

PRIVACY MANAGEMENT PLAN

Hunter's Hill
Council



CONTENTS

Introduction.....	3
This Plan.....	3
Information Collected And Held By Us.....	4
Personal Information.....	4
1. Councillors	4
2. Customers, Ratepayers And Residents.....	4
3. Employees	4
What Is Not Personal Information.....	4
Health Information	5
Unsolicited Information.....	5
How We Comply With The Principles.....	6
Accessing Information	12
Ways To Access Information	12
Public Registers.....	12
Primary Purpose	13
Secondary Purpose Of All Public Registers.....	14
Other Purposes.....	14
Applying To Prevent Disclosure Of Personal Information	14
Government Information (Public Access) Act	15
Exemptions, Directions And Codes Of Practice	15
Exemptions To The Principles.....	15
Privacy Code Of Practice For Local Government.....	16
Directions And Guidelines	16
Promoting Privacy	17
Review Rights And Complaints.....	18
Internal Review Process	18
External Reviews.....	19
Questions And Answers.....	20
Policy Authority	22
Getting Help.....	22
Review	22
Adopted By Council:	22
Version Control Table	22

INTRODUCTION

Hunter's Hill Council will handle personal and health information in a fair and reasonable manner, consistent with legislative obligations and our requirement to be open and accountable in the conduct of public functions.

Our legislative obligations include compliance with the:

- *Privacy and Personal Information Protection Act 1998* (NSW) (PIIP Act)
- *Health Records and Information Privacy Act 2002* (NSW) (HRIP Act)
- *Privacy Act 1988* (Cth)

The legislation sets out principles that apply to the handling of personal and health information. The principles are also modified by other legislation, codes of practice approved by the Attorney General such as the Privacy Code of Practice for Local Government and any directions or guidelines issued by the NSW Privacy Commissioner and (in respect of health information) approved by the Minister for Health.

Under the Acts, it is an offence to intentionally disclose or use personal information for an unauthorised purpose, or offer to supply personal information that has been unlawfully disclosed.

The PIIP Act establishes the NSW Mandatory Notification of Data Breach scheme which requires Council to publish a data breach policy and to report eligible data breaches to the Privacy Commissioner and affected individuals

Eligible data breaches occur where:

- there is an unauthorised access to, or unauthorised disclosure of, personal information held by Council, or there is a loss of personal information held by Council in circumstances that are likely to result in unauthorised access to, or unauthorised disclosure of personal information; and
- a 'reasonable person' would conclude that the breach would be likely to result in serious harm to one or more individuals to whom the information relates.

Please refer to Council's Data Breach Policy for guidance on how to identify, respond to and report a data breach.

THIS PLAN

Under section 33 of the PIIP Act, Council is required to have in place and implement a privacy management plan. This plan explains:

- the type of information we hold
- how we comply with the privacy principles for the collection, notification, storage, use, access and disclosure of personal information
- how we comply with the mandatory notification of data breach scheme
- how you can access information and how we deal with requests
- exemptions that we may apply when dealing with personal information
- how we promote privacy
- your review rights and complaints.

This plan applies to all functions of Council, in particular to:

- our Councillors
- our employees (including consultants and contractors)
- volunteers
- members (including community members) of committees and sub-committees.

INFORMATION COLLECTED AND HELD BY US

Personal information

Personal information is defined in section 4 of the PPIP Act as follows:

'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.'

We hold personal information on our systems that includes:

1. Councillors

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

2. Customers, ratepayers and residents

- names and home addresses of individuals
- email addresses and phone numbers
- property ownership details (including rates records) and information about concessions
- personal information relevant to development applications and objections
- information concerning contact with us on provision of services
- bank account details
- information related to law enforcement activities
- biographical information held for citation in speeches, awards or other forms of recognition.

3. Employees

- recruitment material
- leave and payroll data
- personal contact information
- performance management plans
- disciplinary matters
- pecuniary interest returns
- wage and salary entitlements and payments including tax file numbers and bank account details.

What is not personal information

'Personal information' under the PPIP Act does not include *'information about an individual that is contained in a publicly available publication'*. Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIP Act. There are also a number of other exclusions regarding what is 'not' personal information in section 4 of the PPIP Act.

Personal information does not include:

- information about a person who has been dead for 30 years or longer
- information about an individual that is contained in a document kept in a library, art gallery or museum for the purposes of reference, study or exhibition
- information in a publicly available publication, including but not limited to:

- An advertisement containing personal information in a local, city or national newspaper
- Books or magazines that are printed and distributed broadly to the general public
- Personal information on the internet
- Directories including the White Pages, the NSW Electoral Roll and information about property ownership available to any member of the public from the NSW Land Registry Services
- Council's business papers (or part of) that is available to the general public
- Personal information that may be part of a public display on view to the general public.

Health information

Health information, as defined in section 6 of the HRIP Act means:

'(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 a genetic relative of the individual, or

(e) healthcare identifiers,

but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of this Act generally or for the purposes of specified provisions of this Act.'

Council does not currently provide a health service of the kind referred to in HRIP Act. We do, however, collect, hold and use health information including information about the health status of:

- Some residents and ratepayers where the information is acquired while carrying out Council functions
- Staff (such as medical certificates and workers compensation claims), where relevant to their employment.

In that respect we are required to comply with the Health Privacy Principles.

Unsolicited information

Section 4 of the PPIP Act and section 10 of the HRIP Act respectively provide that personal information and health information is not collected by Council if the receipt of the information by the agency is unsolicited.

Unsolicited information is not subject to the collection principles in either of the PPIP Act or the HRIP Act but the storage, use and disclosure principles will apply to any record of such information we retain. Disposal of unsolicited information will be done securely and in accordance with Council's State Records Retention and Disposal Policy.

We treat identifying particulars of complainants on a confidential basis. However, identity may become apparent in the course of investigating certain types of complaints, or in the event of court proceedings.

HOW WE COMPLY WITH THE PRINCIPLES

Both the PPIP Act and the HRIP Act include principles that apply to the handling of personal and health information.

The HRIP Act includes 15 principles, most of which are the same or similar to the 12 information privacy principles in the PPIP Act.

A summary of the principles of each Act and how we comply with them is set out in the table below.

Collection		PIIP Principle	HRIP Principle
Lawful	We will only collect personal and health information that is reasonably necessary for a lawful purpose that is directly related to our functions and activities.	1	1
Direct	<p>We will only collect information directly from the person concerned, unless:</p> <ul style="list-style-type: none"> - the individual has authorised collection from someone else (for example from a nominated employment referee) - the information relates to a person under 16 years and is collected from a parent or guardian - the information relates to the health of a child under 18 years and is collected from a person having parental responsibility - direct collection would prejudice the individual to whom the information relates - information is provided to us under legislative requirements or collection is required by another Act (for example information from the NSW Land Registry Services about transfers of property is allowed under the <i>Local Government Act 1993</i>) - information is collected in connection with proceedings before a court or tribunal - it is unreasonable or impracticable to collect health information directly from the individual. If such information is collected from someone other than the person concerned, we will take reasonable steps to ensure that the person concerned is notified, except where collected in line with Guidelines issued by the Privacy Commissioner. <p>We are required by law to undertake pre-employment screening, including collection of information for people working with children.</p>	2	3
Open	<p>We will take reasonable steps to inform people:</p> <ul style="list-style-type: none"> - why their information is being collected - what it will be used for - who it will be disclosed to - how their information can be accessed and 	3	4

- amended
- of any possible consequences of not providing the information.

Information collected is available to Council officers responsible for dealing with the matters and information may be provided to Councillors if they need to be informed or involved in decision making.

Our website includes a privacy statement and conditions for use disclaimer. We will ensure that relevant forms and applications include a statement that addresses these matters.

Any collection of personal information by use of security video cameras or other devices will be accompanied by appropriate signage as required by law. Staff have been provided with notice regarding surveillance in line with the *NSW Workplace Surveillance Act 2005*.

Relevant	We will take reasonable steps to ensure that personal or health information collected is relevant and accurate, is not excessive and does not unreasonably intrude into people's personal affairs. We will rely on the provider of the information regarding accuracy and completeness, although in special circumstances some verification processes may be necessary or appropriate.	4	2
Storage		PIIP Principle	HRIP Principle
Secure	We store information securely and protect it from unauthorised access, use, modification or disclosure. Information is managed and disposed of information in accordance with the <i>NSW State Records Act 1998</i> and <i>General Retention and Disposal Authority for Local Government (GA 39)</i> . Council's Code of Conduct, Records Management Policy, IT Usage and Surveillance Policy, Cyber Security Policy and Data Breach Policy details information about security and unauthorised use or disclosure controls. All staff, contractors and Councillors are made aware of these policies on employment or engagement. Third party contractors have contractual obligations imposed and enforced.	5	5
Access and Accuracy		PIIP Principle	HRIP Principle
Transparent	We are transparent about the information we hold and why we use it. We will respond to requests by a person	6	6

about whether we hold information about that person, the nature of that information, the main purposes for which the information is used, and rights to access the information.

Should a person seek information generally about the nature of any information held, we may ask for advice on the types of dealings they have had with us to assist in the identification of relevant files and various parts of our information and data systems.

Accessible

We allow people access to their information on receipt of a written request without unreasonable delay (within 20 days) or expense. Staff members have rights of access to their personnel file in line with council policy.

7

7

We must consider provisions that impose conditions or limitations on the release of information under the *Government Information (Public Access) Act 2009* (GIPA Act), the *Work Health and Safety Act 2011* or *Work Health and Safety Regulations 2017*, when responding to a request.

Where an individual's personal and health information is contained in documents that also contain information about others, any application for access will need to be made and processed under the GIPA Act, and in accordance with the PPIP Act and HRIP Act.

Correct

We allow people to update, correct or amend their information to ensure information is accurate, relevant, up-to-date, complete and not misleading.

8

8

Changes of name, address and other minor amendments, require appropriate supporting documentation. Where substantive amendments are involved, a written application will be required. The application should set out the grounds on which changes are sought.

We may refuse to update our records if we are not satisfied that they are incorrect or incomplete. If we refuse a request for amendment, the individual may request a notation to be added to the record.

If information in a Council record is amended, the person is entitled, if practicable, to have previous recipients of that information notified of the amendments.

Use

PPIP
Principle

HRIP
Principle

Accurate

We endeavor to take reasonable steps to ensure that information is relevant, accurate, up-to-date, complete and not misleading before using it.

9

9

Limited

We will only use personal information for the purpose it was collected unless the:

10

10

- person has consented to another use
- other purpose is directly related to the purpose for which the information was collected
- use is necessary to prevent or lessen a serious and imminent threat to the life or health of any person
- use is reasonably necessary for law enforcement purposes or protection of public revenue
- information is to be used for a reason as specified under 'Exemptions, directions and codes of practice' section of this plan.

We may use information for a variety of purposes to exercise our functions, including but not limited to:

- notify adjoining owners of proposed developments
- identify companion animal ownership
- evaluate road openings and obstructions
- evaluate tree preservation orders
- investigate parking controls
- evaluate land dedications and laneway status
- notify residents and ratepayers of our services and activities.

We maintain a database of email addresses for the delivery of rates notices, employee payroll advice and for other special purposes. These databases may be used for a variety of other purposes such as newsletters.

We may use personal information about suppliers for the purpose of verifying account details prior to payment being made in order to reduce the risk of errors or fraud.

We will only use health information for the purpose it was collected or:

- for a directly related purpose that the person would expect
- with the consent of the individual
- to lessen or prevent a threat to the life, health or safety of any person or a threat to public health or safety
- for law enforcement purposes where an offence may have been committed
- where required by another act or law

- in accordance with the Guidelines issued by the Minister for Health regarding the use of information for research or training purposes.

Where Council staff, Councillors or other representatives seek to use personal information collected for one purpose for another purpose, they must obtain written consent from the person.

Disclosure		PPIP Principle	HRIP Principle
Restricted/Limited	<p>We do not disclose personal information without consent, to a person (other than the individual to whom the information relates) or other body, unless:</p> <ul style="list-style-type: none"> - the disclosure is directly related to the purpose for which the information was collected and we have no reason to believe that the individual concerned would object to the disclosure - the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with the Act, that information of that kind is usually disclosed to that other person or body - we believe on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of any person - the individual clearly consents to the disclosure - the disclosure is made in connection with proceedings for an offence, law enforcement purposes, the protection of public revenue or to investigate an offence where there are reasonable grounds to believe an offence may have been committed - the disclosure is related to a submission that is on public consultation or exhibition. The applicant and any other interested party are entitled to view submissions (including personal details), as it is in the public interest in overcoming objections to development proposals. - the Director-General of ASIO requests information to exercise ASIO's functions - the information is disclosed for a reason as specified under 'Exemptions, directions and codes of practice' section of this plan. <p>We may, at our discretion, agree to disclose personal information to an adjoining neighbour for the purposes of serving a fencing notice under the <i>Dividing Fences Act 1991</i>, provided the neighbour completes a statutory</p>	11	11

declaration to satisfy us that this is the purpose for disclosure.

We may disclose personal information about suppliers, for the purpose of verifying account details prior to payment being made to reduce the risk of errors or fraud.

Any information disclosed by us to another public sector agency, must not be used or disclosed for a purpose other than the purpose for which the information was disclosed.

We will disclose use health information where this is consistent with the purpose it was collected or:

- for a directly related purpose that the person would expect
- with the consent of the individual
- to lessen or prevent a threat to the life, health or safety of any person or a threat to public health or safety
- for law enforcement purposes where an offence may have been committed
- where required by another act or law
- in accordance with the Guidelines issued by the Minister for Health regarding the use of information for research or training purposes.

Safeguarded

We do not disclose sensitive personal information without consent (for example, ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership) unless the disclosure is necessary to lessen or prevent a serious and imminent threat to the life or health of any person. 12 -

We will not disclose this information to any person or body that is outside of NSW or to a Commonwealth agency unless:

- the recipient of the information is subject to similar information privacy principles or laws
- it is necessary for the performance of a contract between the individual and council, or for the performance of a contract between council and a third party which is in the interests of the individual
- it is for the benefit of the individual and it is impracticable to obtain their consent
- it is necessary for law enforcement purposes to investigate an offence
- we have taken reasonable steps to ensure the information disclosed will not be held, used or disclosed by the recipient in a way that is inconsistent with the information protection principles

- the information is disclosed for a reason as specified under 'Exemptions, directions and codes of practice' section of this plan.

Identifiers and anonymity		PPIP Principle	HRIP Principle
Not identified	We do not use unique identifiers for health information.	-	12
Anonymous	We do not currently provide a health service.	-	13
Transferals and linkages		PPIP Principle	HRIP Principle
Controlled	We will only transfer health information outside of NSW or to a Commonwealth Government agency where satisfied that this is required by law, or otherwise in accordance with the HRIP Act.	-	14
Authorised	We do not currently use a health records linkage system.	-	15

ACCESSING INFORMATION

Ways to access information

We allow people (including staff) to access their own information on receipt of a written request.

People may also:

- view open access information we hold in our Public registers and our website
- apply to access information that involves others under the GIPA Act.

Public registers and open access information

A public register is a register:

- required by law to be available for public inspection
- we choose to make available for public inspection.

We are required by law to maintain a number of public registers and to make them available for public inspection. Some of these registers contain personal or health information as defined in the Acts, and we are therefore obliged to ensure that access to the personal information contained in public registers is for a reason consistent with the purpose of the register.

Our public registers include:

- Rates record
- Delegations Register
- Records of Approvals
- Land Register
- Register of Consents and Certificates for development applications including Complying Development Certificates and Building Certificates
- Register of Contributions imposed by us in connection with approval of development
- Contracts Register
- Register of Pecuniary Interests
- Public register of property taken possession
- Disclosures Log under the GIPA Act

- Public notification Register under the PPIP Act for eligible data breaches
- Any person may inspect a public register which are located on either our website or at Council's administration offices and copy an entry or page, however section 57 of PPIP Act imposes very stringent controls over disclosure of personal information in a public register. We can also only disclose personal information in a public register under the GIPA Act, if it also complies with the PPIP Act.

We reserve the right to require a person seeking access to provide information about the purpose for which the information will be used (and may require a supporting statutory declaration). If access is given, we may require an undertaking not to use the information for any other purpose.

If the public register is not one prescribed in Schedule 1 of the GIPA Regulation 2009 as "open access information", there must also be no overriding public interest against disclosing the information under the GIPA Act.

The Privacy Code of Practice for Local Government modifies Council's responsibilities concerning public registers. In particular:

- we will not require a person to provide a reason for inspecting Council's pecuniary interest register or any register in which Council records declarations made by Councillors or designated officers under Chapter 14 Part 2 Divisions 3 or 4 of the *Local Government Act 1993*
- we may provide access to the whole or substantial part of a public register if names and addresses are removed or Council is satisfied that the person requesting the information is to be used for the purpose for which the register is kept.

Primary purpose

Council considers the following to be the primary purposes of the major public registers:

Local Government Act 1993

Section 53 - Land register

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

Section 113 - Records of approvals

The primary purpose is to identify all approvals granted under the LGA.

Section 450A - Register of pecuniary interests

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

Section 602 - Rates record

The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land.

The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is "a purpose relating to the purpose of the register".

Environmental Planning and Assessment Act 1979

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

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

Protection of the Environment (Operations) Act 1997

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

Public Spaces (Unattended Property) Act 2021

Section 33 – Public register of property taken possession The primary purpose is to record all property that is taken possession of by authorised Council officers.

Privacy and Personal Information Protection Act 1998

Section 59P -Public notification The primary purpose of this register is to maintain public notification records of eligible data breaches under the PPIP Act where it is determined that individuals affected are unable to be notified, or it is not reasonably practicable to do so.

Secondary purpose of all public registers

Due to the general emphasis on local government processes and information being open and accountable, a secondary purpose for which all public registers are held by Council includes access by members of the public. Disclosure of specific records from public registers would normally be allowable under section 57 of the PPIP Act.

Council will make an assessment about the minimum amount of personal information that is required to be disclosed.

Other purposes

We will allow a person to access their own personal information in a public register to confirm those details if the person can prove their identity to Council.

A part of a register that is not published can still be treated as a public register. For example, when Council advertises a development application, the published address may identify the owner. However, the personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and also not published) are treated as a public register under PPIP Act.

Applying to prevent disclosure of personal information

Under section 58 of PPIP Act, a person whose personal information is contained (or proposed to be contained) on a public register may request to have the information:

- removed from, or not placed on, the register as publicly available
- not disclosed to the public.

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

Any information that is removed from, or not placed on, a public register under this section may be kept on a register for other purposes.

Under section 739 of the Local Government Act 1993, an individual can ask Council to remove or withhold their personal information, which is not part of a public register, if it reveals their residential address or if they believe that disclosing this information could endanger their own or their family's safety. This request may need to be accompanied by a statutory declaration. When in doubt, Council will decide in favour of suppressing the information.

Requests should be in writing and addressed to the Privacy Officer. Council may request supporting documentation before making a decision.

Government Information (Public Access) Act

Our obligations to provide access to documents under the GIPA Act are determined by the provision for considerations against disclosure of personal information. Any application for information will be determined by balancing the public interest considerations for and against disclosure of the information.

This applies to access to documents that would reveal confidential sources of information, legal advice, information concerning the personal affairs of other persons and other documents that are subject to public interest considerations under the Act.

Informal and formal request to access information forms are available on our website.

EXEMPTIONS, DIRECTIONS AND CODES OF PRACTICE

Exemptions to the principles

Compliance with the principles is subject to certain exemptions under Part 2 Division 3 of the PPIP Act and Schedule 1 of the HRIP Act. If one of those exemptions apply, we do not need to comply.

These exemptions are:

- where the collection, use or disclosure of personal information is to another public sector agency and is reasonably necessary for law enforcement purposes
- where compliance might detrimentally affect or prevent our complaint handling or investigative functions (for example we may indirectly collect information or use information collected for another purpose to carry out an investigation)
- where disclosure of personal information is made to another investigative agency to assist them in exercising their investigative functions, or to a complainant where it is necessary to report the progress, outcome and any action taken as a result of the complaint (note 'investigative agency' is defined at section 3 of the PPIP Act.)
- where we are lawfully authorised or required not to comply with the principle or where non-compliance is 'necessarily implied' or 'reasonably contemplated' under an Act or any other law, for example:
 - the GIPA Act requires Council to make certain information publicly available. When deciding, we will apply the public interest considerations for and against publishing personal information. Personal information contained in submissions and objections to development

applications, the name of the applicant, and the name of the property owner, in certain circumstances are made available on these grounds

- the *Local Government Act 1993* provides for the provision for a member of the public to access various certificates and notices concerning a particular property
- we may be required by law to provide some information to other organisations such as Centrelink, the Australian Tax Office and the Australian Bureau of Statistics
- we must notify the Department of Family and Community Services of a child at risk under the *Children and Young Persons (Care and Protection) Act 1998*
- documents are subpoenaed for production in a Court, or authorised or required by search warrant or other statutory instrument. Personal information may be contained in those documents
- where the person expressly consents to such non-compliance
- where the collection, use or disclosure of information is exchanged with another public sector agency, to allow them to respond to correspondence from a Minister or member of Parliament, refer inquiries between agencies, and enable the auditing of accounts or performance of an agency
- where the collection, use or disclosure of personal information is reasonably necessary for the purpose of research in line with section 27B of the PPIP Act and the statutory guidelines issued by the Privacy Commissioner
- where the use or disclosure of information is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office 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.

Privacy Code of Practice for local government

The Privacy Code of Practice, approved by the Attorney General, modifies some of the privacy principles.

Collection Where it is reasonably necessary, we may indirectly collect, use and disclose personal information to confer an award, prize or similar form of personal recognition on the person about whom the information relates.

Use We may use personal information for a purpose other than the purpose for which it was collected where the use is in pursuit of Council's lawful and proper functions, and where the information is reasonably necessary for the exercise of those functions.

Restricted/limited We may disclose personal information to another NSW public sector agency or public utility where the agency has approached Council in writing and Council is satisfied that the information is to be used for proper and lawful functions, and that the information is reasonably necessary for the exercise of that agency's function. For example, electricity and water utilities and the State Electoral Commission seek details from Council of property owners in particular localities.

Council where requested by a potential employer, may confirm that a current or former employee works or has worked for Council, the duration of that work and the position occupied. This does not extend to providing a reference as to suitability for the position unless we have the person's consent.

Directions and guidelines

The Privacy Commissioner may issue guidelines or public interest directions with the approval of the Minister, to waive or modify the requirements for a public sector agency or organisation, to comply with the principles.

The Privacy Commissioner has issued statutory guidelines on:

- the collection, use or disclosure of personal information for research
- notification requirements when health information is collected from a third party
- the use and disclosure of health information for training or research purposes
- assessment of data breaches in accordance with part 6A of the PPIP Act (NSW Mandatory Notification of Data Breach Scheme).

Directions and guidelines can be accessed from the website of the Privacy Commissioner.

DATA BREACHES

What is a data breach?

A data breach occurs when information held by an agency is subject to unauthorised access, disclosure, or is lost in circumstances where the loss is likely to result in unauthorised access or disclosure.

A data breach may occur as the result of malicious activity, system failure or human error. It may also occur due to a misconception about whether an act or practice is permitted under the information protection principles.

Mandatory Notification of Data Breach Scheme

Part 6A of the PPIP Act establishes the NSW Mandatory Notification of Data Breach (MNDB) scheme.

Mandatory notification and proactive reporting of data breaches increases trust, protects individuals and helps Council to prevent and mitigate breaches or potential breaches.

Where there are reasonable grounds to suspect that an eligible data breach may have occurred, Council must:

- make all reasonable efforts to contain all data breaches
- assess whether there has been an eligible data breach within 30 days
- make all reasonable attempts to mitigate the harm caused by an actual or possible data breaches.
- notify the Privacy Commissioner of any eligible data breaches or possible data breaches as identified by Council
- notify affected individuals of any eligible data breaches as identified and reported by Council to the Privacy Commissioner
- conduct a post-incident review
- keep current Council's records and update all registers

All assessment, recording, reporting and notification of data breaches will be conducted in accordance with Council's Data Breach Policy.

Disclosure of Personal Information for Notification of Eligible Data Breaches

Under section 59R of the PPIP Act, where Council is the subject of an 'eligible data breach' personal information may be used, collected from another public sector agency or disclosed to another public sector agency if it is reasonably necessary to do so for the purpose of confirming the details of persons who need to be notified of the breach (being the person's name, contact details, and whether or not the person is deceased). This overrides any information protection principle, and health privacy principles, or the provisions of a privacy code of practice or health privacy code of practice.

PROMOTING PRIVACY

We will promote best practice around privacy by:

- making this plan and related forms publicly available
- including information on privacy obligations on our website and intranet
- ensuring our databases of personal and health information are kept current and accurate
- considering privacy issues when reviewing our procedures and systems
- ensuring that displays of records in public areas (including computer screens) adequately protect personal and health information.
- reviewing agreements with external providers and other documents to ensure appropriate compliance with the Acts
- developing and implementing an ongoing program to educate our staff on the requirements of the Acts and how to manage personal and health information
- reporting on internal reviews to the Information and Privacy Commission
- publishing details of privacy related issues that have been dealt with during the year in our annual report.

REVIEW RIGHTS AND COMPLAINTS

Council's Privacy Officer can assist with inquiries about privacy issues and can be contacted through Council's main telephone number 9879 9400.

Individuals (or their authorised representatives) have the right (under part 5 of the PPIP Act) to seek an internal review if they think that we have breached their privacy under either the PPIP Act or HRIP Acts.

Any complaints (or queries) on the use of personal information or requests for an internal review must be made within 6 months of the complainant being first aware of the issue. We may accept a complaint at a later time.

Requests must be in writing and addressed to:

General Manager
 Hunter's Hill Council
 PO Box 21
 Hunters Hill NSW 2110
 Email: customerservice@huntershill.nsw.gov.au

Any complaint should provide sufficient detail of the alleged infringement to enable review of the matter.

Internal review process

Council's Public Officer will conduct the review, unless the complaint is about the Officer. In this case, an alternative suitably qualified Review Officer will be appointed.

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

The investigation will be done promptly, normally within 60 days. If the review is not completed within 60 days, the applicant may seek an external review.

We may conclude that there has been no breach of the privacy principles, that any breach was justified by a relevant exemption, or that there has been an unjustified breach. Any finding of a breach may result in a formal apology, remedial action, an undertaking that the conduct will not re-occur, or administrative changes.

We inform the NSW Privacy Commissioner when complaints have been received and then provide a draft of our internal review report to enable the Privacy Commissioner to make a submission on our findings.

External reviews

NSW Civil and Administrative Tribunal

A complainant who is not satisfied with the outcome of an internal review can have the matter considered by the NSW Civil and Administrative Tribunal, which will hear the matter and impose its own decision and may award compensation.

The Tribunal can hear a privacy case about our handling of personal or health information after it has first been through an internal review or the timeframe has been exceeded.

Contacts details for the NSW Civil and Administrative Tribunal are:

In person/postal address:

Level 10, John Maddison Tower
86-90 Goulburn Street, Sydney NSW 2000

Telephone: 1300 006 228

Information and Privacy Commission

Any person may complain about the way in which we have carried out our functions under the law directly to the Information and Privacy Commission as follows:

In person: Level 17, 201 Elizabeth Street Sydney 2000

Post: GPO Box 7011, Sydney NSW 2001

Telephone: 1800 472 679

Email: ipcinfo@ipc.nsw.gov.au

Role of the Privacy Officer

Council's Privacy Officer is the person responsible for managing privacy related issues. This involves provision of information and advice about legislative obligations and the privacy implications of new projects, plans, initiatives or policies; dealing with inquiries from members of the public; managing or undertaking investigations of complaints; and reviewing Council policy, procedures and this Plan.

Internet contact forms and application forms by which personal information is collected by Council will be reviewed by the Privacy Officer to ensure compliance with this Plan, before they are adopted or used.

The Privacy Officer will also provide the following advice:

- whether the personal information is collected for a lawful purpose
- if that lawful purpose is directly related to a function of Council
- whether or not the collection of that personal information is reasonably necessary for the specified purpose

The Privacy Officer will refer any complex concerns of a legal nature to Council's Public Officer or to a Council legal representative for advice.

QUESTIONS AND ANSWERS

The following Question and Answer section provides information how we will respond to a request to access certain personal information contained in registers.

- 1. Can Council sell bulk lists of home owners?**

No. Rates records held by Council are designated as a public register. We are entitled to allow the use of the personal information only for the purposes under the *Local Government Act 1993* identified in this Plan. The information may be used to notify adjoining owners of any development proposals as we are required to do under the *Environmental Planning and Assessment Act 1979*.
- 2. Can Council allow public inspection of the register of pecuniary interests?**

Yes. The GIPA Act provides for this and anyone can inspect the register which has personal information contained in it. A person may also be provided with a copy of a single entry or page from the pecuniary interests register.
- 3. Can Council provide details of the owner of the property next door where the owner does not reside at the property?**

Yes. As the property information records are not a public register (as referred to above), there are strict 'public interest' rules applied before the information is released.

Where safety and the risks to life or injury are the issue, the information may be given, subject to the credentials of the person making the enquiry being established. Item 3 in the Table under section.14 of the GIPA Act limits the public interest considerations against disclosure.
- 4. If I make a submission on a development proposal, can someone obtain my personal details?**

Yes. The applicant and any other interested party are entitled to view submissions (including personal details) received as a result of public consultation or exhibition. The office of the NSW Ombudsman is in favour of disclosure of the documents including personal information (name and address of objector) as it is in the public interest for transparency relating to objections to development proposals.

You may submit a written request to Council if you do not want your personal details disclosed. In your request, please explain the reasons for wanting your personal details withheld. Council's officers will assess whether your grounds for suppression outweigh the public interest in maintaining access to the information you've provided.

Disclosure of personal information of submitters only applies to development applications that not been determined. Personal information contained in submissions about determined applications will be provided under PPIP Act subject to the public interest considerations against disclosure in the GIPA Act.
- 5. Apart from development proposals, can someone obtain my personal details in other situations?**

Yes. There are situations where Council must make information available to others. For example, we may write to you to ask for submissions about a re-zoning, a heritage listing or a new bike path. Submissions may be publicly accessible at least while a matter is being considered.

As listed above, you may make a written request that Council not disclose your personal details when providing any access to your submission.
- 6. Can I inspect the register of development applications and determinations?**

Yes. The *Environmental Planning & Assessment Act 1979* requires Council to make a register available to the public. The *Environmental Planning & Assessment Regulation 2000* sets out what details are to be kept in the register and also requires us to make the register publicly available. Third party access to the

register is 'a purpose relating to the purpose of the register'. Therefore, there is no inconsistency between privacy legislation and planning legislation.

7. What are the obligations of Council's contractors consultants, volunteers and committees?

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree not to collect personal information by any unlawful means. For example, in debt recovery actions, commercial agents should be bound by contract.

We will seek to bind each of these bodies or persons by contract to comply with the PPIP Act. Where any of them collect personal information on our behalf or in relation to their activities, they will be required to:

- obtain a written authorisation and consent to that collection
- notify the persons from whom the information is collected about the intended recipients and other matters required by PPIP Act Protection Principle 3.

Council committees, volunteers, private contractors or consultants must comply with this Plan, the Code and PPIP Act under the terms of their incorporation by Council or by contract.

SUMMARY GUIDE FOR STAFF

Council staff should generally:

- collect information directly from an individual
- only collect information that Council needs
- only use information for a purpose directly related to the reason for which the information was collected
- keep information accurate, up-to-date, not misleading and secure
- ensure that forms and applications (or verbal or other communications) used to obtain information include our template privacy notice
- give an individual prompt access to their information
- correct an individual's information on request if they provide supporting information (and, if corrections are substantial, they apply in writing with reasons for the corrections)
- be careful not to disclose an individual's information unless required or permitted
- recognise that privacy rights can override disclosure under the GIPA Act
- ask why a person is seeking information before disclosing an individual's information on a public register
- understand that an individual can apply to prevent disclosure of their personal information
- refer any issues to the Privacy Officer.

There is detailed information in this plan relevant to the above points including exceptions and modifications. Staff should make themselves familiar with the plan.

RELATED POLICIES/PROCEDURES

- Data Breach Policy
- Cyber Security Policy
- IT Usage and Surveillance Policy
- Cyber Security Incident Response Plan
- Business Continuity Plan.
- IT Disaster Recovery Plan
- Records Management Policy and Program
- State Records Retention and Disposal Policy

POLICY AUTHORITY

The policy authority is Council. Minor amendments can be authorised by Director of Finance and Corporate Strategy.

GETTING HELP

For further information regarding this policy please contact the Manager Digital and Customer Information.

REVIEW

This policy to be reviewed every two years.

ADOPTED BY COUNCIL:

DATE: 11 December 2000

RESOLUTION NO: 89/00

VERSION CONTROL TABLE

DATE	VERSION	RES. NO.	KEY CHANGES	AUTHORITY
11/12/2000	1	589/00	New plan	Council
11/03/2013	2	70/13	Minor amendments	Council
21/02/2021	3	018/22	Major review	Council
23/10/2023	4	223/23	Remove references to <i>Impounding Act 1993</i> and include <i>Public Spaces (Unattended Property) Act 2021</i> . Changes in accordance with the Privacy and Personal Information Protection Amendment Act 2022 No 74, including incorporate of the mandatory notification of data breach scheme.	Council