

Privacy Policy

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File Number	13/POL/PRIV/2
Responsible Officer	Chief Executive Officer
Adopted	9 August 2022
Last reviewed at Council Meeting	
Minute Number	21371/1
Due date of next Review	August 2026

1. Purpose

- 1.1 Mid Murray Council (Council) is committed to a culture that protects privacy and will endeavour to protect the personal information it collects, stores, discloses and uses.
- 1.2 The purpose of the Privacy Policy (the Policy) is to formally state Council's position in regard to the collection, use, storage and disclosure of personal information. The Policy outlines how Council will adopt a best practice approach to the management of personal information and data to ensure the protection of privacy.

2. Definitions

- 2.1 **Access** means providing to an individual, information about themselves that is held by Council. This may include allowing that individual to inspect personal information or to obtain a copy.
- 2.2 **Collection** is the gathering, acquiring or obtaining personal information from any source and by any means, including information that Council has come across by accident or has not asked for.
- 2.3 **Consent** is voluntary agreement to some act, practice or purpose.
- 2.4 **Disclosure** is the release of information to persons or organisations outside the Council. It does not include giving individuals information about themselves.
- 2.5 **Eligible Data Breach** is 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.
- 2.6 **Notifiable Data Breach Scheme (NDB)** applies as Councils are subject to the NDB Scheme under the *Privacy Act 1988* to the extent that Tax File Number (TFN) information is involved in an eligible data breach.
- 2.7 **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 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.

2.8 Sensitive information is 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.

3. Policy

3.1 Whilst the provisions of the *Privacy Act 1988* (Cth) (the Privacy Act) do not apply to local government, in collecting, using, storing and disclosing personal information, Council acknowledges that the Australian Privacy Principles (APP) (**Annexure 1**) contained within the Privacy Act set an appropriate standard for privacy protection and the Policy is intended to achieve best practice consistency with those standards.

3.2 Council recognises that there will be occasions when other legislative requirements may cause personal information to be included in public documents, however all other collections, and uses of personal and sensitive information will be guided by the Policy.

3.3 Collection of Personal Information

3.3.1 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 Council or Council business operations;
- b) Collection of the personal information is necessary for or directly related to that purpose; and
- c) Explicit permission has been given by the person whose personal information is being collected.

3.3.2 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.

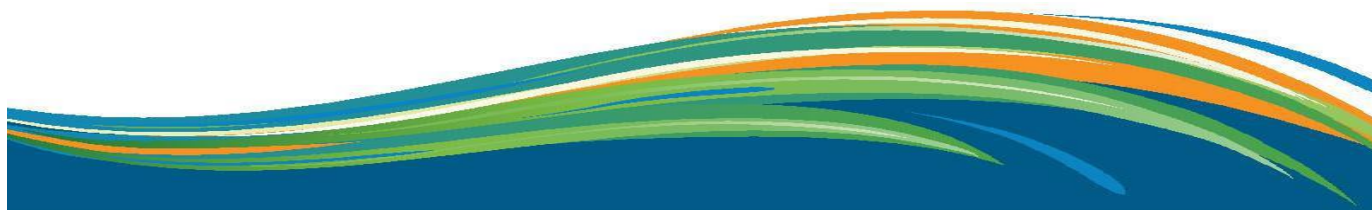
- 3.3.3 Although development applications are not considered to be personal in nature, they often contain documents such as professional drawings and expert advice. It is contrary to the *Copyright Act 1968* (Cth) for Council to reproduce such documents without the written approval of the owner of the copyright-protected documents.
- 3.3.4 All personal Information that is collected by Council will be collected in a fair and lawful manner.
- 3.3.5 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.
- 3.3.6 Council will take reasonable steps to ensure that personal information collected by it is relevant to the purpose(s) of collection and is up to date and complete.
- 3.3.7 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.
- 3.3.8 Council may collect information concerning persons from a number of private and public sector agencies, which may include, but is not limited to the Electoral Commission SA, Office of the Valuer General, SA Water, Telstra and from individual persons.

3.4 Collection of Sensitive Information

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

3.5 Maintenance & Storage of Personal information

- 3.5.1 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.
- 3.5.2 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 Council, uses or discloses personal information held by Council has appropriate authorisation to do so.
- 3.5.3 In the event of a data breach involving TFN information, Council will take the following steps:



- Contain the data breach;
- Within 30 days of the event, assess if the data breach is an eligible data breach;
- Take remedial action to prevent the unauthorised access or disclose of TFN information;
- Notify the Australian Information Commissioner and affected individuals where there is an eligible data breach; and
- Review the incident, report to other relevant bodies and take preventative action to ensure that a similar incident does not occur again.

3.6 Use of Personal Information

3.6.1 Where 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) 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 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) 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.

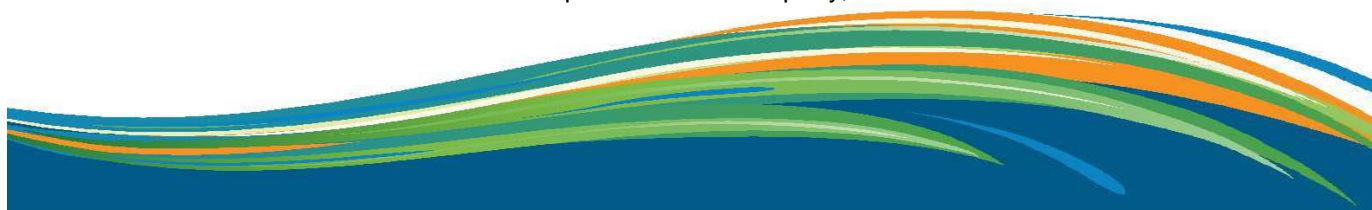
3.6.2 Direct Marketing:

- a) **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)
- b) **No reasonable expectation to use:** 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
- c) Council must provide a simple means by which the individual may easily request not to receive direct marketing communications from Council
- d) 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

3.7 Disclosure of Personal Information

3.7.1 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 their 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 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 Council to provide advice or services for the purpose of assisting Council in providing benefits to persons (for example: Electoral Commission SA, Office of the Valuer General, insurers, legal service providers);
 - e) 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 1991* (FOI Act));
 - f) The resident or ratepayer has been advised of 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.
- 3.7.2 Where personal information is provided to Council by a person "in confidence", 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 FOI Act).
- 3.7.3 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 Australian Privacy Principles; and
 - b) Where the third party service provider is not subject to the provisions of the Privacy Act and the Australian 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 Council.
- 3.7.4 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.
- 3.7.5 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 Council or because of Council's inability to provide persons with any requested personal information.
- 3.7.6 Council expects that persons will, before relying on any personal information Council provides to them, first seek confirmation from Council about the accuracy and currency of such personal information.

3.8 Integrity & Alteration of Personal Information

- 3.8.1 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 Council with details of any changes to their personal information as soon as reasonably practicable following such change.
- 3.8.2 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.
- 3.8.3 A person may apply to Council, in a form determined by Council, to have his or her personal information amended so that it is accurate, relevant, complete, up-to-date and not misleading. Where Council, on reasonable grounds, decides not to amend a resident's or ratepayer's personal information in the manner requested in the application, 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, 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.

3.9 Access to Personal Information

- 3.9.1 A person who wishes to access personal information held by 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 FOI Act.
- 3.9.2 Subject to the provisions of this legislation, Council may grant or refuse access to personal information as it deems fit.
- 3.9.3 Council recognises that there are certain documents, which may contain personal information, that Council is legislatively required to make available for access by members of the public.
- 3.9.4 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.

3.10 Suppression of Personal Information

- 3.10.1 A person's name or address may be suppressed from 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.
- 3.10.2 Enquiries regarding suppression of personal information should be directed to Customer Services staff at the Customer Service Centre in the first instance.

3.11 Cookies & Links to Other Sites

- 3.11.1 To improve [Council's website](#) and advertising, and to help better understand browsing behaviour, when accessing the website Council may use website measurement software and other analytics tools and services (including Google Analytics) to gather information such as traffic patterns, mouse click activity, IP addresses, and any other information provided through use of Council's site. This information is aggregated and anonymised so an individual cannot be identified.
- 3.11.2 Like many other websites on the internet, Council may use 'cookies' to store and track information about an individual when they are on Council's website. A cookie is a data file that is sent to an individual's browser from a web server and stored on their computer (or other device), then sent back to the server by their browser each time an individual accesses certain sections of Council's site.
- 3.11.3 This information helps Council to remember their preferences and can help Council to provide a tailored experience and customised content and material on the website and subsequent websites visited. This information may be retained in an anonymous or aggregated form after Council has erased personal information that identifies the person from its systems.
- 3.11.4 Council also uses cookies to target online advertising to site users. This enables Council and its partners to target relevant advertising content to users. Council may provide data in an anonymous form from cookies to third parties to enable those third parties to promote Mid Murray Council via online advertising.
- 3.11.5 An individual may choose to disable cookies via their device's website browser settings. However, if they choose to reject cookies, they may not be able to use or access some features of the services that Council offers.
- 3.11.6 Council may have links or references to other websites from its site. This Policy does not apply to those third party websites and Council takes no responsibility for any information collected by such third parties.



3.12 Freedom of Information

Personal information may be released to others if requested under the FOI 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.

3.13 Complaints

- 3.13.1 A person who has any concerns regarding how Council handles personal information or requires further information can contact the Customer Services staff at Council's Customer Service Centres in the first instance.
- 3.13.2 If the person's concerns cannot be satisfied, the person may lodge a formal complaint, under Council's *Complaints Policy* and *Complaints Procedure*.

4. Policy Responsibility

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

5. Availability/Accessibility

- 5.1 This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: www.mid-murray.sa.gov.au.
- 5.2 This Policy is available for inspection at Council's principal office during ordinary business hours. Hard copies, for a fee in accordance with Council's schedule of Fees and Charges, can be provided upon request.

6. Legislative Framework / Other References

- 6.1 *Local Government Act 1999*
- 6.2 *Freedom of Information Act 1991*
- 6.3 *Privacy Act 1998*
- 6.4 *Copyright Act 1968*
- 6.5 *Complaints Policy*
- 6.6 *Complaints Procedure*

7. Document History

This Policy shall be reviewed at least every four (4) years or more frequently if legislation or Council requires. (adjust this paragraph to suite)

Version	Adopted	Minute	Description of Change
1	9 August 2022	21371/1	Adopted



Annexure 1 The Australian Privacy Principles

Principle	Title	Purpose
APP 1	Open and transparent management of personal information	Ensures that APP entities manage personal information in an open and transparent way. This includes having a clearly expressed and up to date APP privacy policy .
APP 2	Anonymity and pseudonymity	Requires APP entities to give individuals the option of not identifying themselves, or of using a pseudonym. Limited exceptions apply.
APP 3	Collection of solicited personal information	Outlines when an APP entity can collect personal information that is solicited. It applies higher standards to the collection of sensitive information .
APP 4	Dealing with unsolicited personal information	Outlines how APP entities must deal with unsolicited personal information.
APP 5	Notification of the collection of personal information	Outlines when and in what circumstances an APP entity that collects personal information must tell an individual about certain matters.
APP 6	Use or disclosure of personal information	Outlines the circumstances in which an APP entity may use or disclose personal information that it holds.
APP 7	Direct marketing	An organisation may only use or disclose personal information for direct marketing purposes if certain conditions are met.
APP 8	Cross-border disclosure of personal information	Outlines the steps an APP entity must take to protect personal information before it is disclosed overseas.
APP 9	Adoption, use or disclosure of government related identifiers	Outlines the limited circumstances when an organisation may adopt a government related identifier of an individual as its own identifier, or use or disclose a government related identifier of an individual.
APP 10	Quality of personal information	An APP entity must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete. An entity must also take reasonable steps to ensure the personal information it uses or discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure.
APP 11	Security of personal information	An APP entity must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. An entity has obligations to destroy or de-identify personal information in certain circumstances.
APP 12	Access to personal information	Outlines an APP entity's obligations when an individual requests to be given access to personal information held about them by the entity. This includes a requirement to provide access unless a specific exception applies.
APP 13	Correction of personal information	Outlines an APP entity's obligations in relation to correcting the personal information it holds about individuals.