



Privacy Management Plan & Guidelines

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1. Introduction

Section 33 of the PPIPA requires all public sector agencies to prepare a Privacy Management Plan (the "Plan") to deal with:

- the devising of policies and practices to ensure compliance by the agency with the requirements of the PPIPA,
- the dissemination of those policies and practices to persons within the agency,
- the procedures that the agency proposes for internal review of privacy complaints;
- such other matters as are considered relevant by the agency 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. This Plan and Guidelines identify how Wingecarribee Shire Council (Council) complies with the Information Privacy Protection Principles in the NSW Privacy and Personal Information Protection Act 1998 (PPIPA) and the Health Records and Information Privacy Act 2002 (HRIPA).

These Acts provide for the protection of personal information and for the protection of the privacy of individuals generally. 'Personal information' is defined in section 4 of the PPIPA as:

information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

This definition encompasses not only traditional data storage, such as paper files, but also such diverse media as electronic records, video recordings and photographs. It also includes biometric information such as fingerprints and even records of genetic material.

Although the definition of personal information is very broad, the PPIPA excludes certain types of information. The most significant exemptions are:

- information contained in publicly available publications
- information about a person's suitability for public sector employment
- information about people who have been dead for more than 30 years
- a number of exemptions relating to law enforcement investigations
- matters arising out of a Royal Commission or Special Commission of Inquiry
- matters contained in Cabinet documents.

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.
- The electoral roll (Note: Whilst Council will allow inspection of the electoral roll Council will refer any requests for copies of the Roll to the State Electoral Commissioner)

The Act provides for the protection of personal information by means of 12 Information

Protection Principles. Those principles are modified by the Privacy Code of Practice for Local Government (“the Code”) made by the Attorney General and also by certain statutory exemptions contained in PPIPA itself.

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 Code or the Information Protection Principles as they apply to the Council;
- 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.

In addition to the Privacy Act, the NSW Health Records and Information Privacy Act 2002 (HRIPA) requires protection of any health information held in Council files. The HRIPA defines ‘health information’ as:

a) personal information that is information or an opinion about:

- (i) the physical or mental health or a disability (at any time) of an individual, or*
- (ii) an individual’s express wishes about the future provision of health services to him or her, or*
- (iii) a health service provided, or to be provided, to an individual, or*

(b) other personal information collected to provide, or in providing, a health service, or

(c) other personal information about an individual collected in connection with the donation, or intended donation, of an individual’s body parts, organs or body substances, or

(d) other personal information that is genetic information about an individual arising from a health service provided to the individual in a form that is or could be predictive of the health (at any time) of the individual or of any sibling, relative or descendant of the individual...

2. Application of this Plan

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

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including those 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 PPIPA, the Code of Practice for Local Government, any other applicable Privacy Code of Practice and this Plan.

3. Council Personal Information Holdings

The Local Government Act 1993 confers a range of functions on Wingecarribee Shire Council. The Council's charter is set out in section 8 of the LGA. Principally the Council is charged with providing "directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively." Exercising these functions often requires Council to collect and utilise the personal information of residents, visitors and other stakeholders.

The following are examples of the major categories of document types held by Council which contain personal information:

- personnel files
- incident reports
- application forms for approvals, licences and permits
- complaints and reports of illegal and/or unauthorised activities
- reports of investigations
- public registers (e.g. register of property owners, development consents etc)
- public submissions, feedback and comments
- financial transactions for payment of goods and services delivered by the Council
- information collected on behalf of other agencies (eg. citizenship certificates)
- lessee information
- development applications, construction certificates and ancillary documents

The Council provides some limited health services as defined under the HRIPA. This mostly relates to Council's immunisation program. In addition Council does collect some health information particularly in relation to immunisation, child care, staff injuries and workers compensation. Care needs to be taken to ensure that such information is handled in accordance with the Information Protection Principles contained in this Plan.

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

Where an application for suppression is made in relation to anything other than a public register, then an application under section 739 of the Local Government Act 1993 ("LGA") is required. Section 739 of the LGA covers all publicly available material under section 12(1) and 12(6) of the LGA 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 5 of this Plan. For information regarding suppression of information on public registers, see Part 7 of this Plan.

5. Information Protection Principles

Information Protection Principles (IPPs) establish the standards for collecting and dealing with personal information to minimise the risk of misuse of that information.

There are 12 IPPs included in sections 8 to 19 of the Privacy and Personal Information Protection Act. They are legal obligations which describe what a NSW government agency must do when it collects, stores, uses and discloses personal information. The 12 IPPs relate to:

- Principle 1 - Collection of personal information for lawful purposes
- Principle 2 - Collection of personal information directly from the 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

In some cases the IPPs have been modified (usually in the form of exceptions) either by other provisions of the PPIPA or by Privacy Codes of Practice made by the Attorney General.

The following section of this Plan outlines how the Council will incorporate the 12 Information Protection Principles into its everyday functions and details any exceptions that apply including a reference to where the exception comes from.

5.1 Information Protection Principle 1 – Collection for Lawful Purposes

Council Policy

- 5.1.1 Council will only collect personal information for a lawful purpose as part of its proper functions.
- 5.1.2 Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.
- 5.1.3 Council will not collect personal information by any unlawful means.

5.2 Information Protection Principle 2 – Direct Collection

Council Policy

- 5.2.1 Council will collect personal 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.

5.2.2 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.

5.2.3 Council will seek to contractually bind Council owned businesses, consultants, private contractors, committees or other persons who are collecting personal information on behalf of Council to comply with the PPIPA (see sample contract wording in Appendix 5).

Exceptions

5.2.4 Council is not required to comply with IPP 2 if:

(a) a direct collection is reasonably likely to detrimentally affect Council's conduct of any lawful investigation (*Investigative Code of Practice*).

(b) the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal (s 23(2)).

(c) 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 compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions (s24(4)).

(d) Council is lawfully authorised or required not to comply with the principle (s25(a)).

(e) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).

(f) compliance would prejudice the interests of the individual concerned (s26(1)).

(g) 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 (*LG Code of Practice*).

5.3 Information Protection Principle 3 – Requirements When Collecting Personal Information

Council Policy

5.3.1 Where Council proposes to collect personal information directly from a person, it will take such steps as are reasonable in the circumstances to inform that person of:

(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.

- 5.3.2 Council will use either the Privacy Notification form (see Appendix 1), the Privacy Notification Statement (see Appendix 2 or 3), or, where the circumstances require, a modified version of either when collecting personal information.
- 5.3.3 Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, Council will NOT advise those individuals that it has collected their personal information unless, in the opinion of the Public Officer, the individuals would be unlikely to expect that Council would have received such information.

Exceptions

- 5.3.4 Council is not required to comply with IPP3 where:

- (a) a direct collection is reasonably likely to detrimentally affect Council's conduct of any lawful investigation (*Investigative Code of Practice*).
- (b) information is collected for law enforcement purposes (s23(3)).
- (c) 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 compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions (s24(4)).
- (d) Council is lawfully authorised or required not to comply with the principle (s25(a)).
- (e) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).
- (f) compliance would prejudice the interests of the individual concerned (s26(1)).
- (g) the person expressly consents to such non-compliance (s26(2)).
- (h) 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 (*LG Code of Practice*).

5.4 Information Protection Principle 4 - Other Requirements Relating To Collection Of Personal Information

Council Policy

- 5.4.1 Council will take reasonable steps to ensure that:

- (a) information collected is relevant to the purpose for which it was collected, 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.

- 5.4.2 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. The provisions of the Work Place Surveillance Act will be complied with.

5.5 Information Protection Principle 5 - Retention And Security Of Personal Information

Council Policy

- 5.5.1 All personal information held by Council must be stored, maintained and disposed of in accordance with any approved record keeping policies, procedures and guidelines.

5.6 Information Protection Principle 6 - Information About Personal Information Held By Agencies

Council Policy

- 5.6.1 If Council holds any information about a person, upon request it will advise the person of the nature of that information, the main purposes for which it is held, and that person's entitlement to access.

Exceptions

- 5.6.2 Council is not required to advise a person regarding personal information where:
- (a) compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation (*Investigative Code of Practice*).
 - (b) Council is lawfully authorised or required not to comply with the principle (s25(a)).
 - (c) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).

5.7 Information Protection Principle 7 - Access to personal information held by agencies

Council Policy

- 5.7.1 Council, at the request of any person, will give access to that person to personal information held about them.
- 5.7.2 Applications for access to personal information in accordance with IPP 7 must be made in the form of a File Access Request under s12 of the Local Government Act 1993 or an application under the Freedom of Information Act 1989.

Exceptions

- 5.7.3 Council is not required to comply with IPP 7 where:
- (a) compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation (*Investigative Code of Practice*).
 - (b) Council is lawfully authorised or required not to comply with the principle (s25(a)).
 - (c) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).

5.8 Information Protection Principle 8 - Alteration of personal information

Council Policy

- 5.8.1 Council will allow a person to make an application to Council to amend 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.
- 5.8.2 Council's application form for alteration under IPP 8 is at Appendix 4 at the end of this Plan. The form must be accompanied by a Statutory Declaration.
- 5.8.3 If personal information is not amended in accordance with a request by the individual to whom the information relates, Council will, if requested by the individual concerned, take such steps as are reasonable to attach to the information any statement provided by that individual of the amendment sought.
- 5.8.4 If personal information is amended in accordance with this section, the person 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 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.

Exceptions

- 5.8.5 Council is not required to comply with IPP 7 where:
- (a) compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation (*Investigative Code of Practice*).
 - (b) Council is lawfully authorised or required not to comply with the principle (*s25(a)*).
 - (c) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (*s25(b)*).

5.9 Information Protection Principle 9 - Agency must check accuracy of personal information before use

Council Policy

- 5.9.1 Council will not use personal 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.

5.10 Information Protection Principle 10 - Limits on use of personal information

Council Policy

- 5.10.1 Council will seek to ensure that information collected for one purpose will be used for that same purpose except where

- (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.

5.10.2 Council will seek to contractually bind Council owned businesses, consultants, private contractors, committees or other persons who are collecting personal information on behalf of Council to comply with IPP10 (see Appendix 5 for suggested wording).

Exceptions

5.10.3 Council is not required to comply with IPP 10 where:

- (a) a direct collection is reasonably likely to detrimentally affect Council's conduct of any lawful investigation (*Investigative Code of Practice*).
- (b) the use of the information is reasonably necessary for law enforcement purposes or for the protection of the public revenue. (s23(4)).
- (c) 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 compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions (s24(4)).
- (d) Council is lawfully authorised or required not to comply with the principle (s25(a)).
- (e) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).
- (f) where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg.,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 (s28(3)).
- (g) 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 (*LG Code of Practice*).
- (h) 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 (*LG Code of Practice*).

5.11 Information Protection Principle 11 - Limits on disclosure of personal information

Council Policy

5.11.1 Personal information may only be disclosed to another person or body where:

- (a) the disclosure is directly related to the purpose for which the information was collected, and there is 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 5.3 of this Plan, that information of that kind is usually disclosed to that other person or body, or
- (c) Council 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, or
- (d) disclosure is made in accordance with the Freedom of Information Act or section 12 of the Local Government Act 1993

Exceptions

5.11.2 Council is not required to comply with IPP 11 where:

- (a) disclosure is made to another agency that is conducting, or may conduct, a lawful investigation (*Investigative Code of Practice*).
- (b) disclosure is made in connection with proceedings for an offence or for law enforcement purposes (s23(5)(a)).
- (c) disclosure is to a law enforcement agency for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person (s23(5)(b)).
- (d) disclosure is authorised or required by subpoena or by search warrant or other statutory instrument (s23(5)(c)).
- (e) disclosure 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 (s23(5)(d)).
- (f) 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 compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions (s24(4)).
- (g) Council is lawfully authorised or required not to comply with the principle (s25(a)).
- (h) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (s25(b)).
- (i) the person expressly consents to such non-compliance (s26(2)).
- (j) where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg., 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 (s28(3)).
- (k) another agency has approached Council in writing, Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's function/s (*LG Code of Practice*).
- (l) 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 (*LG Code of Practice*).
- (m) Council is requested by a potential employer to 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 (*LG Code of Practice*).

5.12 Information Protection Principle 12 - Special restrictions on disclosure of personal information

Council Policy

5.12.1 Council will not disclose personal information relating to a person'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.

5.12.2 Council will not disclose personal 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 that jurisdiction or applies to that Commonwealth agency, or
- (b) the disclosure is permitted under a privacy code of practice.

Exceptions

5.12.3 Council is not required to not comply with IPP 12 where:

(a) the disclosure of information to another agency that is conducting, or may conduct, a lawful investigation provided the information is reasonably necessary for the purposes of that investigation (*Investigative Code of Practice*).

(b) the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed (*s23(7)*).

(c) Council is lawfully authorised or required not to comply with the principle (*s25(a)*).

(d) non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law (*s25(b)*).

(e) the person expressly consents to such non-compliance (*s26(2)*).

(f) 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 (*s28(2)*).

(g) a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg. 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 (*s28(3)*).

(h) Council is requested by a potential employer outside New South Wales, to 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 (*LG Code of Practice*).

6. Implementation of Council's Privacy Management Plan

Council will undertake the following broad strategies to ensure effective implementation of and ongoing compliance with the privacy legislation:

- As part of Council's induction program, new staff and councillors will be provided with information to raise their awareness and appreciation of the privacy legislation.
- Periodic refresher training will be provided to existing staff and councillors as required
- Where Council proposes to collect personal information in forms, questionnaires, survey templates, interview sheets, etc, these will be reviewed by the responsible managers to ensure compliance with privacy principles.
- Where existing tools for collecting personal information are updated managers will review them to ensure compliance with privacy principles.
- The Administration Section will provide specialist advice relating to the interpretation and practical implementation of the privacy legislation.
- The Privacy Management Plan and Guidelines will be reviewed and updated regularly.
- Every five years Council will formally review its compliance with the privacy legislation.

7. Public Registers

Under the PPIPA a public register is 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).

Council maintains a number of registers which are available for public inspection. Some of these registers contain personal information as defined in the PPIPA. Council is required to ensure that any access to personal information in a register is consistent with the purpose for which the register exists. An indicative list of public registers maintained by Council that contain personal information is shown in Appendix 6 together with a guide as to the primary purpose of each register. Council may from time to time maintain other registers containing personal information.

Council's policy in relation to public registers is as follows:

7.1 Any person may:

- inspect a publicly available copy of a public register on Council premises, and
- copy a single entry of the register

without providing a reason for accessing the register and without Council determining that the proposed use of the register is consistent with the purpose of the register or the Act under which the register is kept.

7.2 In particular council will not require any person to provide a reason for inspecting the council's pecuniary interest register or any register on which the council records declarations made by councillors or designated officers under Chapter 14 Part 2 Divisions 3 or 4 of the Local Government Act.

7.3 Requests for access, copying or sale of the whole or a substantial part of a Public Register held by Council may not necessarily fit within the purpose for which a Public Register was created. Council may therefore:

(i) disclose by way of providing access, copy or sale of the whole or a substantial part of a Public Register, provided that the names and addresses of all current and previous property owners and the names and addresses of all current and previous applicants are not disclosed; or

(ii) disclose by way of providing access, copy or sale of the whole or a substantial part of a Public Register where Council has satisfied itself by way of statutory declaration by the person requesting the information that the information is to be used for a purpose of the Register or the Act under which the Register is kept.

7.4 With respect to both 7.3(i) or (ii) above, Council will also ensure that the provisions of section 12(1A) Local Government Act 1993 and section 149G of the Environmental Planning and Assessment Act 1979 are complied with, where applicable.

7.4 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.

7.5 If the Public Officer 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 the Public Officer 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.

8. Complaints Relating to How Council Has Dealt With Personal Information

People who think that their privacy may have been breached by Council can lodge a complaint or an application for internal review of conduct with Council. A complaint can also be lodged with Privacy NSW.

The PPIPA sets out a number of requirements for the processing of applications for review, including time frames, reporting requirements and requirements for advice to people about their rights to internal and external review. Under the Act, complaints or applications for internal review to Council:

- should be lodged within six months of the complainant becoming aware that Council has handled personal information in an inappropriate manner
- should be in writing (in letter format or by using a form downloaded from Council website)
- must have a return address in Australia.

An internal review will be conducted by the General Manager or his/her nominee. The reviewing officer is responsible for reviewing the action or decision and deciding if it is correct. The General Manager can also ask the Privacy Commissioner to conduct a review on Council's behalf. Under NSW privacy legislation, there is no cost to lodge a complaint or request an internal review. This review will be completed within 60 days.

If the applicant is not satisfied with the result or the process of an internal review conducted by Council, the applicant can complain to the NSW Ombudsman's Office. The Ombudsman's Office can be contacted on (02) 9286 1000.

Appeals may also be lodged with the Administrative Decisions Tribunal within 28 days after Council's internal review is concluded. Legal costs will have to be paid by the applicant if an appeal is lodged with the Tribunal.

Council's internal review process is described in Appendix 7. A copy of the application form for a privacy complaint and internal review is attached at Appendix 8.

9. Further information

For further information, contact Council's Privacy Officer on 02 4868 0701.

APPENDIX 1

Wingecarribee Shire Council
PRIVACY NOTIFICATION FORM – SECTION 10

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (“the Act”).

The intended recipients of the personal information are:

- officers within Council;
- Councillors (if the matter is reported to Council)
- any other agent of Council; and
- other applicants who access Council documents.

The supply of the information by you is / is not voluntary. If you cannot provide or do not wish to provide the information sought, Council may/will be unable to process your application/ submission/request.

Council is collecting this personal information from you in order to

.....
.....

You may make application for access or amendment to information held by Council. Council will consider any such application in accordance with the Act. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the Act.

Council* is to be regarded as the agency that holds the information.

Enquiries concerning this matter can be addressed to Mr Barry Paull, Privacy Co-ordinator, Wingecarribee Shire Council, PO Box 141, Moss Vale NSW 2577.

Signed

.....

Dated

.....

*Please state who holds or controls the information if not Council

APPENDIX 2

Statement for Inclusion on Application Forms

Any personal information provided by you on this form will be used by Council or its agents to process this application. The provision of this information is voluntary however if you do not provide the information Council may be unable to process your application. Once collected by Council the information can be accessed by you and may also be available to third parties including other members of the public.

APPENDIX 3

Statement for Inclusion on Letters/Advertisements etc Inviting Comments/Submissions/Objections

The lodging of a(n) submission/comment/objection is voluntary. However if you choose not to lodge a(n) submission/comment/objection your views will not be taken into account by Council in relation to this matter. Any information that you choose to provide to Council will be used by Council or its agents to process this application/matter. Once lodged with Council the information you provide can be accessed by you and may also be available to third parties including other members of the public.

APPENDIX 4

**APPLICATION UNDER SECTION 15 OF THE PRIVACY AND PERSONAL INFORMATION
PROTECTION ACT 1998 – FOR
ALTERATION OF APPLICANT’S PERSONAL INFORMATION**

Personal Information held by Council

I, (name).....

of

(address),.....

hereby request Council to 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 :

.....

Signature:

.....

Date:

.....

Please see note to applicants on rear of this form.

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 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 (“the Act”), if it is reasonably practicable, to 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 Act; or
- a Code of Practice may restrict alteration.

Enquiries concerning this application should be made to

.....

APPENDIX 5

Clause for Inclusion in Standard Contracts with Private Consultants and Contractors Undertaking Work for Council

If in the course of performing the work required under this contract you are required to collect, store, use, access or disseminate personal information as defined in the Privacy and Personal Information Protection Act 1998 or health information as defined in the Health Records and Information Privacy Act 2002 you must comply with the provisions of these two Acts and the Council’s Privacy Management Plan.

Appendix 6

Indicative List of Public Registers

Act	Section	Register	Purpose (guide only)
Local Government Act 1993	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.
	113	Records of Approvals	The primary purpose is to identify all approvals granted under the LGA.
	328A	Register of Political Donations and Expenditures	The primary purpose is to identify all reportable donations made to Councillors.
	375A	Register of Planning Decisions of Council	The primary purpose is to record details of each planning decision and how each Councillor voted, to ensure that any conflicts of interest relating to political donations are identified and appropriately dealt with.
	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.
	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".

Privacy Management Plan

Act	Section	Register	Purpose (guide only)
Environmental Planning and Assessment Act 1979	100	Register of consents and certificates	The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.
	149G	Record of building certificates	The primary purpose is to identify all building certificates.
Protection of the Environment (Operations) Act 1997	308	Public register of licences held	The primary purpose is to identify all licences granted under the Act, all environment protection notices or noise control notices issued and any convictions obtained.
Impounding Act 1993	30&31	Record of impounding	The primary purpose is to identify any impounding action by Council.

APPENDIX 7

Council process for internal review of conduct in relation to alleged breaches of privacy

This process is based on the checklist developed by Privacy NSW for use by agencies conducting an internal review.

Responsibility for conducting internal reviews in relation to privacy matters has been allocated to the General Manager or their nominee.

The reviewing officer will:

1. Assess the application to confirm that the application:

- is about personal information in relation to conduct that occurred after 1 July 2000, or
- is about health information in relation to conduct which occurred after 1 September 2004, and
- has been lodged within 6 months of the applicant becoming aware of the alleged conduct.

If the application does not meet these criteria it will be referred to the relevant managers for Council's normal complaint handling procedures. If the criteria are met, the reviewing officer will proceed with the following steps:

2. Write to the applicant stating:

- the officer's understanding of the conduct complained about
- the officer's understanding of the privacy principle/s at issue
- that Council is conducting an internal review under the PPIP Act or HRIP Act as appropriate
- the officer's name, title and contact details
- how the reviewing officer is independent of the person/s responsible for the alleged conduct
- the estimated completion date for the review process
- that if the review is not completed within 60 days of the date the application for review was received, the applicant can go to the Administrative Decisions Tribunal (ADT) for an external review of the alleged conduct
- that a copy of the letter will be provided to the NSW Privacy Commissioner for their oversight role

3. Send a copy of this letter to the NSW Privacy Commissioner

4. Review the situation to determine whether the conduct occurred, and if so whether it constituted an unauthorised breach of the relevant privacy legislation

5. Should the review not be finalised within four weeks of the issuing of the letters at points 2 and 3 above, send a progress report to the applicant, copied to the Privacy Commissioner:

- detailing progress to date
- advising of any anticipated delays, the reasons for these, and a revised estimated completion date for the review process

- a reminder that the applicant can go to the ADT for an external review of the alleged conduct if the review is not completed within 60 days of the date that the application for review was received,

6. On completion of the review, write a draft report:

- detailing the review findings about the facts of the matter, the law and the reviewer's interpretation of the law
- setting out a determination as to whether a breach has occurred, with one of the following findings:
 - insufficient evidence to suggest alleged conduct occurred
 - alleged conduct occurred but complied with the privacy/health privacy principles and/or public register provisions
 - alleged conduct occurred, but the non-compliance was authorised by an exemption, Code or s41 Direction
 - alleged conducted occurred: conduct did not comply with principles or public register provisions and was not authorised, so constitutes a 'breach' of the legislation
- making recommendations on the appropriate Council action by way of response or remedy

7. Provide a copy of the draft report to the Privacy Commissioner for comment, and check whether the Commissioner wishes to make a submission

8. Finalise the report, and submit to the General Manager for endorsement

9. Notify the complainant and the Privacy Commissioner in writing:

- that the review is finished
- of the review findings (and the reasons and legislative basis for those findings), and the action proposed to be taken
- of the right to apply to the ADT for a further review, providing contact details for the Tribunal.

APPENDIX 8

Complaint or request for review of conduct

Privacy and Personal Information Protection Act 1998 s.53

Details of applicant

Surname: _____
Given names: _____ Title: (Mr/Mrs/Miss/Ms _____
Organisation being represented: _____
Australian postal address: _____
_____ Postcode: _____
Telephone numbers: _____ (home) _____ (business)

Details of request or complaint

Please provide the information requested below, attaching additional pages if necessary. This information will be used to help determine whether, under the Privacy and Personal Information Protection Act 1998 (PPIP Act), Council has breached a privacy principle or should conduct an internal review of its conduct.

What conduct are you complaining about?

A complaint can only be lodged on the mishandling of your own personal information and not anyone else's personal information, unless they have authorised otherwise.

Which individuals were involved (if known)?

What was (or might be) the effect of the conduct on you or others?

What would you like Council to do about this conduct?

In cases of a possible breach of the PPIP Act, I understand that details of my application will be referred to the Privacy Commissioner in accordance with section 54(1) of the PPIP Act and that the Privacy Commissioner will be kept advised of the progress of the review.

Applicant's signature: _____ Date: _____

Address for delivery:

Please forward the completed form to:
Privacy Officer

Wingecarribee Shire Council
Civic Centre
Elizabeth St
MOSS VALE NSW 2577

or

PO Box 141
MOSS VALE NSW 2577

Phone: 02 4868 0888.

(Agency use only)

Received on / / Acknowledgment sent on / /