
 - (b) The individual would reasonably expect the Council to use or disclose the information for the secondary purpose and the secondary purpose is directly (for sensitive information) or indirectly related (for any other information) to the primary purpose; or
 - (c) The Council believes on reasonable grounds that use of the information for that secondary purpose is necessary to prevent or lessen a serious or imminent threat to the life or health of the individual concerned or another person; or

- (d) Use of the information for that secondary purpose is required or authorised by law; or
- (e) Use of the information for that secondary purpose is reasonably necessary for the enforcement of the criminal law or of law imposing a pecuniary penalty.

2.5 Direct Marketing:

- 2.5.1 Reasonable expectation to use or disclose: If Council holds personal non-sensitive information about an individual, it must not use or disclose the information for the purpose of direct marketing except when Council has collected the information from the individual and the individual would reasonably expect Council to use or disclose the information for that purpose (except for sensitive information).
- 2.5.2 No reasonable expectation to use or disclose: In the event that the individual would not reasonably expect Council to use or disclose non-sensitive information for direct marketing, the individual needs to have given consent to the use or disclosure of the information for direct marketing.
- 2.5.3 Council must provide a simple means by which the individual may easily request not to receive direct marketing communications from Council.
- 2.5.4 Council will only use or disclose sensitive information about an individual for direct marketing purposes if the individual has consented to the use or disclosure of the information for that purpose

2.6 Disclosure of Personal Information

- 2.6.1 The Council will not disclose personal information it holds about a person to a third party, except where:
 - (a) A reasonable individual is likely to have been aware that his or her personal information would be disclosed in that way;
 - (b) The resident or ratepayer has consented to or made a written request for personal information to be provided to a third party;
 - (c) The personal information is provided for the purpose of distributing materials of and on behalf of the Council (for example: the provision of address data for use by a mailing service provider to post Rates Notices or other materials);
 - (d) The third party has been contracted by the Council to provide advice or services for the purpose of assisting the Council in providing benefits to persons (for example: State Electoral Office, Office of the Valuer General, insurers, legal service providers);
 - (e) The Council is required or authorised by law to disclose the personal information to a third party or to the public at large (for example, under the Freedom of Information Act);
 - (f) The resident 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; or
- (g) A public consultation submission has been received by Council. To enable transparency in consultation processes to occur, all public consultation submissions received by Council will become public documents and may be included in a report to Council which is also available to the public.
- 2.6.1 Where personal information is provided to the Council by a person “in confidence”, the Council will not disclose such information to a third party without the person’s consent, unless such disclosure is required or authorised by law (for example, applications made under the Freedom of Information Act).
- 2.6.2 The Council will take reasonable steps to:
- (a) Contract only with third party service providers that are subject to the provisions of the Privacy Act and the National Privacy Principles; and
- (b) Where the third party service provider is not subject to the provisions of the Privacy Act and the National Privacy Principles, enter into a Privacy Agreement that requires the third party service provider to comply with the provisions of this Policy relating to the collection, use, storage and disclosure of personal information supplied by the Council.
- 2.6.3 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.
- 2.6.4 The Council does not accept any responsibility for any loss or damage suffered by a person because of their reliance on any personal information provided to them by the Council or because of the Council's inability to provide persons with any requested personal information.
- 2.6.5 The Council expects that persons will, before relying on any personal information the Council provides to them, first seek confirmation from the Council about the accuracy and currency of such personal information.
- 2.7 Integrity and Alteration of Personal Information
- 2.7.1 The Council assumes that personal information provided by persons or other persons is accurate, complete and up-to-date. It is the responsibility of persons to provide the Council with details of any changes to their personal information as soon as reasonably practicable following such change.
- 2.7.2 The Council will take reasonable steps, such as making appropriate deletions, additions and corrections, to ensure that personal information held by it is accurate, relevant, complete, up to date and not misleading.

- 2.7.3 A person may apply to the Council, in a form determined by the Council, to have his or her personal information amended so that it is accurate, relevant, complete, up-to-date and not misleading. Where the Council, on reasonable grounds, decides not to amend a resident's or ratepayer's personal information in the manner requested in the application, the Council will inform the person of its decision and the reasons for refusing to make the requested amendments. If requested by a resident or ratepayer, the Council will take reasonable steps to attach to a record containing that person's personal information a statement provided by that person of the correction, deletion or addition sought.
- 2.8 Access to Personal Information
- 2.8.1 A person who wishes to access personal information held by the Council must make a written application to the Freedom of Information Officer. An applicant will be required to pay an application fee as determined by the *Freedom of Information Act 1991*.
- 2.8.2 Subject to the provisions of this legislation, the Council may grant or refuse access to personal information as it deems fit.
- 2.8.3 The Council recognises that there are certain documents, which may contain personal information, that the Council is legislatively required to make available for access by members of the public.
- 2.8.4 An application to access personal information will be dealt with within 30 days of receipt of the request. In certain circumstances, an applicant may be required to satisfy Council staff as to his or her identity.
- 2.9 Suppression of Personal Information
- 2.9.1 A person's name or address may be suppressed from the Council's Assessment Record and Voters Roll where the Chief Executive Officer is satisfied that inclusion of the name or address on the Assessment Record and/or Voters Roll would place at risk the personal safety of that person, a member of that person's family, or any other person.
- 2.9.2 Enquiries regarding suppression of personal information should be directed to Customer Services staff at the Customer Service Centre in the first instance.
- 2.10 Freedom of Information
- 2.10.1 Personal information may be released to others if requested under the Freedom of Information Act, however, in accordance with this Act, a person will be consulted to obtain their opinion on release of the information. Should it be determined the information will be released against the view of the person, they have the right to request a review

of the decision, on payment of the prescribed fee, prior to the information being released.

2.12 Disclaimer

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

2.12.2 Before relying on any personal information that the Council provides it is expected that the resident, ratepayer or other person will first seek confirmation from the Council about the accuracy and currency of the personal information

2.13 Complaints

2.13.1 Residents, ratepayers or other persons that have any concerns regarding how the Council handles their personal information, or require further information, should contact the Chief Executive Officer in the first instance.

A formal complaint may be lodged in writing to:
Chief Executive Officer
City of Holdfast Bay
PO Box 19
BRIGHTON SA 5048

3. REFERENCES

3.1 Legislation

- *Local Government Act (1999)*
- *Development Act (1993)*
- *Public and Environmental Health Act (1987)*
- *Freedom of Information Act (1991)*
- *State Records Act (1997)*
- *Listening and Surveillance Devices Act (1972)*
- *Telecommunications (Interceptions) Act (1988)*
- *Privacy Act (1998)*
- *Information Privacy Principles Instruction (as amended by Cabinet 18 May 2009)*
- *Privacy Amendment Act (Privacy Amendment (Enhancing Privacy) Act 2012)*

3.2 Other References

- Customer Feedback and Complaints Policy
- Internal Review of Council Decisions Policy