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Dear Sir/Madam

Privacy and Responsible Information Sharing Submission

This submission responds to the Department of Premier and Cabinet's Privacy and Responsible Information Sharing Discussion Paper. Comment is provided on the questions outlined in the Discussion Paper as follows.

1. What issues should be considered when developing privacy and information sharing legislation for Western Australia?

- The City of Bayswater broadly supports the development of privacy and information sharing legislation that is based on current Federal and Eastern States models provided a robust and workable framework is developed to assist local government to meet the requirements of the Act.

2. What privacy principles should WA adopt for regulating the handling of personal information by the public sector? Are any of the existing Australian Privacy Principles, or principles in other Australian jurisdictions, unsuitable for WA?

- The City supports the Australian Privacy Principles detailed in the Commonwealth Privacy Act and outlined in the Discussion Paper. Additionally, the principles outlined in the Whole of Government Open Data Policy which restrict the use of personal information in certain circumstance (e.g maintaining confidentiality of silent elector details) is recommended for adoption.

3. What should the role of a Privacy Commissioner be, and how can this role best protect privacy and ensure public trust?

- The City supports the appointment of a Privacy Commissioner to oversee the functions of the role conferred by the proposed Act and suggests, the activities outlined in the discussion paper be extended to include advisory services to agencies in relation to interpretation of the Act and the release of specific information.

4. How should breaches of privacy be managed and what action should be taken in response to a breach?

- In line with legislation in other jurisdictions, complaints regarding breaches should be referred to the agency and then, if unresolved, to the Privacy Commissioner.

The City notes that a standardised process is required to enable agencies to process complaints consistently, and suggests a similar process to those in place for FOI applications.

- The City notes the civil rather than criminal penalty approach to breaches of privacy and queries the adequacy of repercussions particularly in relation to breaches by criminal parties.
- As per recommendation 16 of the 2017 review of Qld's privacy legislation, it is also suggested that the Information Commissioner be provided with an 'own motion power' to investigate an act or practice which may be a breach of the privacy principles, whether or not a complaint has been made.

5. When should government agencies be allowed to share personal information? Are there any circumstances in which it would not be appropriate to do so?

- Sharing of personal information should occur under the conditions specified in the Discussion Paper and it is suggested that government agencies also adequately meet the requirements of the Computer Controls and Capability in Government Audit conducted by the Auditor General's Office.
- The identification of silent electors, the personal details of residents, petitions signed by residents, public interest disclosures, legal matters and primary and annual returns identifying employees are circumstances in which it would not be appropriate to share personal information.
- The City can provide further comment on additional circumstances once the scope of the legislation is more fully defined as to the types of data sets that can be included.

6. What should the role of a Chief Data Officer be? How can this role best support the aims of Government and the interests of the public?

- The City acknowledges the increasing risks related to data security breaches and supports the introduction of a Chief Data Officer to provide oversight and governance in this area.

7. Should the WA Government facilitate sharing of information outside the WA public sector? What should be considered when making a decision to share outside the WA public sector?

- In some instances it may be necessary to share information with external parties, for example sub-contractors. As has been recommended in the recent review of Queensland's Information Sharing and Privacy Act, the City supports a similar clause, extending the legislation to cover privacy obligations, to subcontractors. This will ensure privacy protections for those individuals whose personal information is dealt with by a subcontractor.

8. What criteria should be included as part of a risk management framework such as the Five Safes?

- The City is supportive of a risk assessment framework for data access including: safe people, safe projects, safe setting, safe data and safe outputs however the assessment criteria would need to be in line with the City's own Risk Management Framework to ensure consistency in decision making. The City's current

approach to Risk Management is in accordance with industry standard AS/NZS ISO 31000:2018 Risk Management - Guidelines and includes assessment of tactical and strategic risk issues across the following across the City's criteria: health, financial impact, service interruption, compliance, reputational, property and environment.

9. Under what circumstances would it be considered acceptable to share confidential information within the public sector?

- The City supports the sharing of data provided the data is designated not confidential, with any data designated as confidential being de-identified and made available only if it cannot be back solved from the information provided.
- It may be acceptable to share information between Councils if a standardised approach was developed and privacy is protected. Additionally it might be necessary to share information in emergencies.

10. What should the WA Government be doing to support successful implementation of privacy and information sharing?

- Services to support the transformation: The City of Bayswater expects a level of implementation support to manage the roll out of the legislation at the local government level including making available generic policies, procedures and training as well as access to advice as required.

The City of Bayswater would like to take the opportunity to thank you for considering the comments outlined in this submission.

Yours sincerely


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CHIEF EXECUTIVE OFFICER