



**ATTACHMENTS TO REPORTS OF THE BLAYNEY SHIRE COUNCIL MEETING  
HELD ON MONDAY 21 MAY 2018**

<b>04</b>	<b>Arts OutWest New Constitution</b>	
	Attachment 1: Arts OutWest Constitution Change .....	3
	Attachment 2: Arts OutWest Nomination and Proxy Forms .....	5
	Attachment 3: Arts OutWest Board Structure.....	7
	Attachment 4: Arts OutWest Notice of Special General Meeting .....	13
<b>11</b>	<b>2018/2019 Councillor and Mayoral Remuneration</b>	
	Attachment 1: Local Government Remuneration Tribunal Letter .....	15
<b>14</b>	<b>Review of Council Policies</b>	
	Attachment 1: 3G Procurement of Goods and Services Policy .....	39
	Attachment 2: 9I Community Banner Usage Policy .....	47
	Attachment 3: 11C Privacy Management Plan.....	53
	Attachment 4: 9A Work Health and Safety Policy .....	115
	Attachment 5: 11B Records Management Policy.....	119





13 April 2018

General Manager  
The General Manager  
Blayney Shire Council

Dear Rebecca

Over the past three years Arts OutWest has been working on moving to a new skills-based board model with a new constitution. We are now ready to put this new board model in place. To do this we will need to call a Special General Meeting at which the members of Arts OutWest will be asked to vote for the changes. Blayney Shire Council is a member of Arts OutWest and will be able to vote at this meeting. The meeting will be on **Tuesday 8<sup>th</sup> May at 5pm in Orange at Orange Ex-Service's Club (Morotai Room)**. Light refreshments will be served.

I am attaching a copy of the new constitution. I have highlighted areas in blue and green. The blue areas are the clauses that involve a change relating to the new model. The green areas are standard clauses that were added by Fair Trading to the model rules in 2016 and which we need to add to our updated constitution. I am also attaching a document that will be added to Arts OutWest's Policies and Procedures which outlines the model in more detail. The model is a two-tier system with a skills based board as well as a representational Advisory Council.

The biggest changes are:

- Change in membership. We are dropping the option for individuals and organisations to be members. The membership will now be the contributing councils, Charles Sturt University and the members of the board.
- The board will become smaller, going from 15 members to 7-10 members.
- Applications to be on the board of Arts OutWest will be open to the public. Individuals will apply through a written application and be selected for their skills by an assessment panel.
- Councils and CSU will be represented by an Advisory Council. Advisory Council members will be appointed by councils and will attend meetings twice a year to feed into strategy and priority areas. They will be able to represent the interests of their council area.
- The changeover to the new model will be a staggered process taking two years. Half the representative positions currently on the board will be dissolved this year, and the other half will change over in 2019. We expect that some of the current board members whose positions are collapsed this year will apply to be on the board.

We believe that this new model offers a stronger model for governance in our organisation while also offering better opportunities for representation of council's interests through the Advisory Council. If you would like any further information I would welcome the opportunity to present to you or to council about how the new model will work.

PO Box 8272  
CSU LPO  
Bathurst NSW 2795  
T 02 6338 4657  
F 02 6338 4646  
artsoutwest@csu.edu.au  
www.artsoutwest.org.au

Arts OutWest is the regional arts and culture development service the Central West of NSW covering the local government areas of:

Bathurst Region  
Blayney  
Cabonne  
Cowra  
Forbes  
Lachlan  
Lithgow City  
Oberon  
Orange City  
Parkes  
Weddin

Arts OutWest operates as a non-profit incorporated association and is an affiliate of Regional Arts NSW.

Arts OutWest's program services is supported by The NSW State Government through Arts NSW; Local Governments of the Central West and Charles Sturt University.

Arts OutWest's services to the community are also provided with the active assistance and cooperation of local and regional media.

Supported by



Australian Government



Nyree Reynolds is currently your Arts OutWest representative. Nyree will be able to vote on behalf of Blayney Shire Council. If you would prefer to organise someone other than Nyree to vote on behalf of council, please let Arts OutWest know before the Special General meeting on 8<sup>th</sup> May.

Please let us know who Blayney Shire Council would like to nominate to be your representative on the Advisory Council. They will need to be available for two meetings a year that will be held during working hours, lasting for around two hours. The options for nomination remain the same as those currently in place for Arts OutWest Board members: they can be a councillor, a council staff member or a member of the public. Subject to the new board constitution being approved by the membership at the Special general Meeting on 8<sup>th</sup> May, we are planning to hold the first Advisory Council Meeting on Monday 14<sup>th</sup> May 2018.

The Arts OutWest AGM is planned for Sunday 20<sup>th</sup> May 2018 in Grenfell. The first phase of skills-based board positions will be voted in at this meeting. However we propose that the Blayney board position stays in place until 2019.

Thank you.

Tracey Callinan  
Executive Director

PO Box 8272  
CSU LPO  
Bathurst NSW 2795  
T 02 6338 4657  
F 02 6338 4646  
artsoutwest@csu.edu.au  
www.artsoutwest.org.au

Arts OutWest is the regional arts and cultural development service for the Central West of NSW covering the local government areas of:

Bathurst Region  
Blayney  
Cabonne  
Cowra  
Forbes  
Lachlan  
Lithgow City  
Oberon  
Orange City  
Parkes  
Weddin

Arts OutWest operates as a non-profit incorporated association and is an affiliate of Regional Arts NSW.

Arts OutWest's program of services is supported by: The NSW State Government through Arts NSW; Local Governments of the Central West and Charles Sturt University.

Arts OutWest's services to the community are also provided with the active assistance and cooperation of local and regional media.

Supported by



Australian Government



**Arts OutWest Incorporated**  
Incorporated under the Associations Incorporation Act 1984

The Advisory Council  
**NOMINATION FORM**

I, _____ <i>Print name of proposer</i>	
<b>being a representative of council</b>	
_____ nominate <i>Print name of council</i>	
_____ <b>as an Advisory Council member</b> <i>Print name of nominee</i>	
_____ <i>Signature</i>	_____ <i>Date</i>

I, _____ <i>Print name of nominee</i>	
<b>do hereby ACCEPT the nomination for the position of an Advisory Council member</b>	
_____ <i>Signature</i>	_____ <i>Date</i>

(Signature may be typed in)

**PLEASE RETURN BY LATEST Tuesday 1 May, 2018**

[artsoutwest@csu.edu.au](mailto:artsoutwest@csu.edu.au) / 6338 4657



Arts OutWest Incorporated  
Incorporated under the Associations Incorporation Act 1984

## FORM OF APPOINTMENT PROXY

\_\_\_\_\_ *(name of Individual member/organisation/council)*

of \_\_\_\_\_ *(address or email)*

being an Individual financial member **or** delegate of an organisational financial member of the above mentioned incorporated association and being eligible to vote at the forthcoming annual general meeting of the association hereby appoint:

\_\_\_\_\_ *(full name of proxy)*

of \_\_\_\_\_ *(address or email)*

being an Individual financial member or delegate of an organisational financial member of the association as my proxy to vote for me on my behalf at the special general meeting of the association to be held on **Tuesday 1 May, 2018** and at any adjournment of that meeting.

My proxy is authorised to vote for on the proposal to adopt a new constitution of ArtsOutWest.

\_\_\_\_\_ *(signature of Individual /delegate member appointing proxy)*

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Arts OutWest Inc PO Box 8272 CSU LPO BATHURST 2795  
[artsoutwest@csu.edu.au](mailto:artsoutwest@csu.edu.au) / 6338 4657



## Policies and Procedures: Arts OutWest Board Structure

The following section outlines the structure of the Arts OutWest Board and Advisory Council. It should be used in conjunction with the constitution of Arts OutWest. These policies and procedures can be changed at any time through a vote of the Committee of Management (Board) and endorsement by The Arts OutWest Advisory Council.

Arts OutWest has two levels of governance: the Committee of Management (to be known as The Board) and the Advisory Council.

The Advisory Council's job is to help set strategic policy and to advise about the priorities which the organisation should be pursuing. They also monitor the progress of Arts OutWest in delivering this policy. The Board's job is to manage the organisation including financial management and to ensure that the organisation is compliant and functioning well. The Board appoints and manages the Executive Director who is in turn responsible for managing the staff.

Diagram 1: Overall governance structure of Arts OutWest





### **The Advisory Council**

Each March the member organisations (contributing councils and Charles Sturt University) are asked to confirm their representative on the Arts OutWest Advisory Council. Appointments to the Advisory Council occur through the council informing Arts OutWest in writing of who will be representing the council on the Advisory Council. Arts OutWest can assist this process by sending a standard AOW Advisory Council nomination form to each contributing council. All Advisory Council member places need to be confirmed by late April. Advisory Council members can be a councillor, a member of council's staff or a community member.

The Advisory Council will meet twice a year:

1. Late April/early May meeting  
At this meeting the Advisory Council will:
  - Appoint the Advisory Council Chair for the next year
  - Review progress on the forward plan
  - Review the previous year's Annual Report
  - Review the plans for the AGM (usually held in late May)
  
2. October meeting  
At this meeting the Advisory Council will:
  - Set priorities for the next calendar year's forward plan

Advisory Council members are also expected to provide a link to the council they represent, updating them about progress, information, changes and successes.

### **The Committee of Management (known as The Board)**

The board is to be made up 7 – 10 members. Each board member will become a member of Arts OutWest. The make-up will be:

- 7 appointed members
- 1 chair of the Advisory Council
- Up to 2 additional members who can be co-opted based on a skills need

#### **Selection of 7 appointed board members:**

- Board members will be selected based on merit and to ensure that the Arts OutWest board has a suitable spread of skills.
- Positions on the board will be publicly advertised (March each year). The notices will include information about the sorts of skills being sought and the process for submitting an application to be a board member. Applicants send their applications in writing (by email), with applications closing in late April).
- The appointed members will be selected by a committee who will meet in early May. They will score the applicants on merit and also match their skills and attributes against a skills and diversity matrix to ensure that Arts OutWest has an appropriate spread of skills as well as diversity across location of board members, gender, also taking into consideration age and cultural background.
- The selection committee will be made up of 2 current board members whose 2 year term is not up for renewal that year; 1 AOW Advisory Council member; the Arts OutWest Executive Director; 1 external member (CEO of Regional Arts NSW or similar).





- The selected members are presented to the membership at the AGM for election.

The term for these members is two years. A member can re-apply when their term is up, and can complete up to three consecutive terms. A member who has completed three consecutive terms can re-apply to be on the board after a break of two years.

#### Advisory Council member of board

The person who is elected by the Advisory Council to be the Chair becomes a member of the board. They will be expected to represent the decisions of the Advisory Council at board meetings.

The Advisory Council member of the board is appointed for a two year term.

#### Co-opted members appointment

Board members may seek to appoint up to two further board members if there is a need to fulfil certain skill requirements. This may happen because:

- a) The recruitment process of board members did not provide a full spread of necessary skills or regional representation, or
- b) Current business arises in which specific skills are required

In the case of co-opted board members, the process of coming on to the board is:

- To be nominated by an existing board member, in writing
- To be seconded by an existing board member, in writing
- For the majority of board members at a normal board member to vote in favour of the nominated person coming on to the board

A co-opted member's term is to last one year after the next AGM after appointment (ie. Longer than 1 year but shorter than 2 years).

#### Office bearers

There are 4 office bearer positions on the AOW board.

- Chair
- Vice-Chair
- Secretary
- Treasurer

Each of these positions is to be elected by the committee at a short meeting convened immediately after the AGM.

The Chair's position is for a 2 year term. The office cannot be held for more than 2 terms (4 years) consecutively.

Other positions can be held on an annual basis for a maximum of 6 consecutive years.

#### Changeover process from old constitution to new constitution

The new constitution will be voted on at a special general meeting to be held on Tuesday 8 May 2018 in Orange. Once the membership has voted, the new constitution will be in place. However, there is a staggered process of moving to the full change, spread over two years.



Year 1:

- Draft new constitution and Policy and Procedures: Board Membership. Circulate
- Approve new constitution at special general meeting
- Board meeting: 7 positions collapsed plus one vacant position
- New Advisory Council meets
- Board membership applications assessed. 4 members selected
- Positions confirmed at AGM (4 new members plus Advisory Council chair plus 7 remaining positions = 12 positions)

Year 2:

- May board meeting: remaining 7 positions collapsed
- Board applications assessed. 3 members selected
- Positions confirmed at AGM

A detailed timeline can be found on the following page.



The timeline for the process is as follows:

Wednesday 4 April 2018	Constitution draft and Policy and Procedures: Board membership documents are circulated <b>to board</b> . Feedback required on: <ul style="list-style-type: none"> <li>• Agreeing to the new constitution and P&amp;P document on board membership</li> <li>• Preferred option to either be: <ul style="list-style-type: none"> <li>○ one of the 'collapsed' positions, leaving AOW</li> <li>○ one of the 'collapsed' positions, intending to move to the Advisory Council</li> <li>○ one of the 'collapsed' positions, intending to apply for one of the 4 new positions</li> <li>○ one of the 7 positions that stays on for another year</li> </ul> </li> </ul>
Wednesday 11 April 2018	Final agreement by the board on new constitution and P&P board membership document.
Friday 13 April 2018	Special general meeting notice sent to AOW membership. New constitution circulated to all members. Request for nomination of Advisory Council members. Preliminary information for prospective applications to be a board member (4 positions available), subject to the new constitution being passed.
Tuesday 1 May 2018	Send out AGM notice and re-iterate call for applications for board members, making clear that this is subject to the new constitution being confirmed. Advisory Council membership is confirmed, based on nominations by member organisations (councils + CSU).
Tuesday 8 May 2018	<b>Special general meeting</b> (5pm), adopting new constitution to take effect from the 20 May (AGM).
Tuesday 8 May 2018	May board meeting (6pm) at which: <ul style="list-style-type: none"> <li>• 7 board positions are 'collapsed' into 4 positions to be selected from applications. A further 8<sup>th</sup> position which is vacant is also collapsed. Process includes decisions about who may want to move to the Advisory Council instead of being on the board.</li> <li>• 7 positions stay on for another year.</li> </ul>
Monday 14 May 2018	First meeting of the Arts OutWest Advisory Council.
Monday 14 May 2018	Selection panel meets to assess applications and select 4 board members.
Sunday 20 May 2018	AGM. New board elected. Office-bearers elected by board immediately after AGM.
Tuesday 14 August	Board meeting.
October 2018	Advisory Council meeting. Set priorities for 2019 Forward Plan and new strategic plan.
Tuesday 13 November 2018	Board meeting.
Tuesday 12 February 2019	Board meeting. Remaining positions on notice to be collapsed.



Early April 2019	Nominations sent to councils and CSU for Advisory Council members Call out for applications for 3 board positions.
Mid May 2019	Advisory Council meeting. Monitor progress on plan. Elect chair for next year.
Mid May 2019	Selection panel assesses applications for remaining board positions. Selects 3 members.
Late May 2019	AGM. Board members confirmed. New model fully in place.
Late May 2020	Two year terms end for the first 4 positions appointed in 2018. Any board members wishing to do another two year term must apply, along with any new parties interested in being a board member.
Late May 2021	Two year terms end for the remaining 3 positions appointed in 2019. Any board members wishing to do another two year term must apply, along with any new parties interested in being a board member.



## NOTICE OF SPECIAL GENERAL MEETING

Members of Arts OutWest are advised that Arts OutWest will hold a Special General Meeting, seeking to vote in changes to the constitution in order to establish a skills- based board with a representational Advisory Council.

The Special General Meeting will be held on

**Tuesday 8<sup>th</sup> May**

at

**Orange Ex-Services Club**

**(Morotai Room)**

**231-243 Anson Street, Orange**

commencing at

**5.00pm**

All Arts OutWest members are invited to attend the meeting.

Anyone voting at the meeting must be either a financial member of Arts OutWest or representing an organisation which is a financial member of Arts OutWest.

Any financial member who is unable to attend the meeting but who wishes to vote is able to appoint a proxy to vote in their place.

Please RSVP to Arts OutWest if you intend to attend or need a form to appoint a proxy to vote in your place. Copies of the new draft constitution (with changes highlighted) are available from Arts OutWest and online at [www.artsoutwest.org.au](http://www.artsoutwest.org.au).

[artsoutwest@csu.edu.au](mailto:artsoutwest@csu.edu.au)

02 6338 4657



**Local  
Government  
Remuneration  
Tribunal**

Annual Report  
and  
Determination

*Annual report and determination under sections 239  
and 241 of the Local Government Act 1993*

**17 April  
2018**

[NSW Remuneration Tribunals website](#)

## Local Government Remuneration Tribunal

# Contents

---

<b>Contents</b>	<b>1</b>
<b>Executive Summary</b>	<b>2</b>
<b>Section 1 Introduction</b>	<b>3</b>
<b>Section 2 2017 Determination</b>	<b>4</b>
<b>Section 3 2018 Review</b>	<b>5</b>
<b>Categorisation</b>	<b>6</b>
Categorisation model	6
Allocation of councils into categories	6
<b>Fees</b>	<b>11</b>
<b>Findings</b>	<b>12</b>
Quantum of Fees	12
Other matters	12
<b>Conclusion</b>	<b>13</b>
<b>Section 4 Determinations</b>	<b>15</b>
<b>Determination No. 1- Determination Pursuant to Section 239 of Categories of Councils and County Councils Effective From 1 July 2018</b>	<b>15</b>
Table 1: General Purpose Councils - Metropolitan	15
Table 2: General Purpose Councils – Non-Metropolitan	16
Table 3: County Councils	17
<b>Determination No. 2- Determination Pursuant to Section 241 of Fees for Councillors and Mayors</b>	<b>18</b>
Table 4: Fees for General Purpose and County Councils	18
<b>Appendices</b>	<b>19</b>
<b>Appendix 1 Criteria that apply to categories</b>	<b>19</b>



## **Local Government Remuneration Tribunal**

# **Executive Summary**

---

The Local Government Remuneration Tribunal (the Tribunal) is required to report to the Minister for Local Government by 1 May each year as to its determination of categories of councils and the maximum and minimum amounts of fees to be paid to mayors, councillors, and chairpersons and members of county councils.

### **Categories**

The Tribunal has reviewed the criteria that apply to the categories of councils and the allocation of councils into those categories. The Tribunal found that there was no strong case to change the criteria or the allocation of councils into categories at this time. The criteria applicable to each of the categories are published in Appendix 1 of the determination and are unchanged from 2017.

### **Fees**

The Tribunal has determined that the minimum and maximum fees applicable to each category will be increased by 2.5 per cent which is consistent with the government's policy on wages.

## Local Government Remuneration Tribunal

# Section 1 Introduction

---

1. Section 239 of the *Local Government Act 1994* (the LG Act) provides for the Tribunal to determine the categories of councils and mayoral offices and to place each council and mayoral office into one of those categories. The categories are to be determined at least once every 3 years.
2. Section 241 of the LG Act provides for the Tribunal to determine, not later than 1 May in each year, for each of the categories determined under section 239, the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils.
3. In determining the maximum and minimum fees payable in each of the categories, the Tribunal is required, pursuant to section 242A (1) of the LG Act, to give effect to the same policies on increases in remuneration as those of the Industrial Relations Commission. The current policy on wages is that public sector wages cannot increase by more than 2.5 per cent, and this includes the maximum and minimum fees payable to councillors and mayors and chairpersons and members of county councils.
4. The Tribunal is however able to determine that a council can be placed in another existing or a new category with a higher range of fees without breaching the government's wage policy pursuant to section 242A (3) of the LG Act.
5. The Tribunal's determinations take effect from 1 July in each year.

## Local Government Remuneration Tribunal

# Section 2 2017 Determination

---

6. The Tribunal undertook a significant review of the categories and the allocation of councils into each of those categories. The review was prompted by the amalgamation of councils resulting in the creation of 20 new councils and an overall reduction in the number of councils in NSW from 152 to 128.
7. In reviewing the categories the Tribunal examined a range of statistical and demographic data and considered the views of councils and Local Government NSW (the LGNSW). Having regard to that information, the Tribunal determined a categorisation model which differentiates councils primarily on the basis of their geographic location. Other factors which differentiate councils for the purpose of categorisation include population, the sphere of the council's economic influence and the degree of regional servicing.
8. The Tribunal's 2017 Determination was made on 12 April 2017 and determined the categories of general purpose councils as follows:

### **Metropolitan**

- Principal CBD
- Major CBD
- Metropolitan Large
- Metropolitan Medium
- Metropolitan Small

### **Non-metropolitan**

- Regional City
- Regional Strategic Area
- Regional Rural
- Rural

9. The criteria for the categories were also determined and are now contained in Appendix 1. The Tribunal's determination also provided for each of the 128 Councils to be allocated into one of the above categories.
10. The 2017 Determination provided a general increase of 2.5 per cent which was consistent with the Government's policy on wages.

## Local Government Remuneration Tribunal

### Section 3 2018 Review

---

11. The Tribunal wrote to all mayors in November 2017 advising of the commencement of the 2018 Annual Review. In doing so the Tribunal noted that at the time of making the 2017 determination a number of further merger proposals were on hold as a consequence of legal action taken by councils covered by these proposals. On 27 July 2017 the Premier, the Hon Gladys Berejiklian MP, issued a media release which advised that due to the protracted nature of those legal challenges and the impact on ratepayers, that the following mergers would not proceed:

- Burwood, City of Canada Bay and Strathfield Municipal councils
- Hornsby Shire and Ku-ring-gai councils
- Hunter's Hill, Lane Cove and City of Ryde councils
- Mosman Municipal , North Sydney and Willoughby councils
- Randwick City, Waverley and Woollahra Municipal councils.

12. While the Tribunal is only required to review the categorisation every three years, given the changed circumstances, if requested, the Tribunal stated it would review the allocation of the above metropolitan councils into the existing categories.

13. In this respect, any requests for a review would need to be supported by evidence which would indicate that the council is more appropriately allocated into another category based on the criteria.

14. The Tribunal also stated that it does not intend to alter the groups or the criteria which apply unless there is a very strong case to do so.

15. The Tribunal also wrote to the President of LGNSW in similar terms, and subsequently met with the Chief Executive of LGNSW. The Tribunal wishes to place on record its appreciation to the Chief Executive for meeting with the Tribunal.

16. In response to this review the Tribunal received 13 submissions from individual councils and a submission from LGNSW. Those submissions addressed the categorisation model and criteria, the allocation of councils into those categories, and/or the fees. A summary of the matters raised and the Tribunal's consideration of those matters is outlined below.

## **Local Government Remuneration Tribunal**

### **Categorisation**

#### **Categorisation model**

17. The majority of submissions supported the categorisation model, suggested additional categories or made no comment. Concerns were largely based on the criteria and in particular the emphasis on population to determine appropriate categorisation.
18. One submission also requested that consideration be given to making the criteria for Principal CBD and Major CBD more general in nature.
19. Apart from requests for new categories, no case has been put to the Tribunal to adjust or change the categorisation model. The Tribunal is required to review the categories every three years. As the current model was introduced in 2017 the Tribunal will next consider the model and the allocation of councils into that model in 2020.
20. The Tribunal has reviewed the criteria which apply to the categories of Principal CBD and Major CBD. The criteria for Principal CBD and Major CBD are specific to the characteristics of councils within those categories. This is different to the other categories which have indicative population thresholds and general criteria which describe common features of councils in these groups.

#### **Allocation of councils into categories**

21. The criteria applicable to the categories are outlined in Appendix 1. The categories differentiate councils on the basis of their geographic location with councils grouped as either metropolitan or non-metropolitan. With the exception of Principal CBD and Major CBD, population is the predominant criterion to determine categorisation. Other common features of councils within those categories are also broadly described. These criteria have relevance when population alone does not adequately reflect the status of one council compared to others with similar characteristics. In some instances the additional criteria will be sufficient enough to warrant the categorisation of a council into a group with a higher indicative population range.
22. In respect of the request to reconsider the criteria for Principal CBD and Major CBD, the Tribunal notes that the current criteria are specific to the councils of Sydney City and Parramatta City respectively. Prior to the making of the 2017 determination Sydney City Council was a standalone category. Parramatta City Council was grouped with Newcastle

### **Local Government Remuneration Tribunal**

City Council and Wollongong City Council. The Tribunal's 2017 review determined that Parramatta City Council would also be a standalone category within the group of metropolitan councils. Newcastle and Wollongong were placed in a separate category, Regional City.

23. The allocation of Sydney City Council and Parramatta City Council into unique categories reflects their status within the metropolitan area. These precincts have been identified by the NSW Government in its metropolitan planning policies<sup>1</sup> as "Metropolitan City Centres" and are the only local government precincts to be given this status. The Tribunal considers that Parramatta City Council is the only council which currently meets the criteria of Major CBD.
24. The Tribunal received ten requests for re-categorisation. Each of those requests was considered having regard to the case put forward and the criteria for each category. A multi variable approach was adopted in assessing each council against all the criteria (not only population) for the requested category and also the relativities within the categories. At the time of making the determination the Tribunal only had available to it population data as of 2016. The Australian Bureau of Statistics (ABS) has advised that more up to date population data will not be published until 24 April 2018 which is too late for consideration as part of this review. The Tribunal found that the current categorisation was appropriate, but noted that some of those councils seeking to be moved are likely to meet the criteria for re-categorisation in future determinations in the medium term. A summary of the Tribunal's findings for each of the applications is outlined in the following paragraphs.

#### **Penrith**

25. Penrith sought to be re-categorised to a new category (possibly Metropolitan Large – Growth Centre) to reflect expected population growth and development. The council submitted that the new category could have fees equivalent to Regional City. The submission also drew the Tribunal's attention to the regional servicing role of Penrith to Greater Western Sydney, the Blue Mountains and the Central West of NSW.

---

<sup>1</sup> Greater Sydney Commission's (GSC) Greater Sydney Regional Plan – *A metropolis of three cities – connecting people – March 2018* (GSR Plan); Transport for NSW's *Future Transport Strategy 2056, March 2018*; NSW Government's *The NSW State Infrastructure Strategy 2018-2038, 18 March 2018*.

### **Local Government Remuneration Tribunal**

26. The Tribunal examined Penrith's submission in the context of other councils in the Metropolitan Large category. Penrith currently has the smallest population in this group of councils and the degree of population growth is comparable to other fringe metropolitan councils. While the council area is host to a range of regional facilities these are similar to those available in other council areas within this group. On the basis of the information available the Tribunal does not find there is a case to create a new category to accommodate Penrith.

#### **Inner West**

27. Inner West has sought to be re-categorised from Metropolitan Medium to Metropolitan Large. The council has a population of 190,500 (2016) which is substantially below the population of other Metropolitan Large councils. In considering this request the Tribunal has reviewed the additional factors which guide categorisation to both Metropolitan Large and Metropolitan Medium, as outlined in Appendix 1 of this determination. The Tribunal notes that while significant residential development is proposed for this council that development is influenced by a number of urban renewal and infrastructure projects which have either not commenced or are in their early stages. The Tribunal finds the council does not demonstrate a sufficient number of additional criteria to warrant re-categorisation as Metropolitan Large at this time. However, with expected population growth it is likely the council may be more comparable with other Metropolitan Large councils in the short to medium term.

#### **Randwick**

28. Randwick has sought to be re-categorised from Metropolitan Medium to Metropolitan Large principally on the basis of its regional servicing and facilities. The Tribunal notes that the council's population of 146,250 (2016) is squarely within the indicative range for this category of (100,000 to 200,000). In reviewing this request the Tribunal has also considered the degree of regional servicing and sphere of economic influence. Having regard to those factors the Tribunal does not find that the council can display additional criteria to a degree comparable to other councils in Metropolitan Large or that re-categorisation into this group is appropriate.

#### **Canada Bay**

### **Local Government Remuneration Tribunal**

29. Canada Bay has sought to be re-categorised from Metropolitan Small to Metropolitan Medium. Canada Bay has a population 90,850 (2016) which is the largest of the councils in Metropolitan Small but still well below the indicative range of Metropolitan Medium councils. The council has put a case forward based on its growing regional influence with a large influx of workers, shoppers and visitors each day.
30. The Tribunal has compared the profile of Canada Bay to other councils in Metropolitan Medium and finds that the scale of its operations and degree of regional servicing are not sufficient to warrant re-categorisation. The Tribunal notes however, that similar to Inner West, expected population growth it is likely to make the council more comparable to those in Metropolitan Medium in the medium term.

#### **Willoughby and North Sydney**

31. Both Willoughby and North Sydney have sought to be re-categorised from Metropolitan Small to Metropolitan Medium. Under the new categorisation model these councils were allocated into a category with lower fees than those previously available under the former categorisation. The Tribunal finds that while some existing councillors may be receiving lower fees as a result of the revised categorisation, this is not a factor in the categorisation of councils into categories.
32. The categories have been developed to group councils with as many like characteristics as possible. The Tribunal has considered the characteristics of Willoughby and North Sydney in the context of those that apply to both Metropolitan Small and Metropolitan Medium.
33. Willoughby has a population of 77,950 (2016) and North Sydney 72,150 (2016). Willoughby has sought to be re-categorised having regard to additional criteria including its scale of operations and businesses and the regional significance of its centres. North Sydney has sought consideration of its regional services and facilities and high percentage of non-resident visitors and workers.
34. Both councils have sought recognition of the significant number and percentage of non-resident workers, however the available data from the ABS would suggest that many other metropolitan councils across all categories host a significant number of non-resident workers.
35. The Tribunal notes that the current population of both councils is within the indicative population range for Metropolitan Small councils and well below that of Metropolitan Medium. Having regard to the addition criteria that apply to Metropolitan Small and



### **Local Government Remuneration Tribunal**

Metropolitan Medium, the Tribunal finds that the characteristics of Willoughby and North Sydney are more appropriately aligned with those of other Metropolitan Small councils and finds no case for them to be re-categorised at this time.

#### **Port Macquarie**

36. Port Macquarie has sought to be re-categorised from Regional Rural to Regional Strategic Area. Alternatively, it is requested that consideration be given to the creation of a new category for similar councils in the Regional Rural group.

37. Port Macquarie has a population of 79,650 (2016) which is significantly below the indicative population range of Regional Strategic Area councils. The Tribunal finds that Port Macquarie has not demonstrated the additional criteria to warrant inclusion into this group.

38. The Tribunal notes that there is a large population range of those councils included in the Regional Rural category. These councils are grouped together to reflect their like features such as having a major township which provides regional servicing to smaller rural communities and rural councils. The Tribunal does not propose to further differentiate this group at this time.

#### **Maitland**

39. Maitland has sought to be re-categorised from Regional Rural to Regional Strategic Area or that a new category be created between Regional Rural and Regional Strategic Area.

40. Maitland has a population of 78,200 (2016) which is significantly below the indicative population range of Regional Strategic Area councils. The Tribunal finds that Maitland has not demonstrated the additional criteria to warrant inclusion into this group. As outlined above the Tribunal does not propose to further differentiate this group at this time.

#### **Hilltops**

41. Hilltops Council has sought to be re-categorised from Rural to Regional Rural. The new Hilltops Council is an amalgamation of three former councils in the Rural category (Young, Boorowa and Harden). The submission states that the new council has increased complexity of business and should be recognised as Regional Rural.

42. The Tribunal notes that Hilltops has a population of 19,150 (2016) which is just below the indicative population range of Regional Rural councils. The category of Regional Rural currently includes one council – Broken Hill – which has a population similar to that of Hilltops. Broken Hill warrants categorisation as Regional Rural in recognition of the degree

### **Local Government Remuneration Tribunal**

of regional servicing it provides to far western NSW. It is not considered that Hilltops provides the same degree of regional services and on that basis re-categorisation is not warranted at this time.

#### **Leeton**

43. Leeton has sought reconsideration of the criteria for eligibility to the categorisation of Regional Rural to take into account councils with populations of less than 20,000. Leeton has a population of 11,750 (2016).
44. Leeton has not sufficiently demonstrated that it meets the additional criteria for re-categorisation to Regional Rural level. The Tribunal does not propose to further differentiate this group at this time.

#### **Fees**

45. The LGNSW submission requested that the Tribunal increase fees by the allowable maximum of 2.5 per cent. The submission also reiterated its view that the current arrangement for setting fees is inappropriate and does not provide proper compensation for the significant workload and the range of responsibilities of mayors and councillors. Comparative information was presented in respect to board fees, fees paid to mayors and councillors of councils in Queensland and salaries for Members of Parliament. It was also suggested that when determining fees the Tribunal consider other matters, including the new induction and other professional development training requirements and the implementation of the NSW Local Government Capability Framework. The LGNSW submission also sought consideration of the non-payment of superannuation.
46. A number of submissions also sought an increase to the allowable maximum of 2.5 per cent and raised similar issues to LGNSW in respect to the current fees not being adequate compensation for the heavy or "full-time" workload and time commitment required to carry out mayoral and councillor duties.
47. One submission also raised the matter of fees for deputy mayors, submitting that an additional fee of \$200.00 per month be payable when the role of deputy mayor exists in a council.

## **Local Government Remuneration Tribunal**

### **Findings**

#### **Quantum of Fees**

48. The Tribunal has considered the submissions received and notes the comparisons drawn between the fees paid to councillors and mayors in NSW with those in other states, members of Parliament in NSW, and members of boards and committees. The Tribunal is mindful that the roles and responsibilities of councillors and mayors in NSW are outlined in the LG Act and notes that they are not necessarily comparable to the roles and responsibilities of councillors and mayors in other states, members of Parliament or members of boards and committees.
49. The Tribunal also notes that some of the other matters raised by submissions are more appropriately dealt with in the context of the current Local Government reform agenda and are outside the Tribunal's powers.
50. The Tribunal is required to have regard to the Government's wages policy when determining the increase to apply to the maximum and minimum fees that apply to councillors and mayors. The public sector wages policy currently provides for a cap on increases of 2.5 per cent.
51. The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and had regard to budgetary limitations imposed by the Government's policy of rate pegging, and finds that the full increase of 2.5 per cent is warranted. The 2.5 per cent increase will apply to the minimum and the maximum of the ranges for all existing categories.

#### **Other matters**

52. The Tribunal notes that the NSW Independent Local Government Review Panel made a number of recommendations in 2013 which addressed the role and remuneration of mayors and deputy mayors. The Tribunal understands that those recommendations have not yet been implemented or were supported by the Government in part only.
53. Should the Government's policies change with respect to remuneration the Tribunal would be willing to participate in any further review or consideration of this matter.
54. The matter of the non-payment of superannuation has been previously raised in submissions to the Tribunal and is not a matter for the Tribunal to determine. Section

### **Local Government Remuneration Tribunal**

251 of the LG Act confirms that councillors are not employees of the council and the fee paid does not constitute a salary under the Act. The Tribunal notes that the Australian Tax Office has made a definitive ruling (ATO ID 2007/205) that allows councillors to redirect their annual fees into superannuation on a pre-tax basis and is a matter for councils (*Ref: Councillor Handbook, Oct 2017, Office of Local Government p.69*).

55. Councils have raised the matter of separate fees for deputy mayors on previous occasions and the Tribunal notes that it has previously determined that there is no provision in the LG Act to empower the Tribunal to determine a separate fee or fee increase for deputy mayors. The method for determining separate fees, if any, for a deputy mayor is provided in section 249 of the LG Act as follows:

#### **249 Fixing and payment of annual fees for the mayor**

- (1) A council must pay the mayor an annual fee.*
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee."*

### **Conclusion**

56. The Tribunal's determinations have been made with the assistance of the two Assessors - Mr Ian Reynolds and Mr Tim Hurst. The allocation of councils into each of the categories, pursuant to section 239 of the LG Act, is outlined in Determination No. 1. The maximum and minimum fees paid to councillors and mayors and members and chairpersons of county councils, pursuant to section 241 of the LG Act, are outlined in Determination No. 2.

**Local Government Remuneration Tribunal**

**The Local Government Remuneration Tribunal**

***Signed***

**Dr Robert Lang**

**Dated:** 17 April 2018

**Local Government Remuneration Tribunal**

## Section 4 Determinations

---

**Determination No. 1- Determination Pursuant to Section 239 of Categories of Councils and County Councils Effective From 1 July 2018**

**Table 1: General Purpose Councils - Metropolitan**

Principal CBD (1)	Major CBD (1)
Sydney	Parramatta

  

Metropolitan Large (8)	Metropolitan Medium (9)
Blacktown	Bayside
Canterbury-Bankstown	Campbelltown
Cumberland	Georges River
Fairfield	Hornsby
Liverpool	Ku-ring-gai
Northern Beaches	Inner West
Penrith	Randwick
Sutherland	Ryde
	The Hills

  

Metropolitan Small (11)
Burwood
Camden
Canada Bay
Hunters Hill
Lane Cove
Mosman
North Sydney
Strathfield
Waverley
Willoughby
Woollahra

### Local Government Remuneration Tribunal

**Table 2: General Purpose Councils – Non-Metropolitan**

Regional City (2)	Regional Strategic Area (2)	
Newcastle	Central Coast	
Wollongong	Lake Macquarie	

  

Regional Rural (37)	Rural (57)	
Albury	Balranald	Kyogle
Armidale	Bellingen	Lachlan
Ballina	Berrigan	Leeton
Bathurst	Bland	Liverpool Plains
Bega	Blayney	Lockhart
Blue Mountains	Bogan	Moree Plains
Broken Hill	Bourke	Murray River
Byron	Brewarrina	Murrumbidgee
Cessnock	Cabonne	Muswellbrook
Clarence Valley	Carrathool	Nambucca
Coffs Harbour	Central Darling	Narrabri
Dubbo	Cobar	Narrandera
Eurobodalla	Coolamon	Narromine
Goulburn Mulwaree	Coonamble	Oberon
Griffith	Cootamundra-Gundagai	Parkes
Hawkesbury	Cowra	Snowy Valleys
Kempsey	Dungog	Temora
Kiama	Edward River	Tenterfield
Lismore	Federation	Upper Hunter
Lithgow	Forbes	Upper Lachlan
Maitland	Gilgandra	Uralla
Mid-Coast	Glen Innes Severn	Walcha
Mid-Western	Greater Hume	Walgett
Orange	Gunnedah	Warren
Port Macquarie-Hastings	Gwydir	Warrumbungle
Port Stephens	Hay	Weddin
Queanbeyan-Palerang	Hilltops	Wentworth
Richmond Valley	Inverell	Yass
Shellharbour	Junee	
Shoalhaven		
Singleton		
Snowy Monaro		
Tamworth		
Tweed		
Wagga Wagga		
Wingecarribee		
Wollondilly		

### Local Government Remuneration Tribunal

**Table 3: County Councils**

<b>Water (4)</b>	<b>Other (6)</b>
Central Tablelands	Castlereagh-Macquarie
Goldenfields Water	Central Murray
Riverina Water	Hawkesbury River
Rous	New England Tablelands
	Upper Hunter
	Upper Macquarie



**Local Government Remuneration Tribunal**

**Determination No. 2- Determination Pursuant to Section 241 of Fees for Councillors and Mayors**

Pursuant to s.241 of the *Local Government Act 1993*, the annual fees to be paid in each of the categories to Councillors, Mayors, Members and Chairpersons of County Councils effective on and from 1 July 2018 are determined as follows:

**Table 4: Fees for General Purpose and County Councils**

Category		Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
		Minimum	Maximum	Minimum	Maximum
General Purpose Councils – Metropolitan	Principal CBD	26,970	39,540	164,980	217,080
	Major CBD	17,980	33,310	38,200	107,620
	Metropolitan Large	17,980	29,670	38,200	86,440
	Metropolitan Medium	13,480	25,160	28,640	66,860
	Metropolitan Small	8,970	19,790	19,100	43,150
General Purpose Councils – Non-metropolitan	Regional City	17,980	31,260	38,200	97,370
	Regional Strategic Area	17,980	29,670	38,200	86,440
	Regional Rural	8,970	19,790	19,100	43,170
	Rural	8,970	11,860	9,540	25,880
County Councils	Water	1,780	9,890	3,820	16,250
	Other	1,780	5,910	3,820	10,790

\*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

**The Local Government Remuneration Tribunal**

*Signed*

**Dr Robert Lang**

**Dated:** 17 April 2018

## Local Government Remuneration Tribunal

# Appendices

---

### Appendix 1 Criteria that apply to categories

#### Principal CBD

The Council of the City of Sydney (the City of Sydney) is the principal central business district (CBD) in the Sydney Metropolitan area. The City of Sydney is home to Sydney's primary commercial office district with the largest concentration of businesses and retailers in Sydney. The City of Sydney's sphere of economic influence is the greatest of any local government area in Australia.

The CBD is also host to some of the city's most significant transport infrastructure including Central Station, Circular Quay and International Overseas Passenger Terminal. Sydney is recognised globally with its iconic harbour setting and the City of Sydney is host to the city's historical, cultural and ceremonial precincts. The City of Sydney attracts significant visitor numbers and is home to 60 per cent of metropolitan Sydney's hotels.

The role of Lord Mayor of the City of Sydney has significant prominence reflecting the CBD's importance as home to the country's major business centres and public facilities of state and national importance. The Lord Mayor's responsibilities in developing and maintaining relationships with stakeholders, including other councils, state and federal governments, community and business groups, and the media are considered greater than other mayoral roles in NSW.

#### Major CBD

The Council of the City of Parramatta (City of Parramatta) is the economic capital of Greater Western Sydney and the geographic and demographic centre of Greater Sydney. Parramatta is the second largest economy in NSW (after Sydney CBD) and the sixth largest in Australia.

As a secondary CBD to metropolitan Sydney the Parramatta local government area is a major provider of business and government services with a significant number of organisations relocating their head offices to Parramatta. Public administration and safety has been a growth sector for Parramatta as the State Government has promoted a policy of moving government agencies westward to support economic development beyond the Sydney CBD.

The City of Parramatta provides a broad range of regional services across the Sydney Metropolitan area with a significant transport hub and hospital and educational facilities. The City of Parramatta is home to the Westmead Health and Medical Research precinct which represents the largest concentration of hospital and health services in Australia, servicing Western Sydney and providing other specialised services for the rest of NSW.

The City of Parramatta is also home to a significant number of cultural and sporting facilities (including Sydney Olympic Park) which draw significant domestic and international visitors to the region.

### **Local Government Remuneration Tribunal**

#### **Metropolitan Large**

Councils categorised as Metropolitan Large will typically have a minimum population of 200,000.

Other features may include:

- total operating revenue exceeding \$200M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Large will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.

#### **Metropolitan Medium**

Councils categorised as Metropolitan Medium will typically have a minimum population of 100,000.

Other features may include:

- total operating revenue exceeding \$100M per annum
- services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- industrial, commercial and residential centres and development corridors
- high population growth.

The sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Large councils.

#### **Metropolitan Small**

Councils categorised as Metropolitan Small will typically have a population less than 100,000.

Other features which distinguish them from other metropolitan councils include:

- total operating revenue less than \$150M per annum.

While these councils may include some of the facilities and characteristics of both Metropolitan Large and Metropolitan Medium councils the overall sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Medium councils.

### **Local Government Remuneration Tribunal**

#### **Regional City**

Councils categorised as Regional City will typically have a population above 150,000. These councils are metropolitan in nature with major residential, commercial and industrial areas. These Councils typically host government departments, major tertiary education and health facilities and incorporate high density commercial and residential development.

These councils provide a full range of higher order services and activities along with arts, culture, recreation and entertainment facilities to service the wider community and broader region. These councils typically also contain ventures which have a broader State and national focus which impact upon the operations of the council.

Newcastle City Council and Wollongong City Councils are categorised as Regional City.

#### **Regional Strategic Area**

Councils categorised as Regional Strategic Area are differentiated from councils in the Regional Rural category on the basis of their significant population. Councils categorised as Regional Strategic Area will typically have a population above 200,000. These councils contain a mix of urban and rural settlements. They provide a range of services and activities including business, office and retail uses, along with arts, culture, recreation and entertainment facilities to service the wider community. These councils host tertiary education campuses and health facilities.

While councils categorised as Regional Strategic Area may have populations which exceed those of Regional City, they would not typically provide the same range of regional services or have an equivalent sphere of economic influence.

Central Coast Council and Lake Macquarie Council are categorised as Regional Strategic Area.

#### **Regional Rural**

Councils categorised as Regional Rural will typically have a minimum population of 20,000.

Other features which distinguish them from other non-metropolitan councils include:

- a major town or towns with the largest commercial component of any location in the surrounding area
- a significant urban population existing alongside a traditional farming sector, and are surrounded by smaller towns and villages or may be located on or close to the coast with high levels of population and tourist facilities
- provide a full range of higher-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- regional services to the wider community through principal referral hospitals, tertiary education services and major regional airports
- these councils may also attract large visitor numbers to established tourism ventures.

### **Local Government Remuneration Tribunal**

#### **Rural**

Councils categorised as Rural will typically have a population below 20,000.

Other features which distinguish them from other non-metropolitan councils include:

- one or two significant townships combined with a considerable dispersed population spread over a large area and a long distance from a major regional centre
- a limited range of services, facilities and employment opportunities compared to Regional Rural councils
- local economies based on agricultural/resource industries.

#### **County Councils - Water**

County councils that provide water and/or sewerage functions with a joint approach in planning and installing large water reticulation and sewerage systems.

#### **County Councils - Other**

County councils that administer, control and eradicate declared noxious weeds as a specified Local Control Authority under the *Noxious Weeds Act 1993*.





## **Procurement of Goods & Services Policy**

<b>Policy</b>	3G
<b>Officer Responsible</b>	Chief Financial Officer
<b>Last Review Date</b>	21/05/2018

**Strategic Policy**

### **Scope**

This Procurement of Goods and Services Policy applies to all procurement processes and activities undertaken by Council, including purchasing, ordering, tendering, contracting and disposals. It applies to all types of goods and services but does not apply to real property acquisitions and other non-procurement expenditure, such as sponsorships, donations and employment contracts.

The Procurement of Goods and Services Policy applies to anyone who undertakes or is involved in procurement activities. This includes Councillors, staff and delegates.

### **Compliance**

The Procurement of Goods and Services Policy, conditions of tender and conditions of contract must be strictly observed at all times. Procurement activities will be periodically audited.

### **Procurement Procedures and Supporting Documents**

The Corporate Services Directorate will develop and maintain procedures, templates, tools and guidelines necessary to give practical effect to the Procurement of Goods and Services Policy.

### **Fundamental Procurement Principles**

All procurement activities will be conducted in accordance with seven fundamental principles.

#### **1. Ethical behaviour, Integrity, Probity and Fair Dealings**

Council values the highest ethical and professional standards in its business dealings. Council will ensure the verifiable integrity of its procurement activities through transparent processes. Council will respect the rights of tenderers and contractors, including confidentiality and the expectation to be treated fairly at all stages of the procurement process.

Council must not engage in any practices that aim to give a potential tenderer, service provider or business an advantage over others, nor engage in any form of collusive practice. A Councillor or Council employee with an actual or perceived conflict of interest must address that interest without delay in accordance with Council's Code of Conduct.

The procurement of services should be conducted in a way that imposes as far as practicable the same level of accountability and responsibility on the service provider as would exist if the Council carried out the services itself. In pursuit of ethical behaviour, staff will, for example:

- Disclose to the General Manager any possible conflict of interest; where a potential conflict relates to the General Manager, it will be



disclosed to the Council in accordance with the Local Government Act 1993

- Deal with all suppliers in an honest, fair and equitable manner
- Respect all in-confidence information received and not use it for personal gain, or to prejudice fair and open competition
- Not accept money, goods, loans, credits, purchasing incentives, services or prejudiced discounts
- Not use Council's name or purchasing power to make purchases other than for Council use during the procurement of services. In this regard, Staff will ensure that their close associates also do not receive an advantage in relation to a Council procurement.

A tenderer will be immediately excluded from a procurement process where:

- A conflict arises or
- There is inappropriate lobbying of the Council or
- There is a behaviour that might reasonably be regarded as seeking to solicit favourable treatment for the procurement process including by the offering of gifts or benefits.

## 2. **Value for Money**

Council seeks to achieve value for money in all its procurement activities. Council will select goods, services and suppliers that represent the best overall value for Council; not necessarily the lowest priced conforming offer.

Value for the community is the core principle underpinning Council's procurement system. This will involve a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle. Value for money is not restricted to price alone. When assessing value for money, consideration shall also be given to:

- The advancement of Council and Local Government priorities
- The non-cost factors such as fitness for purpose, quality, service and support, and sustainability considerations
- The cost related factors including whole-of-life costs and transaction costs associated with acquisition, use, holding, maintenance and disposal.

## 3. **Open and Effective Competition**

Council recognises the commercial and economic benefits of open and effective competition. Council will encourage healthy competition in the markets from which it purchases.

## 4. **Cooperation**

Council will approach its procurement dealings in good faith and in a spirit of cooperation. Where appropriate, Council will work proactively with tenderers, contractors and third parties (such as other Councils or peak industry bodies) to improve overall outcomes for the community.

5. **Ethically and Environmentally Responsible**

Council is committed to minimising the impact of its activities on the environment. Council will support the use of environmentally sustainable products, materials, processes and services.

Council will, when evaluating quotations or tenders, take into consideration the anticipated impact on the environment and show such consideration in their evaluation documentation. This may be achieved by procuring goods and services that will minimise their impact on the environment, including goods constructed from recycled or re-used products.

6. **Risk Management**

Council will implement systems within its procurement process to identify and manage risks, including, but not limited to Health and Safety risks, fraud prevention and legal compliance.

7. **Support for Local Industry**

Council recognises the importance of employment growth in the Shire. Council will structure its procurement activities to encourage the development of local employment opportunities

**POLICY DIRECTIVES**

Council shall undertake its procurement of goods and services activities in accordance with the following directives.

**Statutory Requirements**

The Local Government (General) Regulation 2005 is particularly relevant to the tendering process; however, various Acts and Regulations apply to Council's diverse range of procurement activities. The Procurement of Goods and Services Policy is intended to supplement these instruments. Any inconsistency that may arise between the Procurement of Goods and Services Policy and a relevant Act or Regulation, shall be resolved in favour of the Act or Regulation.

Officers shall maintain a working knowledge of the Acts and Regulations applying to the procurement activities they undertake.

**Conduct of Officers**

Officers shall conduct themselves with the utmost integrity and professionalism when undertaking procurement activities. Care shall be taken to ensure the proper management of conflicts of interest and other issues that may affect the integrity of procurement activities. Council's Code of Conduct shall be strictly observed at all times.

## **Delegations**

Officers shall not make procurement decisions outside of their delegated authority. Procurement decisions shall not be divided or restricted, nor any other process engaged in, for the purpose of circumventing delegation limits.

## **General Application of Delegation Limits to Procurement**

Most procurement decisions are subject to delegation limits. Such procurement decisions must be made by an officer with a delegation limit sufficient to cover the value of the procurement exercise. A decision with a value in excess of the General Manager's delegation limit must be made by Council resolution.

Delegation limits apply to procurement decisions that create a financial commitment or a commitment to provide ongoing business opportunities. This includes the approval of requisitions, one-off purchases, one-off contracts, discretionary contract variations, the exercising of contract options and orders against existing period contracts. It also includes the approval of period contracts including standing offer arrangements and pre-qualified supplier panels.

## **Determining the 'Delegations Value' of the Procurement**

The relevant value, for delegations purposes, is simply the face value of the purchase or contract (inclusive of GST).

## **Delegations and Contract Variations**

Variations fall into two categories, discretionary and non-discretionary. Discretionary variations involve a decision to increase the scope of a contract (for example, by adding extra requirements or product lines) and consequently increase the level of financial commitment. Discretionary variations must be approved by an officer (or Council) with a delegation limit sufficient to cover the value of the variation.

In some instances a contract price can alter due to the application of pre-agreed terms (for example, a price adjustment formula, a measured quantity clause, a latent condition clause or an expense reimbursement clause). Such alterations are often referred to as variations; however they are non-discretionary in nature. Although they may require some professional skill to calculate or verify, they do not involve a 'decision' to increase the scope of the contract. Nevertheless, to provide for sound administrative governance such non-discretionary variations shall also be subject to delegation limits up to \$150,000 in value. Non-discretionary variations over \$150,000 in value do not need to be approved by Council but must be approved by the General Manager.

For general reporting and accounting purposes non-discretionary variations shall be recorded and tracked in the same way as other variations.

### **Budget Constraints**

All procurement is subject to approved budgets. Procurement of Goods and Services Policy thresholds and delegation limits operate in addition to (not in place of) any budget constraints.

### **Number of Firms to be invited**

Council shall invite sufficient offers to provide a reasonable degree of competition for the level of expenditure involved, without creating undue administrative cost for Council or the invitees.

### **Intention to Proceed**

Council shall generally not invite offers without a firm intention to proceed with the procurement. Where it is necessary to invite offers on a contingency basis this shall be clearly communicated to participants. Where it is necessary to invite the submission of indicative pricing for estimating or planning purposes this shall be clearly communicated to participants. Where Council intends to consider an existing common-use procurement arrangement along with invited tenders this shall be clearly communicated to participants (see also Common-Use Government Procurement Arrangements).

### **Public Invitations to Tender**

All public invitation processes shall be managed in accordance with the relevant elements of the Local Government (General) Regulation 2005, regardless of whether or not the Regulation applies to the contract.

### **Offers**

All offers made in response to a public invitation or for a contract greater than \$150,000 in value must be received via a formal tender box process, regardless of whether or not the Local Government (General) Regulation 2005 applies.

### **Late Offers**

Late offers received via a formal tender box process shall be handled in accordance with the relevant elements of the Local Government (General) Regulation 2005, regardless of whether or not the Regulation applies to the contract.

Late offers for minor procurement exercises (i.e. not closing via the tender box) may be considered if the approving officer is of the opinion that the circumstances of the offer do not compromise the integrity of the process.

### **General Communications**

Wherever practical, communications with suppliers, contractors and tenderers shall be in writing (electronic or hard-copy). Where this is not practical file notes or formal minutes shall be recorded in an appropriate Council system.

### **Unsuccessful Offers**

Council shall generally provide feedback to unsuccessful offerers if requested. Where the contract value exceeds \$150,000 at least two Council officers shall

participate in the feedback session. Written records shall be made and recorded in an appropriate system.

### **Successful Offers**

Successful offers shall be notified by the issue of a Council Purchase Order. Other correspondence may also be issued however a supply will not be binding without the issue of a Council Purchase Order.

### **References**

Officers shall not provide written references to suppliers or contractors. Officers may provide verbal references to appropriately identified persons, on issues relating to specific contract performance. File notes shall be made.

### **Common-Use Government Procurement Arrangements**

Where Council does not have its own procurement arrangement for a particular good or service, common-use arrangements (such as WBC, Centroc, Local Government group arrangements, NSW Government arrangements and Commonwealth Government arrangements) may be used. Where a common-use arrangement exists, tenders from other contractors may be sourced, however the invitation documents must state that a common-use Government procurement arrangement exists for this item and will be considered as part of Council's tender process.

### **Emergency Situations**

In some circumstances an urgent purchase may be required to meet Council's obligations in regard to safety, asset protection, environmental protection or critical service provision. If such a situation arises **and** there is insufficient time to comply with Procurement of Goods and Services Policy or delegations limits then the most senior officer available may approve an emergency procurement exercise.

An emergency procurement exercise should comply, to the maximum extent possible, with the policies and procedures that would normally apply. All emergency procurement exercises (and the circumstances leading to them) shall be documented and reported to the relevant Director.

### **Reporting to Council**

Contracts in excess of \$150,000 in value shall be reported to Council.

### **Integrity, Dignity and Respect**

- Council treats all persons with courtesy and respect.
- Council officials will demonstrate fair and consistent decision-making, ensuring probity at all times.

### **Appendix 1: Exemptions from Purchase Orders**

Council shall develop a list of exemptions from purchase order generation as part of its operational procedures to allow seamless administrative operations. This list may change from time to time based on Council's operational requirements.

End of Policy

<b>Adopted:</b>	<b>20/09/1999</b>	<b>664</b>
<b>Last Reviewed:</b>	<b>14/05/2007</b>	<b>07/094</b>
	<b>12/11/2012</b>	<b>1211/014</b>
	<b>09/12/2013</b>	<b>1312/003</b>
	<b>21/05/2018</b>	
<b>Next Review:</b>	<b>19/04/2021</b>	



## Community Banner Poles Policy

<b>Policy</b>	9I
<b>Officer Responsible</b>	General Manager
<b>Last Review Date</b>	21/05/2018

**Strategic Policy**

## Objective

To set out Council's policy for the approval of banner displays by community organisations wishing to utilise banner poles provided by Council.

### 1. PURPOSE

- 1.1 To describe Blayney Shire Council's approach to the approval of banner displays for installation on permanent purpose built banner poles, at designated community banner pole sites on Council managed land.
- 1.2 To establish a framework to assist community groups to determine if a proposed banner display can be approved for display at Council managed community banner pole sites.

### 2. DEFINITIONS

- 2.1 Commercial or for-profit enterprise is defined as any group that is NOT a non-profit organisation and which operates for the profit or gain of its individual members, whether these gains would have been direct or indirect.
- 2.2 Community benefit generally refers to an outcome, usually of an event, program or activity, that delivers an improvement to the welfare or well-being of a community or which seeks to reduce a social or economic disadvantage within a community. In broad terms a community benefit involves an activity which;
  - Responds to needs of special populations such as persons living in poverty and other disenfranchised persons
  - Aims to supply, augment or maintain a social services or program that would likely be discontinued or reduced without financial assistance
  - Responds to a public health or public safety need
  - Raises community awareness or involves education or research that improves overall community health and well-being
  - Supports the active participation of residents in community and civic life who otherwise might face barriers which would prevent their participation usually generates a low or negative financial return
- 2.3 Community event is an event whose primary purpose is not to generate income for private gain and which is generally open to all residents to attend. Where an entry fee is payable, the level of the fee is generally determined on a cost recovery basis or alternatively has been imposed to raise funds for a charitable purpose usually in conjunction with an advertised community appeal.
- 2.4 Community or not-for-profit organisation is taken to refer to a community association or legal entity registered under the Associations Incorporation Act 2009 which has generally been established for the purpose of engaging in small-scale, non-profit and non-commercial activities. A not-for-profit organisation is one which does not operate for the profit or gain of its individual members, whether these gains would have been direct or indirect. A not-for-profit organisation may generate income to operate; including profit, but this



income must be used to carry out its purposes and cannot be distributed to owners, members or other private people.

### **3. SCOPE**

This Policy applies to community organisations and other entities requesting to display banners at Council managed banner poles sites.

### **4. BACKGROUND**

4.1 In response to requests from not-for-profit community organisations to erect banners in Blayney to promote community events and activities, Council has erected permanent banner poles.

### **5. PRINCIPLES**

5.1 Council acknowledges that it has a role in assisting community organisations to raise awareness about issues impacting on residents and to promote activities and events which are undertaken for the community's benefit.

5.2 Council recognises that working in partnership with community groups to promote community events and to publicise public health and safety messages will complement Council's strategic and operational objectives.

5.3 Council has established community banner pole sites to provide safe and permissible locations for the display of banners by community organisations. Council's primary aim in establishing these sites is to support local community groups, with limited access to funds, to undertake promotional activities. Council will operate these sites in a way that minimises the cost to community organisations of accessing these sites for the display of banners deemed to be in the community interest.

5.4 Approval to display a banner at a designated community banner pole site managed by Council may convey an implied association between Council and the banner applicant. In providing a community organisation with access to a community banner pole site for the purpose of promotion and/or information sharing, there will be an obligation on the part of the banner applicant to ensure that the text of the banner is appropriate and is consistent with the principles outlined in this Policy. While the text and content of a banner remains the responsibility of the banner applicant, the banner applicant should be aware that the wording and intent of a banner displayed at a community banner pole site may be perceived by the community as communicating information which Council has approved or endorsed.

5.5 Where a banner which has been approved for display is subsequently determined to be in breach of the provision of Clause 4.2 or 4.4 Council reserves the right to remove and impound a banner without reference to the banner applicant.

## **6. BANNER SPECIFICATIONS**

6.1 The banner specifications for banners may be adopted and amended as recommended, if and when required, by the General Manager.

## **7. SPONSORSHIP CONTENT**

7.1 Council acknowledges that a degree of sponsorship is typically negotiated to assist in the staging of a banner campaign. The advertising slogan or corporate or organisational logo of such a sponsor may be allowed to occupy some space on a flag or banner. Such advertising on a banner can occupy a maximum of 10% of its total area. If there are a number of companies or organisations sponsoring an event, a maximum of 20% of the area of the banner may be allocated for advertising.

## **8. MESSAGE GUIDELINES**

8.1 Messages on banners must relate to an event or activity that promotes community events affecting; or with the potential to affect the Blayney Shire LGA.

8.2 Potentially offensive messages or images will not be permitted.

8.3 Politically or religiously biased messages will not be permitted.

8.4 Material deemed to be inappropriate or offensive to the community at large, or a particular community sector, will not be permitted

## **9. SUITABLE EVENTS FOR PROMOTION**

9.1 As a guide Council considers events including, but not limited to, those listed below to be suitable for promotion:-

- Community
- Recreational
- Cultural
- Economic development
- Educational
- Artistic
- Tourism
- Sustainability
- Environmental
- Awareness raising
- Commemorative
- Celebratory

## **10. UNSUITABLE EVENTS FOR PROMOTION**

10.1 Blayney Shire Council does not consider the following events suitable for promotion:

- Events promoting the manufacture, distribution and wholesaling of tobacco related products, pornography and addictive drugs;
- Events coordinated by those found guilty of illegal or improper conduct by ICAC or any other legal authority;
- Events which promote political fields; and
- Events that involve services or products that are considered to be injurious to health, or are seen to be in conflict with Council's policies and responsibilities to the Community.

## **11. SPECIAL CONSIDERATIONS**

11.1 Special consideration may be given at an ordinary meeting of Council, regarding promotion of a significant New South Wales company or advertising event, e.g. a bicentennial of a company, award recipients etc.

## **12. ADMINISTRATION OF POLICY**

12.1 Administration of this policy will be conducted in conjunction with the Community Banner Poles Procedure.

## **13. APPROVAL PROCESS**

13.1 Applications will be assessed on a merit basis in accord with requirements of policy.

**END**

<b>Adopted:</b>	<b>Date: 13/07/2015</b>	<b>Minute:1507/005</b>
<b>Lasted Reviewed:</b>	<b>Date: 13/07/2015</b>	<b>Minute:1507/005</b>
	<b>15/02/2016</b>	<b>1602/019</b>
	<b>21/05/2018</b>	
<b>Next Reviewed:</b>	<b>Date: 19/04/2021</b>	





## Privacy Management Plan

<b>Policy</b>	11C
<b>Officer Responsible</b>	Director Corporate Services
<b>Last Review Date</b>	21/05/2018

**Strategic Policy**

This page has been left blank.

**TABLE OF CONTENTS**

**Preface..... 4**

**Objective..... 4**

**Part 1 – Introduction ..... 5**

    1.1 What is “personal information”? .....6

    1.2 What is not “personal information” .....6

    1.3 Policy on Electoral Rolls .....7

    1.4 Application of this Plan .....7

    1.5 Personal Information held by Council.....7

    1.6 Applications for suppression in relation to general information (not public registers).8

    1.7 Caution as to unsolicited information .....8

**Part 2 – Public Registers ..... 9**

    2.1 Public registers, the PPIPA and the HRIPA.....10

    2.2 Effect on section 6 of the GIPA Act .....10

    2.3 Where some information in the public register has been published .....11

    2.4 Disclosure of personal information contained in the public registers.....11

    2.5 Purposes of public registers.....11

    2.6 Applications for access to own records on a public register .....13

    2.7 Applications for suppression in relation to a public register .....13

    2.8 Other registers.....13

**Part 3 – The Information Protection Principles..... 14**

**Part 4 – Health Privacy Principles..... 36**

**Part 5 – Implementation of the Privacy Management Plan..... 50**

    5.1 Training Seminars/Induction.....50

    5.2 Responsibilities of the Privacy Contact Officer .....50

    5.3 Distribution of information to the public .....51

**Part 6 – Internal Review ..... 52**

    6.1 How does the process of Internal Review operate? .....52

    6.2 What happens after an Internal Review? .....52

**Part 7 – Other Relevant Matters ..... 53**

    7.1 Contracts with consultants and other private contractors .....53

    7.2 Confidentiality .....53

    7.3 Misuse of personal or health information.....53

    7.4 Regular review of the collection, storage and use of personal or health information53

    7.5 Regular review of Privacy Management Plan.....53

    7.6 Further information.....53

**Part 8 – Appendices ..... 54**

    Appendix 1: Statutory Declaration for access under Section 57 of the Privacy and Personal Information Protection Act 1998 to a Public Register held by Council.....55

    Appendix 2: Privacy Notification Form - Section 10 (Pre – Collection).....56

    Appendix 3: Privacy Notification Form - Section 10 (Post – Collection) ..... 57

    Appendix 4: Application under Section 13 of the Privacy and Personal Information Protection Act 1998: To determine whether Council holds personal information about a person. ....58

    Appendix 5: Application under section 14 of the Privacy And Personal Information Protection Act 1998: For access to Applicant’s Personal Information .....59

    Appendix 6: Application under section 15 of the Privacy and Personal Information Protection Act 1998: For alteration of Applicant’s Personal Information.....60

## **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.

## **OBJECTIVE**

To ensure Council information is used in accordance with the principles of open and transparent government, within the parameters of confidentiality and the Privacy and Personal Information Act, 1998.



## PART 1 – INTRODUCTION

The Privacy and Personal Information Protection Act 1998 (“PPIPA”) provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan (the “Plan”) to deal with:

- the devising of policies and practices to ensure compliance by the Council with the requirements of the PPIPA and the Health Records and Information Privacy Act 2002 (“HRIPA”);
- the dissemination of those policies and practices to persons within the Council;
- the procedures that the Council proposes for internal review of privacy complaints;
- such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by it.

This Plan has been prepared for the purpose of section 33 of the PPIPA.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles. Those principles are listed below:

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

Those principles are *modified* by the Privacy Code of Practice for Local Government (“the Code”) made by the Attorney General. To date there has been no Health Records and Information Privacy Code of Practice made for Local Government.

The Privacy Code has been developed to enable Local Government to fulfil its statutory duties and functions under the *Local Government Act 1993* (the “LGA”) in a manner that seeks to comply with the PPIPA.

This Plan outlines how the Council will incorporate the 12 Information Protection Principles into its everyday functions.

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

Nothing in this Plan is to:

- affect any matter of interpretation of the Codes 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.

This Plan is designed to introduce policies and procedures to maximise compliance with the PPIPA and the HRIPA.

Where the Council has the benefit of an exemption, it will nevertheless describe procedures for compliance in this Plan. By doing so, it is not to be bound in a manner other than that prescribed by the Codes.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of the Council's information that is personal information.

It may mean in practice that any information that is not personal information will receive treatment of a higher standard; namely treatment accorded to personal information where the information cannot be meaningfully or practicably separated.

### **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.

Section 4A of the PPIPA also specifically excludes “health information”, as defined by section 6 of the HRIPA, from the definition of “personal information”, but includes “health information” in the PPIPA's consideration of public registers (discussed below). “Health information” is considered in Part 4 of this Plan.

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA (for example, section 8 of the Government Information (Public Access) Act 2009 (GIPA Act)).

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;
- 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 Policy on Electoral Rolls**

The Electoral Roll is a publicly available publication. Council will provide open access to the Electoral Roll in Council's library. Council will refer any requests for copies of the Electoral Roll to the State Electoral Commissioner.

### **1.4 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 LGA).

Council will ensure that all such parties are made aware that they must comply with the PPIPA, the HRIPA, any other applicable Privacy Code of Practice and this Plan.

### **1.5 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
- various types of health information (see page 37 for detailed examples).

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

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

### **1.6 Applications for suppression in relation to general information (not public registers).**

Under section 739 of the Local Government Act 1993 (“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 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.

### **1.7 Caution as to unsolicited information**

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information should be still treated in accordance with this Plan, the Codes, the HRIPA and the PPIPA for the purposes of IPPs 5-12 and HPPs 5-15 which relate to storage, access, use and disclosure of information.

Note that for the purposes of section 10 of the HRIPA, the Council is not considered to have “collected” health information if the receipt of the information by the Council is unsolicited.

Section 4(5) of the PPIPA also provides that personal information is not “collected” by Council if it is unsolicited.

## PART 2 – PUBLIC REGISTERS

A public register is defined in section 3 of the PPIPA:

*“...public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).”*

A distinction needs to be drawn between “public registers” within the meaning of Part 6 of the PPIPA and “non public registers”. A “non public register” is a register but it is not a “public register” for the purposes of the PPIPA. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to public registers must comply with Part 6 of the PPIPA and the Privacy Code. Personal information cannot be accessed by a person about another person unless the personal information is contained in a public register. Where personal information is contained in a public register, then Part 6 of the PPIPA applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the Information Protection Principles as outlined in Part 2 of this Plan and the Privacy Code where it includes personal information that is not published.

The Council holds the following public registers under the LGA: \*\*\*

- Section 53 - Land Register
- Section 113 - Records of Approvals;
- Section 449 -450A - Register of Pecuniary Interests;
- Section 602 - Rates Record.

\*\*\*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 100 – Register of consents and approvals
- Section 149G – 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.

## **2.1 Public registers, the PPIPA and the HRIPA**

A public register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

Despite the exclusion of “health information” from the definition of “personal information” under section 4A of the PPIPA, section 56A of the PPIPA *includes* as “personal information”, “health information” on public registers.

Section 57 of the PPIPA requires very stringent controls over the disclosure of personal information contained in a public register. It provides broadly that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57 (2) provides that in order to ensure compliance with section 57(1), a Council may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information. (Form at Appendix 1 may be used as a guide)

Councils also need to consider the Privacy Code of Practice for Local Government which has the effect of modifying the application of Part 6 of the PPIPA (the “public register” provisions).

If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIPA or as health information for the purposes of part 6 of the PPIPA.

## **2.2 Effect on section 6 of the GIPA Act**

Section 57 of the PPIPA prevails over clause 1(3) of Schedule 1 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation) to the extent of any inconsistency. Therefore:

1. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.
2. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
  - (i) if it is allowed under section 57(1) of the PPIPA; **and**
  - (ii) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

*Note:* Both 1 and 2 are amended with regard to specific public registers in the Privacy Code of Practice for Local Government.

### **2.3 Where some information in the public register has been published**

That part of a public register that is not published in a publicly available publication will be treated as a “public register” and the following procedure for disclosure will apply.

For example, the Register of Consents and Approvals held by Council under section 100 of the Environmental Planning and Assessment Act requires Council to advertise or publish applications for development consent.

When Council publishes the address of the property, it may identify the owner. The personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and hence also not published) will be treated as a public register under PPIPA.

Council may hold a register under the Contaminated Land Management Act on behalf of the Environment Protection Authority. This is not to be considered a public register of the Council as the statute does not place any obligations on the Council to make this register publicly available as a register of contaminated land. Furthermore, the legislation foreshadows that the Environment Protection Authority may indeed post this list or register on the internet. This may constitute a publication of the information and therefore the PPIPA will not apply.

Registers should not be published on the internet.

### **2.4 Disclosure of personal information contained in the public registers**

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.

In the following section, by way of guidance only, what might be called the “primary” purpose (or “the purpose of the register”) has been specified for each identified register. In some cases a “secondary purpose” has also been specified, by way of guidance as to what might constitute “a purpose *relating to* the purpose of the register”.

### **2.5 Purposes of public registers**

#### **Purposes of public registers under the Local Government Act**

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.

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

Section 450A - Register of Pecuniary Interests – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

Section 602 - Rates Record - The primary purpose is to record the value of a parcel of land and record rate liability 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**

Section 100 – 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.

Section 149G – 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**

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**

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

#### **Secondary purpose of all Public Registers**

Due to the general emphasis (to be found in the LGA 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.

### **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.

### **2.6 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.

### **2.7 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, in accordance with section 58(2) of the PPIPA. ("Well-being" is defined in the Macquarie Dictionary as "the good or satisfactory condition of existence; welfare".)

When in doubt, Council will err in favour of suppression.

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.

### **2.8 Other registers**

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.

## **PART 3 – THE INFORMATION PROTECTION PRINCIPLES**

### **3.1 Information Protection Principle 1 – Section 8**

#### **Section 8    *Collection of personal information for lawful purposes***

- (1) *A public sector agency must not collect personal information unless:*
- (a) *the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *A public sector agency must not collect personal information by any unlawful means.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from the requirements of this principle.

#### Council Policy

Council will only collect personal information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions.

Section 22 of the LGA provides other functions under other Acts. Some of those Acts are as follows:

- Community Land Development Act 1989
- Companion Animals Act 1998\*\*
- Conveyancing Act 1919
- Environmental Planning and Assessment Act 1979
- Fire Brigades Act 1989
- Fluoridation of Public Water Supplies Act 1957
- Food Act 1989
- Impounding Act 1993
- Library Act 1939
- Protection of the Environment Operations Act 1997
- Public Health Act 1991
- Recreation Vehicles Act 1983
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency Service Act 1989
- Strata Schemes (Freehold Development ) Act 1973
- Strata Schemes (Leasehold Development ) Act 1986;
- Swimming Pools Act 1992
- Public Health Act 1991

This list is not exhaustive.

Additionally, the exercise by Council of its functions under the LGA may also be modified by the provisions of other Acts. Some of those Acts follow:

- Coastal Protection Act 1979;
- Environmental Offences and Penalties Act 1989;
- Government Information (Public Access) Act 2009;
- Heritage Act 1977;
- State Emergency and Rescue Management Act 1989;
- Unclaimed Money Act 1995;
- Unhealthy Building Land Act 1990.

The circumstances under which Council may collect information, including personal information, are varied and numerous.

Council will not collect any more personal information than is reasonably necessary for it 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. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

#### \*\*Companion Animals Act

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Director General's guidelines, which have been developed with the PPIPA in mind.

#### Role of the Privacy Contact Officer

In order to ensure compliance with Information Protection Principle 1, 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 Privacy Contact Officer prior to adoption or use.

The Privacy Contact Officer will also provide advice as to:

1. Whether the personal information is collected for a lawful purpose;
2. If that lawful purpose is directly related to a function of Council; and
3. Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

Any further concerns of a legal nature will be referred to Council's solicitor.

### **3.2 Information Protection Principle 2 – Direct Collection**

#### **Section 9 Collection of personal information directly from individual**

*A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:*

- (a) the individual has authorised collection of the information from someone else, or*
- (b) in the case of information relating to a person who is under the age of 16 years— the information has been provided by a parent or guardian of the person.*

#### The Privacy Code of Practice for Local Government

The Code makes provision for Council 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 Policy

The compilation or referral of registers and rolls are the major means by which the Council collects personal information. For example, the information the Council receives from the Land Titles Office would fit within section 9(a) above.

Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.

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.

Council regards all information concerning its customers as information protected by PPIPA. Council will therefore collect all personal information directly from its customers except as provided in section 9 or under other statutory exemptions or Codes of Practice. 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.

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.

#### External and related bodies

Each of the following will be required to comply with this Plan, any applicable Privacy Code of Practice, and the PPIPA:

- Council owned businesses
- Council consultants
- Private contractors

- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the PPIPA.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to:

- obtain a written authorisation and consent to that collection; and
- notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Council owned businesses, committees and private contractors or consultants must abide by this Plan, the Code and the PPIPA under the terms of their incorporation by Council or by contract.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 2.

#### Existing statutory exemptions under the Act

Compliance with Information Protection Principle 2 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 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.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 where the agency is lawfully authorised or required not to comply with the principle.

- (iii) Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 2 if compliance would prejudice the interests of the individual concerned.

#### Further Explanation regarding IPP 2

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.

### **3.3 Information Protection Principle 3 - Requirements when collecting personal information**

#### **Section 10 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.

### Council Policy

Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

Council will inform persons if the information is required by law or voluntarily given. Council will also inform individuals which department or section within Council holds their personal information, and of the right to access and correct that information. Council will adapt the general section 10 pre-collection Privacy Notification form as appropriate (See Appendix 2).

The following are examples of application procedures that will require a Privacy Notification Form in accordance with section 10:

- Lodging Development Applications;
- Lodging objections to Development Applications;
- Lodging applications for approval under the LGA;
- Any stamps or printed slips that contain the appropriate wording for notification under section 10 (see Appendix 2); and
- When collecting an impounded item.

In relation to the Privacy Notification Form that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections, anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.

### Post - Collection

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, or otherwise by letter. A common example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property is transferred from one owner to the next. Appendix 3 contains a sample Privacy Notification Form that could be used for post-collection.

### External and related bodies

Each of the following will be required to comply with Information Protection Principle 3:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the Information Protection Principle 3.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 3.

#### Existing statutory exemptions under the Act

Compliance with Information Protection Principle 3 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(3) permits non-compliance with Information Protection Principle 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.

Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 3 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.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 3 if compliance would prejudice the interests of the individual concerned.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.



#### Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### **3.4 Information Protection Principle 4 - Other requirements relating to collection of personal information**

#### **Section 11 Other requirements relating to collection of 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 (having regard to the purposes for which the information is collected) to ensure that:*

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

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

Council will seek to ensure that no personal information is collected which is not directly relevant to its proper functions.

Council collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by the EEO Officer, Council's solicitor, Public Officer or other suitable person. Should Council have any residual doubts, the opinion of the Office of the Privacy Commissioner NSW will be sought.

### **3.5 Information Protection Principle 5 - Retention and security of personal information**

#### **Section 12 Retention and security of personal information**

*A public sector agency that holds personal information must 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.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

Council may comply with this principle by using any or all of the following or similar documents:

- Records and Archives Services Manual;
- The Council's Policy on Security of and Access to Misconduct Files;
- Council's Internet Security Policy;
- Information Technology Security Policy; and
- General Records Disposal Schedule for Local Government.

#### Disclosure of information of research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### **3.6 Information Protection Principle 6 - Information held by agencies**

#### **Section 13 Information about personal information held by agencies**

*A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:*

- (a) *whether the agency holds personal information, and*
- (b) *whether the agency holds personal information relating to that person, and*
- (c) *if the agency holds personal information relating to that person:*
  - (i) *the nature of that information, and*
  - (ii) *the main purposes for which the information is used, and*
  - (iii) *that person's entitlement to gain access to the information.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

Section 13 of the PPIPA requires a council to take reasonable steps to enable a person to determine whether the council holds personal information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's

entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.

Under section 20(5) of the PPIPA, Information Protection Principle 6 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Any person can make application to Council by completing the appropriate form and submitting it to Council. An example is at Appendix 4.

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 GIPA Act rates structure.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 6.

#### Existing exemptions under the Act

Compliance with Information Protection Principle 6 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 6 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 6 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

#### Reporting matters

The Council will issue a statement to be included on its Web page (if it has one) 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.

### **3.7 Information Protection Principle 7 - Access to personal information held by agencies**

#### ***Section 14 Access to personal information held by agencies***

*A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

Section 14 of the PPIPA requires a council, at the request of any person, to give access to that person to personal information held about them.

Compliance with Information Protection Principle 7 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, unless Information Protection Principles 11 and 12 or the Public Register provisions apply.

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.

Under section 20(5) of the PPIPA, Information Protection Principle 7 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the General Manager, who will make a determination. A sample form is provided at Appendix 5.

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Manager of Personnel, who will deal with the application.

In order to comply with the requirement to provide the requested information "without excessive delay or expense", Council will ordinarily provide a response to applications of this kind within 28 days of the application being made.

#### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 7.

### Existing exemptions under the Act

Compliance with Information Protection Principle 7 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA non-compliance with Information Protection Principle 7 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

### **3.8 Information Protection Principle 8 - Alteration of personal information**

#### **Section 15 Alteration of personal information**

- (1) *A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:*
  - (a) *is accurate, and*
  - (b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.*
- (2) *If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*
- (3) *If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.*
- (4) *This section, and any provision of privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.*
- (5) *The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.*
- (6) *In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

### Council Policy

Section 15 of the PPIPA allows a person to make an application to council to amend (*this includes by way of corrections, deletions or additions*) personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.

Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by the Council are welcomed.

If Council declines to amend personal information as requested, it will on request of the individual concerned, place an addendum on the information in accordance with section 15(2) of the PPIPA.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Manager Personnel 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.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 8.

### Existing exemptions under the Act

Compliance with Information Protection Principle 8 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with section Information Protection Principle 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

### Procedure

Where information is requested to be amended (either by way of correction, deletion or addition), the individual to whom the information relates, must make a request. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy the Council that the proposed amendment is factually correct and appropriate. The Council may require further

documentary evidence to support certain amendments. Council will not charge to process an application to amend a record under s.15.

The Council's application form for alteration under IPP 8 is at Appendix 6 at the end of this Plan.

#### Where Council is not prepared to amend

If the Council is not prepared to amend the personal information in accordance with a request by the individual the Council may attach to the information in such a manner as is capable of being read with the information, any statement provided by that individual.

#### Where an amendment is made

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by the Council. The Council will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

#### State Records Act

The State Records Act does not allow for the deletion of records. However, as a result of section 20(4) of the PPIPA, some deletions may be allowed in accordance with Information Protection Principle 8.

### **3.9 Information Protection Principle 9 - Agency must check accuracy of personal information before use**

#### ***Section 16 Agency must check accuracy of personal information before use***

*A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.*

#### The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

#### Council Policy

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.

### **3.10 Information Protection Principle 10 - Limits on use of personal information**

#### **Section 17 Limits on use of personal information**

*A public sector agency that holds personal information must not use the 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.*

#### **The Privacy Code of Practice for Local Government**

The Code makes provision that 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.

#### **Explanatory Note**

Council may use personal information obtained for one purpose for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record 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 Policy**

Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.

#### **External and related bodies**

Each of the following will be required to comply with the Information Protection Principle 10:

- Council owned businesses
- Council consultants;



- Private contractors; and
- Council committees.

Council will seek to contractually bind each of these bodies or persons to comply.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with section 17(a) to the use of the information for another purpose.

The form of consent should include the following elements:

I (1)	.....	(1) insert full name
of (2)	.....	(2) insert address
hereby consent under section 17(a) of the Privacy and Personal Information Protection Act 1998 to (3):	.....	(3) insert Council name
using the information collected from me by (4):	.....	(4) insert name of collecting body/person
for the purpose of (5):	.....	(5) insert purpose/s info was collected for
Signature	.....	
Name to be printed	.....	
<u>Investigative Functions</u>		
Date signed	/ /	

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 10.

Existing exemptions under the Act

Compliance with Information Protection Principle 10 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person. *Protection of the public revenue* means a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty.

Section 24(4) of the PPIPA extends the operation of section 24(2) to councils and permits non-compliance with Information Protection Principle 10 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) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the council to exercise its complaint handling functions or any of its investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 28(3) of the 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 Department 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.

### **3.11 Information Protection Principle 11 - Limits on disclosure of personal information**

#### ***Section 18 Limits on disclosure of personal information***

- (1) *A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:*
  - (a) *the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or*
  - (b) *the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or*
  - (c) *the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.*
- (2) *If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*

### The Privacy Code of Practice for Local Government

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.

### Council Policy

Council will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected or where the Council has no reason to believe that the individual concerned would object to the disclosure.

Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information. "Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

The council may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

### Public Registers

Sections 18 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 11.

### Existing exemptions under the Act

Compliance with Information Protection Principle 11 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(c) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(i) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(ii) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 11 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) if the disclosure is to an investigative agency.

(Note: "investigative agency" is defined at s.3 of PPIPA.)

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where Council is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such non-compliance.

Section 28(3) of the 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.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

#### Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

### **3.12 Information Protection Principle 12 - Special restrictions on disclosure of personal information**

#### ***Section 19 Special restrictions on disclosure of personal information***

- (1) *A public sector agency 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.*
- (2) *A public sector agency that holds personal information must 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.*
- (3) *For the purposes of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.*
- (4) *The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales and to Commonwealth agencies.*
- (5) *Subsection (2) does not apply:*
  - (a) *until after the first anniversary of the commencement of this section, or*
  - (b) *until a code referred to in subsection (4) is made,**whichever is the later.*

### The Privacy Code of Practice for Local Government

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

1. For the purposes of s.19(2) only, 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.

### Council Policy

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

### Public Registers

Sections 19 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

### Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 12.

### Existing exemptions under the Act

Compliance with Information Protection Principle 12 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(7) of the PPIPA permits non-compliance with Information Protection Principle 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 12 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly

consents to such non-compliance.

Section 28(2) permits non-compliance with Information Protection Principle 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an authorised person to another authorised person. "Authorised person" means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.

Section 28(3) of the 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.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

#### Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

## **PART 4 – HEALTH PRIVACY PRINCIPLES**

In 2002, most references to 'health information' were taken out of the PPIPA and separate legislation was enacted. The HRIPA was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIPA in their collection and management of health information.

Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual. Health information *also* includes personal information that is information or an opinion about:

- a health service provided, or to be provided, to an individual;
- an individual's express wishes about the future provision of health services to him or her;
- other personal information collected in connection with the donation of human tissue; or
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIPA. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Protection Principles ("HPP") set down in Schedule 1 to the HRIPA. Each of these HPPs are considered below.

The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

- Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;
- Issuing of clean up orders which may include recording information about a residents health, GP professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, e.g. allergies for catering purposes;
- Seniors bus outings where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children's services. e.g. history of illness, allergies, asthma, diabetes, epilepsy etc;
- Physical exercise classes;



- Some councils run Podiatry services;
- Information may be collected through a healthy community program;
- Children's immunization records; and
- Family counsellor/youth support workers records.

HPPs 1-4 concern the collection of health information, HPP 5 concerns the storage of health information, HPPs 6-9 concern the access and accuracy of health information, HPP 10 concerns the use of health information, HPP 11 concerns the disclosure of health information, HPPs 12-13 concern the identifiers and anonymity of the persons to which health information relate, HPPs 14-15 concern the transferral of health information and the linkage to health records across more than one organisation.

### **Health Privacy Principle 1**

#### **Purposes of collection of health information**

- (1) *An organisation must not collect health information unless:*
  - (a) *the information is collected for a lawful purpose that is directly related to a function or activity of the organisation, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *An organisation must not collect health information by any unlawful means.*

### **Health Privacy Principle 2**

#### ***Information must be relevant, not excessive, accurate and not intrusive***

*An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:*

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

### **Health Privacy Principle 3**

#### ***Collection to be from the individual concerned***

- (1) *An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.*
- (2) *Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.*

### **Health Privacy Principle 4**

#### ***Individual to be made aware of certain matters***

- (1) *An organisation that collects health information about an individual from the individual must, at or before the time it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the*

*circumstances to ensure that the individual is aware of the following:*

- (a) the identity of the organisation and how to contact it,*
  - (b) the fact that the individual is able to request access to the information,*
  - (c) the purposes for which the information is collected,*
  - (d) the persons to whom (or the type of persons to whom) the organisation usually discloses information of that kind,*
  - (e) any law that requires the particular information to be collected,*
  - (f) the main consequences (if any) for the individual if all or part of the information is not provided.*
- (2) If the organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:*
- (a) making the individual aware of the matters would impose a serious threat to the life or health of any individual, or*
  - (b) the collection is made in accordance with guidelines issued under subclause (3).*
- (3) The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).*
- (4) An organisation is not required to comply with a requirement of this clause if:*
- (a) the individual to whom the information relates has expressly consented to the organisation not complying with it or,*
  - (b) the organisation is lawfully authorised or required not to comply with it, or*
  - (c) non-compliance is otherwise permitted (or necessarily implied or reasonably contemplated) under any Act or any other law including the State Records Act 1998, or*
  - (d) compliance by the organisation would, in the circumstances, prejudice the interests of the individual to whom the information relates, or*
  - (e) the information concerned is collected for law enforcement purposes or,*
  - (f) the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions.*
- (5) If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances, to ensure that any authorised representative of the individual is aware of those matters.*
- (6) Subclause (4) (e) does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence.*
- (7) The exemption provided by subclause (4) (f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

#### Council Policy

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1)

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so. (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. Council will also tell the person how he or she can see and correct the health information.

If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 5).

### **Health Privacy Principle 5**

#### ***Retention and Security***

(1) *An organisation that holds health information must ensure that:*

- (a) *the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
- (b) *the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and*
- (c) *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) *if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of an organisation is done to prevent the unauthorised use or disclosure of the information.*

**Note.** Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

(2) *An organisation is not required to comply with a requirement of this clause if:*

- (a) *the organisation is lawfully authorised or required not to comply with it, or*
- (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

(3) *An investigative agency is not required to comply with subclause (1)(a).*

#### **Council Policy**

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

### **Health Privacy Principle 6**

#### ***Information about health information held by organisations***

- (1) *An organisation that holds health information must take such steps as are, in the circumstances, reasonable, to enable any individual to ascertain:*
  - (a) *whether the organisation holds health information, and*
  - (b) *whether the organisation holds health information relating to that individual, and*
  - (c) *if the organisation holds health information relating to that individual:*
    - (i) *the nature of that information*
    - (ii) *the main purposes for which the information is used, and*
    - (iii) *that person's entitlement to request access to the information.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under any Act or any other law (including the State Records Act 1998).*

### **Health Privacy Principle 7**

#### ***Access to health information***

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

**Note.** Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause. Access to health information held by public sector agencies may also be available under the Government Information (Public Access) Act 2009 or the State Records Act 1998.
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

### **Health Privacy Principle 8**

#### ***Amendment of health information***

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:*
  - (a) *is accurate, and*
  - (b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to day, complete and not misleading.*
- (2) *If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the information to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment*

sought.

- (3) *If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.*

**Note.** Division 4 (Amendment of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

Amendment of health information held by public sector agencies may also be able to be sought under the Privacy and Personal Information Protection Act 1998.

- (4) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

### **Health Privacy Principle 9**

#### **Accuracy**

*An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate and up to date, complete and not misleading.*

#### **Council Policy**

Council will provide details about what health information Council is holding about an individual and with information about why Council is storing that information and what rights of access the individual has (HPP 6).

Council will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary (HPP 8).

Council will make sure that the health information is relevant and accurate before using it (HPP 9).

### **Health Privacy Principle 10**

- (1) *An organisation that holds health information must not use the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

- (a) **Consent**

*the individual to whom the information relates has consented to the use of the information for that secondary purpose, or*

- (b) **Direct relation**

*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the*

*secondary purpose or,*

**Note:** For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) **Serious threat to health or welfare**

*the use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*

- (i) a serious and imminent threat to the life, health or safety of the individual or another person, or*
- (ii) a serious threat to public health and safety, or*

(d) **Management of health services**

*the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) **Training**

*the use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(f) **Research**

*the use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*

- (i) either:*
  - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
  - (B) reasonable steps are taken to de-identify the information, and*
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purpose of this paragraph, or*

- (g) **Find missing person**  
*the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or*
  - (h) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
*the organisation:*

    - (i) *has reasonable grounds to suspect that:*

      - (A) *unlawful activity has been or may be engaged in, or*
      - (B) *a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or*
      - (C) *an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
    - (ii) *uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*
  - (i) **Law enforcement**  
*the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or*
  - (j) **Investigative agencies**  
*the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or*
  - (k) **Prescribed circumstances**  
*the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*
- (3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- (4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
- (a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*
  - (b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- (5) *The exemption provided by subclause (1) (j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other*

*matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

#### Council policy

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent (HPP 10).

#### **Health Privacy Principle 11**

(1) *An organisation that holds health information must not disclose the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

(a) **Consent**

*the individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or*

(b) **Direct relation**

*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or*

Note: For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) **Serious threat to health or welfare**

*the disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*

(i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*

(ii) *a serious threat to public health or public safety, or*

(d) **Management of health services**

*the disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*

(i) *either:*

(A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*

(B) *reasonable steps are taken to de-identify the information, and*

(ii) *if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*

(iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) **Training**

*the disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*

(i) *either:*



- (A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
        - (B) *reasonable steps are taken to de-identify the information, and*
      - (ii) *if the information could reasonably be expected to identify the individual, the information is not made publicly available, and*
      - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (f) **Research**  
*the disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*
  - (i) *either:*
    - (A) *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
    - (B) *reasonable steps are taken to de-identify the information, and*
  - (ii) *the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and*
  - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (g) **Compassionate reasons**  
*the disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:*
  - (i) *the disclosure is limited to the extent reasonable for those compassionate reasons, and*
  - (ii) *the individual is incapable of giving consent to the disclosure of the information, and*
  - (iii) *the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and*
  - (iv) *if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or*
- (h) **Finding missing person**  
*the disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or*
- (i) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
*the organisation:*
  - (i) *has reasonable grounds to suspect that:*
    - (A) *unlawful activity has been or may be engaged in, or*
    - (B) *a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or*
    - (C) *an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
  - (ii) *discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*

- (j) **Law enforcement**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or*
- (k) **Investigative agencies**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or*
- (l) **Prescribed circumstances**  
*the disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
- (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or*
- (c) *the organisation is an investigative agency disclosing information to another investigative agency.*
- (3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- (4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
- (a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*
- (b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- (5) *If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*
- (6) *The exemptions provided by subclauses (1) (k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

#### Council Policy

Council will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

### **Health Privacy Principle 12**

#### **Identifiers**

- (1) *An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.*
- (2) *Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual an identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
  - (a) *the individual has consented to the adoption of the same identifier, or*
  - (b) *the use or disclosure of the identifier is required or authorised by or under law.*
- (3) *Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
  - (a) *the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10 (1) (c)-(k) or 11 (1) (c)-(l), or*
  - (b) *the individual has consented to the use or disclosure, or*
  - (c) *the disclosure is to the public sector agency that assigned the identifier to enable the public sector agency to identify the individual for its own purposes.*
- (4) *If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:*
  - (a) *adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or*
  - (b) *use or disclose an identifier of the individual that has been assigned by the public sector agency.*

#### **Council Policy**

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

### **Health Privacy Principle 13**

#### **Anonymity**

*Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.*

#### **Council Policy**

Council will provide health services anonymously where it is lawful and practical (HPP 13).

### **Health Privacy Principle 14**

#### ***Transborder data flows and data flow to Commonwealth agencies.***

*An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*

- (a) *the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles, or*
- (b) *the individual consents to the transfer, or*
- (c) *the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request, or*
- (d) *the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party, or*
- (e) *all of the following apply:*
  - (i) *the transfer is for the benefit of the individual,*
  - (ii) *it is impracticable to obtain the consent of the individual to that transfer,*
  - (iii) *if it were practicable to obtain such consent, the individual would be likely to give it, or*
- (f) *the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:*
  - (i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*
  - (ii) *a serious threat to public health or public safety, or*
- (g) *the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or*
- (h) *the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.*

#### Council Policy

Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

#### Health Privacy Principle 15

##### **Linkage of health records**

- (1) *An organisation must not:*
  - (a) *include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or*
  - (b) *disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998 ), or*
  - (c) *the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual*

*is to be disclosed) is a use of the information that complies with HPP 10 (1) (f) or a disclosure of the information that complies with HPP 11 (1) (f).*

(3) *In this clause:*

**health record** *means an ongoing record of health care for an individual.*

**health records linkage system** *means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.*

#### Council Policy

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

## **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 should be acquainted with the general provisions of the PPIPA, the HRIPA and in particular, the 12 Information Protection Principles (IPPs), the 15 Health Privacy Principles (HPPs), the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice.

### **5.2 Responsibilities of the Privacy Contact Officer**

It is assumed that the Public Officer within Council will be assigned the role of the Privacy Contact Officer unless the General Manager has directed otherwise.

In order to ensure compliance with PPIPA and the HRIPA, the Privacy Contact Officer will review all contracts and agreements with consultants and other contractors, rates notices, application forms of whatsoever nature, and other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

Interim measures to ensure compliance with IPP 3 in particular may include the creation of stamps or printed slips that contain the appropriate wording (see Appendices 2 and 3).

The Privacy Contact Officer will ensure Council in its public areas has special provisions for working with computer screens. Computer screens may require:

- fast screen savers;
- face the computers away from the public; or
- only allow the record system to show one record at a time.

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

The Privacy Contact 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 to Council's solicitor.

Should the Council require, the Privacy Contact Officer may assign designated officers as "Privacy Resource Officers", within the larger departments of Council. In this manner the Council may ensure that the information protection principles are more broadly understood and that individual departments have a greater focus on the information protection principles and are directly applied to Council's day to day functions.

### **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 – INTERNAL REVIEW**

### **6.1 How does the process of Internal Review operate?**

Under section 53 of the PPIPA a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. 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 Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitability qualified.

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 lodgement, 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.

### **6.2 What happens after an Internal Review?**

If the complainant remains unsatisfied, he/she may appeal to the Administrative Decisions Tribunal which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an information protection principle or a health privacy principle.



## **PART 7 – OTHER RELEVANT MATTERS**

### **7.1 Contracts with consultants and other private contractors**

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

### **7.2 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.

### **7.3 Misuse of personal or health information**

Section 664 of the LGA makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion from case to case.

### **7.4 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.

### **7.5 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.

### **7.6 Further information**

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

**PART 8 – APPENDICES**

**Appendix 1: Statutory Declaration for access under Section 57 of the Privacy and Personal Information Protection Act 1998 to a Public Register held by Council**

**Statutory Declaration**  
**Oaths Act, 1900, Ninth Schedule**

I, the undersigned <sup>(1)</sup> ..... (1) insert full name

of <sup>(2)</sup> ..... (2) insert address

in the State of New South Wales, do solemnly and sincerely declare that:

I am <sup>(3)</sup> ..... (3) insert relationship, if any, to person inquired about

I seek to know whether <sup>(4)</sup> ..... (4) insert name

is on the public register of <sup>(5)</sup> ..... (5) Applicant to describe the relevant public register

The purpose for which I seek this information is <sup>(6)</sup> ..... (6) insert purpose for seeking information

.....

The purpose for which the information is required is to <sup>(7)</sup> ..... (7) insert purpose

.....

**And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oats Act 1994.**

\_\_\_\_\_  
Signature of Applicant

Declared at: \_\_\_\_\_

in the said State this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

before me. \_\_\_\_\_

\_\_\_\_\_  
Signature of Justice of the Peace/Solicitor

\_\_\_\_\_  
Name of Justice of the Peace/Solicitor to be printed





**Appendix 4: Application under Section 13 of the Privacy and Personal Information Protection Act 1998: To determine whether Council holds personal information about a person.**

**Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request the General Manager of <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council  
\_\_\_\_\_

provide the following:

- Does the Council hold personal information about me?  Yes  No
- If so, what is the nature of that information? \_\_\_\_\_  
\_\_\_\_\_
- What is the main purpose for holding the information? \_\_\_\_\_  
\_\_\_\_\_
- Am I entitled to access the information?  Yes  No

My address for response to this application is:  
\_\_\_\_\_  
\_\_\_\_\_ State: \_\_\_\_\_ Post Code: \_\_\_\_\_

Note to applicants

Council **will not** record your address or any other contact details that you provide for any other purpose other than to respond to your application.

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA). There is a separate application form to gain access.

The Council may refuse to process this application in part or in whole if:

- there is an exemption to section 13 of the PPIPA; or
- a Code of Practice may restrict the operation of section 14.

Enquiries concerning this matter can be addressed to:  
\_\_\_\_\_

**Appendix 5: Application under section 14 of the Privacy And  
Personal Information Protection Act 1998: For access to Applicant's  
Personal Information**

**Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request that the <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council

---

Provide me with:

- (a) access to all personal information held concerning myself; or
- (b) access to the following personal information only (**LIST INFORMATION REQUIRED BELOW**):

---

---

My address for response to this application is:

\_\_\_\_\_ State: \_\_\_\_\_ Post Code: \_\_\_\_\_

**Note to applicants**

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA).

You are entitled to have access without excessive delay or cost.

Council may refuse to process your application in part, or in whole, if:

- the correct amount of fees has not been paid;
- there is an exemption to section 14 of the PPIPA; or
- a Code of Practice may restrict disclosure.

Enquiries concerning this matter can be addressed to:

---

---

**Appendix 6: Application under section 15 of the Privacy and Personal Information Protection Act 1998: For alteration of Applicant's Personal Information**

**Personal information held by the Council**

I, <sup>(1)</sup> \_\_\_\_\_ (1) insert full name  
of <sup>(2)</sup> \_\_\_\_\_ (2) insert address  
Hereby request that the <sup>(3)</sup> \_\_\_\_\_ (3) insert name of Council

alter personal information regarding myself in the following manner:

- I propose the following changes: \_\_\_\_\_
- The reasons for the changes are as follows: \_\_\_\_\_
- The documentary bases for those changes is as shown on the attached documents

**Note to Applicants :**

You have a right to request appropriate amendments are made (whether by way of corrections, deletions or additions) to ensure that the personal information held by the Council:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up-to-date, complete and not misleading.

If Council is not prepared to amend the personal information in accordance with a request by you, Council must take such steps as are reasonable to attach to the information in such a manner as is capable of being read with the information, any statement provided by you.

If your personal information is amended, you are entitled under the Privacy and Personal Information Protection Act 1998 (PPIPA), if it is reasonably practicable, to the have recipients of that information notified of the amendments made by Council.

Council may refuse to process your application in part, or in whole, if:

- there is an exemption to section 15 of the PPIPA; or
- a Code of Practice may restrict alteration.

Enquiries concerning this matter can be addressed to: \_\_\_\_\_



End of Policy

	<b>Date</b>	<b>Minute</b>
<b>Adopted:</b>	<b>14/08/2000</b>	<b>452</b>
<b>Last Reviewed:</b>	<b>09/07/2007</b>	<b>07/145</b>
	<b>12/11/2012</b>	<b>1211/014</b>
	<b>08/04/2013</b>	<b>1304/005</b>
	<b>21/05/2018</b>	
<b>Next Review:</b>	<b>19/04/2021</b>	





## Work Health and Safety Policy

<b>Policy</b>	9A
<b>Officer Responsible</b>	Risk Officer
<b>Last Review Date</b>	21/05/2018

**Strategic Policy**

## Objective

To demonstrate Council's commitment to providing a safe working environment ~~and ensuring~~ to ensure the health, safety and welfare of all persons including Council's elected members, staff, trainees, contractors, volunteers and visitors by adopting principles defined in the Work Health and Safety Policy.

### Work Health and Safety Policy

Blayney Shire Council is committed to providing a safe and healthy work environment by:

- Applying risk management processes to all specific work related Council activities and initiating controls where risk is identified, monitoring, and recording the same;
- ensuring compliance with relevant safety legislation, codes of practice and standards wherever possible;
- conducting inspections of the workplace to identify and control hazards and report these outcomes to the monthly WH&S committee;
- maintaining safe systems of work, premises and facilities to achieve industry best practice and a safe working environment;
- ensuring when procuring or using plant, equipment and materials ~~are safe and without risk to health that they are fit for purpose, safe, when properly used,~~ handled, stored and transported;
- ~~providing appropriate~~ by identifying any foreseeable hazards Blayney Shire Council will provide appropriate information, training and resources to control or eliminate the risk;
- Promote all levels of management and staff taking responsibility, being accountable and assuming authority for the management of work, health and safety within Council the workplace;
- consultation with staff to ensure they are included in the decision making process impacting on work, health and safety including changes to work methods, workplace design or the purchase of new plant or equipment;
- ~~provision and circulation of~~ provide and circulate appropriate work, health and safety information;
- ensuring those injured return to duties in a safe and timely manner;
- ~~providing~~ provide an environment where health and safety issues can be discussed openly and freely.

Council's Work Health and Safety Policy, practices and systems will be monitored and reviewed to ensure the achievement of the highest safety standards possible at WHS committee meetings.

*Blayney Shire Council will support and co-operate with regulatory bodies in case of any notifiable incidents occurring.*

It is through this cooperation and understanding that together we are able to ensure the health and safety of all people.

**Relevant Documents include**

Work Health and Safety Regulation 2017  
Occupational Health and Safety Management System (OHMS) (AS/NZIS 4801)  
Work Health and Safety Act 2011  
Local Government Act 1993  
Corporations Act 2001  
Blayney Shire Council H&S Committee Constitution  
Blayney Shire Council Risk Management Policy  
Blayney Shire Council Risk Management Procedure

<b>Adopted:</b>	<b>08/07/2002</b>	<b>Minute:198</b>
<b>Last Reviewed:</b>	<b>18/06/2007</b>	<b>Minute:131</b>
	<b>11/11/2013</b>	<b>1311/006</b>
	<b>21/05/2018</b>	
<b>Next Reviewed:</b>	<b>19/04/2021</b>	





## Records Management Policy

<b>Policy</b>	11B
<b>Officer Responsible</b>	Director Corporate Services
<b>Last Review Date</b>	21/05/2018

**Strategic Policy**

## **Objectives**

~~The objective of this policy is to ensure that full and accurate records of all activities, decisions and transactions of Blayney Shire Council are created and managed to meet the Council's organisational needs and accountability requirements.~~

The objectives of this policy are to define a framework for Council to:

- manage records efficiently and effectively;
- meet accountability requirements and community expectations; and
- comply with legislative and policy requirements relating to record keeping practices

### Authority of this Policy

~~This policy is issued under the authority of the General Manager and will be reviewed and amended as required in consultation with Directors, Managers and staff of Council.~~

### Purpose of this Policy

~~The Purpose of this policy is to ensure that full and accurate records of all activities, decisions and transactions of Blayney Shire council are created and managed to meet the Council's organisational needs and accountability requirements.~~

## **1. BACKGROUND**

The purpose of this policy is to provide a framework for the management of Blayney Shire Council's (BSC) corporate records in accordance with relevant legislation, standards and codes approved by State Records.

State legislation requires that full and accurate records of all activities and decisions of BSC are created, managed, retained and or disposed of appropriately. This policy sets out the principles and responsibilities to promote information accessibility and accountability while ensuring the protection of the rights and interests of council, staff, customers and the community.

BSC has implemented the ITVision Software (SYNERGYSOFT) as the official record business management system Electronic Document Management System (EDMS).

### Policy Statement

~~Council staff must ensure that records are created, captured, maintained, preserved stored & disposed of in a way that complies with legal, administrative, cultural and business needs.~~

~~Records are a valuable resource and asset to Council in effective daily operations and decision making. The records provide evidence of transactions legal administrative and audit requirements while fulfilling the everyday business needs of Council. The long term retention of records constitutes the corporate memory of Council.~~



## 2. DEFINITIONS

**Access:**

Right, opportunity, means of finding, using or retrieving information.

**Archives:**

Those records which are no longer required for current use, but have been selected for permanent retention because of their evidential or informational value.

**Capture:**

A deliberate action which results in the registration of a record into a recordkeeping system.

**Disposal Schedule:**

A systematic listing of records created by an organisation in accordance with an approved retention/disposal authority that plans the life of these records from the time of their creation to their disposal.

**Electronic/Digital Records:**

Records communicated and maintained by means of electronic equipment.

**Migrating/Migration:**

The process of moving records from one system to another, while maintaining the records' authenticity, integrity, reliability and useability.

**Record:**

Something created and kept as evidence of agency or individual functions, activities and transactions.

**State Records:**

Any records made and kept or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office.

**Vital Records:**

Records and information that are essential for the ongoing business of the Council and without which the council could not continue to function effectively including those records needed to operate and re-establish council functions in the event of a disaster.

Legislative Framework for Recordkeeping

~~In managing its records, Council will endeavour to comply with relevant Acts and Regulations and take account of standards relating to records management.~~

### 3. RESPONSIBILITIES

#### 3.1. General Manager

Under the State Records Act, the General Manager is responsible for ensuring that BSC complies with the regulations and requirements of the *State Records Act 1998*.

#### Authority of the Corporate Records Manager

~~Responsibility for Council's Records Management Program is assigned to the Director of Corporate Services.~~

~~Responsibilities include:-~~

- ~~1. authority to set and issue corporate standards and to monitor and audit compliance with these standards throughout Council.~~
- ~~2. requests under the Government Information (Public Access) Act, the Local Government Act and the Privacy and Personal Information Act.~~

#### 3.2. Director Corporate Services

The Director Corporate Services functions as BSC's Corporate Records Manager (CRM) for the purposes of the Records Management Program. The CRM is accountable for the management of the program as well as ensuring BSC's compliance with the *State Records Act 1998* standards.

#### Records Section

~~The Records Section is operationally responsible for:-~~

- ~~1. the effective management and system administration of Council's electronic document system.~~
- ~~2. the efficient management of Council records, both physical and electronic, incorporating sound record keeping principles and records management best practice guidelines.~~
- ~~3. assisting staff in fulfilling their recordkeeping responsibilities and provide advice and training throughout the implementation of the policy and procedures~~
- ~~4. monitor and review the implementation process of all records management policies and procedures~~

#### 3.3. Records Supervisor

The Records Supervisor reports directly to the Director Corporate Services and is responsible for the implementation and efficient operation of BSC's Records Management Program and the provision of services to users.

#### 3.4. Directors and Managers

Directors and Managers are responsible for ensuring that staff respond to correspondence and action tasks in a timely manner and for ensuring that members of staff who have access to confidential information are instructed regarding their rights and obligations when dealing with such matters.

### **3.5. Information Technology (IT) Staff**

IT Staff are responsible for ensuring that Council programs and systems operate in support of Council records management through the management of data integrity including back-ups, internal audits procedures, maintenance of Council's hardware and the prevention of data loss during any decommission of systems.

#### Council Staff

~~As public sector employees, all Council staff needs to be aware of record keeping requirements that affect the performance of their duties.~~

~~The State Records Act 1998 requires public officials to 'make and keep full and accurate records' of their business activities.~~

~~Responsibilities include:-~~

- ~~• capture records in any format, including electronic documents into Council's document management system~~
- ~~• follow authorised procedures when carrying out records management functions~~
- ~~• handle records with care to avoid damage and prolong their life span~~
- ~~• records are not to be destroyed without authorisation~~

### **3.6. Staff**

All staff are accountable for compliance with this policy and related policies, standards and guidelines. Staff members are responsible for capturing and creating business records and registering them into SynergySoft.

These records will include:

- decisions
- oral decisions and commitments, including telephone discussions
- meetings
- other events
- business activities in which they take part.

All staff will:

- Capture information by ensuring accurate registration into SynergySoft in accordance with protocols
- Handle records and information sensibly and with care and respect so as to avoid damage to the records and prolong their life (Hardcopy records in particular)
- Not alienate, relinquish control over, damage, alter or destroy records of Council
- Access only the official records that they are authorised to access
- Identify vital records in consultation with the Records Supervisor.

### **3.7. Contractors**

Contractors must manage records that they create on behalf of BSC according to the terms of their contract. Access to records held by the contractor such as performance of services, information collected from members of the public or information provided to the contractor by BSC may be subject to access applications under the *Government Information (Public Access) Act 2009*.

## **4. MANAGING RECORDS AND INFORMATION**

### **4.1. Records Management Program**

The *State Records Act 1998* s12(2) requires that BSC maintains a Records Management Program. This program is an organisation wide program that covers the full range of BSC records and information.

The objectives of the program are to:

- Have full and complete information and records of all Council operations to support business activities
- Ensure that information and records are useable and accessible for as long as they are required
- Regularly monitor information management activities; and
- Have information management systems and practices that comply with external requirements and standards.

### **4.2. Migration**

When purchasing or implementing new systems, an assessment must be undertaken to identify the types of records that will be created or stored within that system and consultation must take place with the Records Supervisor to determine the appropriate management of those records.

In the event that software or system is de-commissioned, a robust migration plan must be put in place to protect Council records from loss including transfer, appropriate metadata and format readability.

### **4.3. Storage and Security of Records**

All records will be stored appropriately to allow for their retrieval and use for the life of their retention. This includes preservation of both digital and physical record formats.

Access to records will be restricted to protect their integrity, privacy and confidentiality.

Employees must not alienate, relinquish control over, damage or destroy BSC's records.

### **4.4. Archiving, Disposal and Destruction of Records**

Local government records are governed by a specific disposal authority, the general retention and disposal Authority: local government records (GA39), which has been approved under the *State Records Act 1998*.

Records covered under GA39 must be protected, maintained and accessible for duration of their required retention. Disposal of records will be undertaken in accordance with GA39, records cannot be disposed of without approval and signed authorisation by the General Manager.

#### **5. ACCESS TO COUNCIL RECORDS AND INFORMATION**

Access to Council Records will be in accordance with relevant legislation and Council Policy.

The public will not be permitted access to the Records Management Section, storerooms or staff work areas.

#### **6. RELATED COUNCIL DOCUMENTS AND POLICIES**

- 01B Code of Conduct
- 02C Complaints Management Policy
- 02G Access to Information Policy
- 11C Privacy Management Plan

#### **7. RELEVANT LEGISLATION AND STANDARDS**

- Government Access (Public Access) Act 2009
- Local Government Act 1993
- Ombudsman Act 1976
- Privacy and Protection of Personal Information Act 1998
- State Records Act 1998
- Standards issued under the State Records Act 1998
  - Standard: No. 12 Standard on records management
  - Standard: No. 11 Standard on the physical storage of state records

#### Glossary

##### Accountability

~~The principle that individuals, organisations and the community are required to account to others for their actions.~~

~~Organisations and their employees must be able to account to appropriate regulatory authorities, shareholders or members, and to the public to meet statutory obligations, audit requirements, relevant standards and codes of practice, and community expectations.~~

##### Administrative Records

~~These records include all aspects of the organisation's internal administration, including budget and finance matters, general correspondence, staff matters, Ministerial and Parliamentary papers, accommodation and management information systems and the Organisation's own agendas, minutes and business papers. It also encompasses records generated by Councillors including correspondence, file notes, diaries and transcripts of conversations / advice.~~

Disposal

A range of processes associated with implementing appraisal decisions. Those include the retention, deletion or destruction of records in or from recordkeeping systems.

Evidence

Information that tends to prove a fact. Not limited to the legal sense of the term.

Record

Means any document or other source of information compiled recorded or stored in any written form, or by means of electronic process, or in any other manner or by any other means.

Records

Recorded information in any form including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.

Recordkeeping

Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information.

Recordkeeping System/Document Management System

Information systems which capture maintain and provide access to records over time.

Records Management

The discipline and organisational functions of managing records to meet operational business needs, accountability requirements and community expectations.

Storage

The function of storing records for future retrieval and use.

Transactions

The smallest unit of business activity, uses of records are themselves transactions.

<b>Adopted:</b>	<b>Date: 17/01/2000 &amp; 13/11/2000</b>	<b>Minute: 12 &amp; 647</b>
<b>Last Reviewed:</b>	<b>14/05/2007 10/12/2012 21/05/2018</b>	<b>Minute: 07/094 1212/004</b>
<b>Next Reviewed:</b>	<b>19/04/2021</b>	