



9. GOVERNANCE

Policy 9.15

PRIVACY MANAGEMENT PLAN

Version 3

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PREFACE

The *Privacy and Personal Information Protection Act 1998* (the PPIPA) requires all councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the *Health Records and Information Privacy Act 2002* (the HRIPA).

In particular, the object of this plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by the Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

PART 1 – INTRODUCTION

Council collects, stores, and uses a broad range of information for the purpose of facilitating its business. A significant part of that information is personal and health information. It is important that the community and council officials understand how we manage personal information. In addition, council is required to have a privacy management plan under s33 of the Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act).

This plan explains how personal information is collected, its purpose and how council protects the privacy of individuals.

This Plan should be read in conjunction with the Privacy Code of Practice for Local Government (the Code).

Nothing in this Plan is to:

- affect any matter of interpretation of the Code or the Information Protection Principles and the Health Privacy Principles as they apply to the Council;
- affect any obligation at law cast upon the Council by way of representation or holding out in any manner whatsoever;
- create, extend or lessen any obligation at law which the Council may have.

1.1 WHAT IS “PERSONAL INFORMATION”?

“Personal information” is defined in section 4 of the PPIPA as follows:

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

1.2 WHAT IS NOT “PERSONAL INFORMATION”

“Personal information” does not include “information about an individual that is contained in a publicly available publication”. Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIPA.

Council considers the following to be publicly available publications:

- An advertisement containing personal information in a local, city or national newspaper;
- Personal information on the Internet;
- Books or magazines that are printed and distributed broadly to the general public;
- Council Business papers or that part that is available to the general public; and
- Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA.

Council’s decision to publish in this way must be in accordance with PPIPA.

1.3 ELECTORAL ROLLS

Electoral rolls are held by the Australian Electoral Commission (AEC). Anyone wanting to view an electoral roll can request access from the AEC.

1.4 WHAT IS HEALTH INFORMATION?

Health Information is defined in the HRIPA as personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual or an individual’s express wishes about the future provision of health services to him or her or a health service provided or to be provided to an individual.

1.5 APPLICATION OF THIS PLAN

The PPIPA, the HRIPA and this Plan apply, wherever practicable, to:

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the Local Government Act 1993).

1.6 PERSONAL INFORMATION HELD BY COUNCIL

The Council holds personal information concerning Councillors, such as:

- personal contact information;
- complaints and disciplinary matters;
- pecuniary interest returns; and

- entitlements to fees, expenses and facilities.

The Council holds personal information concerning its customers, ratepayers and residents, such as:

- rates records; and
- DA applications and objections; and

The Council holds personal information concerning its employees, such as:

- recruitment material;
- leave and payroll data;
- personal contact information;
- performance management plans and performance appraisals;
- disciplinary matters;
- pecuniary interest returns;
- wage and salary entitlements; and
- health information (such as medical certificates and workers compensation claims).

1.7 APPLICATIONS FOR SUPPRESSION IN RELATION TO GENERAL INFORMATION (NOT PUBLIC REGISTERS).

Under section 739 of the Local Government Act 1993 (the LGA) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person's place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the LGA relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, Council will err in favour of suppression.

For more information regarding disclosure of information (other than public registers) see the discussion of Information Protection Principles (IPPs) 11 and 12 in Part 3 of this Plan. For information regarding suppression of information on *public registers*, see Part 2 of this Plan.

1.8 CAUTION AS TO UNSOLICITED INFORMATION

Unsolicited information is personal or health information received by Council in circumstances where Council has not asked for or required the information to be provided. It includes gratuitous or irrelevant information received. Such information is not deemed to have been collected by Council but the retention, use and disclosure principles of the information will apply to any such information in Council's possession.

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information will still be treated in accordance with this Plan, the Code, the HRIPA and the PPIPA for the purposes of IPPs 5-12

and Health Privacy Principles (HPPs) 5-15 which relate to storage, access, use and disclosure of information.

Personal information contained in petitions received in response to a call for submissions or unsolicited petitions tabled at Council meetings will be treated the same as any other submission and may be made available for release to the public.

Personal or health information disclosed publicly and recorded for the purposes of webcasting at Council Meetings is not deemed to have been collected by Council. Retention and Use Principles of this information will apply to such information in Council's possession, however, Disclosure Principles will not apply as the information was voluntarily disclosed with the prior knowledge that it would be recorded, broadcast via the internet to the public and made available by Council for public viewing.

PART 2 – PUBLIC REGISTERS

2.1 WHAT ARE PUBLIC REGISTERS?

A public register is defined in section 3 of the PPIPA as "a register of personal information that is required by law to be or, or is made, publicly available or open to public inspection (whether or not on payment of a fee)".

2.2 COUNCIL REGISTERS

The Council holds the following public registers under the LGA or other Acts***:

- Section 53 - Land Register
- Section 113 - Records of Approvals;
- Register of Disclosures for Designated Persons; and
- Section 602 - Record of Rates and Charges.

***Note – this is purely indicative. Council may, by virtue of its own practice, hold other Public Registers, to which the PPIPA applies.

Council holds the following public registers under the **Environmental Planning and Assessment Act**:

- Section 4.58 – Register of consents and approvals; and
- Section 6.26 – Record of building certificates

Council holds the following public register under the **Protection of the Environment (Operations) Act**:

- Section 308 – Public register of licences held.

Council holds the following public register under the **Impounding Act 1993**:

- Section 30 & 31 – Record of impounding.

Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is set out in the sections that follow.

Council may have other registers that are not public registers. The Information Protection Principles, this Plan, any applicable Codes and the PPIPA apply to those registers or databases.

2.3 DISCLOSURE OF PERSONAL INFORMATION CONTAINED IN THE PUBLIC REGISTERS

Personal information contained in a public register, other than were required by legislation, will only be disclosed where Council is satisfied that it is to be used for the purpose directly related to the purpose of the register.

A person seeking a disclosure concerning someone else's personal information from a public register must satisfy Council that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

2.4 PURPOSES OF PUBLIC REGISTERS

Purposes of public registers under the Local Government Act and Other Acts

2.4.1 Section 53 - Land Register – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

2.4.2 Section 113 - Records of Approvals – The primary purpose is to identify all approvals granted under the LGA.

2.4.3 Register of Disclosures for Designated Persons – Releasing the information contained in the returns of Councillors and designated persons facilitates the legitimate public interest in having access to the information, while protecting the individual's right to privacy and safety.

2.4.4 Section 602 - Record of Rates and Charges - The primary purpose is to record the value of a parcel of land and each rate and charge in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is "a purpose relating to the purpose of the register".

Purposes of public registers under the Environmental Planning and Assessment Act

2.4.5 Section 4.58 – Register of consents and approvals – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

2.4.6 Section 6.26 – Record of building certificates – The primary purpose is to identify all building certificates.

Purposes of public registers under the Protection of the Environment (Operations) Act

2.4.7 Section 308 – Public register of licences held – The primary purpose is to identify all licences granted under the Act.

Purposes of the public register under the Impounding Act

2.4.8 Section 30 & 31 – Record of impounding – The primary purpose is to identify any impounding action by Council.

2.5 SECONDARY PURPOSE OF ALL PUBLIC REGISTERS

Due to the general emphasis (to be found in the LGA, the Government Information (Public Access) Act and elsewhere) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore, disclosure of specific records from public registers would normally be considered to be allowable under section 57 of the PPIPA.

However, requests for access, copying or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council should be guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the **minimum** amount of personal information that is required to be disclosed with regard to any request.

2.6 OTHER PURPOSES

Persons or organisations who apply to Council to have access to the information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Privacy Code of Practice for Local Government concerning Public Registers.

2.7 APPLICATIONS FOR ACCESS TO OWN RECORDS ON A PUBLIC REGISTER

A person wishing to have access to a public register to confirm their own details needs only to prove their identity to Council before having access to their own personal information.

2.8 APPLICATIONS FOR SUPPRESSION IN RELATION TO A PUBLIC REGISTER

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than section 739 of the LGA.

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under section 58 of the PPIPA to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information.

Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information may still be used for council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. The Council may require supporting documentation where appropriate.

PART 3 – THE INFORMATION PROTECTION PRINCIPLES

This section contains a general summary of how Council must manage personal information under the PPIP Act and other relevant laws.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles:

- IPP 1) Collection of personal information for lawful purposes
- IPP 2) Collection of personal information directly from the individual
- IPP 3) Requirements when collecting personal information
- IPP 4) Other requirements relating to collection of personal information
- IPP 5) Retention and security of personal information
- IPP 6) Information about personal information held by agencies
- IPP 7) Access to personal information held by agencies
- IPP 8) Alteration of personal information
- IPP 9) Agency must check accuracy of personal information before use
- IPP 10) Limits on use of personal information
- IPP 11) Limits on disclosure of personal information
- IPP 12) Special restrictions on disclosure of personal information

Following is an overview of these information protection principles and how they apply to Council.

3.1 COLLECTION

IPP1) Collection of personal information for lawful purposes

Council will only collect personal information for a lawful purpose as part of its proper functions.

Council will not collect any more personal information than is reasonably necessary to fulfil its proper functions.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means.

Role of the Right to Information Officer

In order to ensure compliance with IPP1, internet contact forms, rates notices, application forms of whatsoever nature, or written requests by which personal information is collected by Council; will be referred to the Right to Information Officer prior to adoption or use.

IPP2) Direct Collection

Collection of personal information directly from individual

Council will only collect personal information directly from the individual to whom the information relates (or parents/guardians if the individual is under the age of 16), unless authorised by the individual to whom the information relates.

The Code makes provisions for Councils to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

In relation to petitions, the Council will treat the personal information contained in petitions in accordance with PPIPA.

Where Council or a Councillor requests or requires information from individuals or groups, that information will be treated in accordance with PPIPA.

Where Council anticipates that it may otherwise need to collect personal information indirectly, it will first obtain the authorisation of each individual under section 9 (a) of the PPIPA.

The PPIPA permits non-compliance with IPP 2 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

(iii) where the agency is lawfully authorised or required not to comply with the principle.

Where Council cannot collect personal information directly from the person, it will ensure one of the following:

1. Council has obtained authority from the person under section 9(a) of the PPIPA.
2. The collection of personal information from a third party is permitted under an Act or law (for example, the indirect collection from the Land Titles Office.)
3. The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
4. The collection of personal information indirectly where one of the above exemptions applies.
5. The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.

The only other exception to the above is in the case where Council is given unsolicited information.

IPP3) Requirements When Collecting Personal Information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- (a) the fact that the information is being collected,
- (b) the purposes for which the information is being collected,
- (c) the intended recipients of the information,

- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- (e) the existence of any right of access to, and correction of, the information,
- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person,

an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

IPP4) Other Requirements Relating To Collection of Personal Information

Council will seek to ensure that personal information collected:

- (a) *is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and*
- (b) *does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.*

Council collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a suitable officer will review it to ensure it complies with this principle.

3.2 STORAGE

IPP5) Retention and Security of Personal Information

Council will store personal information and ensure;

- a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

Council will store personal information securely and protect it from unauthorized access, use or disclose by the use of access levels to Council's electronic data management system and through regular training of council officials.

3.3 ACCESS & ACCURACY

IPP6) Information Held by Agencies

Information about personal information held by agencies

An individual can request to access their own information to determine whether Council holds their personal information, the nature and main purposes for which it is held, how it is stored and how long it will be stored for.

Where council receives an application or request by a person as to whether council holds information about them, council will undertake a search of its records to answer the enquiry. Council may ask the applicant to describe what dealings the applicant has had with council in order to assist council to conduct the search.

Council will ordinarily provide a response to applications of this kind within 28 days of the application being made. The fee structure is commensurate to that of the Council's Government Information (Public Access) Act (GIPA Act) rates structure.

The Council will issue a statement to be included on its Web page and in its Annual Report concerning the nature of personal information it regularly collects, the purpose for which the personal information is used and an individual's right to access their own personal information.

IPP7) Access to Personal Information Held by Agencies

Council will ensure that individuals who request their own personal information are provided with that information without unreasonable delay or expense.

Compliance with Information Protection Principle 7 (IPP7) does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act.

Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act. However use of the GIPA Act is to be a last resort. The applicant has the right to insist on being dealt with under PPIPA.

IPP8) Alteration of Personal Information

Individuals can make an application to Council to amend personal information held about them so as to ensure the information is accurate, relevant to the purpose for which it is collected up to date and no misleading.

Council requires appropriate evidence to support certain amendments to ensure the amendment is factually correct and appropriate.

If Council is unable to amend or delete the personal information an addendum can be placed on the information in accordance with section 15(2) of the PPIPA.

Council will seek to notify recipients of amendments to personal information as soon as possible, where it is reasonably practicable.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the employee's Manager in the first instance and treated in accordance with the "Grievance and Complaint Handling Procedures".

Any alterations that are or could be the subject of a customer complaint or grievance will be referred to the General Manager, who will make a determination in relation to the matter.

IPP9) Agency Must Check Accuracy of Personal Information Before Use

Council will take all reasonable steps necessary to ensure personal information is accurate, relevant, complete, up to date and not misleading before using it.

Council will take into account the age of the information, its likelihood to change and the particular function for which the information was collected.

3.4 USE

IPP10) Limits on Use of Personal Information

Council must not use personal information for a purpose other than that for which it was collected unless:

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- (c) the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

For example, the Record of Rates and Charges that Council holds under section 602 of the LGA may also be used to:

- notify neighbours of a proposed development;
- evaluate a road opening; or
- evaluate a tree preservation order.

Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- (i) where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or
- (ii) where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

3.5 DISCLOSURE

IPP11) Limits on Disclosure of Personal Information

Council will only disclose personal information with the individual's consent or if the individual concerned was made aware at the time of collection that it would do so. Council may also disclose information if it is for a directly related purpose and it considers that the individual would not object.

The Code makes provision for council to depart from this principle in the circumstances described below:

1. Council may disclose personal information to public sector agencies or public utilities on condition that:
 - (i) the agency has approached Council in writing;
 - (ii) Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and
 - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's function/s.
2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
3. Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

The council may disclose personal information to another person or other body where this disclosure is necessary for law enforcement purposes, protection of public revenue, complying with a subpoena, investigating a complaint or when it is reasonable necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Division of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

IPP12) Special Restrictions on Disclosure of Personal Information

Council must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, sexual activities

unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.

Council will not disclose the information to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:

- (a) a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction or applies to that Commonwealth agency, or
- (b) the disclosure is permitted under a privacy code of practice.
- (c) where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

PART 4 – HEALTH PRIVACY PRINCIPLES

This section contains a general summary of how we must manage health information under the HRIP Act (Health Records and Information Privacy Act)

Health information includes information or an opinion about the physical or mental health or a disability of an individual and includes personal information about:

- A health service provided, or to be provided, to an individual
- An individual's express wishes about the future provision of health services
- Information collected in connection with the donation of human tissue
- Genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

4.1 HEALTH INFORMATION HELD BY COUNCIL

Following is a list of the types of health information and circumstances in which we may collect health information in exercising Council functions:

- Employees immunisation records and medical certificates
- Pre-employment medical information
- Volunteer's medical information
- Worker's compensation claims
- Tree removal requests for health reasons
- Responses to clean up notices regarding health issues

4.2 HEALTH PROTECTION PRINCIPLES

HRIP provides for the protection of health information by means of 15 Health Protection Principles;

HPP1) Purposes of collection of health information

HPP2) Information must be relevant, not excessive, accurate and not intrusive

HPP3) Collection be from the individual concerned

HPP4) Individual to be made aware of certain matters

- HPP5) Retention and Security
- HPP6) Information about health information held by organisations
- HPP7) Access to Health information
- HPP8) Amendment of Health information
- HPP9) Accuracy
- HPP10) Limits on use of health information
- HPP11) Limits on disclosure of health information
- HPP12) Identifiers
- HPP13) Anonymity
- HPP14) Transborder data flows and data flow to Commonwealth agencies
- HPP15) Linkage to health records

4.3 COLLECTION

HPP1) Council will only collect health information that is reasonably necessary and for a lawful purpose that is directly related to its functions and activities. Health information may be collected from enquiries, applications, complaints handling, human resources, recruitment and through core business activities.

HPP2) Council will ensure that health information collected is relevant, accurate, up to date, is not excessive and does not unreasonably intrude into the personal affairs of the individual.

HPP3) Council will only collect health information directly from the individual concerns unless it is unreasonable or impracticable to do so. If Council does collect information about an individual from someone else, we will take reasonable steps to ensure that the individual is made aware.

HPP4) Council will inform people why their health information is being collected, what it will be used for, and to whom it will be disclosed. We will tell people how they can access and amend their health information and any possible consequences if they decide not to give their health information to us.

4.4 STORAGE

HPP5) Council will store health information securely in our electronic data management system which protects from unauthorized access, use or disclosure. We will keep it no longer than necessary and destroy it appropriately according to the General Retention Disposal Schedule for Local Government.

4.5 ACCESS AND ACCURACY

HPP6) Council will be transparent about the health information that we store about people, why we use this information and about the right to access and amend it.

HPP7) Council will allow individuals to access their own health information without unreasonable delay or expense

HPP8) Council will allow individuals to update, correct or amend their health information where necessary.

HPP9) Council will provide individuals with details about what health information we are holding about them and why we are storing it. Council will make sure that health information is relevant and accurate before using it and allow people to access, update, correct or amend their health information where necessary.

4.6 USE

HPP10) Council will only use health information for the purpose for which it was collected or for a directly related purpose that the individual consents to.

4.7 DISCLOSURE

HPP11) Council will only disclose health information for the purpose for which it was collected or with the individuals consent for a directly related purpose.

4.8 IDENTIFIERS AND ANONYMITY

HPP12) Council will only give an identification number to health information if it is reasonably necessary to carry out Council functions effectively

HPP13) Where Council provides health services it will allow for individuals to stay anonymous where it is lawful and practical to do so.

4.9 TRANSFERS AND LINKAGE

HPP14) Council will not transfer information out of NSW without the individuals consent unless:

- Council is unable to obtain consent, it is of benefit to the individual and they would likely give it
- It is necessary for a contract with a third party
- To help prevent a serious and imminent threat to life, health or safety of individuals
- It is permitted by an Act or other law
- The recipient is subject to protection laws similar to the HRIP Act

HPP15) Council does not participate in a system to link health records across more than one organization at this time. If Council decided to use a system like this in the future, Council would make sure that the individual whom the health information relates expressly consents to the link.

PART 5 – IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN

5.1 TRAINING SEMINARS/INDUCTION

During induction, all employees should be made aware that the performance management system has the potential to include personal information on their individual work performance or competency.

Councillors, all staff of the Council including staff of council businesses, and members of council committees will complete the Privacy Awareness training through Council's online learning platform (ELMO).

5.2 RESPONSIBILITIES OF THE RIGHT TO INFORMATION OFFICER

A senior Council officer is assigned the role of the Right to Information Officer.

In order to ensure compliance with PPIPA and the HRIPA, the Right to Information Officer will review written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

The Right to Information Officer will ensure Council in its public areas has special provisions for working with computer screens to ensure Privacy.

Council's electronic databases should ensure that they contain procedures and protocols to check the accuracy and currency of personal and health information.

The Right to Information Officer will also provide opinions within Council as to:

- (i) Whether the personal or health information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal or health information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred for legal advice.

5.3 DISTRIBUTION OF INFORMATION TO THE PUBLIC

Council may prepare its own literature such as pamphlets on the PPIPA, HRIPA or it may obtain and distribute copies of literature available from the Office of the Privacy Commissioner NSW.

PART 6 – ACCESSING PERSONAL OR HEALTH INFORMATION

6.1 HOW DO I ACCESS OR AMEND MY OWN PERSONAL OR HEALTH INFORMATION?

6.1.1 Informal request

Individuals wanting to access or amend their own personal or health information may do so informally by contacting council, for example to update contact details. A formal application may not be necessary and is only used in particular circumstances.

6.1.2 Formal Application

Individuals wanting to access or amend their personal or health information must request it from Council in writing. This application must contain the following:

- The person's name and contact details
- State whether the application is under the PPIP Act (personal information) or HRIP Act (health information)
- Explain what personal or health information the person wants to access or amend
- Explain how the person wants to access or amend it
- Confirmation of their identity

6.2 ACCESSING OR AMENDING OTHER PEOPLE'S PERSONAL OR HEALTH INFORMATION

Council is restricted from giving individuals access to someone else's personal or health information unless that person provides Council with written consent. An "authorised" person must confirm their identity to act on behalf of someone else.

There may be other reasons Council may be authorized to disclose personal and health information, such as in the event of serious and imminent threat to the life, health and safety of the individual, to find a missing person or for compassionate reasons. A third party could also consider making their application to government information under the GIPA Act.

PART 7 – COMPLAINT PROCESS

Council encourages individuals to try and resolve privacy issues with us informally before going through the formal review process. Individuals can contact Council by phone and speak with a Customer Service officer for advice and if the issue is not resolved they may be referred to Council's Right to Information Officer. Individuals can also write a letter or email Council with their concerns and we will respond providing the advice on the best course of action.

7.1 INTERNAL REVIEW

If an issue has not been resolved after discussions with Council's Right to Information Officer, or the individual thinks that Council has breached the PPIP or HRIP Acts relating to their own personal or health information they may seek an internal review.

Individuals cannot seek an internal review for a breach of someone else's privacy, unless they are an authorised representative.

An application for internal review is to be made within **6 months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Right to Information Officer. The Right to Information Officer will appoint a suitably qualified Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgment, the applicant is entitled to seek external review.

The Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and the council is required to consider any relevant material submitted by the Privacy Commissioner. The Council must provide the Privacy Commissioner with a draft of the council's internal review report to enable the Privacy Commissioner to make a submission.

Council may provide a copy of any submission by Privacy Commissioner's to the applicant.

The Council must notify the applicant of the outcome of the review within **14 days** of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

An internal review checklist has been prepared by the Office of the Privacy Commissioner NSW and can be accessed from its website <http://www.ipc.nsw.gov.au>.

The Privacy Commissioner must be notified of a complaint, briefed on progress and notified of the outcome of an internal review under the PPIPA or HRIPA.

7.2 EXTERNAL REVIEW

If the complainant remains unsatisfied, he/she may appeal to the NSW Civil and Administrative Tribunal (NCAT) for a review of Councils conduct.

An application for an external review can only be made after an internal review has been completed and must be made within **28 days** from the date of the internal review decision.

7.3 COMPLAINT TO THE PRIVACY COMMISSIONER

If an individual wishes to complain about Lithgow City Council with regard to this policy, they may write to the Privacy Commissioner. The complaint does not need to be reviewed internally before being reviewed by the Information Commissioner. The role of the Privacy

Commissioner includes promoting the adoption of and compliance with the information protection principles, investigating complaints, initiating privacy codes of practice, assisting agencies manage personal information and implement privacy management plans, conducting research, recommending legislative, administrative or other action in the interests of privacy as well as conducting inquiries and investigations into privacy related matters.

PART 8 – OTHER RELEVANT MATTERS

8.1 CONTRACTS WITH CONSULTANTS AND OTHER PRIVATE CONTRACTORS

It is necessary to have specific provisions to protect the Council in any dealings with private contractors.

8.2 CONFIDENTIALITY

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attaches to information per se, personal or health information to the person to whom that information relates.

An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

8.3 MISUSE OF PERSONAL OR HEALTH INFORMATION

It is an offence for Council Officials to:

- Intentionally disclose or use personal information about another person accessed in the exercising of official functions for an unauthorized purpose
- Offer to supply personal information that has been disclosed unlawfully

8.4 REGULAR REVIEW OF THE COLLECTION, STORAGE AND USE OF PERSONAL OR HEALTH INFORMATION

The information practices relating to the collection, storage and use of personal or health information will be reviewed by the Council every three (3) years. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

8.5 REGULAR REVIEW OF PRIVACY MANAGEMENT PLAN

When information practices are reviewed from time to time, the Privacy Management Plan will also be reviewed to ensure that the Plan is up to date.

8.6 FURTHER INFORMATION & CONTACT DETAILS

For assistance in understanding the processes under the PPIPA and HRIPA, please contact the Council or the Office of the Privacy Commissioner NSW.

Lithgow City Council
180 Mort Street, Lithgow NSW 2790
PO Box 19, Lithgow NSW 2790

Monday to Friday – 8.15am to 4.30pm

All communication addressed to:
The General Manager
Lithgow City Council
PO Box 19
Lithgow NSW 2790

Phone: 02 6354 9999
Fax: 02 6351 4259
Email: council@lithgow.nsw.gov.au
Website: <http://council.lithgow.com/>

Information & Privacy Commission
GPO Box 7011
SYDNEY NSW 2001

Phone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au

NSW Civil & Administrative Tribunal (NCAT)
PO Box K1026
Haymarket NSW 1240

Phone: 02 9377 5859 or 1300 006 228

8.7 REVIEW

This Policy will be reviewed once during each term of Council or dependent on legislative changes.

Maintained by Department:	Governance	Approved by:	Council
Reference:	Dataworks: Policy Register	Council Policy No:	9.15
Effective Date:		Min No:	V1 - 14-140 V2 – 14-454
Version No:	2	Reviewed Date:	17/11/2014 08/2020

9. APPENDICES

APPENDIX 1 – Application for an internal review relating to the management of your Personal Information Form

APPENDIX 2 – Statutory Declaration to access Personal Information contained in Council’s Public Registers

APPENDIX 3 – Request and Statutory Declaration to suppress Personal Information contained in Council’s public registers

APPENDIX 1 – APPLICATION FOR AN INTERNAL REVIEW RELATING TO THE MANAGEMENT OF YOUR PERSONAL INFORMATION FORM

You can use this form to make a complaint relating to the management of your personal information under:

- s53 of the [Privacy and Personal Information Protection Act 1998](#) (PPIPA) or
- s21 of the [Health Records and Information Privacy act 2002](#) (HRIPA).

The types of complaints may include:

- disclosure of your personal information to another person;
- failure to protect your personal information;
- refusing access to your personal information;
- storage of your personal information; and/or
- accuracy of your personal information.

If you need assistance in filling out this form please visit the Council's Administration Building.

Please note: it is not a requirement under the PPIP Act or the HRIP Act that you complete an application form. This form is designed to assist us in correctly identifying the nature of the conduct you are complaining about and determine whether a breach has occurred.

If you choose not to complete this form, you must still make a written request for an internal review and describe the conduct in sufficient detail to allow us to determine if there has been a breach.

Section 1: Applicant's details		
Title		
First name		
Last name		
Postal address		
Telephone number		
Email address		
Is this complaint on behalf of someone else?	YES	<input type="radio"/> NO - Go to section 2
Title		
First name		
Last name		
Postal address		
Telephone number		

Email address	
Relationship to applicant	
Is the person capable of making the complaint by him/herself?	

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> UNSURE
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Section 2: Details of the complaint

1. What is the specific conduct you are complaining about?

"Conduct" can include an action, a decision, or even inaction by Council. For example the "conduct" in your case might be a decision to refuse you access to your personal information, or the action of disclosing your personal information to another person, or the inaction of a failure to protect your personal information from being inappropriately accessed by someone else.

2. Please select which of the following information handling practices are relevant to your complaint

(you may select more than one option): *

<input type="radio"/>	Collection of my personal or health information
<input type="radio"/>	Security or storage of my personal or health information
<input type="radio"/>	Refusal to allow me access or find out about my own personal or health information
<input type="radio"/>	Accuracy of my personal or health information
<input type="radio"/>	Use of my personal or health information
<input type="radio"/>	Disclosure of my personal or health information
<input type="radio"/>	Other
<input type="radio"/>	Unsure

3. Describe the type of information involved (eg name, age, address, health information etc):

4. When did the conduct you are complaining about occur? (use dates if possible):

5. When did you become aware of this conduct:

6. You need to lodge this application within six months of the date at Q.4. If more than 6 months has passed from the date you became aware of the conduct, you will need to ask for special permission to lodge a late application.

7. What effect did the conduct have on you:
8. What effect might the conduct have on you in the future:
9. What would you like to see Council do about the conduct? (for example: an apology, a change in policies or practices, compensation, training for staff etc):

Purpose and signature:

I understand that this form will be used by Council to process my request for an internal review. I understand and accept that details of my application (including my personal information) will be referred to the Privacy Commissioner in accordance with our obligation to notify under section 54(1) of the Privacy and Personal Information Protection Act; or section 21 of the Health Records and Information Privacy Act; and that the Privacy Commissioner will be kept advised of the progress and outcome of the internal review.

Applicant's name

Applicant's signature

Date: _____

PRIVACY
<p>Purpose: The information on the form is being collected for the purpose of omission or removal of your place of living from the pecuniary interest returns in accordance with section 739 of the <u>Local Government Act 1993 (NSW)</u>.</p> <p>Intended recipients: General Manager of Lithgow City Council</p> <p>Supply: Legally</p> <p>Consequence of non-provision: If you do not supply the information, your form will not be processed and your place of living cannot be removed from the register.</p> <p>Storage and security: The form will be kept in Council's document management system in accordance with the relevant legislation.</p> <p>Access: You may correct or update your information by contacting Council on 02 6354 9999.</p>

**APPENDIX 2 – STATUTORY DECLARATION TO ACCESS PERSONAL INFORMATION
CONTAINED IN COUNCIL’S PUBLIC REGISTERS**

Statutory Declaration
*OATHS ACT 1900 (NSW), NINTH
SCHEDULE*

I,
[name of declarant]

of
[residence]

do hereby solemnly declare and affirm that I will only use Council’s Public Register for:

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made – and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declare at:

..... [place]

On: [date]

Signature:

In the presence of an authorised witness who states:

I, a
[name of declarant] [qualification of authorised witness]

Certify the following matters concerning the making of this statutory declaration by the person who made it [*please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR I have confirmed the person’s identity using an identification document and the document I relied on was

.....[document relied on]

.....
[signature of authorised witness] [date]

APPENDIX 3 – REQUEST AND STATUTORY DECLARATION TO SUPPRESS PERSONAL INFORMATION CONTAINED IN COUNCIL’S PUBLIC REGISTERS

To the General Manager, Lithgow City Council

In reference to my personal information:

I, _____ of _____
Full name *Address*

request that my personal details be omitted or removed from Council's public registers.

The disclosure of my personal information would place or places my personal safety or that of members of my family at risk.

The following are particulars of the relevant risk:

[signature of applicant]

[date]

Note:

1 This request must be verified by statutory declaration by the person making the request or by another person. The form of statutory declaration on the back of this form may be used for this purpose.

2 Resident electors who wish to have their address or other matter removed from the electoral roll must make an application to the Australian Electoral Commission or the State Electoral Office.

STATUTORY DECLARATION

I _____ of _____,
Full name *Address*

do solemnly and sincerely declare as follows:

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: _____

.....on...../...../.....20.....
[signature of declarant] *[date]*

in the presence of an authorised witness, who states:

I, _____, a Solicitor/Justice of the Peace, certify the following matters
witness name *circle one*

concerning the making of this statutory declaration by the person who made it:
*[*please cross out any text that does not apply]*

1. *I saw the face of the person *OR* *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and

2. *I have known the person for at least 12 months *OR* *I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was _____
[insert description of document, for example licence or passport]

.....on...../...../.....20.....
[signature of authorised witness] *[date]*

PRIVACY

Purpose: The information on the form is being collected for the purpose of omission or removal of your place of living from the pecuniary interest returns in accordance with section 739 of the Local Government Act 1993 (NSW).

Intended recipients: General Manager of Lithgow City Council

Supply: Legally

Consequence of non-provision: If you do not supply the information, your form will not be processed and your place of living cannot be removed from the register.

Storage and security: The form will be kept in Council's document management system in accordance with the relevant legislation.

Access: You may correct or update your information by contacting Council on 02 6354 9999