

PRIVACY MANAGEMENT PLAN

Date	10 October 2023
Council Resolution Date	25 July 2024
Clause Number	CCL24/167 - (CSC24/41)
Responsible Position	Manager Corporate Governance
Branch	Corporate Governance
Division	Organisational Performance
Version	2
TRIM Reference Number	ED24/143115
Review Period	2 Years
Review Date	October 2026
Consultation	All divisions within Council

Document Revision History	
Description	Date
Adopted by Council	July 2016
Updates to formatting and layout.	May 2020
Review of plan as per Information and Privacy Commissioner website	August 2023
For Public Exhibition, Adopted by Council	9 November 2023
Further period of Public Exhibition, Adopted by Council	24 April 2024
Adopted by Council	25 July 2024
Notes	
No significant content changes, therefore did not go to Council for re-adoption.	

BACKGROUND AND RELATED LEGISLATION

Dubbo Regional Council is committed to protecting the privacy of our customers, business contacts, Councillors, employees, contractors and volunteers.

This Privacy Management Plan (Plan) explains how Dubbo Regional Council (Council) manages personal and health information for the purpose of facilitating its business.

Council is required to have a Plan under s33 of the *Privacy and Personal Information Protection Act 1998* (NSW)(PIIP Act) and health information in accordance with *the Health Records and Information Privacy Act 2002* (NSW)(HRIP Act). The Information and Privacy Commission guidelines for Privacy Management Plans recommend review at least every two years.

The Plan outlines how Council complies with the legislative requirements of the PIIP Act, the HRIP Act and the Privacy Code of Practice for Local Government (Code).

SCOPE

The main objectives of this Plan are to inform the community on how to contact Council about the personal and health information that it holds, how it can be amended and how privacy complaints are handled.

This Plan aims to ensure Council manages the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities.

Contact Information

The Manager Corporate Governance is Dubbo Regional Council's Public Officer and is assigned the role of Privacy Contact Officer.

The Privacy Contact Officer can provide advice as to:

- Whether the personal or health information is collected for a lawful purpose;
- If that lawful purpose is directly related to a function of Council;
- If Council's documents, contracts, forms and notices comply with the PIIP Act and HRIP Act; and
- Whether the collection of personal or health information is reasonably necessary for the specified purpose.

This Plan should only be used as a guide in the application of the PIIP Act and HRIP Act. Where more specific information is required please refer to the relevant Act or seek information from Council's Privacy Contact Officer.

To contact Council relating to any Privacy matters, information in this Plan or to send privacy related forms please email: council@dubbo.nsw.gov.au, phone: 02 6801 4000 or post PO Box 81, Dubbo NSW 2830.

For assistance in understanding the processes under the PIIP Act and HRIP Act, please contact the Information and Privacy Commission NSW:

Information & Privacy Commission NSW

GPO Box 7011
SYDNEY NSW 2001

Phone: 1800 472 679

Email: ipcinfo@ipc.nsw.gov.au

Web: www.ipc.nsw.gov.au

NSW Civil & Administrative Tribunal

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

Phone: 1300 006 228

1. INTRODUCTION

1.1 What is personal information

Personal information is defined in section 4 of the PPIP Act as any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained.

1.2 What is not personal information

There are some kinds of information that are not personal information, these include:

- Information about someone who has been deceased for more than 30 years.
- Information about someone that is contained in a publicly available publication.
- Information or an opinion about a persons' suitability for employment as a public sector official.

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

In accordance with the GIPA Act, when inviting public submissions, Council will advise people that their submission, including any personal information in the submission, may be made publicly available.

1.3 What is Health Information

Health information is a more specific type of personal information and is defined in section 6 of the HRIP Act. Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, results from drug and alcohol tests, and information about a person's medical appointments. It can also include some personal information that is collected to provide a health service, such as a name and telephone number.

2. How Council collects and manages personal and health information

2.1 How Council collects personal information

Council collects personal information to enable it to conduct its functions. Council determines the level of personal information that is appropriate to be collected on a case-by-case basis. In this section, a reference to personal information is also a reference to health information.

Personal information may be collected from:

- Members of the public.
- NSW public sector agencies.
- Businesses.
- Non-government organisations.
- Employees.
- Medical professionals.

Contractors acting on Council's behalf may also collect personal information. Council includes clauses in its contracts that require contractors to comply with relevant privacy obligations.

Council has a range of functions requiring or involving the collection of personal information, including:

- Levying and collecting rates.
- Providing services, for example, libraries and waste collection.
- Consultation with the community, businesses and other stakeholders.
- Assessing development and major project applications.
- Recording, investigating, and managing complaints and allegations.
- Site inspections and audits.
- Incident management.
- Enforcing regulations and legislation.
- Issuing approvals, consents, licences and permits.
- Providing funding grants.
- Maintaining the non-residential register of electoral information.
- Employment.
- Fitness for work.

Personal information may be collected by Council in any of the following ways:

- Customer requests.
- Financial information (e.g. debt recovery or financial hardship applications).
- Burial and cremation records.
- Closed Circuit Television (CCTV) footage.
- Donation, grant and sponsorship applications.
- Submissions and information collected through Council's community engagement and consultation activities includes entries to competitions from children.
- Public access forum applications.
- Development applications and related submissions.
- Public Registers.

Personal information may be collected electronically, in writing, over the telephone and in person.

2.2 Personal information provided to Council

Individuals may provide Council with personal information when they make application for employment, make enquiries and when Council delivers services to them. This can include names, contact details, opinions, health conditions, family relationships, housing or tenancy information, work and education details. Individuals may also provide Council with personal information about other people.

2.3 Privacy and Personal Information Protection Notice

Under section 10 of the PIP Act, when Council collects personal information from an individual, such as their name, address, telephone number or email address, Council must make the individual aware of:

- The purposes for which the information is being collected.
- The intended recipients of the information.
- Whether the supply of the information is required by law or is voluntary.
- Any consequences for the individual if the information (or any part of it) is not provided.
- Ways the individual can access and correct their personal information.
- How to contact Council or the Council section that is collecting and holding their information.

2.4 Storage, access and accuracy of personal information

Personal information is stored electronically and in physical files.

The following applies to information Council holds:

- Only authorised council employees can access personal information.
- Authorised employees will make every effort to ensure personal information is accurate before using it.
- Authorised employees will use personal information only for the purpose for which it was collected.
- Employees will not disclose personal information about a person to anyone without the consent of the person it concerns unless they are required or permitted to by law.

Please refer to section 6 for details on exemptions, directions and code of practice that may affect the above.

Electronic information is stored on secure information systems. Networks will be secure and require individual logins. New systems are assessed for compliance with the PPIP Act and the HRIP Act. When not being used, hard copy files and sensitive information are securely stored.

2.5 Application of this Plan

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

- Councillors.
- Council employees.
- Consultants and contractors of Council.
- Volunteers.
- Council owned businesses.
- Council committees (including community members of those committees which may be established under Section 355 of the Local Government Act 1993 (LGA)).

For the purposes of this Plan any reference to Council or Council staff, is inclusive of the parties listed above.

2.6 Unsolicited Information

Unsolicited information is personal or health information received by Council in circumstances where Council has not asked for or required the information to be provided. Such information is not deemed to have been collected by Council, but the retention, use and disclosure principles of the information will apply to any such information in Council's possession. Personal information contained in petitions received in response to a call for submissions or unsolicited petitions tabled at Council meetings will be treated the same as any other submission and be made available for release to the public.

3. Public Registers

Council is required by law to maintain a number of public registers and to make them available for public inspection.

Some of these registers contain personal information as defined in the PPIP Act, the HRIP Act and the GIPA Act. Section 57 of the PPIP Act requires Council to ensure that access to personal information in a register is consistent with the purpose for which the register exists.

In line with this requirement, Council has developed specific rules governing disclosure of personal information held in registers:

- Council will not disclose personal information in a public register unless the information is to be used for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.
- The Privacy Code of Practice allows disclosure of single items or one page in a Register without explanation. However, such a disclosure can only occur when the person seeking the information attends Council in person.
- Council requires that any person who applies for more than one record or page from a public register, does so by completing a Statutory Declaration. Any such declaration must describe the intended use of the information requested and be witnessed by a Justice of the Peace.

The list of Council registers below specifies the main purpose of each of those registers.

3.1 Council's Public Register list

3.1.1 Under the Local Government Act, 1993

Section 53 - Land Register – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

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

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

Section 602 - Rates Record - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is “a purpose relating to the purpose of the register”.

3.1.2 Under the Environmental Planning and Assessment Act, 1979

Section 100 – Register of consents and approvals – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

Section 149G – Record of building certificates – The primary purpose is to identify all building certificates.

3.1.3 Under the Protection of the Environment Operations Act, 1997

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

3.1.4 Under the Impounding Act, 1993

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

3.2 Secondary purpose of all Public Registers

Due to the general emphasis on local government processes and information being transparent and accountable, it is considered that a secondary purpose for councils holding public registers is the provision of access to the public. Therefore, disclosure of specific records from public registers would normally be considered allowable under Section 57 of the 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.

3.3 Other Registers

Council may keep other registers that are not public registers. The Information Protection Principles, this Plan, the Code and PPIP Act apply to the use and disclosure of information in those registers.

3.4 Applications for Access to Own Records on a Public Register

A person wishing to access a public register to confirm their own details needs to prove their identity to Council before being granted access to their personal information.

3.5 Applications for Suppression of Personal Information in a Public Register

A person about whom personal information is contained (or is proposed to be contained) in a public register, may request Council to have the information removed from or not placed on the register by submitting an application in the form of a Statutory Declaration. Statutory Declarations can be found at www.jp.nsw.gov.au. Council will normally be in favour of suppressing the information, unless public interest in maintaining access to the information outweighs any individual interest in suppressing the information.

The information may still be used in the exercise of Council functions, but it cannot be disclosed to other parties.

3.6 Data Breaches

A data breach occurs when information, physical or electronic, is accessed or disclosed without authorisation. Examples include:

- Accidental loss or theft of information or equipment on which such information is stored.
- Unauthorised use, access to or modification of data or information systems to gain unauthorised access or make unauthorised changes to data or information.
- Accidental or unauthorised disclosure of personal information.
- Personal information published or posted on Council's website without consent.
- Access to data by an authorised user for unauthorised uses.
- Malware infection.

A data breach most commonly, but not exclusively, results in unauthorised collection, use or disclosure of personal information.

How we will manage a data breach

Council will manage data breaches through its cyber incident response plan. Council will determine whether personal information has been accessed and/or disclosed to determine what response should be taken. Any data breach will be managed in accordance with NSW's Mandatory Notification of Data Breach (MNDB) Scheme.

4. Privacy and Other Legislation

This section contains a general summary of how Council must manage personal and health information.

4.1 The Privacy and Personal Information Protection Act

The PPIP Act sets out how Council must manage **personal** information.

4.1.1 Information Protection Principles (IPPs)

Part 2, Division 1 of the PPIP Act contains 12 Information Protection Principles with which we must comply with. These are:

Collection

Council will:

- Collect personal information only for a lawful purpose that is directly related to the Council's functions and activities.
- Collect personal information directly from the person concerned.
- Inform people why their personal information is being collected, what it will be used for, and to whom it will be disclosed. Also, how the personal information can be accessed and amended and any possible consequences of not providing personal information.
- Ensure that personal information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.

Storage

Council will store personal information securely, keep it no longer than necessary and destroy it appropriately. Personal information is protected from unauthorised access, use or disclosure.

Access and Accuracy

Council is:

- Transparent about the personal information it holds, why it is used, and the right to access and amend it.
- Allows people to access their own personal information without unreasonable delay or expense.
- Allows people to update, correct or amend their personal information where it is necessary.
- Endeavours to ensure that personal information is relevant and accurate before using it.

Use

Council only uses personal information for the purpose it was collected for unless it has consent for its use for another purpose.

Disclosure

Council:

- Does not disclose personal information without consent unless disclosure is permitted under the PPIP Act or other legislation.
- Does not disclose sensitive personal information without consent, e.g. ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership.

Offences

Offences can be found in s62-68 of the PPIP Act. It is an offence for Council to:

- Intentionally disclose or use personal information for an unauthorised purpose.
- Offer to supply personal information that has been disclosed unlawfully.
- Hinder the Privacy Commissioner or their employees from doing their job.

4.2 The Health Records and Information Privacy Act

The HRIP Act sets out how Council must manage **health** information.

4.2.1 Health Privacy Principles (HPPs)

Schedule 1 of the HRIP Act contains 15 HPPs that Council must comply with. These are:

Collection

Council:

- Collects health information only for a lawful purpose that is directly related to Council's functions and activities.
- Ensures that health information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.
- Collects health information directly from the person concerned or with consent from the person concerned.
- Informs people why their health information is being collected, what it will be used for, and to whom it will be disclosed. Also how it can be accessed and amended and any possible consequences of not providing health information.

Storage

Council stores health information securely, keeps it no longer than necessary and destroys it appropriately. Health information is protected from unauthorised access, use or disclosure.

Access and accuracy

Council is:

- Transparent about the health information it holds, why it is used, and the right to access and amend it.
- Allows people to access their own health information without unreasonable delay or expense.
- Allows people to update, correct or amend their health information where necessary.
- Ensures that health information is relevant and accurate before using it.

Use

Council only uses health information for the purpose it was collected for unless it has consent for its use for another purpose.

Disclosure

Council does not disclose personal information without consent, unless disclosure is permitted under the HRIPA or other legislation.

Identifiers

Although Council does not currently assign identifiers to individuals in managing their health information, Council may use unique identifiers if required for a Council function.

Transfers and linkage of health records

Council:

- Will only transfer health information outside of NSW or to a Commonwealth agency in accordance with HPP 14.
- Does not currently use a health records linkage system.

Offences

Offences can be found in s68-70 of the HRIP Act. It is an offence for Council to:

- Intentionally disclose or use health information for an unauthorised purpose.
- Offer to supply health information that has been disclosed unlawfully.

4.3 Other relevant laws

This section contains information about other relevant legislation.

Government Information (Public Access) Act 2009 (GIPA Act) and Government Information (Public Access) Regulation 2018

Under this Act and Regulation people can apply for access to information held by Council. This information may include personal or health information.

Independent Commission Against Corruption Act 1988

Under this Act, Council must provide information to the Independent Commission Against Corruption about allegations of fraud and corruption that may contain personal information.

Public Interest Disclosures Act 2022(PID Act)

Under the PID Act, people working for a NSW public sector agency can make a public interest disclosure to Council. The PID Act requires that information that might identify or tend to identify a person who has made a public interest disclosure should be protected.

State Records Act 1998 and State Records Regulation 2015

This Act and Regulation authorises the State Records Authority to establish policies, standards and codes to ensure that NSW public sector agencies manage their records appropriately.

Referrals to external agencies under other relevant legislation

Under the *Ombudsman Act 1976*, the *Independent Commission Against Corruption Act 1998*, and the *Crimes Act 1900*, Council can provide information to the:

- NSW Ombudsman.
- Independent Commission Against Corruption.
- NSW Police.

5. Exemptions, directions and codes of practice

5.1 Exemptions to the Information Protection Principles (IPPs)

Part 2, Division 3 of the PPIP Act contains exemptions that may permit Council not to comply with IPPs in certain situations. These include the following:

- Council is not required to comply with IPPs 2-3, 6-8, or 10-12 if lawfully authorised or required not to do so.
- Council is not required to comply with IPP 2 if the information concerned is collected in relation to court or tribunal proceedings.

5.2 Exemptions to the Health Privacy Principles (HPPs)

Exemptions are located mainly in Schedule 1 to the HRIP Act and may permit Council not to comply with HPPs in certain situations. For example, Council is not required to comply with HPPs 4-8, and 10 if lawfully authorised or required not to do so.

5.3 Privacy Codes of Practice

A privacy code of practice allows Council to modify the application of:

- an Information Protection Principle (IPP); or
- provisions that deal with public registers.

These codes also specify how modifications will apply in particular situations.

5.3.1 Privacy Code of Practice for Local Government

Available on the Information Privacy Commissioner website:

<https://www.ipc.nsw.gov.au/media/2902>

6. Review Rights and Complaints

6.1 Internal Review Process

Under section 53 of the PPIP Act a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. An application for internal review is to be made within 6 months of when the person first became aware of the conduct.

The Manager Corporate Governance (Council's Privacy Contact Officer) will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application and must be an employee who is suitably qualified to deal with the matters raised.

The review is to be completed within 60 days of receipt of the application. Council must notify the applicant of the outcome of the review within 14 days of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

6.2 The Privacy Commissioner's role in internal reviews

The Privacy Commissioner will be notified of an application for review as soon as practicable after it is received. Council will brief the Privacy Commissioner on the progress of an internal review and notify them of the outcome. The Privacy Commissioner may make submissions to Council in relation to the subject matter of the application.

Council must provide the Privacy Commissioner with a draft of the council's internal review report to enable the Privacy Commissioner to make a submission. Council may provide a copy of any submission by the Privacy Commissioner to the applicant.

Noting that an individual can make a complaint direct to the Privacy Commissioner about an alleged breach of their privacy.

6.3 What happens after an internal review

If the applicant remains unsatisfied, with the outcome of a review, an application may be made to the NSW Civil and Administrative Tribunal (NCAT) for a review of Council's conduct.

If the applicant is dissatisfied with an order or decision made by the Tribunal, an appeal may be made to an Appeal Panel of the Tribunal.

6.4 Other ways to resolve privacy concerns

Council encourages the informal resolution of privacy issues before undertaking the review process. Issues can be raised informally with Council. Please refer to Council's website for contact details.

7. Promoting Privacy

Council reinforces compliance with the PPIP Act and HRIP Act by:

- Endorsing this Plan and making it publicly available.
- Providing a copy of this Plan to relevant oversight bodies such as the Audit, Risk and Improvement Committee.
- Reporting on internal reviews to the IPC (Information Privacy Commission).
- Identifying privacy issues when implementing new systems, services, and processes.

7.1 Employee awareness

Council ensures that its employees are aware of and understand this Plan and how it applies to the work they do.

Council promotes awareness of privacy obligations among employees by:

- Publishing Council's Privacy Management Plan on Council's intranet and website.
- Providing advice to employees about Council's obligations under the PPIP Act and HRIP Act.
- Ensuring Council forms and applications comply with privacy legislation.
- Including the Plan in induction packs.
- Promoting the IPC's privacy resources and online training.

7.2 Public awareness

This Plan provides information to members of the public about how Council manages personal and health information. The Plan is publicly available as open access information under the GIPA Act.

Council promotes public awareness of Council's Privacy Management Plan by:

- Publishing the Plan on Council's website.
- Providing copies of the Plan on request.
- Informing external customers about the Plan when responding to enquiries about personal and health information.