



Hawkesbury City Council

attachment 1
to
item 145

Revised Privacy
Management Plan

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Hawkesbury City Council
Policy

DRAFT

Privacy Management
Plan

(Revised)

Adopted by Council at the
Ordinary Meeting Held on
<insert date when adopted>

Hawkesbury City Council



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1.0 PURPOSE

This Plan outlines how Hawkesbury City Council handles personal information in accordance with the *Privacy and Personal Information Protection Act 1989 NSW (PPIP Act)* and the *Health Records and Information Privacy Act 2002 NSW (HRIP Act)*.

This Plan is produced in accordance with Section 33 of the PPIP Act. It also incorporates the HRIP Act and deals with 4 key issues:

1. The policies and practices that Council has in place to ensure compliance with the PPIP Act and, in particular, the 12 Information Protection Principles.
2. How Council handles public registers.
3. The rights and procedure for internal review.
4. How these policies and practices are circulated throughout Council.

2.0 SCOPE

Council's Privacy Management Plan applies to:

- Councillors
- Council employees
- Consultants and contractors to Council
- Council owned businesses
- Council Committees
- Volunteers

3.0 DEFINITIONS

GIPA Act means The Government Information (Public Access) Act 2009.

Health information means personal information that is information, or an opinion, about the physical or mental health or a disability of an individual. Examples of the types of health information held by Council include childcare records (including immunisation and medical histories), records about residents, and records about staff such as sick leave applications (with or without medical certificates), Worker's compensation records, rehabilitation records.

HRIP Act means The Health Records and Information Privacy Act 2002.

Information means both health information and personal information, unless otherwise specified. It includes documents held in paper records, electronic files, video recordings, photographs, and genetic characteristics such as fingerprints.

IPP means Information Protection Principles within the PPIP Act and/or HRIP Act.

Personal information means information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Personal information for the purposes of PPIP Act does not include Information about an individual who has been dead for more than 30 years; information or an opinion about an individual's suitability for



appointment or employment as a public sector official and; information about an individual that is contained in a publicly available publication. Examples of such publications include:

- Advertisements that contain personal information in local, city or national newspapers
- Unrestricted personal information on the Internet.
- Books or magazines that are printed and distributed to the public
- Council business papers that are made publicly available.
- Personal information that may form part of a public display which is on view to the general public.

PPIP Act means The Privacy and Personal Information Protection Act 1998.

Publication Guide means a document that sets out the kinds of information that Council makes publicly available and routinely publishes on the website

Public Register means for the purposes of the PPIP Act a register of personal information that is required by law to be, or is made, publicly available or open to public inspection. There may be other registers but these may not be publicly available eg Companion Animals Register, or may not contain personal information.

4.0 ROLES AND RESPONSIBILITIES

Role	Responsibilities
Manager, Corporate Services & Governance	As Council's Right to Information Officer the position is responsible for determining applications for access to documents or for the amendment of records and dealing with privacy matters. The position is also Council's Privacy Officer.
Director, Support Services	As Council's Public Officer, the position is responsible for dealing with requests from the public concerning the Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council.
Privacy Officer	The role is to: <ul style="list-style-type: none">• receive advice and updated information from Privacy NSW about the implementation of the Privacy and Personal Information Protection Act 1998 and the Health Records Information Protection Act 2002• act as a first point of contact with Privacy NSW for all matters related to privacy and personal information• act as a focal point within their organisation for all matters related to privacy and personal information• act as a first point of contact for members of the public for all matters related to privacy and personal information.• disseminating information on privacy issues within the organisation• co-ordinating the implementation of the privacy legislation in their organisation, including drawing up and reviewing Privacy Management Plans



	<ul style="list-style-type: none"> providing privacy training for staff about whether information is "personal information" or "health information" as defined in the legislation ensuring that all complaints about privacy breaches and internal reviews are dealt with in the proper manner
All Council Officers and Councillors	Responsible for ensuring the security of all Council records and refusing to directly provide ad-hoc information to any person without forwarding it to the appropriate Council officer for processing, unless the document is otherwise available e.g. on Council's website.

5.0 RELATED POLICIES AND DOCUMENTS

There are various legislation, policies and documents that affect the handling of personal information by Hawkesbury City Council.

- Government Information (Public Access) Act 2009
- Health Records and Information Privacy Act 2002
- Local Government Act 1993
- Privacy and Personal Information Protection Act 1998
- Privacy Code of Practice for Local Government
- Code of Conduct
- Code of Meeting Practice
- Access to Council Information Policy
- Access to Council Guidelines
- Community Engagement Policy
- Complaints Policy
- Guidelines for the provision of information and interaction between Councillors and staff
- Internal Reporting Policy
- Media Policy
- Record Management Policy

6.0 TRAINING AND EDUCATION

Council's Right to Information Officer is available to provide staff with advice if they have questions about privacy matters.

All staff and Councillors will be given information setting out Council's Code of Conduct. This Code sets out the main requirements in relation to personal information. Councillors and staff will also be required to familiarise themselves with the full Code of Conduct.

This Plan will be available on Council's intranet site for all employees to be aware of the IPPs and how they apply to Council's day to day functions. A copy of this Plan will be made available to Councillors as part of their Councillor Handbook. New staff will be briefed on issues surrounding privacy during their induction.

This Plan and all the others referred to in this Plan are available on Council's website so Council staff, Councillors and the public have easy access to them.

Appropriate training and/or briefings will be provided to staff and Councillors on privacy matters. If required, staff and Councillors will be sent to external courses to provide additional information about the PPIP Act and recent decisions relating to GIPA and Privacy issues.

Council's Annual Report will include information outlining the actions taken by Council in complying with the PPIP Act and statistical information relating to any reviews Council has undertaken.



7.0 AMENDMENTS

This Privacy Management Plan will be reviewed at least within 12 months after each local government general election by Council's Manager Corporate Services and Governance or as required. The Plan's effectiveness will be assessed and this will lead to any necessary changes.

8.0 TYPE OF INFORMATION HELD

8.1 What types of personal information are held by Council?

Council holds personal information about Councillors, ratepayers, customers, residents and employees.

Councillors:

- personal contact information
- complaints and disciplinary matters
- pecuniary interest returns
- entitlements to fees, expenses, facilities and reimbursements.

Customers, ratepayers and residents:

- name and home addresses of individuals
- property ownership details and information about concessions
- personal information relating to the processing of development applications
- bank account details
- information about families of children at child care centres.

Employees:

- information obtained during recruitment
- leave and payroll data
- personal contact information
- performance management plans
- disciplinary matters
- pecuniary interest returns
- wage and salary entitlements.

8.2 Unsolicited Information

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



As a matter of course the subject matter of petitions may be reported to Council meetings but the names and addresses are not provided in the Business Paper nor will they be provided to any third party.

Similarly the nature of any unsolicited complaint received may be available in accordance with the GIPA Act however the name and address of the complainant will not be disclosed to any third party nor will any other relevant information relating to the complaint that may identify the complainant (ie photos).

8.3 Community Consultation processes

Council engages the public by way of public meetings, surveys or invitations for submissions on a Council project, event or other initiative. Council will advise the public in letters, on website, in advertising and at public meetings how any personal information that is collected will be handled.

Unless indicated otherwise such personal information will generally be dealt with as follows:-

PUBLIC MEETINGS: Personal information collected at public meetings will only be collected for the purpose of ongoing consultation on the issue by Council officers. Such information will not be made available for release to the public.

SUBMISSIONS: All submissions received as part of a community engagement process (including notifications of development applications) will be considered in the public arena and as such any submission will be made available in its entirety if so requested, unless confidentiality is requested in accordance with the provisions of Section 739 of the Local Government Act 1993

9.0 INFORMATION RELEASED UNDER OTHER LEGISLATION

Council is also required to make certain information publicly available under other legislation. The Government Information (Public Access) Act 2009 (GIPA Act) sets out a number of documents that Council must make available to the public as “open access information” as defined in Section 18 and Schedule 1 of Schedule 5 of the GIPA Act. These include annual reports, management plans and development applications.

Information that is held by Council that is not defined as open access information may be released under the GIPA Act by Council subject to application. More information on accessing information under this Act can be found in Council’s Access to Information Policy. This is available on Council’s website. If there are inconsistencies between the PPIP Act and other legislation such as the GIPA Act, the requirements of these other Acts generally prevail over the PPIP Act.

Council’s Publication Guide, available on Council’s website, outlines the type of information the Council makes publicly available taking into account its responsibilities under GIPA Act.

10.0 INFORMATION PROTECTION PRINCIPLES UNDER PPIP ACT

10.1 Introduction

The PPIP Act contains 12 principles relating to the collection, security, access, alteration, use and disclosure of personal information. These principles are known as Information Protection Principles (IPPs) and are in Part 2 Division 1, Sections 8 – 19 of the PPIP Act.

The PPIP Act also contains a number of exemptions to these IPPs. The effect of these exemptions is that in certain circumstances Council is not required to act in accordance with the IPPs.

The IPPs are also subject to codes of practice. These codes identify areas where an agency may depart from the IPPs. The applicable code for Council is the Privacy Code of Practice for Local Government (“the code”). This code was developed to ensure that Local Government is able to fulfill its statutory duties and functions in a manner which complies with the PPIP Act.



This section of the Plan includes:

- A description of each IPP and a discussion of Council's policy in relation to the particular IPP.
- The effect of any exemption under the PPIP Act or modification permitted under the code, where applicable.
- Other relevant matters in relation to the IPP.

10.2 Collection of Personal Information for lawful purposes (IPP1)

10.2.1 Principle

Council will only collect personal information that is reasonably necessary for a lawful purpose as part of its proper functions. Council's Publications Guide, available on Council's website, provides more detailed information about Council's functions exercised under the Local Government Act 1993 and the other Acts that confer powers to Council.

Personal information will not be collected by unlawful means. If private contractors or consultants are engaged by Council and they are involved in collecting personal information, they must agree not to do so by unlawful means.

Although Council usually collects personal information for one main purpose, this information may be used for a variety of other purposes. For example, Council's rates records contain the names and addresses of individual property owners. This information is however also used to notify adjoining property owners of proposed developments and identify companion animal ownership. It is also used to investigate complaints regarding non compliance with the various Acts administered by Council, evaluate applications for uses of public land including dedications and resumptions as well as being the basis of the Rating and Valuation Register.

Part of Council's functions also involve the collection and delivery of personal information to and from other public sector agencies. For example Council receives information from the Land Titles Office about changes in property ownership.

10.3 Collection of Personal Information for lawful purposes (IPP2)

10.3.1 Principle

When Council collects personal information this will be directly from the individual concerned unless:

- The individual has authorised collection from someone else.
- The information relates to a person who is under 16 years of age and has been provided by a parent or guardian.

Council collects personal information through the various forms that customers complete and lodge with Council. Some examples include:

- compilation or referral of registers
- customers completing and lodging development application forms
- access to information requests
- companion animal registration
- applications for inspections or certifications.

10.3.2 Exemptions under the PPIP Act

Council is not required to comply with IPP 2 if:

- The information has been collected in connection with proceedings (whether or not they have actually started) before any court or tribunal [Section 23(2)].



- Council is 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 compliance might detrimentally affect or prevent the proper exercise of Council's complaint handling or investigative functions [Section 24(4)].
- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].
- Compliance by Council would, in the circumstances, prejudice the interests of the individual to whom the information relates [Section 26(1)].

10.3.3 Modification under the code

Council can depart from IPP 2 if indirect collection of personal information is reasonably necessary to confer an award, prize, benefit or similar form of personal recognition to the individual to whom the information relates.

10.4 Requirements when collecting personal information (IPP3)

10.4.1 Principle

Council will ensure that when collecting personal information directly from individuals they are told that:

- the information is being collected
- the purpose of collecting the information
- who the intended recipients are
- whether supplying the information is voluntary or required by law
- the consequences to the individual if the information is not provided
- their rights to access and correct the information
- the name and address of the agency collecting the information and the agency that will be holding the information.

Council will take reasonable steps in the circumstances to ensure individuals are made aware of these matters. Council's current forms and applications include a privacy statement addressing these matters. Examples of applications which will contain such statements include:

- Development application form
- Objections to development applications
- Government Information (Public Access) Act applications

Similarly, Council's website contains a privacy statement which sets out the types of information that is collected when you visit our website and the purpose for which it is collected.

Before Council adopts a new form, a draft will be reviewed by the appropriate officer to ensure it complies with IPP 3 and 4.



10.4.2 Exemptions under the PPIP Act

Council is not required to comply with IPP 3 if:

- The information concerned is collected for law enforcement purposes [Section 23(3)].
- Council is 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 compliance might detrimentally affect or prevent the proper exercise of Council's complaint handling or investigative functions [Section 24(4)].
- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].
- Compliance by Council would, in the circumstances, prejudice the interests of the individual to whom the information relates [Section 26(1)].
- The individual to whom the information relates has expressly consented to Council not complying with IPP 3 [Section 26(2)].

10.4.3 Modification under the code

Council can depart from IPP 3 if indirect collection of personal information is reasonably necessary to confer an award, prize, benefit or similar form of personal recognition to the individual to whom the information relates.

10.4.4 Obligations under other legislation

Council also incurs obligations under other legislation in relation to collecting personal information. For example, the Workplace Surveillance Act 2005 requires Council to notify employees of all surveillance in the workplace which may be carried out by Council.

10.5 Other requirements relating to collection of personal information (IPP4)

10.5.1 Principle

When Council collects personal information it will take reasonable steps in the circumstances to ensure that:

- the information is relevant to that purpose, is accurate, up-to-date, complete and not excessive
- when collecting the information the personal affairs of the individual are not unreasonably intruded on.

Council may use public place video surveillance in accordance with NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television in Public Places.



10.6 Retention and security of personal information (IPP5)

10.6.1 Principle

Council will ensure that:

- information is not kept for longer than is necessary for the purpose for which it may lawfully be used
- information is disposed of securely
- information is protected against loss, unauthorised access, use, modification,
- disclosure and all other misuse by undertaking reasonable security safeguards
- if it is necessary for Council to give information to a person in connection with the provision of a service to Council, everything reasonable will be done within Council's powers to prevent unauthorised use or disclosure.

To ensure information is held securely:

- Council will comply with the requirements of the State Records Act which covers the safe custody, preservation, accuracy, maintenance and disposal of state records.

Council's Code of Conduct also sets out the obligations that exist in relation to dealing with personal information. This includes a definition of what personal information is and the relevant legislation and policies that need to be complied with.

10.7 Information about personal information held by agencies (IPP6)

10.7.1 Principle

Council will take reasonable steps to enable individuals to determine whether Council holds personal information relating to them. If Council does hold such information, upon request, Council will advise the individual of:

- the nature of the information
- the purpose for which it is being used
- their entitlement to gain access to the information.

10.7.2 Modification under the GIPA Act

IPP 6 is modified by Section 20(5) of the PPIP Act with the importation of the relevant sections of the GIPA Act. The effect of this is that relevant sections of the GIPA Act are treated as being part of the PPIP Act. Therefore when an application is made under IPP 6, Council must consider these sections of the GIPA Act.

When Council receives a request under IPP 6 a search will be undertaken of Council records. The applicant may be asked to describe the dealings they have had with Council to assist the searching process. A response to applications under IPP 6 will ordinarily be made within 20 working days.



10.7.3 Exemptions under the PPIP Act

Council is not required to comply with IPP 6 if:

- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].

10.7.4 Reporting

Several reporting requirements exist under the privacy regimes. These include:

- Section 33 (3) of the PPIP Act requires that the Council's Annual Report include a statement regarding actions taken by the Council to comply with the requirements of the Act. Statistical details must also be given of any reviews (internal and external by the Administrative Decisions Tribunal) conducted by or on behalf of the Council.
- The Council is required to publish a Privacy Management Plan under Section 33(1) of the PPIP Act and amend it from time to time. A copy is to be forwarded to the NSW Privacy Commissioner each time it is amended.

10.8 Access to personal information held by agencies (IPP7)

10.8.1 Principle

Council will ensure that individuals are provided access to personal information held by Council within 20 working days. Requests for access should be made in writing and addressed to the General Manager.

If employees of Council seek access to records held about them, such requests need to be directed to the Manager Human Resources.

The right to access personal information under the PPIP Act does not extend to information which is held about other people. Applications will need to be made under the GIPA Act if:

1. An individual's personal information is in documents which also have information about others
2. Access is sought for information about someone else.

10.8.2 Exemptions under the PPIP Act

Council is not required to comply with IPP 7 if:

- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].

10.8.3 Modification under the GIPA Act

Like IPP 6, IPP 7 is also modified by Section 20(5) of the PPIP Act with the importation of the relevant sections of the GIPA Act.



10.8.4 Staff records

According to Council practice staff have a right of access to certain records about themselves without needing to apply under the GIPA Act or the privacy legislation.

Staff may access their personal staff file by making a request directly to the Manager Human Resources.

10.9 Alteration of personal information (IPP8)

10.9.1 Principle

Council welcomes proposed amendments or changes to the personal information it holds. This will ensure that all information is current, accurate, complete and relevant for the purpose for which it was collected.

Changes to personal information will require appropriate supporting documentation. The amount of documentation required will depend on how substantive the proposed amendments are. No charges are required in relation to amendments under IPP 8.

Where information is requested to be amended, the individual to whom the information relates, must make a request by way of statutory declaration. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy Council that the proposed amendment is factually correct and appropriate. Council may require further documentary evidence to support certain amendments.

If Council refuses to make the requested amendments, Council may attach a notation to the information if this is requested by the individual.

If personal information is amended in accordance with IPP 8, Council will seek to notify the recipients of the information of any amendments made. This will be done as soon as possible and where it is reasonably practicable.

10.9.2 Modification under the GIPA Act

Like IPP 6 and 7, IPP 8 is also modified by Section 20(5) of the PPIP Act with the importation of the relevant sections of the GIPA Act.

The GIPA Act is not affected by the operation of the PPIP Act. Applications to amend records can only be made under the PPIP Act.

10.9.3 Exemptions under the PPIP Act

Council is not required to comply with IPP 7 if:

- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].

10.10 Agency must check the accuracy of personal information before use (IPP9)

10.10.1 Principle

Before Council uses or discloses personal information, Council will take reasonable steps in the circumstances to ensure that the information is relevant, accurate, up to date, complete and not misleading having regard to the purpose for which the information is to be used.



These steps will depend on the age of the information, its likelihood for change and the particular function for which the information was collected. For example, information such as employee records may warrant greater checks to ensure that it is accurate and current before it is used.

10.11 Limits on use of personal information (IPP10)

10.11.1 Principle

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

- the individual has consented to such use
- the other purpose it is being used for is directly related to the purpose for which it was collected
- the use is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual who the information relates to or another person.

As was discussed previously in relation to IPP 1, information collected by Council may be used for a variety of purposes as part of its proper functions.

10.11.2 Exemptions under the PPIP Act

Council is not required to comply with IPP 10 if:

- Use for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue [Section 23(4)].
- Use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable Council to exercise its complaint handling functions and compliance might detrimentally affect or prevent the proper exercise of Council's complaint handling or investigative functions [Section 24(2)].
- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].
- Disclosure is by a public sector agency 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 by a public sector agency 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 [Section 28(3)].

10.11.3 Modification under the code

Council can depart from IPP 10 if:

- 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.
- The personal information is to be used to confer an award, prize, benefit or similar form of personal recognition on a particular person.



10.12 Limits on disclosure of personal information (IPP11)

10.12.1 Principle

Council will not disclose information to a person or body (other than the individual to whom the information relates) unless:

- The disclosure is directly related to the purpose for which the information was collected.
- Council has no reason to believe that the individual would object to disclosure.
- The individual concerned is reasonably likely to be aware, or has been made aware in accordance with IPP 3 (Section 10) that this kind of information is usually disclosed to that other person or body.
- Council believes on reasonable grounds that disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual who the information relates to or another person.

If Council does disclose personal information in accordance with IPP 11 to a person or public sector agency they must not use or disclose the information for a purpose other than that which it was given to them for.

10.12.2 Exemptions under the PPIP Act

Council is not required to comply with IPP 11 if:

- the disclosure of the information concerned:
 - is made in connection with proceedings for an offence or for law enforcement purposes (including the exercising of functions under or in connection with the Confiscation of Proceeds of Crime Act 1989 or the Criminal Assets Recovery Act 1990), or
 - 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
 - is authorised or required by subpoena or by search warrant or other statutory instrument, or
 - is reasonably necessary:
 - for the protection of the public revenue, or
 - in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed [Section 23(5)].
- Council is investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and if such use is necessary in order to enable Council to exercise its complaint handling or investigative functions [Section 24(4)].
- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].
- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].
- If the individual to whom the information relates has expressly consented to Council not complying with IPP 11 [Section 26(2)].



10.12.3 Modification under the code

Council can depart from IPP 11 in the following 3 circumstances:

1. Council may disclose personal information to public sector agencies or public utilities if:
 - (i) the agency has approached Council in writing
 - (ii) Council is satisfied that the information is to be used by the agency for its proper and lawful functions
 - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's functions.
2. The personal information collected about an individual is to be disclosed for the purpose of giving that person an award, prize, benefit or similar form of personal recognition.
3. If 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 exemption does not allow Council to give an opinion about that person's suitability for a particular position with any potential employer.

However this does not apply where Council is satisfied that the person has provided their consent for Council to provide a reference.

10.12.4 Effect of other legislation

Council's obligations under the GIPA Act are not affected by privacy legislation. However the GIPA Act contains limitations on access to documents in the form of public interest considerations against disclosure. These include information about personal affairs, documents containing confidential information and legal advice.

The Companion Animals Act also limits the disclosure of certain information. Under Section 89 of the Act it is an offence to disclose information obtained in the course of Council exercising its responsibilities under the Act. This includes information relating to the identification of companion animals and their owners and information gathered by authorised officers in the course of their enforcement functions.

10.12.5 Subpoenas and similar court orders for documents

The personal information held by the Council is often required as evidence in court and tribunal proceedings. These may be matters which do not include the Council, or litigation to which the Council is joined as a party. For all matters, the Proper Officer to be named in subpoenas and other orders is the General Manager.

All subpoenas and similar court orders are to be directed to the Council's Manager Corporate Services and Governance. Individual Divisions or officers must not accept or deal with subpoenas or other orders except as directed by the General Manager.

The Council's Manager Corporate Services and Governance will deal with any subpoenas, discovery orders or similar instruments related to legal proceedings involving the Council. The Manager Risk Management will deal with similar matters involving workers compensation and public liability claims and/or proceedings. The General Manager from time to time authorizes other officers to disclose Council records in relation to legal proceedings including Director City Planning and Manager Risk Management.



10.12.6 Requests from police and law enforcement agencies

Members of staff receiving requests for personal information from law enforcement agencies must direct those requests to the Manager Corporate Services and Governance as the Council's Right to Information Officer. The decision regarding disclosure of personal information will be made by the Council's Right to Information Officer. This procedure does not apply in cases where there is an imminent threat to life or safety, however even then reasonable attempts should be made to discuss the matter with the Council's Right to Information Officer.

10.12.7 Tax file numbers

The collection, use and disclosure of Tax file numbers within the Council is controlled by the Commonwealth Privacy Act 1988. The Commonwealth Privacy Commissioner has issued extensive, legally binding Tax file number guidelines (which are available at <http://www.privacy.gov.au>). The Council must ensure that tax file numbers are protected against loss, unauthorised access, use, modification, disclosure or other misuse.

10.13 Special restrictions on disclosure of personal information (IPP12)

10.13.1 Principle

Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities unless disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person.

Council will not disclose personal information to any person or body in a Commonwealth agency or jurisdiction outside NSW unless:

- a relevant privacy law is in force in that jurisdiction and applies to the personal information concerned or applies to the Commonwealth agency
- the disclosure is permitted under a privacy code of practice.

10.13.2 Modification under the code

If Council is asked for information 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 exemption does not allow Council to give an opinion as to that person's suitability for a particular position with any potential employer.

However this does not apply if Council is satisfied that the person has provided their consent for Council to provide a reference.

10.13.3 Exemptions under the PPIP Act

Council is not required to comply with IPP 12 if:

- The disclosure of the information is reasonably necessary for the purposes of law enforcement in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed [Section 23(7)].
- Council is lawfully authorised or required not to comply with the principle concerned [Section 25(a)].



- Non compliance is otherwise permitted under an Act or any other law [Section 25(b)].
- If the individual to whom the information relates has expressly consented to Council not complying with IPP 12 [Section 26(2)].

11.0 INFORMATION PROTECTION PRINCIPLES UNDER HRIP ACT

11.1 Introduction

Council will often hold health information by reason of its role in elder care, child care and various types of community health support services. There are 15 health privacy principles (HPP) to be observed by Council in connection with health information.

11.2 Collection (HPP1-4)

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 4).

11.3 Storage (HPP5)

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).

11.4 Access and Accuracy (HPP6-9)

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).

11.5 Usage (HPP 10)

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).



11.6 Disclosure (HPP11)

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).

11.7 Identifiers (HPP12)

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).

11.8 Anonymity (HPP 13)

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

11.9 Transfer out of NSW (HPP 14)

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

11.10 Linkage (HPP 15)

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).

12.0 PUBLIC REGISTERS

12.1 Introduction

Council is required to hold and maintain public registers under various legislation and make them available for inspection. Under the Local Government Act 1993, Council holds a number of registers including land registers, records of approval, and register of pecuniary interests. Under the Environmental Planning and Assessment Act Council also holds public registers such as the register of consents and approvals and the record of building certificates. Council may have other registers for public inspection including delegations register, register of gifts and benefits

12.2 Disclosure requirements under the PPIP Act

When disclosing personal information contained in public registers, Council will comply with Part 6 of the PPIP Act and the Privacy Code of Practice for Local Government ('the Code').

Under Section 57(1) of the PPIP Act, personal information must not be disclosed unless Council is satisfied that access is for a purpose related to the purpose for which the register is kept.

As part of this process, Council may ask the person requesting access what they intend to use the information for. This may need to be given in the form of a statutory declaration.

If the purpose stated by the applicant does not match the purpose for which the register is kept, access to the information will not be given.

If the personal information is in a publicly available publication then it will not be covered by the PPIP Act.



12.3 Modification under the code

Under the Code, Council may allow any person to inspect a publicly available copy of a public register in Council premises – and copy a single entry or a page of the register – without requiring them to provide a reason for accessing the register. In this case Council will not need to determine whether the proposed use is consistent with the purpose for which the register is kept.

Council will not require reasons why someone is inspecting Council's pecuniary interest register or any register on which Council records declarations made by councillors or designated officers under Chapter 14 Part 2 Divisions 3 or 4 of the LGA.

Requests for access, copies or sale of the whole or substantial part of a public register held by Council may not fit the purpose for which the register was created. As a result Council may:

- not disclose names and addresses of both current and previous property owners and applicants;
- require a statutory declaration from the person requesting the information to satisfy Council that the purpose of use is consistent with the purpose for which the register is kept.

12.4 Implications of the Government Information (Public Access) Act

Section 57 of the PPIP Act prevails over Schedule 5 of the GIPA Act if there is any inconsistency. Therefore:

1. If a register is listed in Schedule 5 of the GIPA Act, access must not be given except in accordance with Section 57(1) of the PPIP Act.
2. If a register is not listed in Schedule 5 of the GIPA Act, access must not be given unless:
 - (i) it is allowed under Section 57(1) of the PPIP Act; and
 - (ii) inspection is not contrary to the public interest (Section 14 of the GIPA Act).

Council may make public registers available on its website provided it meets the requirements of Section 57 (1) of PPIP Act.

12.5 Suppression

An individual may request under Section 58 of the PPIP Act that their personal information is removed from, or not placed on, a publicly available register and not disclosed to the public.

Council will do this if it is satisfied that the safety or wellbeing of any person would be affected if the personal information requested to be suppressed were not. However Council will not suppress if Council believe that the public interest in maintaining access to the information outweighs any individual interest in suppressing the information.

If information is suppressed, it may be kept on the register for other purposes.

13.0 INTERNAL REVIEW PROCESS

A person may request an internal review if he or she is aggrieved by the conduct of Council in the following circumstances:

- Perceived contravention of a privacy principle or a health privacy principle that applies to Council
- Perceived contravention of a code of practice that applies to Council, or
- Disclosure of personal information kept on a public register.



The request must be in writing and addressed to:

The General Manager
Hawkesbury City Council
PO Box 146
Windsor NSW 2756

On receipt of the request for review, a copy will be forwarded to the Privacy Commissioner. The Privacy Commissioner will be informed of progress and the outcome of the review. The request must be lodged within 6 months from the time the applicant first became aware of the conduct (the subject of the request).

The review will be completed as soon as reasonably practicable within 60 days from receipt of the request for review. Following completion of the review, Council will do one or more of the following:

- Take no further action on the matter,
- make a formal apology to the applicant,
- take appropriate remedial action,
- provide undertakings that the conduct will not occur again,
- implement administrative measures to ensure that the conduct will not occur again.

As soon as practicable within 14 days of the completion of the review, Council will notify the applicant in writing of:

- The findings and the reasons for those findings,
- any proposed actions to be taken, and
- the right of the applicant to have those findings and the Council's proposed action, reviewed by the Administrative Decisions Tribunal.

If a person is still dissatisfied after an internal review they may appeal to the Administrative Decisions Tribunal ('ADT'). The ADT hears matters afresh and imposes its own decisions. The Tribunal can decide not to take any action or make any number of the orders set out in Section 55(2) of the PPIP Act.