

10.5 Policy (Review) - Privacy Management Plan

POLICY NAME: DRAFT REVIEW
PRIVACY MANAGEMENT PLAN

POLICY REF: P02

MEETING ADOPTED: 25 October 2007
Resolution No. 251007/19

POLICY HISTORY: 240806/037



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POLICY

1. PURPOSE OF PLAN

The Privacy & Personal Information Protection Act 1998 (PPIPA) and the Health Records & Information Privacy Act 2002 (HRIPA) provide for the protection of the privacy of individuals.

The **Both** PPIPA & HRIPA impose responsibilities on council's methods of collecting, storing, using and disposing of personal information. The acts also provide the public certain rights to ensure that personal information is not used for unlawful purposes and provides internal and external review mechanisms to protect those rights.

This plan has been prepared as required by section 33 of PPIPA, and outlines council's handling of personal information.

2. DEFINITIONS

In the Privacy Management Plan the following ~~definitions~~ **acronyms** apply:

Council	Ballina Shire Council
GIPA	Government Information (Public Access) Act 2009
HIPPs	Health Information Protection Principles
HRIPA	Health Records & Information Privacy Act 2002 (NSW)
IPPs	Information Protection Principles
LGA	Local Government Act 1993 (NSW)
Personal Information	both personal and health information, except where specific references are made to health information under HRIPA
Plan	Privacy Management Plan
PPIPA	Privacy & Personal Information Protection Act 1998 (NSW)
Reg	Local Government (General) Regulation 2005
SRA	State Records Act 1998

Personal information is defined as:

“Any information about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion”

It includes names, addresses and phone numbers.

~~Personal information does not pertain to information that is contained in a publicly available publication eg: a telephone book or electoral role.~~

Information available in a public forum such as a telephone book is not personal information in that forum.

3. APPLICATION OF THIS PLAN

The PPIPA, the HRIPA and this Privacy Management Plan apply to:

- Councillors
- Council employees
- Consultants and contractors of Council
- Council-owned businesses such as the Gap Road Nursery, Airport and Landfill and Resource Recovery Management Centre – eg. Tuckombil Quarry Caravan Parks
- Committees elected or appointed by Council

The Privacy Management Plan should be read in conjunction with:

- Health Records & Information Privacy Act 2002 (NSW)
- Privacy & Personal Information Protection Act 1998 (NSW)
- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2009
- Code of Conduct Policy
- Code of Meeting Practice
- Records Management Procedure
- Child Protection Policy
- Interaction Between Councillors & Staff Policy

4. PERSONAL INFORMATION HELD BY COUNCIL

The principles in the acts apply to personal information held in council records, and to information acquired by councillors and staff in the course of carrying out their duties. It also applies to information held by contractors on council's behalf in the course of their engagement with council.

Examples of Personal Information held by Council:

~~Customers, Ratepayers and Residents:~~

- ~~• names and addresses;~~
- ~~• car registration numbers;~~
- ~~• bank account details; and~~
- ~~• transfer of property details.~~

~~Councillors:~~

- ~~• personal contact information;~~
- ~~• complaints and associated matters;~~
- ~~• pecuniary interest returns; and~~
- ~~• entitlements to fees, expenses, facilities and reimbursements.~~

~~Employees:~~

- ~~• recruitment material;~~
- ~~• leave and payroll data;~~
- ~~• personal contact information;~~

- performance appraisals;
- disciplinary matters;
- pecuniary interest returns; and
- wage and salary entitlements and payments.

Examples of Health Information held by Council:

Customers, Ratepayers and Residents

- medical records in relation to public liability claims.

Employees

- pre-employment medical checks
- medical certificates for sick leave
- health & fitness functional assessments
- workers compensation claims & medical check-ups.

Examples of Personal & Health Information Held by Council

PPIPA

Customers, Ratepayers & Residents

- names and addresses
- car registration numbers
- bank account details
- transfer of property details

Employees

- recruitment material
- leave and payroll data
- personal contact information
- performance appraisals
- disciplinary matters
- pecuniary interest returns
- wage & salary entitlements and payments

Councillors

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

HRIPPA

Customers, Ratepayers & Residents

- medical records related to public liability claims

Employees

- pre-employment medical checks
- medical certificates for sick leave
- health & fitness functional assessments
- workers compensation claims & medical check-ups

5. INFORMATION PROTECTION PRINCIPLES

PPIPA (Part 2 Division 1) and HRIPA (Schedule 1) provide for the protection of privacy through certain information protection principles (IPPs).

IPPs are relevant to all stages of handling personal information including the collection, use, security, storage, rights of access and amendment, disclosure, and disposal.

Work practices involving the handling of personal information should be assessed against each of the IPPs to ensure compliance with the acts. If there is a discrepancy between work practices and the IPPs, then the work practice must be modified or discontinued.

COLLECTION OF INFORMATION	
1	<p>Lawful (Section 8 of PPIPA) <i>"When Council collects personal information, the information must be collected for a lawful purpose. It must also be directly related to the Council's activities and necessary for that purpose."</i></p>
	<p>Council will not collect personal information unless:</p> <ul style="list-style-type: none"> • It is collected for lawful purposes and directly relates to the function or activity of Council; and • Is reasonably necessary for that purpose. <p>The Council will not collect personal information by any unlawful means.</p> <p>Methods of Collection:</p> <ul style="list-style-type: none"> • verbally (eg meetings, over the counter, or on the phone) • forms completed by individuals • written correspondence, including electronic correspondence; and • from government and non-government organisations <p>Council will continue to collect and deliver personal information to and from government departments involved in the normal function of council's operations.</p> <p>Council will continue the practice of dealing with the NSW Department of Community Services (DOCS) for enquiries on personnel and recruitment matters i.e. for pre-employment screening of people working with children (Children & Young Peoples Act).</p> <p>Council will use personal information collected for a variety of purposes within its departments. If, as on most occasions, the information was collected for one main purpose, it may be used for a variety of other purposes. For example, the names and addresses of individual owners of property kept on the Rates Register are used to notify adjoining owners of a 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 Rating and Valuation Register.</p>
2	<p>Direct (Section 9 of PPIPA) <i>"Council must collect information directly from the individual, unless consent is given otherwise. Parents and guardians can give consent to minors."</i></p>
	<p>Council will, when collecting personal information, collect the information directly from the individual to whom the information relates unless:</p> <ul style="list-style-type: none"> • the individual has authorised collection from someone else, or • the information has been provided by a parent or guardian of a person under the age of 16 years, or • indirect collection is reasonably necessary to confer an award, prize or benefit or similar form of personal recognition on the person to whom the information relates, or • indirect collection is necessary in Council's conduct of any investigation of a regulatory or law enforcement matter or a matter that could be referred to the ombudsman or another investigative agency. • the information is provided to council in accordance with legislative requirements or the collection is undertaken as required by another act. <p><i>Examples:</i></p> <ul style="list-style-type: none"> ○ property transfer information provided to council by Land & Property Information NSW is provided in accordance with the provisions of the LGA.

	<ul style="list-style-type: none"> ○ Council is required to obtain information from DOCS in relation to pre-employment screening of people working with children. • the information is collected in connection with proceedings before a court or tribunal. • it is unreasonable or impracticable in the circumstances to collect health information directly from the individual eg: pre-employment medical examination.
3	<p>Open (Section 10 of PPIPA) "Council must inform that information is being collected, why it is being collected and who will be storing and using it."</p>
	<p>When Council collects personal information about an individual, that person will be notified of:</p> <ul style="list-style-type: none"> • The fact that the information is being collected • The purposes for which the information is collected • The intended recipients of the information • Whether the supply of the information is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided • The existence of any right of access to, and correction of the information and • Council's name and address. where the information will be stored. <p>Council will ensure that any collection of personal information by use of security cameras or other devices will be accompanied by appropriate signage as required by law.</p> <p>Council's policy is not to release the names and addresses of complainants or objectors who claim confidentiality on development, regulatory or building issues.</p> <p>The following privacy protection notice will be added to all forms where the council solicits personal information from the general public. Internal forms will not be affected. The general manager may vary this notice at any time subject to there being no change to the intent of the notice.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>PRIVACY PROTECTION NOTICE</p> <p>The completed [] form contains personal/health information which is being collected for the purpose of [] and will be held on [Register Name]. The information will be processed by [] section and [departments where information will be processed as per the specific Register listed in Appendix 1 of the Privacy Management Plan section name] may be made available to public enquiries under the Government Information (Public Access) Act. The information supplied is required under the [Act]. The information will be processed by stored in Council's electronic document management system.</p> </div> <p>Council is not required to give notice of collection in the following circumstances:</p> <ul style="list-style-type: none"> • where the person consents to dispensing with the requirement; • where collection is reasonably necessary to confer an award, prize or benefit or similar form of personal recognition on the person to whom the information relates; • where collection is necessary in Council's conduct of any investigation of a regulatory or law enforcement matter or a matter that could be referred to the ombudsman or another investigative agency; • where the information is collected in connection with proceedings before a court or tribunal; and • where compliance would prejudice the interests of the individual to whom the information relates. <p>The health information is collected about a person from someone other than the person concerned; Council will take reasonable steps to ensure that the person concerned will be notified in accordance with guidelines approved by the Minister for Health.</p>

4	<p>Relevant (Section 11 of PPIPA) <i>"Council must ensure that the information is relevant, accurate, up-to-date and not excessive. The collection should not unreasonably intrude into personal affairs."</i></p>
	<p>If collecting personal information, Council will take reasonable steps (having regard to the purposes for which the information is collected) to ensure that:</p> <ul style="list-style-type: none"> the information collected is relevant to a purpose, is not excessive, and is accurate, current and complete, and the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates. <p>Normally Council relies on the provider to provide accurate and complete information at the point of collection, although in special circumstances some verification may be necessary.</p>

STORAGE

5	<p>Secure (Section 12 of PPIPA) <i>"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."</i></p>
	<p>With regards to the retention and security of personal information, Council will ensure:</p> <ul style="list-style-type: none"> that information is used for a lawful purpose and is not kept longer than is necessary that the information is disposed of in accordance with the State Records Act (SRA) that the information is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse (as are reasonable in the circumstances); and if it is necessary to release the information to a person in connection with the provision of a service to Council, everything reasonable is done to prevent unauthorised use or disclosure of the information. <p>Council recognises that all records and documents (regardless of format) created by and/or received by officers of the council belong to the council and as such are assets for the use of both the council and the community. The Council is committed to improving the quality and retention of official records so that they facilitate the transaction, monitoring and auditing of official business.</p> <p>Council will include in its documents concerning employment and in any contractual agreements, terms that ensure that staff and contractors are aware of their obligations regarding the handling of any personal information obtained in the course of their employment or contract.</p> <p>Requests that relate to documents where access is restricted (eg. due to PPIPA, legal privilege etc) will be referred to the Records & Administration Coordinator who will determine access provisions.</p> <p>Electronic records are created on a secure network and are backed up on a daily/weekly basis. Personal information will be held in an appropriately secure manner. Information technology requirements, including the use of passwords, are outlined in Council's IT procedures.</p> <p>Paper records will be managed in accordance with the State Records Act SRA, and all records are held in appropriately secure areas in council buildings.</p> <p>Non-current physical records no longer required for ongoing review and reference are transferred to council's purpose built archive storage facility where records are protected, secure, and environmental conditions are appropriate to the record format and retention period. Only records authorised personnel have access to the archives facility.</p> <p>Records of council are disposed in accordance with the appropriate General disposal</p>

	authority (GA) of the State Records Act SRA. Council's records section, in accordance with the State Records Act SRA and council's Records Management Policy, conducts the culling and destruction of records. Disposals are routinely carried out on an annual basis and recorded in the Records Management Disposal Schedule as required by the SRA.
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ACCESS & ACCURACY

6	Transparent (subject to GIPA provisions) (Section 13 of PPIPA) <i>"Council must provide an individual enough details about what personal information is stored, why it is stored and an individual's rights to access."</i>
	<p>If council holds personal information about any individual it will take the necessary steps to enable any person to ascertain:</p> <ul style="list-style-type: none"> • whether the council holds personal information and • whether the council holds personal information relating to that person and • if council holds personal information relating to that person: <ul style="list-style-type: none"> ○ the nature of that information and ○ the main purposes that the information is being used, and ○ that person's entitlement to gain access to that information. <p>Personal Information held by council are broadly categorised in section 4 of this plan.</p> <p>If an individual seeks information held by council, clarification may be necessary on the types of dealings the person has had with council to identify what relevant information held on different files and in various parts of the data systems.</p>

7	Accessible (subject to GIPA provisions) (Section 14 of PPIPA) <i>"Council must allow an individual access to their own personal information without unreasonable delay and expense."</i>
	<p>Council will, at the request of the individual to whom the information relates and without excessive delay or expense, provide access to the information.</p> <p>Access request are usually required in writing or by completing the application form at Appendix 1. Applications will be dealt with as soon as practicable and usually within 28 21 days.</p> <p>Council employees have rights to access their own personnel file, their request should be directed to council's human resources section.</p> <p>Right of access to personal information under the acts does not extend to information held about other persons. Where an individual's personal information is contained in documents that also contain information about others, a formal application under GIPA may be required. This IPP should be read in conjunction with "Access to Information..." in Council's Code of Conduct.</p>

8	<p>Correct (subject to GIPA provisions) (Section 15 of PPIPA) <i>"Council must allow an individual to update, correct or amend personal information where necessary."</i></p>
	<p>Council will, at the written request of the individual to whom the information relates make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information is:</p> <ul style="list-style-type: none"> • accurate; and • is relevant to a purpose, not excessive, and is accurate, current and complete. <p>If the applicant has applied for personal information under the GIPA Act, Council will consider any request for alteration or amendment in accordance with Part 6a of the GIPA Act. The act provides that council may refuse to alter or amend its records in certain circumstances. An application form is available at Appendix 2 for this purpose.</p> <p>Changes to name, address and other minor amendments require appropriate supporting documentation. Where substantial amendments are required written requests will be necessary, and the applicant should outline why changes are sought.</p> <p>The individual to whom the information relates is entitled to have the recipients notified of the amendments made by council.</p> <p>Non-compliance of this principle is permitted if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) council's conduct of any lawful investigation.</p>

9	<p>Accurate (Section 16 of PPIPA) <i>"Council must ensure that personal information is accurate before using it"</i></p>
	<p>Council will take reasonable steps to ensure the accuracy of personal information prior to use, having regard to the purpose it was collected, its proposed use, its relevance, accuracy, whether it is current, complete and not misleading, in accordance with approved policies and recorded procedures.</p>

USE OF INFORMATION

10	<p>Limited (Section 17 of PPIPA) <i>"Council can only use information for the purposes for which it was collected, for a directly related purpose, or for a purpose to which consent is given. Information can be used without consent in order to deal with a serious and imminent threat to any person's health or safety."</i></p>
	<p>Council will not use personal information for a purpose other than for which it was collected unless:</p> <ul style="list-style-type: none"> • the individual to whom the information relates has consented to use the information for that other purpose, or • the other purpose for which the information is used is directly related to the purpose for which it was collected, or • the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom that information relates or of another person, or • the use relates to council's lawful and proper function(s) and council is satisfied that the information is reasonably necessary for the exercise of such function(s), or • non-compliance of this principle is permitted if compliance is reasonably likely to detrimentally affect (or prevent the proper exercise of) councils conduct of any lawful investigation.

	Staff using relevant personal information will not notify individuals for approval to perform usual office functions. In addition, records will be discussed with council's solicitors when the need arises and with administrative staff when necessary without prior approval of individuals. These processes relate to the normal operational functions of council and any personal information collected will be used for multiple purposes if required for the business of council. For example, names and addresses of individual owners of property kept as part of council's rates records may be used to notify adjoining owners of proposed developments.
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DISCLOSURE	
11	<p>Restricted (Section 18 of PPIPA)</p> <p><i>"Council can only disclose personal information with consent or if told at the time of collection that information would be disclosed. Council can disclose personal information if it is for a related purpose and Council deems that the individual would not object. Information can be used without consent in order to deal with a serious and imminent threat to any person's health or safety."</i></p>
	<p>Council will take reasonable care not to disclose personal information unless:</p> <ul style="list-style-type: none"> • the disclosure is directly related to the purpose for which it was collected and there is no reason to believe the individual concerned would object, or • the individual has been made aware that this kind of information is usually released, or disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person, or • another law requires or permits council to disclose the information. The Government Information (Public Access) Act 2009 overrides restrictions on disclosure of personal information. Some documents must be made available while others are subject to disclosure unless there is an overriding public interest against disclosure. • the individual expressly consents to the disclosure. For example council may provide information about an employer or former employee to a potential employer where it is clear that the person concerned has consented. • law enforcement agencies where required or permitted to do so or where there are reasonable grounds to believe an offence has been committed. • another agency is acting under specific legislative authority requiring council to provide information. <p>Council may disclose personal information to public sector agencies or public utilities on condition that:</p> <ul style="list-style-type: none"> • the agency has put request in writing, and • council is satisfied that the information is to be used by that agency for the proper and lawful function(s) of the agency, and • council is satisfied that the agency will not use or disclose the information for a purpose other than the purpose for which the information was supplied, and • council is satisfied that the personal information is reasonably necessary to exercise the function(s) of the agency, or • personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon the person an award, prize, benefit or similar form of personal information. <p>Any disclosure of personal information for the purposes of research will be in accordance with a direction issued by the NSW Privacy Commissioner.</p> <p>GIPA Government Information (Public Access) Act 2009 overrides restrictions on disclosure of personal information. Some documents must be made available while others are subject to disclosure unless there is an overriding public interest against disclosure of the information.</p> <p>Exempt documents may be released under the Government Information (Public Access) Act GIPA following a formal application process and the payment of the prescribed fee. The</p>

	disclosure of personal information contained on council files and computer records will be dealt with under the provisions of this act. Care will be taken to ensure appropriate levels of disclosure will be maintained (see example below).
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12.1	<p>Safeguarded (Section 19 of PPIPA)</p> <p><i>"Council cannot disclose sensitive personal information without consent eg: ethnic or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership. Information can be used without consent in order to deal with a serious and imminent threat to any person's health or safety."</i></p>
	<p>Council will take reasonable care not to disclose personal information that:</p> <ul style="list-style-type: none"> • relates to an individual's ethnic or racial origin, political opinions, religion 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. • relates to any enquiry from anyone who is in a jurisdiction outside NSW unless: <ul style="list-style-type: none"> ○ a relevant privacy law applies to personal information in force in that jurisdiction, or ○ the disclosure is permitted under a privacy code of practice (a law determined by the Privacy Commissioner and published in the government gazette). ○ for the purposes of S19(2) of PPIPA, where Council is requested by a potential employer outside NSW it may verify that a current or former employee works or has worked for Council, the duration of that work and the position occupied during that time. This exemption shall not permit council to give an opinion(s) to that person's suitability for a particular position 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 they have applied for. <p>NB: Health Information was deleted from this section of PPIPA in September 2004.</p>

INTERSTATE DATA FLOWS

12.2	<p>Special Restrictions on Disclosure</p> <p><i>"Personal information can only be transferred outside NSW in accordance with a process approved by the Privacy Commissioner."</i></p>
	<p>Council will take reasonable care not to disclose personal information that:</p> <ul style="list-style-type: none"> • relates to any enquiry from anyone who is in a jurisdiction outside NSW unless: <ul style="list-style-type: none"> ○ a relevant privacy law applies to personal information in force in that jurisdiction, or ○ the disclosure is permitted under a privacy code of practice (a law determined by the Privacy Commissioner and published in the government gazette). ○ for the purposes of S19(2) of PPIPA, where council is requested by a potential employer outside NSW it may verify that a current or former employee works or has worked for council, the duration of that work and the position occupied during that time. This exemption shall not permit council to give an opinion(s) to that person's suitability for a particular position 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 they have applied for.

SPECIFIC HEALTH INFORMATION PRIVACY PRINCIPLES (HPP)	
	<p>Health information held by council must only be used or disclosed in accordance with the Health Privacy Principles HIPPS contained in HRIPA.</p> <p>There are special requirements regarding notice given when health information is collected from a third party. Council will comply with the statutory guidelines approved by the Minister for Health regarding notice to be provided.</p> <p>Health information is given a higher level of protection regarding use and disclosure than other personal information. Council will comply with the use and disclosure limitations set out in the act.</p> <p>Use of health information for training or research will be in accordance with the statutory guidelines issued by the Minister for Health.</p> <p>There of four additional specific Health Privacy Principles (listed 12 to 15) contained in HRIPA:</p>

IDENTIFIERS & ANONYMITY	
12	<p>Identifiers relating to HRIPA</p> <p><i>"Council will only provide an identification number if it is reasonably necessary to carry out its functions efficiently."</i></p>
	<p>Council will only assign identifiers to individuals if it is reasonably necessary to enable the council to carry out any of its functions efficiently.</p>

13	<p>Anonymous</p> <p><i>"An individual is entitled to receive health services anonymously. However, <u>council does not provide any health service.</u>"</i></p>
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TRANSFERRALS & LINKAGE	
14	<p>Controlled</p> <p><i>"Health information can only be transferred outside NSW in accordance with HPP14 as outlined below."</i></p>
	<p>Council will not transfer health information about an individual to any person or body who is in a jurisdiction outside NSW or to the a Commonwealth agency, unless:</p> <ol style="list-style-type: none"> council reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles HIPPS, or the individual consents to the transfer, or the transfer is necessary for the performance of a contract between the individual and the council, or for the implementation of pre-contractual measures taken in response to the individual's request, or the transfer is necessary for the conclusion of performance of a contract concluded in the interest of the individual between council and a third party, or All of the following apply: <ul style="list-style-type: none"> the transfer is for the benefit of the individual it is impracticable to obtain such consent, the individual would be likely to give it, or if it were practicable to obtain such consent, the individual would be likely to give it, or

	<ul style="list-style-type: none"> • the transfer is reasonably believed by council to be necessary to lessen or prevent a serious and imminent threat to the life, health or safety of the individual or another person, or a serious threat to public health or public safety, or • council has taken reasonable steps to ensure that the information that it has transferred will not be held, or used or disclosed by the recipient of the information inconsistently with the Health Information Protection Principles HIPPS, or the transfer is permitted or required by an act (including an act of the Commonwealth) or any other law.
15	<p>Authorised <i>"Individuals must expressly consent to participate in any system that links health records across more than one organisation."</i></p>
	<p>Health information can only be included in a system to link health records across more than one organisation if the individual provides their expressed consent.</p> <p>An organisation must not:</p> <ol style="list-style-type: none"> include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose. <p>An organisation is not required to comply with a provision of this clause if:</p> <ol style="list-style-type: none"> the organisation is lawfully authorised or required not to comply with the provision concerned, or non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an act or any other law (including the State Records Act 1998 SRA), or the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual is to be disclosed) is a use of the information that complies with HIPP 10(1)(f) or a disclosure of the information that complies with HIPP 11(1)(f). <p>In this clause:</p> <p>health record is an ongoing record of health care for an individual.</p> <p>health records linkage system is a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.</p>

6. SUBMISSIONS TO COUNCIL

Council will continue to seek submissions on matters of public interest, including development applications, significant policies and planning proposals.

Council will consider submissions during their deliberations, and a full copy of submissions will be printed in the council business paper, which will be available to members of the public.

Council will endeavour to inform the community of its policy to make all submissions available for public scrutiny. This will include notification on council's website, in policy documents and council advertising. A sample style of notification is included for reference. The general manager may vary this notice at any time subject to there being no change to the intent of the notice.

~~Submissions are publicly available documents. Submissions may be listed on Council's website in the DA online facility, and included in Council's business paper. If you do not wish your submission to be publicly available you must provide written reasons. Alternatively, you may provide an anonymous submission however it may be given less (or no) weight in the overall consideration of a proposal.~~

Submissions

Submissions are publicly available documents. For details on how Council manages submissions refer to our website www.ballina.nsw.gov.au>>yourcouncil >> access to information >> your privacy.

Anonymous Submissions

Individuals may choose to make an anonymous submission, but should be aware that the council may give such a submission lesser consideration.

Confidential Submissions

Alternatively, a member of the public may request in writing that their identifying details be suppressed. Such a request should be substantiated and addressed to the Privacy Officer.

Confidential submissions will be treated as follows:

- any confidential submission that forms part of a council report will have private and identifying information removed, before a copy is provided to councillors to assist with their deliberations. A cover sheet, stating the following, will be attached to confidential submission:

"Please note private and identifying information has been removed from these submissions in accordance with the Privacy & Personal Information Protection Act 1998 at the request of the submitter."

- submissions will be scanned and registered into council's electronic document management system "Dataworks" and ~~precised~~ titled (CONFIDENTIAL SUBMISSION) DA etc

- submissions will be placed on ~~DA/Project~~ file with a cover sheet stating:

**Confidential Submission
Not for Public View**

7. COMPLAINTS

Complaints are welcomed feedback ~~by Council~~ and assist in the planning and improvement of ~~Council's~~ systems, procedures and policies. Under Council's Complaints Policy, anonymous complaints will not be accepted. Any person making a verbal anonymous complaint, or who can be identified despite the claim for anonymous standing, shall be advised that strict confidentiality will be applied to their complaint and their name will not be disclosed BUT anonymity will not be permitted.

Confidentiality will be given to complaints according to the PPIPA principles. Wherever possible, complaints are resolved and reviewed locally involving the fewest number of people. Complaints are treated confidentially and information is only used for the purposes for which it was collected unless:

- either the consent of the individual(s) is obtained by a formal GIPA application;
- Council has reasonable grounds for believing the use of the information will reduce the threat to life or health of any person; or
- the use is authorised by law.

8. RECORDING OF MEETING OF COUNCIL OR COMMITTEES

- (1) A person may record the proceedings of a meeting of council or a committee of council only with the authority of the council or committee.
- (2) A person may, as provided by section 10(2)(a) or (b) of the LGA, be expelled from the meeting of a council or a committee of a Council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) ~~In this clause,~~ A tape recorder includes a video camera **or phone** and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **(Reg 273)**
- (5) Live video relay of open ordinary council meetings are screened in the foyer of council's customer service centre.
- (6) Council makes full audio and visual recordings of ordinary council meetings, excluding deputations, public question time and confidential session. In accordance with open access provisions of ~~the Government Information~~

(Public Access) Act **GIPA** these recordings are available to the public at a fee determined by Council.

9. PUBLIC REGISTERS

Public Registers are defined in PPIPA as 'registers of personal information that are required by law to be, or are made, publicly available or open to public inspection'.

9.1 Access

Public Registers fall into two categories

~~Category A – Restricted access~~

~~Category B – Unrestricted access~~

~~A list of public registers and their category and access restrictions is contained at Appendix 1.~~

~~Access to a Category A register is restricted to one page (or a single entry, if more than one page) unless the person seeking access first provides Council with a statutory declaration setting out their reason for seeking access and those reasons meet the purpose of the register, or an Act under which the register is kept. Applications to access bulk information held on a Category A register must be made in writing and accompany a statutory declaration.~~

~~Access to inspect a Category B register is unrestricted.~~

~~a) Access to small amounts of personal information from a public register~~

~~The Privacy Code of Practice for Local Government states that a person is permitted to inspect a public register in Council premises, and is permitted to copy a single entry or page of the register. In the case of this information being held in an electronic form, staff can verbally supply information regarding a single entry from a public register.~~

~~Examples of small requests for personal information, which can be given from the public register:~~

- ~~a) To enable a property owner or resident to determine the ownership of an adjoining property, and the postal/mailling address of that owner.~~
- ~~b) To enable a person who has been the subject of an injury to establish the identity and mailing address of the owner of the property upon which the accident occurred.~~
- ~~c) Cemetery details to an undertaker, family member or to a person conducting genealogical research.~~
- ~~d) The name and address of an applicant for building or development approval.~~

~~Note: Personal information about a living child under the age of 16 years is not to be given out without the consent of the guardian. An application for this type of information needs to be dealt with under the GIPA Act.~~

~~b) Access to large amounts of personal information from a public register~~

~~Significant care should be taken in supplying large amounts of personal information to a single applicant. For example, the developer of an aged care facility may wish to contact a number of residents in the vicinity of the proposal to inform them what is proposed.~~

~~The *Privacy Code of Practice for Local Government* provides two options for dealing with this type of request:~~

- ~~1. Supply the requested details after deleting the identity of the property owners (ie. only supply the property and zoning details, but exclude individual's names).~~
- ~~2. Request that the developer complete a statutory declaration confirming that the intended use of the information is consistent with the purpose of the register or the legislation under which the register has been established. A copy of a Statutory Declaration form is provided at Appendix 5.~~

Council is required by various legislation to hold and maintain public registers and make them available for inspection.

A **Public Register** is defined in s 3 of PPIPA as:

'A register of personal information that is required by law to be, or is made, publicly available or open to public inspection.'

A **Non Public Register** is still a register, but it is not a public register for the purposes of PPIPA. Non public registers may not be publicly available or may not contain personal information - an example is the Companion Animals Register.

Under the LGA Council holds a number of registers including land registers, records of approval, and register of pecuniary interests.

Under the Environmental Planning and Assessment Act Council also holds public registers such as the register of consents and approvals and the record of building certificates.

Disclosure Requirements

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

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

As part of this process, Council may ask the person requesting access what they intend to use the information for. This may need to be given in the form of a statutory declaration. If the purpose stated by the applicant does not match the purpose for which the register is kept, access to the information may not be allowed.

If the personal information is in a publicly available publication then it is not covered by PPIPA.

Under the code, Council may allow any person to inspect a publicly available copy of a public register in Council premises and copy a single entry or a page of the register without requiring them to provide a reason for accessing the register.

Requests for access, copies or sale of the whole or substantial part of a public register held by Council may not fit the purpose for which the register was created. As a result Council may not disclose personal information in some circumstances, or may require a statutory declaration to satisfy Council that the purpose of use is consistent with the purpose for which the register is kept.

Government Information (Public Access) Regulation 2009

Schedule 1 of the Government Information (Public Access) Regulation prescribes additional information is open access. If a register is not listed in schedule 5, access must not be given unless it is allowed under s 57(1) of PPIPA, and inspection is not contrary to the public interest (s14 of GIPA).

10. ACCESS TO PERSONAL INFORMATION UNDER THE LGA

~~The requirements of PPIPA concerning access to Public Registers override requirements contained in Schedule 5 of the Government Information (Public Access) Act. Schedule 5 provides that everyone is entitled to inspect the current version of a certain specified document(s) free of charge.~~

~~If a register is listed under Schedule 5 of the Government Information (Public Access) Act, it is a Public Register. The issue is whether or not the register contains personal information. If the register does contain personal information, access is still permitted, but only on the grounds stated in section 7.1 of this Plan.~~

~~If access is required to a substantial part of the register, the purpose of the access must be consistent with the purpose of the register, which can be recorded by the applicant completing a statutory declaration (Appendix 5). Otherwise, access is still permissible, provided that all personal information is first removed or masked from the register first. See section 7.1(b) of this Plan.~~

~~A register held by Council that is not listed in Schedule 5 of the Government Information (Public Access) Act can still be classified as a Public Register. A register is considered a public register if it is required by law, to be publicly available or open for inspection. If this type of register contains personal information, public access may be granted unless there is an overriding public interest against disclosure.~~

~~A person seeking access to their own personal information must put their request in writing or complete the application form at Appendix 2. Proof of identity must be provided.~~

An application to access personal information can be found at Appendix 1. Council will provide access to personal information held within 20 working days.

The right to access personal information under PPIPA does not extend to information which is held about other people. Application will need to be made under GIPA if an individual's personal information included in documents which also contain information about others.

11. AMEND PERSONAL INFORMATION

An application to amend personal information can be found at Appendix 2.

There is no fee to amend personal information by council. The applicant must state reasons for the change, and provide supporting documentation eg: marriage certificate.

12. SUPPRESS ACCESS TO PERSONAL INFORMATION

Any person whose personal information appears on a public register may apply to have it:

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

If council believes that the safety or wellbeing of the applicant is likely to be adversely affected by the information remaining on the register, it must be removed, unless there is an overriding public interest in it remaining on the register. If the information is removed from public access, it may be kept on the register for other internal purposes.

Any application for the suppression of personal information must be in writing, or by completing the application form at Appendix 3, outlining the circumstances to justify suppression of personal information.

13. INTERNAL REVIEW PROCESS

Where a person is aggrieved by the conduct of Council due to:

- contravention of a privacy principle that applies to Council,
- contravention of a code of practice that applies to Council,
- disclosure of personal information kept on a public register,

the applicant is entitled to apply for an internal review by forwarding a written request to:

The General Manager | Ballina Shire Council | PO Box 450 | BALLINA NSW 2478

Upon receipt of the application, a copy will be forwarded to the Privacy Commissioner, who will be informed of the progress and outcome of the review.

The application must be lodged within six months from the time the applicant first became aware of the apparent misconduct.

The contents of the application will be kept confidential.

Council's Public Officer, who will consider any relevant material submitted by either the applicant or the Privacy Commissioner, will deal with the application.

The review will be completed as soon as reasonably practicable within 60 days from receipt of the application for review.

Following completion of the review, council will do one or more of the following:

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

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

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

14. TRAINING & EDUCATION

Council's Privacy Management Plan will be provided to employees during council's as a part of the staff induction program, and will be available to staff through council's infonet.

Privacy training will be incorporated in council's training program.

This Privacy Management Plan will be reviewed within the term of each Council by the Privacy Officer. The plan's effectiveness will be assessed and this will lead to any necessary changes. The plan will be available to the public through council's website or from the customer service counter.

Further information may be obtained by contacting:

- Council's Records & Administration Coordinator, Public Officer, or the Privacy Officer on 6686 4444 or via email council@ballina.nsw.gov.au.
- The NSW Privacy Commissioner on phone 02-9228-8585 02 8019 1600.

15. ROLE OF THE PRIVACY OFFICER

In order to ensure compliance with information protection principle 1, forms, rates notices, application or written requests by which personal information is collected by council will be referred to the Privacy Officer, prior to adoption or use.

The Privacy Officer will also provide advice as to:

- 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
- Any further concerns of a legal nature will be referred to Council's solicitor.

16. REVIEW

The Privacy Management Plan is to be reviewed every four years.

APPENDIX 1 – CATEGORY A – RESTRICTED ACCESS

Name of Register	Act & Section under Act	Purpose of Register		Register held by	Form of Register	Access Details
		Primary Purpose	Secondary Purpose			
Caravan Park Licenses	LGA (Reg 2005)	Identify Caravan Park Licenses	Public Accountability	Building	Electronic	Public document available for inspection but an application to inspect or copy more than a page is subject to a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.
Construction Certificate	EPA Regs 2000 s.100B	To identify Construction Certificates	Public Accountability	Planning	Electronic	Public document available for inspection and copying. But requests to inspect or copy more than one page a statutory declaration stating reasons for the request must be completed. Bulk copying only permitted if the purpose is consistent with the purpose of the EPA Act. Note – right to inspect does not extend to internal floor plans, specifications and commercial in confidence information (Schedule 6 (3)(2)(a)(b) CIPA).
Development Applications	EPA Act 1979	To identify development applications	Public Accountability	Planning Records	Electronic Hard Copy	As above.
Electoral Roll				Records	Hardcopy	Public document available for inspection only – no copies permitted. Any request for copies should be referred to the Electoral Office, King Arcade, King St. Croydon.
Graffiti Removal Register	LGA s.67C	To identify private premises from which graffiti has been removed	Public accountability	Environmental & Health Services	See Access Details	Council only removes graffiti from public land – Council does not maintain a public register of graffiti removal on private land.
Food Licensing	Food Act 2003	Identify food handling operations	Conduct Inspections	Environmental & Health Services	Electronic	Public document available for inspection but an application to inspect or copy more than a page is subject to a statutory declaration stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.

Name of Register	Act & Section under Act	Purpose of Register		Register held by	Form of Register	Access Details
		Primary Purpose	Secondary Purpose			
Handicappers	LGA 1993	Identify licensed handicapping outlets	Conduct Inspections	Environmental & Health Services	Electronic	As above.
Impounding	Companion Animals Act 4996, Impounding Act 1999	Identify all animals and vehicles impounded	Public Accountability	Environmental & Health Services	Electronic Hardcopy	As above.
Leases of Community Land	Local Govt Amend. (Comm. Land Mgt) Act 1998	Leases of Community Land	Public Accountability	Property	Electronic	As above Register held via Property Database.
On Site Sewage Management	LGA (Reg 2005)	Identify sites where approval has been granted to dispose of effluent on-site.	Public Accountability	Environmental & Health Services	Electronic	As above.
Places of Public Entertainment	LGA 1993	Identify places of public entertainment.	Conduct Inspections	Building	Electronic	As above.
Pecuniary Interests - Councillors & Designated Persons	LGA Section 44G - 450A	To detail pecuniary interests & other matters of Councillors & designated persons including property ownership & dispositions, sources of income & gifts, travel contributions, positions in corporations, trade unions & business associations, nature of debts & any other discretionary disclosures.	Public accountability and third party access	Records	Hardcopy	As above.
Protection of the Environment Operations Act License Hold	POEO Act 1997 s-308	To identify noise prevention clean-up permits, burn-off permits granted	Public Accountability	Environmental & Health Services	Electronic	As above.

Name of Register	Act & Section under Act	Purpose of Register		Register held by	Form of Register	Access Details
		Primary Purpose	Secondary Purpose			
Rates/Property Register (Rates Database)	LGA 1993 S-602	To record the value of a parcel of land and rate liability in respect to that land	Records the owner or rate paying lessee of each parcel of land	Rates	Electronic	Ownership details can be released on individual basis only - no need for a reason to be given - Council's practice is to only release - postal/service - address - of ratepayer. No release on bulk basis (See DLG Circular 00/05) - however, it has been determined that the following are consistent with the purposes of the PPFA. Release of information to: <ul style="list-style-type: none"> • Electoral Commission (DLG letter 13/7/00) • Telecommunication carriers and other bodies - required to discharge statutory obligations LGA (WC 37/00 & WC 38/00) • Registered valuers LGA (WC 50/00)
Sales Data		Records transfer of ownership of real property in Ballina Shire.	Public Accountability	Rates	Electronic	Sourced from Land Titles Office Public Register - therefore can be released with/without names on individual basis only. No release on bulk basis - except to Registered valuers LGA (WC 50/00).
Section 04 Contributions	ERA Regs 2000 cl-86/87	To identify Section 04 Contributions	Public Accountability	Planning	Electronic	Public document available for inspection and copying - but requests - in respect of - copy more than one page - statutory declaration stating reasons for the request - must be completed - Bulk copying - only permitted - if the purpose is consistent with the purpose of the ERA Act. Note - right to inspect does not extend to internal floor plans, specifications and commercial-in-confidence information (Schedule 5(1)(a)(b) CIPA).
Skin Penetration	Public Health (SHR Penetration Reg 2000)	Identify outlets that conduct tattooing and skin piercing.	Conduct Inspections	Environmental & Health Services	Electronic	Public document available for inspection and copying but if copies of more than one page required then a statutory declaration is required stating reasons for the request. Bulk copying only permitted if the purpose is consistent with the purpose of the Act requiring the register.

Name of Register	Act & Section under Act	Purpose of Register		Register held by	Form of Register	Access Details
		Primary Purpose	Secondary Purpose			
Trade Waste	LGA 1993 POEO Act 1997	Register of licences issued for the discharge of trade waste to sewer	Public Accountability	Trade Waste	Electronic	As above.

APPENDIX 1 – CATEGORY B – UNRESTRICTED ACCESS

Name of Register	Act & Section under Act	Purpose of Register		Register held by	Form of Register	Access Details
		Primary Purpose	Secondary Purpose			
Cemetery	LGA 1993			Open Spaces & Reserves	Electronic	Unrestricted public access & copying
Declarations of Interests at Council & Committee Meetings	LGA 1993 s.451 & 452	To reveal the existence and nature of a pecuniary interest by a Councillor or a member of a Council Committee when the actual matter about to be considered at Council or Committee Meeting and to show that they left the (if applicable to the interest declared) during the course of discussion or decision-making.	Public accountability and third party access	Records	Electronic Minutes Hardcopy Minutes	Unrestricted public access & copying
Delegations Register	GPA Schedule 5	To detail authority delegated to the General Manager, Council Committees etc.	Public accountability	General Managers Office	Hardcopy	Unrestricted public access & copying
Investments	GPA Schedule 5	To detail invested funds & returns	Public accountability	Finance	Hardcopy	Unrestricted public access & copying
Land Register (Community, Operational and Crown Land)	LGA s.53	To identify all land vested in Council or under its control	Public accountability as to the land held by Council	Strategic Planning	Hardcopy	Unrestricted public access & copying

Policies	GPA Schedule 5	To detail a list of Council's policy documents	Public accountability	Records	Electronic Hardcopy	Unrestricted public access & copying. Available on Council's website.
Public Gates/Ramps	LGA 1993	Register of Gates & Ramps in Ballina Shire		Engineering	Electronic	Unrestricted public access & copying
Roads	LGA 1993	Register of Council owned roads that Council maintains	To meet accounting standards for asset reporting purposes.	Engineering	Electronic	Unrestricted public access & copying

APPENDIX 4 – NON PUBLIC REGISTERS – RESTRICTED ACCESS

Name of Register	Register held by	Form of Register	Access Details
Cheque Warrant	Finance Section		No Public Access. Access only to employees and to persons or organizations who have a statutory right to inspect.
Employee Register	Human Resources	Electronic	No Public Access. Access only to employees and to persons or organizations who have a statutory right to inspect.
Immunisation	N/A	Hardcopy	Council no longer provides immunisation services so therefore no longer keeps a current register. All records were transferred to the Community Health Centre at Ballina District Hospital.
Leave	Human Resources	Electronic	No Public Access. Access only to employees and to persons or organizations who have a statutory right to inspect.

APPENDIX 1 - REQUEST TO ACCESS PERSONAL INFORMATION

**Access to Council documents in accordance with Sections 13, 14 & 15
Privacy & Personal Information Protection Act 1998 (NSW)**

APPLICANT DETAILS

Name:
Address:
.....
Phone:
Email:

TYPE OF REQUEST (please tick)

- Access to all personal information held by council concerning myself
- Access to the following personal information only:
 - Property File
 - Rates Records
 - Personal Correspondence
 - Development Application File
 - Other Council documents (please specify)

Provide additional information to assist in processing your request:

.....
.....
.....

PROOF OF IDENTITY

- Drivers Licence
- Passport
- Known to Officer
- Other

Office Use Only:

- ID sighted
- Staff Signature



.....
Applicant's Signature

.....
Date

APPENDIX 2 - REQUEST TO AMEND PERSONAL INFORMATION

Amend Personal Information in accordance with Part 2 Section 15
Privacy and Personal Information Protection Act 1998

APPLICANT DETAILS

Name:
Address:
Contact Ph Number(s):
Email:

CHANGES TO PERSONAL INFORMATION

What needs to be altered or amended?
Reason for alteration or amendment
Description of supporting documents

PROOF OF IDENTITY

- Drivers Licence
Passport
Known to Officer
Other

Office Use Only:

- ID sighted

Staff Signature



Applicant's Signature

Date

APPENDIX 3 - REQUEST TO SUPPRESS PERSONAL INFORMATION

**Suppress Personal Information from Public Register in accordance with Section 58
Privacy & Personal Information Protection Act 1998 (NSW)**

APPLICANT DETAILS

Name:

Address:

.....

Contact Ph Number(s):

Email:

REQUEST FOR SUPPRESSION

Please suppress the following personal information from Council's Public Register:

.....

.....

Please nominate public registers if known:

.....

.....

Reasons for suppression (please supply copies of supporting documents):

.....

.....

PROOF OF IDENTITY

- Drivers Licence
- Passport
- Known to Officer
- Other

Office Use Only:

- ID sighted
- Staff Signature



.....
Applicant's Signature

.....
Date

APPENDIX 4 - STATUTORY DECLARATION

Statutory Declaration - Oaths Act, 1900, Ninth Schedule

Access, copy or purchase the whole or substantial part of a public register. Under Section 57 Privacy and Personal Information Protection Act 1998

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

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

I seek access to held on the public register of *

The purpose for which I seek this information is

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1994.

Declared at (place where declaration made) in the said State this day of (date) By: (signature of applicant)

before me:

Signature of Justice of the Peace/Solicitor

Name of Justice of the Peace/Solicitor

* Applicant to describe the relevant public register.

