

## Privacy Policy

### ORGANISATIONAL POLICY

#### POLICY REFERENCES

• Sponsor:	<b>Chief Operating Officer</b>
• Effective date:	May 2020
• Internal review due:	May 2023
• Legal compliance:	Privacy Act 1993 Building Act 2004 Local Electoral Act 2001 Local Government (Rating) Act 2002 Local Government Act 2002 Local Government Official Information and Meetings Act 1987 Resource Management Act 2004 Staff Code of Conduct
• Associated Documents/References	Marketing Association's Code of Practice for Direct Marketing in New Zealand n/a
• Policy Number	CS24
• Approved by	Chief Executive

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## 1. Purpose

This policy outlines:

- How the Council will gather, access, use and distribute personal information
- The obligations under law and how the Council will meet these obligations

## 2. Definitions

**Personal information** is any official information held about an identifiable person that could be used to identify the person including name, date of birth, address etc. This does not include information which is required by law to be disclosed such as in LIM reports.

**Third Party** is an organisation or person who is not the Tasman District Council.

## 3. Application

This policy applies to all employees of the Tasman District Council.

## 4. Policy Statement

- 4.1 The Council will only collect information which is necessary to perform its duties and obligations. It will ensure the information is held and kept secure.
- 4.2 The Council will apply the Privacy Principles (refer appendix A) which public sector organisations are required to comply with
- 4.3 Where these principles are in conflict with each other, they will be managed on a case-by-case basis in discussion with the appropriate manager and the Privacy Officer(s).

## 5. Collection of Personal Information

- 5.1 The personal information the Council collects should only be information that specifically relates to Council business and is necessary for Council to undertake its duties and obligations.
- 5.2 This could include: Name, Address, Date of Birth, Contact Information (email and phone numbers), gender etc.
- 5.3 Where information has been collected for email correspondence, the Council will offer easy opt-out options as stated in the Marketing Association's Code of Practice for Direct Marketing in New Zealand.
- 5.4 Where information is going to be collected, the Council will take reasonable steps to inform the person concerned that the information is being collected and the purpose(s) for which the information is being collected.

## 6. Using Personal Information

- 6.1 Personal information collected will only be used to provide the person with the service requested or to assist in the provision of future services.
- 6.2 Personal information may be used to:
  - 6.2.1 Identify a person to avoid inappropriate release of information
  - 6.2.2 In correspondence to the person for which the information is held

- 6.2.3 Process consent, licence, permit or other applications or for applications to use services or facilities
- 6.2.4 In the processing of payments made or received
- 6.2.5 To respond to requested or enquiries
- 6.2.6 Provide information about council events, services or facilities
- 6.2.7 To comply with laws and regulations
- 6.2.8 To carry out council related business and operations
- 6.2.9 For general administration

## **7. Sharing Personal Information**

- 7.1 Council may disclose personal information to:
  - 7.1.1 Any Person engaged by the Council to provide products and services where personal information is necessary for the provision of those services.
  - 7.1.2 Council Controlled Organisations – in order to assist with the functions and services they provide.
  - 7.1.3 A third party where required by law or regulations, or in the course of legal proceedings or other investigations. This may include the New Zealand Police, Office of the Auditor General or the Ombudsman.
  - 7.1.4 Any person who has been authorised by the individual concerned to have the information disclosed to.
  - 7.1.5 Any person, if that information is held in a public register such as property files or the rating information database.

## **8. Security and accuracy**

- 8.1 The Council will take all reasonable and appropriate steps to ensure all personal information is protected against loss, damage, misuse and unauthorised access.
- 8.2 All personal information will only be accessible to the individuals who need access to the information in order to perform their duties and obligations.
- 8.3 The Council will take all reasonable and appropriate steps to ensure all personal information is accurate, up to date, complete, relevant and not misleading.
- 8.4 Individuals may request confirmation of whether or not the Council holds any personal information about them. Individuals also have the right to request the information be updated if they believe it is incorrect.
- 8.5 Information will only be held for as long as is administratively necessary or required by law and regulations. Protected records will be held indefinitely as required under the Public Records Act 2005.

## 9. Refusal to provide information

- 9.1 Where a person does not provide information which has been requested the Council may not be able to respond to requests or process applications adequately. The Council will explain to the individual concerned the need for the information in order to process the request.
- 9.2 Where the individual refuses to provide the information the Council takes no responsibility in the failure to process the request as a result of lack of information.
- 9.3 There are some circumstances where failure to provide information when requested may be unlawful. Staff will explain this to individuals when required.

## 10. Privacy Officer(s) responsibilities

- 10.1 As required under the Privacy Act s23, the Council will ensure that at least 1 member of staff is appointed as a Privacy Officer.
- 10.2 The Privacy Officer(s) is responsible for encouraging compliance with the information privacy principles, dealing with requests made under the Privacy Act, working with the Privacy Commissioner in relation to their investigations, and ensuring the Council complies with the Privacy Act.
- 10.3 The Officer(s) will give reasonable assistance to an individual who; wishes to make an information privacy request, in making the request has not done so in accordance with the requirements of the Act, or not made their request to the appropriate agency, to ensure they submit the request in accordance with the Act.
- 10.4 Where the request is made to the Privacy Officer(s) and it is believed the request should be transferred they must ensure the transfer the request in accordance with section 39.

## 11. Legislative background and requirements

- 11.1 Various legislation requires Council to collect personal information and also to disclose collected information to third parties. This legislation includes, but is not limited to, the following Acts:

<b>Gathering/accessing information</b>	
<b>Privacy Act 1993</b>	<p>Promotes and protects individual privacy.</p> <p>Established the 12 principles with respect to the collection, use, and disclosure, by public and private sector agencies, of information relating to individuals and access by each individual to information relating to that individual.</p> <p>Establishes a Privacy Commissioner to investigate complaints.</p> <p>Part 4 outlines reasons for refusing access to personal information.</p>

<b>Building Act 2004</b>	Gives anyone a right of access to building consent information and other building-related information held by councils. This right is subject to the protections in the Local Government Official Information and Meetings Act 1987.
<b>Local Electoral Act 2001</b>	Compilation of electoral rolls.
<b>Local Government (Rating) Act 2002 section 28C</b>	<p>People can ask Council to withhold their name and address from the public records (rating database).</p> <p>Section 28D requires local councils to inform them of this right at least once a year.</p>
<b>Dog Control Act 1996</b>	<p>Council maintains a register. It may not disclose information which:</p> <ul style="list-style-type: none"> <li>▪ Identifies, or will assist any person to identify, the name and address of the registered owner.</li> <li>▪ Or where the dog is ordinarily kept</li> </ul> <p>Unless they are requested under S35(2) where Council will provide names and addresses of registered owners when requested by “constables, DOC, TAs, ‘society established for the prevention of cruelty to animals’, inspectors, and veterinarians”.</p>
<b>Sale and Supply of Alcohol Act 2012</b>	Council maintains a register which includes license information and managers certificates. Any member of the public can ask Council for an extract from the register, which will only include what is displayed on the public certificate.
<b>Reserves Act 1977</b>	The Council maintains a ‘record of title’ which includes the name of the registered owner of the estate or interest, which is provided to the Registrar-General of Land.
<b>Disclosing information</b>	
<b>Local Government Act 2002 section 178</b>	If an enforcement officer believes on reasonable grounds that a person is committing or has committed an offence under the Act, the officer may direct the person to give: his or her name and address and the name and address and whereabouts of any other person connected in any way with the alleged offence.
<b>Resource Management Act 2004 section 22</b>	Duty to give certain information when an enforcement officer has reasonable grounds to believe that a person is breaching or has breached any obligation under this part of the Act
<b>Local Government Official Information and Meetings Act 1987 Part 6</b>	Land information memorandum supply of information.

<b>Local Government Official Information and Meetings Act 1987</b>	S7 outlines the reasons under which information can be withheld/disclosed.
<b>Dog Control Act 1996</b>	Under S35(2) Council will provide names and addresses of registered owners when requested by “constables, DOC, TAs, ‘society established for the prevention of cruelty to animals’, inspectors, and veterinarians”.

## 12. Non Compliance with this Policy

- 12.1 Staff should be aware that a failure to comply with this policy may lead to disciplinary action being taken in accordance with the Staff Code of Conduct.

Janine Dowding Chief Executive

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**Authorised by**

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**Date of approval:**

## Appendix A

The Privacy Act outlines 13 Privacy Principles which public sector organisations such as the Council are required to comply with these principles which are summarised below:

<b>Information Policy Principles from the Privacy Act 2020</b>
<b>Principle One</b>
Personal information must only be collected when the collection is for a lawful purpose, connected with what the council does, and it is necessary to collect the information for that purpose
<b>Principle Two</b>
Personal information must usually be collected from the person the information is about. But sometimes we may need to collect information from other people instead – for instance when getting it from the person concerned would undermine the purpose of the collection or it’s necessary to uphold the law or the person concerned authorises the collection from someone else.
<b>Principle Three</b>
Where the council collects personal information from the person the information is about, we will take reasonable steps to make sure that person knows things like: <ul style="list-style-type: none"> <li>▪ Why it is being collected</li> <li>▪ Who will get the information</li> <li>▪ Whether the person has to give the information or whether this is voluntary</li> <li>▪ What will happen if the information isn’t provided</li> </ul>
<b>Principle Four</b>
Personal information must not be collected by unlawful means or by means that are unfair or unreasonably intrusive in the circumstances.
<b>Principle Five</b>
It is impossible to stop all mistakes. But the council must ensure that there are reasonable safeguards in place to prevent loss, misuse or disclosure of personal information.
<b>Principle Six</b>
People usually have a right to ask to access personal information that identifies them. However, sometimes the council can refuse to give access to information, for instance because giving the information would: <ul style="list-style-type: none"> <li>▪ Endanger a person’s safety</li> <li>▪ Prevent detection and investigation of criminal offences</li> <li>▪ Involve an unwarranted breach of someone else’s privacy</li> </ul>
<b>Principle Seven</b>
People have a right to ask the council to correct information about themselves, if they think it is wrong. If the council does not want to correct the information, it does not usually have to. But people can ask the council to add their views about what the correct information is.
<b>Principle Eight</b>
The council must take reasonable steps to check that information is accurate, complete, relevant, up to date and not misleading before it uses or discloses the information.
<b>Principle Nine</b>
The council must not keep information for longer than is necessary for the purposes for which the information may be lawfully used.

## Information Policy Principles from the Privacy Act 2020

### Principle Ten

The council must use personal information for the same purpose for which it collected that information. Other uses are occasionally permitted (for example because this is necessary to enforce the law, or the use is directly related to the purpose for which the agency got the information).

### Principle Eleven

The council can only disclose personal information in limited circumstances. One example is where another law requires us to disclose the information. Also, the council can disclose information if it reasonable believes, for example, that the disclosure:

- is one of the purpose for which the council got the information
- is necessary to uphold or enforce the law
- is necessary for court proceedings
- was authorised by the person concerned
- is in a form that does not identify the person concerned with the information that is going to be used

### Principle Twelve

The Council only sends personal information to someone overseas where we know the information will be adequately protected. For example, we will have ascertained that:

- the receiving person is subject to the New Zealand Privacy Act because they do business in New Zealand
- the information is going to a place with comparable privacy safeguards to New Zealand
- the receiving person has agreed to adequately protect the information – through model contract clauses, etc.

If there aren't adequate protections in place, we will only send personal information overseas if you give Council express permission, unless the purpose is to uphold or enforce the law or to avoid endangering someone's health or safety.

### Principle Thirteen

Some agencies give people a "unique identifier" instead of using their name. Examples are a driver's licence number or IRD number. An agency cannot use the unique identifier given to a person by another agency. People are not required to disclose their unique identifier unless this is one of the purposes for which the unique identifier was set up (or directly related to those purposes).

## Public Register Privacy Principles

A public register is a register, list or roll of information, created under a specific piece of law and which is open (whether completely or only partially) to public inspection, copying, distribution or search.

### Principle One

Personal information shall be made available from a public register only by search references that are consistent with the manner in which the register is indexed or organised.

### Principle Two

Personal information obtained from a public register shall not be re-sorted, or combined with personal information obtained from any other public register, for the purpose of making available for valuable consideration personal



information assembled in a form in which that personal information could not be obtained directly from the register

**Principle Three**

Personal information in a public register shall not be made available by means of electronic transmission, unless the purpose of the transmission is to make the information available to a member of the public who wishes to search the register.

**Principle Four**

Personal information shall be made available from a public register for no charge or for no more than a reasonable charge.