

# Privacy Management Plan

Record No: 16/21930

Version No: 2.0



## Table of Contents

Enter First Heading .....	5
1. PURPOSE.....	5
2. BACKGROUND .....	5
3. SCOPE .....	6
4. DEFINITIONS .....	6
What is “personal information”? .....	6
What is not "personal information"? .....	6
Publicly available Council publications.....	6
What is “health information”? .....	7
What is 'government information'? .....	7
5. RELEVANT LEGISLATION / PRIVACY LAWS.....	7
Privacy Code of Practice for Local Government .....	8
Conditions of this Plan.....	9
Application of this Plan.....	10
Information held by Council .....	10
Access to Electoral Rolls .....	11
Suppression of Personal Information.....	11
Unsolicited Information .....	12
6. PUBLIC REGISTERS .....	12
Definition.....	12
Disclosure of Personal Information from Public Register .....	12
Publication of Personal Information from Public Register .....	13
Access to own Personal Information from Public Registers.....	13
Purpose and Types of Public Registers.....	13
Purposes of public registers - Environmental Planning and Assessment Act .....	14

Purposes of public registers - Protection of the Environment (Operations) Act .....	14
Purposes of the public register under the Impounding Act .....	14
Secondary purpose of all Public Registers.....	14
7. INFORMATION PROTECTION/PRIVACY PRINCIPLES .....	14
PART A: PERSONAL INFORMATION PROTECTION PRINCIPLES .....	18
COLLECTION.....	18
IPP 1 Collection for lawful purposes.....	18
IPP 2 Collection directly from the individual .....	18
IPP3 Requirements when collecting information.....	20
IPP 4 Other requirements relating to collection .....	21
STORAGE.....	22
IPP 5 Retention and security .....	22
IPP 6 Information held by agencies .....	22
ACCESS AND MAINTENANCE .....	23
IPP 7 Access to information held by agencies .....	23
IPP 8 Alteration of personal information .....	24
IPP 9 Accuracy of personal information before use.....	26
USE 26	
IPP 10 Limits on use.....	26
DISCLOSURE OF INFORMATION .....	27
IPP 11 Limits on disclosure .....	27
IPP 12 Special restrictions on disclosure .....	29
PART B: HEALTH RECORDS AND INFORMATION PROTECTION ACT 2002 .....	30
IPP 1 Collection for lawful purposes.....	30
IPP 2 Collection to be relevant .....	31
IPP 3 Collection to be from individual .....	31
IPP 4 Individual to be made aware of certain matters.....	31
IPP 5 Retention and security .....	32

IPP 6 Information held by organisations .....	33
IPP 7 Access to Health Information .....	33
IPP 8 Amendment to Health Information .....	33
IPP 9 Accuracy .....	34
IPP 10 Limits on use.....	34
IPP 11 Limits on disclosure .....	34
IPP 12 Identifiers .....	34
IPP 13 Anonymity .....	35
IPP 14 Transferral to Commonwealth agencies .....	35
IPP 15 Linkage to Health Records.....	35
8. IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN.....	35
Staff Awareness.....	35
Responsibilities of the Privacy Contact Officer & Management .....	36
Guidance.....	36
Distribution of Information to the public.....	36
9. INTERNAL REVIEW .....	37
What does 'conduct' mean? .....	37
How does the process of Internal Review operate? .....	37
What happens after an Internal Review?.....	38
10. OTHER RELEVANT MATTERS.....	38
Contracts with consultants and other private contractors .....	38
Confidentiality .....	38
Misuse of personal or health information .....	38
Regular review of personal and health information .....	38
Regular Review of Privacy Management Plan.....	38
Contact Details .....	39
11. APPLICATIONS .....	39
Statutory Declaration for Access under Section 57 to Public Register .....	39

Statutory Declaration for Suppression of Information under S739 LGA.....	39
Privacy Notification Form (Post Collection) .....	39
Privacy Notification Form (Pre Collection) .....	39
Statutory Declaration for Determination under Section 13.....	40
Statutory Declaration for Access under Section 14.....	40
Statutory Declaration for Alteration under Section 15 .....	40
GIPA requests .....	40
12. ATTACHMENTS.....	41
Attachment 1 Statutory Declaration for Access under Section 57 .....	41
Attachment 2 Suppression of Information under S739 LGA.....	42
Attachment 3 Privacy Notification Form (Post Collection) .....	43
Attachment 3 Privacy Notification Form (Pre Collection) .....	44
Attachment 4 Statutory Declaration for Determination under Section 13.....	45
Schedule of Changes & Amendments .....	48

## Enter First Heading

### 1. PURPOSE

Federation Council respects and is committed to protect the privacy of our customers, business contacts and our employees. The preparation of this Privacy Management Plan outlines how we manage *personal information* in line with the *Privacy and Personal Information Protection Act 1998 (NSW)* (PPIP Act) and *health information* under the *Health Records and Information Privacy Act 2002 (NSW)* (HRIP Act).

### 2. BACKGROUND

With the commencement of the *Government Information (Public Access) Act 2009*, Section 12 of the *Local Government Act 1993* has been repealed and all references to the *Freedom of Information Act 1989 (NSW)*. The same information is now accessible under Schedule 1 of the *Government Information (Public Access) Regulation 2009*.

NSW government agencies, including local councils are required to release information as set out in the GIPA Act. The Federation Council GIPA Publications Guide outlines how records and information held by Council can be accessed by the public.

### 3. SCOPE

s33(2) of the PPIP Act sets out the requirements of this plan and includes information about the following:

- the devising of policies and practices to ensure compliance by the Council with the requirements of s.33 of the PPIP Act
- the dissemination of those policies and practices to persons within the Council
- our internal review processes
- how to access and amend the personal or health information held by Council
- such other matters as are considered relevant by the Council in relation to privacy and the protection of personal information held by it.

### 4. DEFINITIONS

<i>PPIP</i>	NSW Privacy and Personal Information Protection Act 1998
<i>HRIP</i>	Health Records and Information Privacy Act 2002
<i>LGA</i>	Local Government Act 1993
<i>FOI</i>	Freedom of Information Act 1982
<i>GIPA</i>	Government Information (Public Access) Act 2009
<i>Code</i>	Privacy Code of Practice for Local Government
<i>Plan</i>	Privacy Management Plan
<i>IPP</i>	Information Protection Principles
<i>HPP</i>	Health Privacy Principles
<i>Information</i>	Personal and health information

#### What is “personal information”?

"Personal information" is defined in Section 4 of PPIP ACT as:

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

#### What is not "personal information"?

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

#### Publicly available Council publications.

Council considers the following to be publicly available publications:

- Advertisement containing personal information in a local, newspaper.
- Personal information on the Internet.
- Books or magazines that are printed and distributed broadly to the public.
- Council business papers or that part that is available to the public.
- Personal information that may be a part of a public display on view to the public.

Information already published in this way ceases to be covered by the PPIP ACT, however, Council's *decision to publish in this way* must be in accordance with the PPIP ACT.

## What is “health information”?

"Health information" is defined in Section 6 of HRIP ACT as:

- (a) *personal information that is information or an opinion about:*
  - (i) *the physical or mental health or 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, 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 the HRIP ACT generally or for the purposes of specified provisions of the HRIP ACT.*

## What is 'government information'?

Government information means information contained in a record held by an agency. Record means any document or other source of information compiled, recorded or stored in written form or by electronic process, or in any other manner or by any other means. The knowledge of a person is not a record.

## 5. RELEVANT LEGISLATION / PRIVACY LAWS

In order to comply with the requirements of this Act, Council will comply with Information Protection Principles (IPP) in relation to its handling of personal and health information. Those principles are listed below:

### ***Privacy and Personal Information Protection Act (PPIP Act)***

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

### ***Health Records and Information Privacy Act (HRIP Act)***

Principle 1	Purposes of collection of health information
Principle 2	Information must be relevant, not excessive, accurate and not intrusive
Principle 3	Collection to be from individual concerned
Principle 4	Individual to be made aware of certain matters
Principle 5	Retention and security
Principle 6	Information about health information held by organisations
Principle 7	Access to health information
Principle 8	Amendment to health information
Principle 9	Accuracy
Principle 10	Limits on use of health information
Principle 11	Limits on disclosure of health information
Principle 12	Identifiers
Principle 13	Anonymity
Principle 14	Transborder data flows and data flow to Commonwealth agencies
Principle 15	Linkage to health records

Information is protected by a number of information protection principles contained within the PPIP Act and HRIP Act and all the principles relate only to personal and health information. The PPIP ACT makes some specific rules in relation to personal information held on public registers. The principles cover matters relating to the collection, storage, use and disclosure of personal and health information. A more detailed discussion of the principles can be found in Part 6 of this Plan.

### Privacy Code of Practice for Local Government

The Privacy Code of Practice for Local Government has been developed to enable Local Government to fulfil its statutory duties and functions under the Local Government Act 1993 (LGA) in a manner that seeks to comply with PPIP ACT and HRIP ACT. The Code was approved by the Attorney General and took effect from 1 July 2000.

Within the Code are statements which affect the PPIP ACT (Part 6) and IPP's as they apply to Council. The statements are:

- A The Privacy and Personal Information Protection Act 1998 provides for the protection of personal information and for the protection of privacy of individuals, generally.
- B This Privacy Code of Practice is made under Part 3 Division 1 of the PPIP ACT.
- C The effect of this Code is to modify:
  - the Information Protection Principles contained in Part 2, Division 1 of the PPIP ACT, and
  - the provisions of Part 6 of the PPIP ACT.
- D Each Council must have a Privacy Management Plan. The Plan will outline processes to complement this Code.
- E Questions of interpretation and application in particular circumstances may require legal advice and such advice should be obtained where it appears appropriate.
- F The operative elements of this Code so far as the Information Protection Principles and Part 6 of the PPIP ACT are modified, are shown in Part 3 with respect to public registers and in Part 4 after the relevant Information Protection Principle and marked 'Modification'.
- G Explanatory notes contained in this guide serve no legal purpose of interpretation and are intended only for the purpose of clarification or expansion.

- H This Code applies to the Administrator/Councillors, employees and customers of Council.
- I This Code applies to that part of the information collected or held by Council that is personal information.
- J Questions or written communications concerning the application of this Code or Council's Privacy management Plan should be addressed to the Council's Privacy Contact Officer.
- K This Code was gazetted on 30 June 2000.

The Office of the Privacy Commissioner prepares or approves Privacy Codes of Practice. Council then can access whether or not it should adopt them. Council has adopted the Privacy Code of Practice for Local Government as prepared by the Office of the Privacy Commissioner.

In addition, the Privacy Commissioner can develop Public Interest Directions which apply temporarily until the Attorney General approves an appropriate privacy code of practice. At the time of writing, the following directions applied to Council:

[Direction on Disclosures of Information by Public Sector Agencies for Research Purposes](#) – This Direction affects most NSW state agencies. It was originally made on 28 September 2000. The Privacy Commissioner has renewed this Direction, which commenced on 1 January 2014 and expires on 30 June 2015.

[Direction on Processing of Personal Information by Public Sector Agencies in relation to their Investigative Functions](#) – This Direction covers most NSW state agencies. It was originally made on 30 June 2000. The Privacy Commissioner has renewed this Direction, which commenced on 1 January 2014 and expires on 30 June 2015. This Direction has also been extended to allow for public sector agencies to disclose personal information if it is reasonably necessary to enable the reporting on the progress and outcome of a complaint to a complainant

[Direction relating to the Disclosure of Personal Information by Councils to NBN Co Limited for the delivery of the National Broadband Network](#) – This Direction is made to permit the disclosure by a Council of the address of a land owner collected by a Council for rating purposes, to NBN Co to provide written notice to land owners of its intention to inspect the land, install and maintain the NBN facilities. It commenced on 7 November 2014 and will expire on 6 May 2016. The Office of Local Government has issued a general circular to councils informing them of the Direction (Circular No 15-02).

This Plan outlines how Council will incorporate the above principles into its everyday functions. This Plan should be read in conjunction with the Privacy Code of Practice for Local Government.

### Conditions of this Plan

None of the contents of this Plan should affect:

- any matter of interpretation of the Code or the IPP 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.

This Plan is designed to complement policies and procedures to comply with the PPIP ACT and HRIP ACT.

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

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

In practice, any information that is not personal or health information will receive treatment of a higher standard, namely treatment accorded to personal or health information, where the information cannot be meaningfully or practicably separated.

Section 5 PPIP ACT makes it clear that the PPIP ACT is not intended to affect the operation of the GIPA Act nor, is it intended to affect the judicial functions of a court or tribunal.

### Application of this Plan

The PPIP ACT, HRIP ACT and this Plan apply, wherever practicable, to:

- Administrator/Councillors
- Council employees
- Consultants and contractors of the Council
- Council owned businesses
- Council committees (including those which may be established under Section 355 of LGA)
- Volunteers of Council

Council has an obligation to ensure that all such parties are made aware of the requirements of PPIP ACT, HRIP ACT, the Privacy Code of Practice for Local Government, and other applicable Codes of Practice and this Plan.

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

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

- obtain an authorisation and consent to that collection
- notify those persons in accordance with IPP 3 as to the intended recipients and other matters required by that principle.

For the purpose of this Plan, health information is included in the phrase personal information and a reference to information in this Plan is a reference to both health and personal information.

### Information held by Council

The Council holds information concerning Administrator/Councillors, such as:

- personal contact information
- complaints and disciplinary matters
- pecuniary interest returns
- entitlements to fees, expenses and facilities
- personal contact information
- leave and payroll data
- CCTV footage and photographs of individuals
- various mailing lists relating to publication distribution and/or membership

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

- rates records
- DA applications and objections
- assessment for community services
- litigation or advice files
- CCTV footage and photographs of individuals
- various mailing lists relating to publication distribution and/or membership
- name and address of suppliers, including bank details

- name and address of customers which may include financial details
- licence information shared between Council and other agencies which is subject to a Memorandum of Understanding, which extends the privacy principles
- mailing lists for promotional purposes
- details of office bearers for sporting, community or other organisations
- complaints and investigations
- personal details of licensed assessors and trainers

The Council holds information concerning its employees, such as:

- recruitment material & resumes
- motor vehicle details
- leave and payment data
- personal contact information
- performance management details
- disciplinary matters including dispute resolution and complaint data
- pecuniary interest returns
- wage and salary entitlements
- leave applications
- after hours contact
- drivers licence details
- CCTV footage and photographs of individuals
- workers compensation details
- medical reports
- information regarding the issuing of licences under legislation

Although the definition of personal information is very broad, the PPIP ACT and HRIP ACT also **excludes** certain types of information. The most significant exemptions are:

- information contained in a publicly available publication
- information about an individual's suitability for employment as a public sector official
- information about people who have been dead for more than 30 years, and
- a number of exceptions relating to law enforcement investigations.

### Access to Electoral Rolls

The Electoral Roll is a publicly available publication. Council will provide open access to the Electoral Roll in its Central Library. Council will refer any requests for copies of the Electoral Roll to the [State Electoral Office](#) (Phone: 1300 135 736).

### Suppression of Personal Information

Suppression is prohibiting the publication of personal information.

An application for suppression in relation to a public register will be dealt with under the Section 58 PPIP ACT.

Section 58 PPIP ACT gives people a right to have their personal details hidden or removed from any public register where the person can show that their safety or well-being might be affected. Council can refuse if it thinks the public interest in keeping the details on the register is greater than the safety interests of the person who wants them hidden or removed.

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

Where an application for suppression is made in relation to anything other than a public register, then an application under Section 739 of LGA is required.

Any application for suppression should be made in writing, addressed to the [Privacy Contact Officer](#) and must outline the reasons for the request. The Council may require supporting documentation where appropriate. When in doubt regarding requests for suppression, Council will move in favour of suppression.

For more information regarding disclosure of information (other than Public Registers) see the discussion of IPP 11 and 12 of this Plan.

### Unsolicited Information

Where an individual, a group or committee, not established by Council, gives Council unsolicited information, then that information should be still treated in accordance with this Plan, the Code and the HRIP ACT and PPIP ACT for the purposes of IPP 5 to 12 (PPIP ACT) and IPP 1 to 11 (HRIP ACT) which relate to storage, access, use and disclosure of information.

## 6. PUBLIC REGISTERS

### Definition

A public register is defined in Section 3 of PPIP ACT:

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

A distinction needs to be drawn between public registers within the meaning of Part 6 of PPIP ACT and non public registers. A non public register is a register but it is not publicly available for the purposes of PPIP ACT or it may not contain personal information.

Council may have other registers that do not contain personal information and therefore, are not public registers within the meaning of PPIP ACT. The Principles, this Plan, any applicable Code and the Act apply to those registers or databases. The GIPA Publications Guide outlines the process for accessing information held by Council that is not contained in a public register.

### Public Registers and HRIP ACT

No public registers held by Federation Council contain health information.

### Disclosure of Personal Information from Public Register

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

Section 57 of PPIP ACT requires that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57 (2) requires compliance to ensure that any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information (Attachment 1).

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

Disclosure of other personal information not held on public registers, must comply with the IPP's as outlined in this Plan and the Code.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by PPIP ACT.

### **Publication of Personal Information from Public Register**

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

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

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

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

Registers will not be published on the internet by Federation Council.

### **Access to own Personal Information from Public Registers**

A person wishing to have access to a public register to confirm their own details needs proof of identity, before having access to their own personal information.

### **Purpose and Types of Public Registers**

In the following section, by way of guidance only, what might be called the "primary" purpose (or "the purpose of the register") has been specified for each identified register. In some cases a "secondary purpose" has also been specified, by way of guidance as to what might constitute "a purpose relating to the purpose of the register".  
Purposes of public registers - Local Government Act

#### *Section 53 - Land Register*

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

#### *Section 113 – Development Consent Approvals*

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

#### *Section 449 - Pecuniary Interests*

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

#### *Section 602 - Rates & Charges*

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, disclosure on a Section 603 LGA rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is "a purpose relating to the purpose of the register".

#### **Purposes of public registers - Environmental Planning and Assessment Act**

##### *Section 100 – Development Consent Approvals*

The primary purpose is to identify applications for development consent and other approvals, confirm determinations on Appeal and identify applications for complying development certificates.

##### *Section 149G - Building Certificates*

The primary purpose is to identify all building certificates.

#### **Purposes of public registers - Protection of the Environment (Operations) Act**

##### *Section 308 – Regulated Premises*

The primary purpose is to identify all licences granted under the Act.

#### **Purposes of the public register under the Impounding Act**

##### *Section 30 & 31 - Impounding*

The primary purpose is to identify any impounding action by Council.

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

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

However, requests for access, copying or the sale of the whole or a substantial part of a public register held by Council will not necessarily fit within this purpose. Council should be guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information (Attachment 1).

Council will make its assessment for the above request, as to the minimum amount of personal information that is required to be disclosed from the public register with regard to any request.

## **7. INFORMATION PROTECTION/PRIVACY PRINCIPLES**

The following table summarises how the principles of PPIP ACT and HRIP ACT legally bind Federation Council when handling personal and health information. The principles lay down the basic rules of what an organisation must do when it collects, stores, uses and discloses personal and/or health information.

Information Protection Principles		
	<i>Privacy and Personal Information Protection Act 1998</i>	<i>Health Records and Information Privacy Act 2002</i>
<b>Collection</b>	<b>1. Lawful</b> – when an agency collects personal information, the information must be collected for a lawful purpose. It also must be directly related to the agency's activities and necessary for that purpose.	<b>1. Lawful</b> – when an agency collects health information, the information must be collected for a lawful purpose. It must also be directly related to the agency's activities and necessary for that purpose.
	<b>2. Direct</b> – personal information must be collected directly from the individual, unless that person consents otherwise. Parents and guardians can give consent for minors.	<b>2. Direct</b> – health information must be collected directly from the person concerned, unless it is unreasonable or impracticable to do so.
	<b>3. Open</b> – an individual must be informed that the personal information is being collected, why it is being collected and who will be storing and using it. The agency should also inform the person how they can view and correct this information.	<b>3. Open</b> – the person concerned must be informed why health information is being collected about them, what will be done with it and who might see it. The agency should also inform the person how they can view and correct their health information, and any consequences if they do not provide their information. If health information is collected about a person from someone else, reasonable steps must be taken to ensure that the person has been notified as above.
	<b>4. Relevant</b> – the agency must ensure that the personal information is relevant, accurate, up-to-date and not excessive. The collection should not unreasonably intrude into the individual's personal affairs.	<b>4. Relevant</b> – the agency must ensure that the health information is relevant, accurate and up-to-date. The collection should not unreasonably intrude into the individual's personal affairs.
<b>Storage</b>	<b>5. Secure</b> – personal information must be stored securely, not kept any longer than necessary and disposed of appropriately. It should be protected from unauthorised access, use or disclosure.	<b>5. Secure</b> – health information must be stored securely, not kept any longer than necessary and disposed of appropriately. It should be protected from unauthorised access, use or disclosure.
<b>Access</b>	<b>6. Transparent</b> – the agency must provide enough details about what personal information they are storing, why they are storing it and what rights an individual has to access it.	<b>6. Transparent</b> – the agency must provide enough detail to an individual about what health information on that person they are storing, why they are storing it and what rights an individual has to access it.
	<b>7. Accessible</b> - the agency must allow an individual to access their personal information without unreasonable delay and expense	<b>7. Accessible</b> - the agency must allow people access to their health information without unreasonable delay or expense
	<b>8. Correct</b> – the agency must allow an individual to update, correct or amend their personal information, where necessary	<b>8. Correct</b> – the agency must allow an individual to update, correct or amend their health information, where necessary
Information Protection Principles		
	<i>Privacy and Personal Information Protection Act</i>	<i>Health Records and Information Privacy Act 2002</i>

	<b>1998</b>	
<b>Use</b>	<b>9. Accurate</b> – agencies must make sure that personal information is accurate before using it	<b>9. Accurate</b> – agencies must make sure that health information is accurate before using it
	<b>10. Limited</b> – agencies must only use personal information for the purpose for which it was collected, for a directly related purpose or for a purpose which the individual has given consent. It can also be used without consent in order to deal with a serious and imminent threat to any person's health or safety.	<b>10. Limited</b> – agencies can only use health information for the purpose for which it was collected, or a directly related purpose that the person would expect. Otherwise, consent is generally required. Secondary purposes include where there is a serious threat to health or welfare, for the management of a health service, for training, research or to find a missing person. Additionally, and of relevance to Council activities, secondary purpose include investigation of suspected unlawful activity, to exercise complaint handling or investigation functions.
<b>Disclosure</b>	<b>11. Restricted</b> – the agency can only disclose personal information with the individual's consent or if the individual was told at the time of collection that they would do so. The agency can also disclose information if it is for a related purpose and it doesn't think that the individual would object. Personal information can also be used without the individual's consent in order to deal with a serious and imminent threat to any person's health or safety.	<b>11. Limited</b> – the agency can only disclose health information for the purpose for which it was collected, or a directly related purpose that the person would expect. Otherwise, consent is generally required. Secondary purposes include where there is a serious threat to health or welfare, for the management of a health service, for training, research or to find a missing person. Additionally, and of relevance to Council activities, secondary purposes include investigation of suspected unlawful activity, to exercise complaint handling or investigation functions.
<b>Disclosure</b>	<b>12. Special Limits on Disclosure</b> – the agency cannot disclose an individual's sensitive personal information without their consent. For example, information about ethnic or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership. It can only disclose sensitive information without consent in order to deal with a serious and imminent threat to any person's health or safety.	
<b>Identifiers &amp; Anonymity</b>		<b>12. Not Identified</b> – individuals should only be identified by using unique identifiers if it is reasonably necessary to carry out the agency's functions efficiently.
		<b>13. Anonymous</b> – people must be given the option of receiving services from an agency anonymously where this is lawful and practicable.
<b>Information Protection Principles</b>		
<b>Privacy and Personal Information Protection Act 1998</b>		<b>Health Records and Information Privacy Act 2002</b>

<b>Transferrals &amp; Linkage</b>	<b>12.</b> Personal information must not be disclosed to a person or body outside NSW or to a Commonwealth agency unless a relevant privacy law applies and is in force or disclosure is permitted under a Privacy Code of Practice.	<b>14. Controlled</b> – health information must only be transferred outside NSW if Council reasonably believes that the recipient is subject to laws or obligations substantially similar to those imposed by the HRIP ACT or consent has been given or transfer is under a contract between Council and the individual or transfer will benefit the individual or to lessen a serious threat to an individual's health and welfare, or steps have been taken to ensure that the information will not be handled inconsistently with the HRIP ACT or transfer is permitted or required under any other law
		<b>15. Authorised</b> – people must expressly consent to participate in any system that links health records across more than 1 organisation. Health information or the disclosure of their identifier for the purpose of the health records linkage system, should only be included if the person has given express consent.

# PART A: PERSONAL INFORMATION PROTECTION PRINCIPLES

## COLLECTION

### IPP 1 Collection for lawful purposes

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

There is no intention to depart from this principle otherwise than is permitted by the PPIP ACT, or any other Privacy Code of Practice which may apply to Council from time to time.

#### Federation Council Policy

Federation Council has developed a Privacy Policy which outlines its objectives and expectations of staff, contractors and Administrator/Councillors in relation to the collection of information, and its obligation to the public that it will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions. The LGA governs Council's major obligations and functions under a wide range of legislation as provided in Section 22 of the LGA. Council will only collect personal information for a lawful purpose. Additionally, the exercise by Council of its functions under the LGA may also be modified by the provisions of other Acts.

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. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

Council will continue to collect and deliver personal information to and from government departments involved in the normal functions of Council's operation. Council will also continue the practice of dealing with the NSW Department of Community Services (DoCS) for enquiries on personnel and recruitment matters ie. pre-employment screening of people working with children (Children and Young Peoples Act).

Council will use personal information for a variety of purposes within its departments. Whilst the information was collected for one main purpose, it may be used for a variety of other purposes. E.g. the names and addresses of individual owners of property kept on the Rates & Charges Register are used to notify adjoining owners of proposed development, identify companion animal ownership, evaluate road openings and obstructions, evaluate tree preservation orders, investigate parking controls, evaluate land dedications and laneway status, as well as being the basis of the Rates & Charges Register.

Methods of collection including internet contact forms, rates notices, application forms or written requests will be reviewed by the relevant manager prior to use.

Managers are to consider:

- 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.

### IPP 2 Collection directly from the individual

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

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

Council may wish to confer a special award, prize, benefit or similar form of personal recognition to an individual. This may take the form of a citizen of the year award, the naming of a park after that individual or other similar form of public recognition.

#### Investigative Code of Practice

Where Council is conducting an investigation, the Investigative Code of Practice prepared by Privacy NSW and approved by the Attorney General, will apply.

IPP 2 is modified by the Investigative Code of Practice to permit indirect collection where a direct collection is reasonably likely to detrimentally affect Council's conduct of any lawful investigation.

#### Federation Council Policy

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

Personal information is also collected from forms completed by customers for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.

Council will treat the personal information contained in petitions in accordance with Section 9 PPIP ACT. Where Council or an Administrator/Councillor requests or requires information from individuals or groups, that information will also be treated in accordance with Section 9 PPIP ACT.

Council regards all personal information concerning its customers as information protected by PPIP ACT. Council will therefore, collect all personal information directly from its customers except as provided in Section 9(a) PPIP ACT or under other statutory exemptions or Codes of Practice. Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

Where Council anticipates the need to collect personal information indirectly, and not in accordance with this policy, it will first obtain the authorisation of each individual under Section 9(a) PPIP ACT.

#### Statutory Exemptions

Compliance with IPP 2 is subject to certain exemptions under the Act. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) PPIP ACT permits non-compliance with IPP 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) PPIP ACT permits non-compliance by Council with IPP 2 if:

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

Section 25(a) and (b) PPIP ACT permits non-compliance with IPP 2 where the agency is lawfully authorised or required not to comply with the principle by any other Act or law.

Section 26(1) PPIP ACT permits non-compliance with IPP 2 if compliance would prejudice the interests of the individual concerned.

## Discussion

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

- Council has obtained authority from the person under Section 9(a) PPIP ACT.
- The collection of personal information from a third party is permitted under an Act or law. The collection of personal information about a person from a parent or guardian is permitted provided the information relates to a person who is less than 16 years of age.
- The collection of personal information indirectly where one of the above exemptions applies.
- The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.

The only other exception to the above is in the case where Council is provided unsolicited information. In this instance, that information will be treated in accordance with this Plan, the Code and the principles of HRIP ACT and PPIP ACT.

## **IPP3 Requirements when collecting information**

### Privacy Code of Practice Local Government

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

### Investigative Code of Practice

Where Council is conducting an investigation, the Investigative Code of Practice prepared by Privacy NSW and approved by the Attorney General, will apply.

IPP 3 is modified by the Investigative Code to permit non-compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

### Federation Council Policy

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

Council will inform persons if the information is required by law or voluntarily given. In order to address the requirements of Section 10 PPIP ACT, Council will provide the Pre-collection Privacy Notification Form as appropriate (Attachment 3).

A Privacy Protection Notice will be added to all forms where the Council solicits personal information from the general public. Forms used for internal communication will not be effected.

As a minimum, the following application procedures will require a Privacy Notification Form to be in accordance with Section 10 PPIP ACT:

- Lodging Development Applications
- Lodging comments to Development Applications
- Lodging applications for approval under the LGA
- Any stamps or printed slips that contain the appropriate wording for notification under Section 10
- When collecting an impounded item

In relation to the Privacy Notification Form that may be attached to a Development Application provided to the public, objectors have a right to remain anonymous if they so choose. However, should they need to substantiate

their objections, anonymous objections may give less weight (or no weight) in the overall consideration of the Application.

#### Statutory Exemptions

Where Council collects personal information indirectly from another public sector agency in respect of anyone of its statutory functions, it will advise those individuals that it has collected their personal information in writing. A common example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property ownership is transferred. Attachment 3 contains a Privacy Notification Form that will be used for post-collection.

Council's compliance with IPP 3 is subject to certain exemptions under the Act. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

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

Section 24(4) PPIP ACT permit non-compliance with IPP 3 if:

- investigation a complaint that could be referred or made to, or has been referred from or made by an investigative agency; and
- if compliance does not detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) and (b) PPIP ACT permits non-compliance with IPP 3 where the agency is lawfully authorised or required not to comply with the principle by any other Act or law.

Section 26 (1) PPIP ACT permits non-compliance with IPP 3 if compliance would prejudice the interests of the individual concerned.

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

#### **IPP 4 Other requirements relating to collection**

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

The Code makes no provision to depart from this principle.

##### Federation Council Policy

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

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

Council will 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 Workplace Surveillance Act will be complied with.

## STORAGE

### IPP 5 Retention and security

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

The Code makes no provision to depart from this principle.

#### Federation Council Policy

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

Code of Conduct

Use of Internet & Email Policy

Records Management Policy

General Records Disposal Schedule for Local Government (GDA 10)

The culling and destruction of records is carried out by the Corporate Services Department in accordance with the Council's Records Management Disposal Schedule. The Records Disposal Schedule is available for public inspection. The Corporate Services Department routinely culls files on a 6 monthly basis for reasons of space and provisions in the Records Management Plan.

Information Access Request Forms will be destroyed when each application is completed and any amendments to personal information, rectified.

### IPP 6 Information held by agencies

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

The Code makes no provision to depart from this principle.

#### Investigative Code of Practice

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 of PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as a Investigative Code of Practice is approved by the Attorney General.

IPP 6 is modified by the Investigative Code to permit non compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

#### Federation Council Policy

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

IPP 6 is modified by Section 20(5) PPIP ACT. Section 20(5) PPIP ACT has the effect of importing Sections 30-33 and Schedule 1 of the Government Information (Public Access) Act 2009 and treats them as if they were part of PPIP ACT. That means that in any application under IPP 6, Council must consider the relevant provisions of the GIPA Act.

Any person can make application to Council to determine whether personal information is held by completing the appropriate form and submitting it to Council (Attachment 4).

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

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

Council will ordinarily provide a response to applications of this kind within 28 days of the application being made. The fee structure is commensurate to that of the Council's GIPA Information fees and charges structure.

#### Statutory Exemptions

Council's compliance with IPP 6 is subject to certain exemptions under the Act. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25 (a) and (b) PPIP ACT permits non-compliance with IPP 6 where Council is lawfully authorised or required not to comply with the principle by any other Act or law.

#### Discussion

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

### **ACCESS AND MAINTENANCE**

#### **IPP 7 Access to information held by agencies**

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

The Code makes no provision to depart from this principle.

##### Investigative Code of Practice

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as an Investigative Code of Practice is approved by the Attorney General.

IPP 7 is modified by the Investigative Code to permit non-compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

##### Federation Council Policy

IPP 7 requires Council, at the request of any person, to give access to personal information held about them.

Compliance with IPP 7 does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act, unless IPPs 11 and 12 or the Public Register provisions apply.

Schedule 1 to the GIPA Regulation lists the additional open access information that must be made publicly available, including:<sup>1</sup>

- annual, financial, and auditors reports,
- management plans and various codes
- agendas, business papers and minutes of meetings
- information contained in certain registers
- plans and policies
- development applications and associated documents, and
- information concerning approvals, orders and other documents.

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

When considering an application under Section 14 PPIP ACT, Council will consider Sections 30-33 and Schedule 1 of the FOI Act as if they were part of PPIP ACT.

Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the Privacy Contact Officer, who will make a determination (Attachment 5).

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Director Corporate and Community Services who will deal with the application.

In order to comply with the requirement to provide the requested information "without excessive delay or expense", Council will ordinarily provide a response to applications of this kind within 21 days of the application being made, and Council will use a fee structure commensurate to that of the FOI Act fee structure.

#### Statutory Exemptions

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

Section 25(a) PPIP ACT permits non-compliance with IPP 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) PPIP ACT non-compliance with IPP 7 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Access to personal information contained in Council Business papers for a "Closed Meeting" should be provided with care to not disclose any other information. Personal information contained in Council Business papers for an "Open Meeting" is published and therefore not considered to be covered by the PPIP ACT.

#### **IPP 8 Alteration of personal information**

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

The Code makes no provision to depart from this principle.

##### Investigative Code of Practice

---

<sup>1</sup> IPC – Open Access Information Fact Sheet December 2014

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 of PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as a Investigative Code of Practice is approved by the Attorney General.

IPP 8 is modified by the Investigative Code to permit non- compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

#### Federation Council Policy

IPP 8 allows 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.

Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by the Council are welcomed. However, Council will not provide access under Section 15 PPIP ACT to information that would not be allowed under Section 14 PPIP ACT.

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

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

Council has an obligation to take such steps to amend personal information where necessary. If Council decides that it will not amend the information, it must add the additional information, so it can be read with the existing information and the individual notified. The individual to whom the information relates is entitled to have the recipients notified of the amendments made by Council. Incorrect records will be physically altered, whether computerised or in hard copy form. Managers will approve required changes, where applicable and applications may not be required where mistakes are proven quickly.

Where information is requested to be amended, the individual to whom the information relates, must make a request by way of statutory declaration. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy the Council that the proposed amendment is factually correct and appropriate. The Council may require further documentary evidence to support certain amendments. Council will not charge to process an application to amend a record under Section 15 PPIP ACT.

The Council's application form for alteration under IPP 8 is (Attachment 6).

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

If personal information is amended in accordance with IPP 8, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by 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.

#### Statutory Exemptions

Compliance with IPP 8 is also subject to certain exemptions under the Act. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25 (a) and (b) PPIP ACT permits non-compliance with IPP 8 where Council is lawfully authorised or required not to comply with the principle by any other Act or law.

The State Records Act does not allow for the deletion of records however, as a result of Section 20(4) PPIP ACT, some deletions may be allowed in accordance with IPP 8.

Nothing in PPIP ACT affects the operation of the Government Information (Public Access) Act 2009, and therefore applications to amend records under that Act remain in force as an alternative mechanism.

### **IPP 9 Accuracy of personal information before use**

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

The Code makes no provision to depart from this principle.

#### **Federation Council Policy**

The steps taken to comply with IPP 9 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected. The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

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

### **USE**

### **IPP 10 Limits on use**

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

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

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

Council may use personal information obtained for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under Section 602 LGA may also be used to:

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

#### **Investigative Code of Practice**

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 of PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as a Investigative Code of Practice is approved by the Attorney General.

IPP 10 is modified by the Investigative Code to permit non-compliance if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) Council's conduct of any lawful investigation.

#### **Federation Council Policy**

Council will seek to ensure the information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose, for another purpose in pursuance of its lawful and proper functions, it will first gain the consent of the individual concerned, unless the information to be used is on the Council's public register or an exemption applies.

#### Statutory Exemption

Compliance with IPP 10 is subject to certain exemptions under the Act. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

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

Section 24 (4) PPIP ACT permits non-compliance with IPP 10 if:

- investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
- if the use is, reasonably necessary in order to enable the Council to exercise its complaint handling or investigative functions.

Section 25 (a) and (b) PPIP ACT permits non-compliance with IPP 10 where Council is lawfully authorised or required not to comply with the principle by any other Act or law.

Section 28(3) PPIP ACT permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for 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.

## **DISCLOSURE OF INFORMATION**

### **IPP 11 Limits on disclosure**

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

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

Council may disclose personal information to public sector agencies or public utilities on condition that:

- the 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

Where personal information which has been collected about an individual is to be disclosed for the purpose, of conferring upon that person, an award, prize, benefit or similar form of personal recognition.

Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

### Investigative Code of Practice

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 of PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as a Investigative Code of Practice is approved by the Attorney General.

IPP 11 is modified by the Investigative Code to permit non-compliance if disclosure of information is made to another agency that is conducting, or may conduct, a lawful investigation. The information provided must be reasonably necessary for the purposes of that investigation.

### Federation Council Policy

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

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

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

### Statutory Exemptions

Compliance with IPP 11 is subject to certain exemptions under the Act. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

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

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

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

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

Section 23(5)(c)(ii) PPIP ACT permits non-compliance with IPP 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

Section 24(4) PPIP ACT permits non-compliance with IPP 11 if:

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

Section 25 (a) and (b) PPIP ACT permits non-compliance with IPP 11 where Council is lawfully authorised or required not to comply with the principle by any other Act or law.

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

Section 28(3) PPIP ACT permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for 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.

## **IPP 12 Special restrictions on disclosure**

### The Privacy Code of Practice for Local Government

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

For the purposes of Section 19(2) only, where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

### Investigative of Practice

Where Council is disclosing personal information to conduct an investigation, disclosure will be allowed under Section 41 of PPIP ACT by a Direction made by the Privacy Commissioner on 31 December 2005 until such as a Investigative Code of Practice is approved by the Attorney General.

The Investigative Code modifies IPP 12 to permit 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.

### Federation Council Policy

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

### Statutory Exemptions

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

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

Section 25 (a) and (b) PPIP ACT permits non-compliance with IPP 12 where Council is lawfully authorised or required not to comply with the principle by any other Act or law.

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

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

Section 28(3) PPIP ACT permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for 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.

## **PART B: HEALTH RECORDS AND INFORMATION PROTECTION ACT 2002**

### **IPP 1 Collection for lawful purposes**

All information collection will be carried out under the obligations imposed on Council by its governing legislation and administrative requirements.

#### Federation Council Policy

Council will only collect health information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions. Council will not collect any more health information than is reasonably necessary for it to fulfil its functions.

In very general terms, collection refers to the process by which a person comes into possession of health information. A agency collects health information if it gathers, acquires or obtains information directly from the person to whom it relates or from someone else.

Under the HPPs, the basic standards for collection are:

- only collect health information for a lawful purpose
- only collect health information if it is directly related to Council's activities and necessary for that purpose
- make sure the health information is relevant, accurate and up-to-date and not excessive
- make sure the collection does not unreasonably intrude into the personal affairs of the individual
- collect directly from the person where reasonable and practicable
- inform people you are collecting the health information and why

Under HPP 4(1), Council must take reasonable steps to make sure that the person is aware of the following points:

- the identity of the organisation collecting the information and how to contact them
- the purposes for which the information is collected
- who the Council usually discloses information of that kind to
- any law that requires the particular information to be collected
- the fact that they are able to request access to the information
- the main consequences, if any, for them if all or part of the information is not provided

The meaning of reasonable steps will vary depending on the circumstances of the collection, and what the reasonable person would expect in those circumstances. Where Council collects health information on a form ie. Client Information and Referral Record or Neighbour Aid Home Visiting Service, Council's obligations under Health Privacy Principle 4(1) could be satisfied by a prominent and easy to read statement on that form.

Council must notify the person of the points at or before the time of collection. If that is not practicable, Council must notify the person as soon as practicable after that time.

### **IPP 2 Collection to be relevant**

Where information is collected directly from the individual, a statement will appear on the collection instrument to ensure that Council is compliant with this principle.

#### Federation Council Policy

In relation to applications for community services purposes ie. Neighbour Aid Home Visiting Service or Client Information and Referral Record, the Council will treat the health information contained in these applications in accordance with HRIP ACT.

Where Council or a Administrator/Councillors requests or requires information from individuals or groups, that information will be treated in accordance with HRIP ACT.

Council regards all information concerning its customers as information protected by HRIP ACT. Council will therefore, collect all health information directly from its customers except as provided in HPP 10 or under other statutory exemptions or Codes of Practice. Council may collect health information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

Where Council anticipates that it may otherwise need to collect health information indirectly it will first obtain the authorisation of each individual under Section 11(1) HRIP ACT.

### **IPP 3 Collection to be from individual**

Where information is being collected, a statement will appear on the collection instrument to ensure that Council is compliant with this principle.

#### Federation Council Policy

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

If it is unreasonable or impracticable, Council may need to collect the health information from someone else. Some examples of when it may be unreasonable or impracticable are if the person lacks the capacity to provide their health information, Council may need to collect health information about them from an authorised representative such as, a carer or guardian.

When Council collects a person's health information, Council is required to tell them certain things. This is the case even when collecting health information about them from someone else. At all times, Council must respect the dignity and personal privacy of the person to whom the information relates.

The collection of the person's information as part of the third party's family, social or medical history, is reasonably necessary for the organisation to provide a health service directly to the third party and the person's health information is relevant to the family, medical or social history of the third party.

### **IPP 4 Individual to be made aware of certain matters**

In the process of collecting information, Council will ensure that the information collected is relevant to that purpose, is not excessive and is accurate, up-to-date and complete. Council will ensure the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

## Federation Council Policy

Council will under HPP 4(1) take reasonable steps to make sure that the person is aware of the following points:

- the identity of the organisation collecting the information and how to contact them
- the purposes for which the information is collected
- who the Council usually discloses information of that kind to
- any law that requires the particular information to be collected
- the fact that they are able to request access to the information
- the main consequences, if any, for them if all or part of the information is not provided

The meaning of reasonable steps will vary depending on the circumstances of the collection and what the reasonable person would expect in those circumstances. Council will fulfil its obligations by use of a prominent and easy to read statement on the application form.

In certain circumstances, notifying the person is not necessary or appropriate. Under HPP 4(2) and 4(4) you are not required to notify the person if:

- the person has expressly consented to not being notified
- Council is lawfully authorised or required not to notify the person
- not notifying the person is permitted or is necessarily implied or reasonably contemplated under an Act or any other law
- notifying the person would prejudice their interests
- the information has been collected for law enforcement purposes
- Council is an investigative agency and notifying the person might detrimentally affect or prevent the proper exercise of Council's complaint handling or investigative functions
- Council collects health information about the person from someone else and notifying the person would pose a serious threat to the life or health of any individual

If Council collects health information about the person from someone else, Council may also be able to rely on the notification exemption in Principle 4(3) to not notify the person as long as Council complies with the statutory guidelines.

## **IPP 5 Retention and security**

Council will ensure that information is:

- kept no longer than is necessary for the purpose for which the information may lawfully be used through the use of an approved sentencing schedule, disposal authority and storage standard
- disposed of securely and in accordance with any requirements for the retention and disposal of information
- protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse through the use of secure information systems and operational policies and procedures
- only provided to a person in connection with the provision of a service to Council and that everything reasonably within the power of Council is done to prevent unauthorised use or disclosure of the information.

## Federation Council Policy

If Council reasonably believes that the person is incapable of understanding the general nature of the points outlined in HPP 4(1), Council can and should notify any authorised representative of the person instead.

### Definition of 'authorised representative'

(1) In this Act, 'authorised representative' in relation to an individual, means:

- (a) an attorney for the individual under an enduring power of attorney or
  - (b) a guardian within the meaning of the Guardianship Act 1987 or a person responsible within the meaning of Part 5 of that Act, or
  - (c) a person having parental responsibility for the individual, if the individual is a child or
  - (d) a person who is otherwise empowered under law to exercise any functions as an agent of or in the best interests of the individual.
- (2) A person is not an authorised representative of an individual for the purposes of this Act to the extent that acting as an authorised representative of the individual is inconsistent with an order by a court or tribunal.
- (3) In this section:
- ‘child’ means an individual under 18 years of age.
- ‘parental responsibility’ in relation to a child, means all the duties, powers, responsibility and authority which, by law, parents have in relation to their children.

Where Council needs to deal with an authorised representative it should still, where practicable, explain the points to the person to whom the information relates in a way that is appropriate to their level of understanding. This is to enable the person to be involved in the notification process to the greatest extent possible.

#### **IPP 6 Information held by organisations**

##### Federation Council Policy

Council will take such steps that are, in the circumstances, reasonable to enable any person to ascertain:

- whether Council holds information relating to that person
- if Council holds information relating to that person the nature of that information, the main purposes for which the information is used and that person’s entitlement to gain access to that information.

#### **IPP 7 Access to Health Information**

##### Federation Council Policy

Council, at the request of the individual to whom the information relates and without excessive delay or expense, will provide the individual with access to the information.

#### **IPP 8 Amendment to Health Information**

##### Federation Council Policy

Council, at the request of the individual to whom the information relates, will make appropriate amendments (whether by corrections, deletions or additions) to ensure that the information is accurate, relevant, up-to-date, complete and not misleading. Where the information has been collected via other agents, the agent will be requested to amend the information.

If it is not considered appropriate for Council to amend information in accordance with a request by the individual concerned, take reasonable steps to attach to the information any statement provided by that individual of the amendment sought so that this information can be viewed alongside the original information.

In the amendment of information, Council permits the individual to whom the information relates, if it is reasonably practicable, to have recipients of that information notified of the amendments made by Council.

Section 20 HRIP ACT states:

*HPP 8 and any provision of a health privacy code of practice applying to a public sector agency that relates to the requirements set out in that HPP, applies to public sector agencies despite HPP 8(4) and Section 21 of the State Records Act 1998.*

### **IPP 9 Accuracy**

#### Federation Council Policy

Council will not use 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.

### **IPP 10 Limits on use**

#### Federation Council Policy

Where Council collects health information about a person from someone else without notifying the person in accordance with the principles, Council must ensure that any subsequent uses or disclosures it proposes to make of that information are in accordance with these principles. In this regard, Council should recognise that some of the exemptions in the Health Privacy Principles, may be difficult to apply if the person is unaware that their information has been collected.

Example, exemptions based on consent 10(1)(a) and 11(1)(a) and the person reasonably expecting the use or disclosure will generally not be available where the person has not been notified and is not aware that their information has been collected.

### **IPP 11 Limits on disclosure**

Council will not disclose information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:

- the disclosure is directly related to the purpose for which the information was collected and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure
- the individual concerned is reasonably likely to have been aware or has been made aware that information of that kind is usually disclosed to that other person or body
- 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
- Council believes on reasonable grounds that the disclosure is necessary to assist in an investigation that may lead to prosecution

#### Federation Council Policy

Information is disclosed in accordance with the above criteria to a person or body that is a public sector agency or an organisation that is authorised by legislation administered by Council. That agency or organisation shall not use or disclose the information provided by Council for a purpose other than the purpose for which the information was given to it.

### **IPP 12 Identifiers**

#### Federation Council Policy

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

Individuals are only identified by using unique identifiers if it is reasonably necessary to do so in order to carry out the Council's functions efficiently.

### **IPP 13 Anonymity**

#### Federation Council Policy

Where lawful and practical, individuals are given the opportunity to not identify themselves when entering into transactions with or receiving health services from Council.

### **IPP 14 Transferral to Commonwealth agencies**

#### Federation Council Policy

Council does not transfer health information outside NSW unless it is in accordance with the conditions set out in HPP 14.

### **IPP 15 Linkage to Health Records**

#### Federation Council Policy

Council endeavours to gain consent before linking health records across more than 1 organisation and only discloses or uses identifiable health information to other organisations with consent.

## **8. IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN**

### **Staff Awareness**

Staff will undertake Privacy training and have access to updated policies and procedures through their relevant Manager who is responsible for disseminating policies and practices relating to the Council's privacy obligations. All new staff complete an Induction Program in workplace ethics and privacy obligations and relevant policies and practices are canvassed in this context. A copy of the [Fact Sheet – Understanding your privacy obligations – For NSW Public sector staff](#) will be distributed during Council's staff induction program as well as via the staff intranet.

The Code of Conduct, issued to all staff, deals with the use and disclosure of information obtained in the course of employment and with the confidentiality obligations of staff who have left the organisation.

Each section of Council, will be trained about requirements of the PPIP ACT and HRIP ACT and their individual responsibilities will be discussed. A copy or access to this Plan will be provided at these sessions.

Training for staff is also supplemented by resources to be accessed when more complex decisions or assessments have to be made. Currently available resources include:

- Department circulars
- Department guidelines and other publications including the Code of Conduct, Policy on Use of Electronic Mail and the Internet,
- Publications from the Privacy Commissioner's Office, including:

- . The Guide to the Information Protection Principles
- . The Guide to Making Privacy Codes of Practice
- . The Guide to Public Registers
- . Statutory Guidelines on notifying a person when you have collected health information
- . Statutory Guidelines on training

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

Administrator/Councillors, staff including staff of Council businesses and members of committees should be acquainted with the general provisions of PPIP ACT and HRIP ACT, and in particular, the IPPs and HPPs, the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice.

### **Responsibilities of the Privacy Contact Officer & Management**

The Director Corporate and Community Services within Council is assigned the role of Privacy Contact Officer.

The Plan will be reviewed on a yearly basis by Council's Privacy Officer. The plan's effectiveness will be addressed and this will lead to any necessary changes. See Part 6 – Other Relevant Matters for further details.

In order to ensure compliance with PPIP ACT and HRIP ACT, the Privacy Contact Officer may co-ordinate through available staff the review of all contracts and agreements with consultants and other contractors, rates notices, application forms, and other written requests by which personal or health information is collected by Council, to ensure that Council is in compliance with PPIP ACT and HRIP ACT, respectively.

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

- fast screen savers
- face the computers away from the public
- only allow the record system to show 1 record at a time

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

### **Guidance**

The Privacy Contact Officer will also provide opinions within Council as to:

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

Any further concerns of a legal nature will be referred to Council's legal advisor(s).

The General Manager may assign designated officers as "Privacy Officers" within Council. In this manner, the Council will ensure that the IPPs or HPPs are more broadly understood and that individual groups have a greater focus on the principles and are directly applied to Council's day to day functions.

### **Distribution of Information to the public**

Council's annual report will:

- include a statement of the action taken in compliance with the requirements of the PPIP ACT and HRIP ACT
- include statistical details of any review conducted under Part 5 of the PPIP ACT and Part 6 HRIP ACT
- be available on the Council's website.

Council may prepare its own literature such as pamphlets on PPIP ACT & HRIP ACT, or it may obtain and distribute copies of literature available from Privacy NSW.

Council may also publish public notices, newsletters or website bulletins explaining the key elements of the Acts and the rights of persons about whom information is held. See the discussion in this Plan with respect to IPP 6 for more information in this regard.

The following disclaimer will be included on all application forms:

**IMPORTANT:**

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

## 9. INTERNAL REVIEW

An internal review deals with complaints that are about Council's handling of information. An internal review is an internal investigation that Council conducts into a complaint. Council will assess whether or not it has complied with its privacy obligations and then tell the applicant of its findings and what it will do as a result.

### What does 'conduct' mean?

Conduct can mean an action, a decision, or even inaction by Council. Examples of the conduct complained about could be:

- a decision to refuse a person access to their personal or health information, or
- the action of disclosing a person's personal or health information to another person, or
- the inaction of a failure to protect a person's personal or health information from being inappropriately accessed by someone else.

Conduct that can be reviewed includes:

- the contravention of an IPP or HPP that applies to Council
- the contravention of a Privacy Code of Practice that applies to Council
- the disclosure by Council of information kept in a public register.

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

Applications are to be made within 6 months of the complainant being first aware of the conduct. The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the complaint. The Reviewing Officer must be an employee and suitability qualified. The review is to be completed within 60 days of the lodgement of the complaint. The Council must notify the complainant of the outcome of the review within 14 days of its determination.

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

Applications for an internal review can use the "Privacy Complaint: Internal Review Application Form" as provided by the Privacy NSW (<http://www.ipc.nsw.gov.au/resources-public>).

### What happens after an Internal Review?

If the complainant remains unsatisfied, he/she may appeal to the Administrative Decisions Tribunal which hears the matter and may impose its own decision and award damages for a breach of an information protection principle to an amount up to \$40,000.00.

Privacy NSW  
ATTENTION: Privacy Commissioner  
PO Box A2122  
SYDNEY SOUTH NSW 1235  
Phone: 02 8268 5580  
Fax: 02 9268 5501  
Email: [privacy\\_nsw@agd.nsw.gov.au](mailto:privacy_nsw@agd.nsw.gov.au)

## 10. OTHER RELEVANT MATTERS

### Contracts with consultants and other private contractors

It is necessary to have specific provisions to protect Council in any dealings with Private contractors. These have been identified within the IPPs and HPPS.

### Confidentiality

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

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

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

Council has a professional ethical duty of confidentiality for all records it manages in relation to the securing of confidential information. The ethical duty of confidentiality is achieved through the implementation of Council's Code of Conduct.

### Misuse of personal or health information

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

### Regular review of personal and health information

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

### Regular Review of Privacy Management Plan

Once the information practices are reviewed, the Privacy Management Plan will be reviewed annually from the date of adoption to ensure that the Plan is up to date.

## Contact Details

Federation Council's Privacy Contact Officer is:

Kristy Kay

Privacy Contact Officer

Federation Council

PO Box 77

COROWA NSW 2646

Phone: 02 6033 8999

Fax: 02 6033 3317

Email: [kristy.kay@federationcouncil.nsw.gov.au](mailto:kristy.kay@federationcouncil.nsw.gov.au)

## 11. APPLICATIONS

### Statutory Declaration for Access under Section 57 to Public Register

Any person wishing to inspect personal information held on a Public Register, must complete the required form as in Attachment 1 and have it signed by a Justice of the Peace. The form must state their details and reason for the proposed use of the information.

There are no fees associated with such an application and once complete, the application should be addressed to Federation Council's Privacy Contact Officer:

Any copies required from the Public Register must be paid for in accordance with the fees and charges as detailed in our Government Information Public Access Guide.

### Statutory Declaration for Suppression of Information under S739 LGA

Any person wishing to suppress personal information held by the Council, must complete the required form as in Attachment 2 and have it signed by a Justice of the Peace. The form must state their details and reason for the suppression of the information.

There are no fees associated with such an application and once complete, the application should be addressed to Federation Council's Privacy Contact Officer.

### Privacy Notification Form (Post Collection)

If Council has collected information indirectly, eg. from another agency, Council must advise the individuals of the information that has been collected. The form Council will use to notify the person concerned is shown in Attachment 3.

There are no fees associated with such an application and once complete, the form should be returned to Federation Council's Privacy Contact Officer.

### Privacy Notification Form (Pre Collection)

All application forms as held by Council will have attached to them a Privacy Notification Form as per Attachment 3. There are no fees associated with such an application and once complete, the form should be returned to Federation Council's Privacy Contact Officer.

### **Statutory Declaration for Determination under Section 13**

Any person wishing to know if Council holds information about them, can apply in writing using the relevant form (Attachment 4). Council will endeavour to provide this information and will include the nature of, purpose and access to the information found.

There are no fees associated with such an application and once complete, the form should be returned to Federation Council's Privacy Contact Officer.

### **Statutory Declaration for Access under Section 14**

Any person requesting access to information held about them, can apply in writing using the relevant form (Attachment 5).

There are fees associated with such an application and once complete, the form should be returned to Federation Council's Privacy Contact Officer.

Council will provide this information within 21 days, following payment of the relevant fees.

### **Statutory Declaration for Alteration under Section 15**

Any person requesting that information held about them be amended can apply in writing using the relevant form (Attachment 6).

There are no fees associated with such an application and once complete, the form should be returned to Federation Council's Privacy Contact Officer.

Council will notify the applicant as soon as possible, of the making of any amendments.

### **GIPA requests**

GIPA requests for information require at least 48 hours to locate a file and review the file for privacy matters or to apply the Public Interest test. A Council Officer will contact the applicant by telephone when the file is available for viewing. All file inspections will be supervised and carried out at the Administration Building. Copies of documents will be charged at the prescribed fee and must be paid prior to release of those documents.

The relevant application form can be downloaded from the website collected from Council's Customer Contact Centres in Corowa, Howlong, Mulwala and Urana or by contacting the GIPA Officer on 02 6033 8999.

## 12. ATTACHMENTS

### Attachment 1 Statutory Declaration for Access under Section 57

#### STATUTORY DECLARATION FOR ACCESS UNDER SECTION 57 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1988 TO A PUBLIC REGISTER HELD BY FEDERATION COUNCIL

##### STATUTORY DECLARATION

##### OATHS ACT, 1900, NINTH SCHEDULE

I, the undersigned, ..... (name of applicant)

of .....(address)

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

I am .....

(relationship, if any, to person inquired about)

I seek to know whether .....

is on the public register of ..... (name of register)

The purpose for which I seek this information is

.....

.....

The purpose for which the information is required is to

.....

.....

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

..... (applicant's signature)

Declared at .....

in the said State this ..... day of ..... 20 before me

.....

.....

Justice of the Peace/Solicitor

Name Printed

#### IMPORTANT:

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

## Attachment 2 Suppression of Information under S739 LGA

### STATUTORY DECLARATION

#### OATHS ACT, 1900, NINTH SCHEDULE

The General Manager

Federation Council

PO Box 77

COROWA NSW 2646

**Attention: Public Officer**

#### Request for Protection of Privacy under Section 739 of the Local Government Act 1993

I, the undersigned, ..... (name of applicant)

of .....(address)

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

I request that any material that is available, or is to be made available, for public inspection by or under the Local Government Act 1993 be prepared or amended so as to omit or remove any matter that would disclose, or discloses, my place of living.

I consider that this disclosure would place, or places, my personal safety, or the personal safety of members of my family, at risk and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1994.

..... (applicants signature)

Declared at .....

in the said State this ..... day of ..... 20 before me

.....

.....

Justice of the Peace/Solicitor

Name Printed

#### IMPORTANT:

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

### Attachment 3 Privacy Notification Form (Post Collection)

#### PRIVACY NOTIFICATION FORM UNDER SECTION 10 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 - POST COLLECTION

Name Surname

Address

SUBURB NSW 2

\* addressed to the person from whom information has been collected.

The personal information that Federation Council has collected from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998.

The intended recipients of the personal information are:

- Officers within the Council
- Data service providers engaged by the Council from time to time
- any other agent of the Council; and
- ..... (specify any other)

The supply of the information by you is/is not voluntary. If you cannot provide or do not wish to provide the information sought, the 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 3rd parties in accordance with Council's Access to Information Policy and Privacy Management Plan.

Council has collected this personal information from you in order to

.....

You may make application for access or amendment to information held by Council.

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 Privacy and Personal Information Protection Act.

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

Enquiries concerning this matter can be addressed to the Privacy Contact Officer on (02) 6033 8999.

Signature: ..... Date: .....

### Attachment 3 Privacy Notification Form (Pre Collection)

#### PRIVACY NOTIFICATION FORM UNDER SECTION 10 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 - PRE COLLECTION

Name Surname

Address

SUBURB NSW 2

\* addressed to the person from whom information is about to be collected or has been collected.

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

The intended recipients of the personal information are:

- Officers within the Council
- Data service providers engaged by the Council from time to time
- any other agent of the Council; and
- ..... (specify any other)

The supply of the information by you is/is not voluntary. If you cannot provide or do not wish to provide the information sought, the 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 3rd parties in accordance with Council's Access to Information Policy and Privacy Management Plan.

Council has collected this personal information from you in order to

.....

You may make application for access or amendment to information held by Council.

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 Privacy and Personal Information Protection Act.

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

Enquiries concerning this matter can be addressed to the Privacy Contact Officer on (02) 6033 8999.

Signature: ..... Date: .....

## Attachment 4 Statutory Declaration for Determination under Section 13

### APPLICATION UNDER SECTION 13 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 TO DETERMINE WHETHER COUNCIL HOLDS PERSONAL INFORMATION ABOUT A PERSON

I, the undersigned, ..... (name of applicant)

of .....(address)

hereby request the General Manager of Federation Council to provide the following:

Does the Council hold personal information about me? YES/NO

If so, what is the nature of that information?

.....

What is the main purpose for holding this information?

.....

Am I entitled to access the information? YES/NO

.....

My address for response to this application is:

.....

#### Note to Applicants

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

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

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

- there is an exemption to Section 13 of the Act; or
- a Code may restrict the operation of Section 14

Signature: .....

Date: .....

#### **IMPORTANT:**

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

**Attachment 5 Statutory Declaration for Access under Section 14**

**APPLICATION UNDER SECTION 14 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 FOR  
ACCESS TO APPLICANT'S PERSONAL INFORMATION**

I, the undersigned, ..... (name of applicant)

of .....(address)

hereby request the General Manager of Federation Council to provide the following:

(a) access to all personal information held concerning myself; or

(b) access to the following personal information only

.....

**Note to Applicants**

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

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

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

- The correct amount of fees has not been paid
- There is an exemption to Section 14 of the PPIP ACT
- a Code of Practice may restrict disclosure

Enquiries concerning this application should be made to:

Federation Council

ATTENTION: Public Officer

Federation Council

PO Box 77

COROWA NSW 2646

Phone: (02) 6033 8999

Fax: (02) 6033 3317

Email: [kristy.kay@federationcouncil.nsw.gov.au](mailto:kristy.kay@federationcouncil.nsw.gov.au)

Signature: ..... Date: .....

**IMPORTANT:**

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

**Attachment 6 Statutory Declaration for Alteration under Section 15**

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

I, the undersigned, ..... (name of applicant)  
of .....(address)  
hereby request the General Manager of Federation 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:

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 Federation 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, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by Council.

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

- there is an exemption to Section 15 of the PPIP ACT
- a Code of Practice may restrict disclosure

Enquiries concerning this application should be made to:

Federation Council  
ATTENTION: Public Officer  
PO Box 77  
COROWA NSW 2646  
Phone: (02) 6033 8999 Fax: (02) 6033 3317 Email: [kristy.kay@federationcouncil.nsw.gov.au](mailto:kristy.kay@federationcouncil.nsw.gov.au)

Signature: .....Date: .....

**IMPORTANT:**

*The information provided by you on this form will be used by Federation 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 not be able to fully process your application. Once collected by Council, the information can be accessed by you in accordance with Council's Access to Information Policy and Privacy Management Plan or in special circumstances, where Commonwealth legislation requires or where you give permission for third party access.*

## Schedule of Changes & Amendments

Version	Date	Changes / Amendments
1.	21/06/2016	Development of document for Federation Council
2.	14/03/2017	Incorporated new branding and headings to be in line with policy format
	21/09/2017	New template applied

**NOTE:** This is a controlled document. If you are reading a printed copy please check that you have the latest version by checking it on Councils Electronic Document system. Printed or downloaded versions of this document are uncontrolled.