



Plan:

Privacy Management

2018

INFORMATION ABOUT THIS DOCUMENT

Date Adopted by Council or Endorsed by General Manager	28 August 2018	Resolution No. or Document Reference for Endorsement No.	14.08/18
Document Owner	Director Community and Governance		
Document Development Officer	Coordinator Governance and Risk		
Review Timeframe	Two years		
Last Review Date:	July 2018	Next Scheduled Review Date	July 2020

Document History

Doc No.	Date Amended	Details/Comments eg Resolution No.
Version 1	28 June 2018	Draft for consideration by Audit, Risk and Improvement Committee at meeting 10 July 2018
Version 2	12 July 2018	Revised draft for consideration by Council at meeting 24 July 2018
Version 3	28 August 2018	Adopted Council Res. 14.08/18

Further Document Information and Relationships

Related Legislation	Government Information (Public Access) Act 2009 Health Records and Information Privacy Act 2002 Local Government Act 1993 Privacy and Personal Information Protection Act 1998 Public Interest Disclosures Act 1994
Related Policies	Uralla Shire Council Code of Conduct
Related Procedures/ Protocols, Statements, documents	Guide to Making Privacy Management Plans (IPC, August 2012) Model Privacy Management Plan for Local Government (Office of Local Government, January 2013) Privacy Management Plans – Checklist (IPC, June 2014)

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PREFACE

The *Privacy and Personal Information Protection Act 1998* (PIIP Act) requires that all NSW councils prepare a Privacy Management Plan (Plan) outlining their policies and practices to ensure compliance with the requirements of the PIIP Act and the *Health Records and Information Privacy Act 2002* (HRIP Act).

In particular, the purpose of this Privacy Management Plan (Plan) is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by Uralla Shire Council (Council); and
- Council Officials, Contractors and Volunteers of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

DEFINITIONS

Contractors	Includes contractors, consultants and suppliers engaged by Council under contract to provide goods, services or specialist or professional advice to Council.
Council Officials	Includes Councillors, members of staff of Council, administrators, Council committee members and delegates of Council.
Health Information	Defined in section 6 of the HRIP Act and at clause 1.4 of this Plan.
Personal Information	Defined in section 4 of the PIIP Act and at clause 1.1 of this Plan.
Public Officer	A member of Council's senior staff, appointed under the <i>Local Government Act 1993</i> . The functions of the Public Officer include dealing with complaints from the public concerning Council's affairs.
Public Register	Defined in section 3 of the PIIP Act and at clause 2.1 of this Plan.
Volunteers	Individuals who voluntarily assist in the provision of Uralla Shire Council services or in the delivery of its projects, programmes and events without financial payment.

SCOPE

This Plan applies to:

- Council Officials
- Contractors; and
- Volunteers

Council Officials, Contractors and Volunteers should be aware of the general provisions of the PIIP Act and the Information Protection Principles, the HRIP Act and the Health Privacy Principles, the Public Register provisions, the Privacy Code of Practice for Local Government (Privacy Code), this Plan and any other applicable information.

PART 1 - INTRODUCTION

The PPIP Act provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIP Act requires all public sector agencies, including councils, to prepare a Privacy Management Plan to deal with:

- The devising of policies and practices to ensure compliance by Council with the requirements of the PPIP Act and the HRIP Act;
- The dissemination of those policies and practices to persons within Council;
- The procedures that Council proposes for internal review of privacy complaints; and
- Such other matters as are considered relevant by Council in relation to privacy and the protection of personal information held by it.

This Plan has been prepared for the purpose of section 33 of the PPIP Act.

The PPIP Act provides for the protection of personal information by means of the following 12 Information Protection Principles:

- Principle 1 – Collection of personal information for lawful purposes
- Principle 2 – Collection of personal information directly from individual
- Principle 3 – Requirements when collecting personal information
- Principle 4 – Other requirements relating to collection of personal information
- Principle 5 – Retention and security of personal information
- Principle 6 – Information about personal information held by agencies
- Principle 7 – Access to personal information held by agencies
- Principle 8 – Alteration of personal information
- Principle 9 – Agency must check accuracy of personal information before use
- Principle 10 – Limits on use of personal information
- Principle 11 – Limits on disclosure of personal information
- Principle 12 – Special restrictions on disclosure of personal information

This Plan has been developed to incorporate the requirements of the *Government Information (Public Access) Act 2009* (GIPA Act). The GIPA Act extends the right of the community to have access to information held by State Government departments and local and public authorities with a view to achieving more open, accountable and transparent government.

This Plan has also been developed to incorporate the requirements of the HRIP Act. The HRIP Act regulates the collection and handling of people's health information by New South Wales public and private sector organisations. As with the PPIP Act, the HRIP Act provides protection for health information by means of the following 15 Health Privacy Principles:

- Principle 1 – Purposes of collection of health information
- Principle 2 – Information must be relevant, not excessive, accurate and not intrusive
- Principle 3 – Requirements when collecting personal information
- Principle 4 – Individual to be made aware of certain matters
- Principle 5 – Retention and security

- Principle 6 – Information about health information held by organisations
- Principle 7 – Access to health information
- Principle 8 – Amendment of health information
- Principle 9 – Accuracy
- Principle 10 – Limits on use of health information
- Principle 11 – Limits on disclosure of health information
- Principle 12 – Identifiers
- Principle 13 – Anonymity
- Principle 14 – Transborder data flows and data flow to Commonwealth Agencies
- Principle 15 – Linkage of health records

This Plan outlines how Council will incorporate the 12 IPPs and 15 HPPs into its everyday functions.

Nothing in this Plan is to:

- Affect any matter of interpretation of the Privacy Code, the Information Protection Principles or the Health Privacy Principles as they apply to the Council;
- Affect any obligation at law cast upon Council by way of representation or holding out in any manner whatsoever; or
- Create, extend or lessen any obligation at law which Council may have.

This Plan is designed to introduce policies and procedures to maximise compliance with the PPIPA and the HRIPA. Where Council has the benefit of an exemption, it will nevertheless describe procedures for compliance in this Plan. By doing so, it is not to be bound in a manner other than that prescribed by the Privacy Code.

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

It may mean in practice that any information that is not personal or health information will receive treatment of a higher standard; namely treatment accorded to personal or health information where the information cannot be meaningfully or practicably separated.

1.1 What is Personal Information?

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

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

1.2 What is not Personal Information?

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

Where Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIP Act - (for example, a formal or informal request under the GIPA Act).

1.3 What is Health Information?

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

“personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual or an individual’s express wishes about the future provision of health services to him or her or a health service provided or to be provided to an individual”.

1.4 What is not Health Information?

Some health information is not protected by the HRIP Act:

- Health information about a person who has been dead for more than 30 years;
- Some employee-related health information, namely information or an opinion about an individual’s suitability for appointment or employment as a Council Official;
- Health information that is generally available to the public (for example, in a generally available publication, library or the NSW State Archives);
- Health information that might be specifically protected under other laws, such as Protected Disclosure, information about a witness on a protected witness program, or information obtained during special police operations.

1.5 Personal and Health Information held by Council

Council holds personal information concerning Councillors, such as:

- Personal contact information;
- Complaints and disciplinary matters;
- Pecuniary interest returns; and
- Entitlements to fees, expenses and facilities.

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

- Rates records;
- Customer requests;
- Library lending records;
- Burial and cremation records;
- Community service utilisation (e.g. community transport, aged and disability support services);
- CCTV footage;
- Donation, grant and sponsorship applications;
- Submissions and information collected as part of Council’s community engagement and consultation activities; and
- DA applications and objections.

Council holds personal and health information concerning current and former employees in records such as:

- Recruitment material;
- Pre-employment medical information;
- Workers compensation investigations;

- Public interest disclosure investigations;
- Leave and payroll data
- Personal contact information;
- Performance management plans;
- Disciplinary matters;
- Disclosure of interest returns; and
- Wage and salary entitlements.

Council holds personal and health information concerning current and former residents of McMaugh Gardens Aged Care Centre and current and former clients of Tablelands Community Support, such as:

- Personal contact information;
- Date of Birth;
- Aged Care Assessment Team reports;
- Financial details, including income and asset information;
- Information pertaining to guardianship, attorney or person responsible;
- Health status and services provided, including any information required to complete and update care and treatment plans;
- Clinical care information, including images and scans;
- Relevant demographic and social information;
- Name and contact number of any contacts or relevant family members;
- Name and contact information of the resident's general practitioner and other relevant health care providers;
- Financial institution information;
- Government-related identifiers (including, but not limited to, Medicare, Centrelink and Department of Veterans Affairs numbers);
- Details on family history, interests, hobbies and activities; and
- Details of food preferences and allergies.

We also request our residents of McMaugh Garden's Aged Care Centre to volunteer their religious affiliations to better support the delivery of chaplaincy services as and when required.

1.6 Suppression of information available for public inspection (not held in Public Registers)

Under section 739 of the *Local Government Act 1993* (the Local Government Act) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person's place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the Local Government Act relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, Council will err in favour of suppression.

For more information regarding disclosure of information (other than public registers) see the discussion of IPPs 11 and 12 in Part 3 of this Plan. For information regarding suppression of information on public registers, see Part 2 of this Plan.

PART 2 – PUBLIC REGISTERS

2.1 What is a Public Register?

A Public Register is defined in section 3 of the PPIP Act as:

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

A distinction needs to be drawn between Public Registers within the meaning of Part 6 of the PPIP Act and “non-public registers”. A “non-public register” is a register but it is not a Public Register for the purposes of the PPIP Act. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to Public Registers must comply with Part 6 Public Registers of the PPIP Act and the Privacy Code. Council will not give personal information to a person about another person unless the personal information is contained in a Public Register. Where personal information is contained in a Public Register, then Part 6 of the PPIP Act applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the IPPs as outlined in this Plan and the Privacy Code where it includes personal information that is not published.

2.2 Application of the PPIP Act and the HRIP Act to Public Registers

A Public Register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

Despite the exclusion of “health information” from the definition of “personal information” under section 4A of the PPIP Act, section 56A of the PPIP Act includes as personal information, health information held on public registers.

Section 57 of the PPIP Act requires very stringent controls over the disclosure of personal information contained in a Public Register. It provides broadly that where Council is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57(2) provides that in order to ensure compliance with section 57(1), Council may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information.

Council also needs to consider the Privacy Code which has the effect of modifying the application of Part 6 of the PPIP Act (the Public Register provisions). If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIP Act or as health information for the purposes of Part 6 of the PPIP Act.

2.3 Effect on mandatory proactive release of information under section 6 of the GIPA Act

Section 6 of the GIPA Act requires that certain government information held by Council must be made publicly available unless there is an overriding public interest against disclosure of the information. At least one of the ways in which this information is made available must be free of charge.

Section 18 of the GIPA Act requires that Council provide open access to those documents listed under Schedule 1 of the Government Information (Public Access) Regulations 2009 (GIPA Regs).

In the event of any inconsistencies that exist between the PPIP Act and the GIPA Act, section 57 of the PPIP Act will prevail over clause 1(3) of Schedule 1 of the GIPA Regs. In other words:

1. If a register is listed in Schedule 1 of the GIPA Regs, access must not be given except in accordance with section 57(1) of the PPIP Act.
2. If a register is not listed in Schedule 1 of the GIPA Regs, access must not be given except:
 - (i) if it is allowed under section 57(1) of the PPIP Act; and
 - (ii) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

(Note: Both 1 and 2 are amended with regard to specific public registers in the Privacy Code)

2.4 Disclosure of Personal Information contained in the Public Registers

A person seeking a disclosure concerning someone else’s information from a Public Register must satisfy Council that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

In the section ‘Purposes of Public Registers’, by way of guidance only, what might be called the “primary purpose” (or “the purpose of the register”) has been specified for each identified register. In some cases a “secondary purpose” has also been specified, by way of guidance as to what might constitute “a purpose relating to the purpose of the register”.

2.5 Purposes of Public Registers

Council holds the following Public Registers:

<i>Under the Local Government Act 1993</i>		
Name of Register	Relevant Section	Purpose of Register
Land Register	Section 53	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.
Record of Approvals	Section 113	To identify all approvals granted under the LG Act.

Register of Pecuniary Interests	Section 450A	To determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which Council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.
Record of Rates and Charges	Section 602	<p>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 Local Government Act) 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”.</p> <p>Exceptions will be permitted for property owners requesting the adjoining property owner’s personal information for fencing purposes under the Dividing Fences Act 1991. For fencing purposes, a written request must be made to Council accompanied by the property owner’s authority (i.e. the property owner who is seeking to do or to contract the fencing work) requesting the adjoining owner’s details. In this case, Council will only provide the names and postal address of the adjoining owners.</p>

Under the Environmental Planning and Assessment Act 1979

Name of Register	Relevant Section	Purpose of Register
Register of Consents and Approvals	Section 100	To identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.
Record of Building Certificates	Section 149G	To identify all building certificates.

Under the Protection of the Environment Operations Act 1997

Name of Register	Relevant Section	Purpose of Register
Public Register of Licenses Held	Section 308	To identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

Under the Impounding Act 1993		
Name of Register	Relevant Section	Purpose of Register
Record of Impounding	Sections 30 & 31	Identify any impounding action by Council.

2.6 Secondary Purpose of all Public Registers

Due to the general emphasis (to be found in the Local Government Act and the GIPA Act) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore, disclosure of specific records from public registers would normally be considered to be allowable under section 57 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 will be guided by the Privacy Code in this respect. Where Council Officials have doubt as to the intended use of information requested from a public register, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the minimum amount of personal information that is required to be disclosed with regard to any request.

2.7 Other purposes

Persons or organisations who apply to Council to access information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Privacy Code concerning Public Registers.

2.8 Applications for access to own records on a Public Register

A person wishing to have access to a Public Register to confirm their own details needs only to prove their identity to Council before having access to their own personal information.

2.9 Suppression of information in relation to a Public Register

An application for suppression in relation to a Public Register will be dealt with under the PPIP Act rather than section 739 of the Local Government Act.

A person about whom personal information is contained (or proposed to be contained) in a Public Register, may request Council under section 58 of the PPIP Act to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIP Act.

When in doubt, Council will err in favour of suppression.

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

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. Council may require supporting documentation where appropriate.

2.10 Other Registers

Council may have other registers that are not public registers. The IPPs, HPPs, this Plan, any applicable Codes and the PPIP Act apply to those registers and databases.

PART 3 – THE INFORMATION PROTECTION PRINCIPLES

The 12 IPPs are set out in [Part 2 Division 1 of the PPIP Act](#).

IPP 1 – Lawful Purposes

The Privacy Code

The Privacy Code makes no provision to depart from this principle.

Council Policy

Council will only collect personal information for a lawful purpose directly related to its functions and activities. The Local Government Act governs Council's major obligations and functions.

Section 22 of the Local Government Act provides other functions under other Acts. Some of those Acts are as follows:

- *Community Land Development Act 1989*
- *Companion Animals Act 1998*
- *Conveyancing Act 1919*
- *Environmental Planning and Assessment Act 1979*
- *Fire Brigades Act 1989*
- *Fluoridation of Public Water Supplies Act 1957*
- *Food Act 2003*
- *Impounding Act 1993*
- *Library Act 1939*
- *Protection of the Environment Operations Act 1997*
- *Public Health Act 2010*
- *Public Interest Disclosures Act 1994*
- *Recreation Vehicles Act 1983*
- *Roads Act 1993*
- *Rural Fires Act 1997*
- *State Emergency Service Act 1989*
- *Strata Schemes (Freehold Development) Act 1973*
- *Strata Schemes (Leasehold Development) Act 1986, and*
- *Swimming Pools Act 1992.*

The list is not exhaustive.

Additionally, the exercise by Council of its functions under the Local Government Act may also be modified by the provisions of other Acts. Some of those Acts follow:

- *Coastal Protection Act 1979*
- *Environmental Offences and Penalties Act 1989*
- *Government Information (Public Access) Act 2009*
- *Heritage Act 1977*
- *State Emergency and Rescue Management Act 1989*
- *Unclaimed Money Act 1995.*

Collection of information under the *Companion Animals Act 1998* and Council's use of the Companion Animals Register should be guided by the Chief Executive of the Office of Local Government guidelines, which have been developed with the PPIP Act in mind.

Role of the Privacy Contact Officer

Where Council requires an individual to provide their personal information, whether this be by submission of a form or a written request by which personal information is collected by Council, the individual must be provided with a copy of, or link to, Council's Privacy Statement.

Where it is not appropriate to use Council's Privacy Statement, in circumstances where an individual is required to provide Council with their personal information, either by way of a form utilised by Council or written requests by which personal information is collected by Council, the proposed alternative will be referred to the Privacy Contact Officer to review prior to adoption or use in order to ensure compliance with the IPPs.

Should Council have any residual doubts, the opinion of the Information and Privacy Commission (IPC) will be sought. Any further concerns of a legal nature will be referred to Council's solicitor.

The Public Information Officer will also provide advice as to:

1. Whether the personal information is collected for a lawful purpose;
2. If that lawful purpose is directly related to a function of Council; and
3. Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

IPP 2 – Collection of Personal Information directly from individual

The Privacy Code

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

Council Policy

The compilation or referral of registers and rolls are the major means by which Council collects personal information. For example, the information Council receives from NSW Land Registry Services would fit within section 9(a) of the PPIP Act shown above.

Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.

In relation to petitions, Council will treat the personal information contained in petitions in accordance with the PPIP Act.

Where Council or a Councillor requests or requires information from individuals or groups, that information will be treated in accordance with the PPIP Act.

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

Where Council anticipates that it may otherwise need to collect personal information indirectly it will first obtain the authorisation of each individual under section 9(a) of the PPIP Act.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 2.

Existing Statutory Exemptions under the Act

Compliance with IPP 2 is also subject to certain exemptions under the PPIP Act. If one of those exemptions applies Council need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained. The relevant statutory exemptions follow.

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

Section 24(4) of the PPIP Act permits non-compliance with IPP 2 if:

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

Section 25(a) of the PPIP Act permits non-compliance with IPP 2 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

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

Further Explanation regarding IPP 2

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

1. Council has obtained authority from the person under section 9(a) of the PPIP Act.
2. The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from NSW Land Registry Services.)
3. The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
4. The collection of personal information indirectly where one of the above exemptions applies.
5. The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.

The only other exception to the above is in the case where Council is given unsolicited information.

IPP 3 – Requirements when collecting Personal Information

The Privacy Code

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

Council Policy

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

Council will inform persons if the information is required by law or voluntarily given. Council will also inform individuals which department or section within Council holds their personal information, and of the right to access and correct that information. Council will provide the individual Council's Privacy Statement or an alternative that has been reviewed for compliance with the IPPs by the Privacy Access Officer.

Existing Statutory Exemptions under the Act

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

Section 24(4) extends the operation of section 24(1) to councils and permits non-compliance with IPP3 if Council is:

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

Section 25(a) permits non-compliance with IPP3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) permits non-compliance with IPP3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) permits non-compliance with IPP3 if compliance would prejudice the interest of the individual concerned.

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

Disclosure of information for research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIP Act or any Research Code of Practice made by the Attorney General as may be in force for the time being.

IPP 4 – Other requirements relating to collection of Personal Information

The Privacy Code

The Privacy Code makes no provision to depart from this principle.

Council Policy

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

Council may use public place video surveillance in accordance with 'NSW Government policy statement and guidelines for the establishment and implementation of closed circuit television (CCTV) in public places'. Council will comply with the provisions of the *Work Place Surveillance Act 2005* and any relevant Council Policy.

Council collects personal information through the various forms that customers may complete and lodge with Council. All forms are required to contain a link Council's Privacy Statement (for electronic forms) or a copy of Council's Privacy Statement (for paper based forms), as a minimum. Where it is not appropriate to use Council's Privacy Statement, the proposed alternative will be sent to the Privacy Contact Officer to review prior to adoption or use to ensure compliance with the IPPs.

Should Council have any residual doubts, the opinion of the IPC will be sought. Any further concerns of a legal nature will be referred to Council's solicitor.

IPP 5 – Retention and security of Personal Information

The Privacy Code

The Privacy Code makes no provision to depart from this principle.

Council Policy

Council stores personal information securely, keeps it no longer than necessary, and destroys the information appropriately.

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

- Council Policies;
- General Records Disposal Schedule for Local Government; and
- *State Records Act 1998*

Disclosure of Information for Research Purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIP Act or any Research Code of Practice made by the Attorney General as may be in force for the time being.

IPP 6 – Information held by Agencies

The Privacy Code

The Privacy Code makes no provision to depart from this principle.

Council Policy

Section 13 of the PPIP Act requires a council to take reasonable steps to enable a person to determine whether the council holds personal information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.

IPP 6 is modified by section 20(5) of the PPIP Act. Council must consider the relevant provisions of the GIPA Act.

Any person can make application to Council by completing an Informal Access to Information Request form and submitting it to Council. Following investigation into the request, the applicant may be required to lodge a Formal Access to Information Request.

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

Council will ordinarily provide a response to applications of this kind in line with our Customer Service Charter. Requests of this nature will be charged in accordance with Council's GIPA Act rates structure.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 6.

Existing Statutory Exemptions under the Act

Compliance with IPP 6 is also subject to certain exemptions under the Act. If one of those exemptions apply Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIP Act permits non-compliance with IPP 6 where Council is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIP Act permits non-compliance with IPP 6 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Reporting Matters

Council will issue a statement to be included on our webpage concerning the nature of personal information we regularly collect, the purpose for which the personal information is used, and an individual's right to access their own personal information.

IPP 7 – Access to Personal Information held by Agencies

The Privacy Code

The Privacy Code makes no provision to depart from this principle.

Council Policy

Section 14 of the PPIP Act requires a council, at the request of any person, to give access to that person to personal information held about them.

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

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

Under section 20(5) of the PPIP Act, IPP 7 is subject to any applicable conditions or limitations contained in the GIPA Act. Council must consider the relevant provisions of the GIPA Act.

Customers wishing to exercise their right to access their own personal information should apply in writing to:

General Manager
Uralla Shire Council
Post: PO Box 106 Uralla NSW 2358
Email: council@uralla.nsw.gov.au

Members of staff wishing to exercise their right to access their personal information should apply in writing and direct their enquiries to the Privacy Contact Officer, who will deal with the application.

In order to comply with the requirement to provide the requested information “without excessive delay or expense”, Council will ordinarily provide a response to applications of this kind in line with our Customer Service Charter. Requests of this nature will be charges in accordance with Council’s GIPA Act rates structure.

Existing Statutory Exemptions under the Act

Compliance with IPP 8 is also subject to certain exemptions under the Act. If one of those exemptions applies, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 7.

Existing exemptions under the Act

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

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

Section 25(b) of the PPIP Act permits non-compliance with IPP 7 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

IPP 8 – Alteration of Personal Information

The Privacy Code of Practice for Local Government

The Privacy Code makes no provision to depart from this principle.

Council Policy

Section 15 of the PPIP Act allows a person to make an application to Council to amend personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.

Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by Council are welcomed. Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Manager Human Resources in the first instance and treated in accordance with Council's Complaints Management Policy.

Any alterations to personal information that are or could be the subject of a customer complaint or grievance will be referred to the Privacy Contact Officer, who will make a recommendation in relation to the matter.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 8.

Existing Statutory Exemptions under the Act

Compliance with IPP 8 is also subject to certain exemptions under the Act. If one of those exemptions applies, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIP Act permits non-compliance with IPP 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Procedure

Where information is requested to be amended (either by way of correction, deletion or addition), the individual to whom the information relates must make a request. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy Council that the proposed amendment is factually correct and appropriate. Council may require further documentary evidence to support certain amendments. Council will not charge to process and application to amend a record under section 15.

Where an amendment is made

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by Council. Council will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

State Records Act

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

IPP 9 – Agency must check accuracy of Personal Information before use

The Privacy Code of Practice for Local Government

The Privacy Code makes no provision to depart from this principle.

Council Policy

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

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

IPP 10 – Limits on use of Personal Information

The Privacy Code

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

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

Explanatory Note

For example, with respect to exemption (i) above, the Rates Record that Council holds under section 602 of the Local Government Act may also be used to:

- Notify neighbours of a proposed development;
- Evaluate a road opening; or
- Evaluate a tree preservation order.

Council Policy

Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 10.

Existing Statutory Exemptions under the Act

Compliance with IPP 10 is also subject to certain exemptions under the Act. If one of those exemptions applies, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

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

Section 24(4) of the PPIP Act permits non-compliance with IPP 10 if:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the Council to exercise its complaint handling functions or any of its investigative functions.
- (iii) Section 25(a) of the PPIP Act permits non-compliance with IPP 10 where Council is lawfully authorised or required not to comply with the principle.
- (iv) Section 25(b) of the PPIP Act permits non-compliance with IPP 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.
- (v) Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

IPP 11 – Limits on disclosure of Personal Information

The Privacy Code

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

1. Council may disclose personal information to public sector agencies or public utilities on condition that:
 - (i) the agency has approached Council in writing;
 - (ii) Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and
 - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency’s function/s.
2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
3. Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person’s suitability for a particular position with any potential employer unless Council is satisfied that the person has

provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

Council Policy

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

Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information.

"Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

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

Public Registers

Sections 18 and 57 of the PPIP Act should be read in conjunction in regard to Public Registers. Public Registers are discussed in Part B of this Plan.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 11.

Existing Statutory Exemptions under the Act

Compliance with IPP 11 is also subject to certain exemptions under the Act. If one of those exemptions applies Council need not comply. The statutory exemption will be relied upon only in limited circumstance and legal advice should normally be obtained.

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

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

Section 23(5)(c) of the PPIP Act permits non-compliance with IPP 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument.

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

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

Section 24(4) of the PPIP Act permits non-compliance with IPP 11 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) if the disclosure is to an investigative agency, as defined at Section 3 of the PPIP Act.

Section 25(a) of the PPIP Act permits non-compliance with IPP 11 where Council is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIP Act permits non-compliance with IPP 11 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

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

Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part A and Part B of this Plan for more details about suppression of personal information.

IPP 12 – Special Restrictions on disclosure of Personal Information

The Privacy Code

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

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

Council Policy

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

Public Registers

Sections 19 and 57 of the PPIP Act should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part B of this Plan.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 12.

Existing Statutory Exemptions under the Act

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

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

Section 25(a) of the PPIP Act permits non-compliance with IPP 12 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 12 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

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

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

Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part A and Part B of this Plan for more details about suppression of personal information.

PART 4 – THE HEALTH PRIVACY PRINCIPLES

The 15 HPPs are set out in [Schedule 1 of the HRIP Act](#).

Health information is defined at Section 6 of the HRIP Act and includes personal information that is information or an opinion about the physical or mental health or a disability of an individual. Health information also includes personal information that is information or an opinion about:

- A health service provided, or to be provided, to an individual;
- An individual's express wishes about the future provision of health services to him or her;
- Other personal information collected in connection with the donation of human tissue; or
- Genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

As outlined in Part 1 of this Plan, Council holds health information concerning both:

- Current and former employees; and
- Current and former residents of McMaugh Gardens Aged Care Centre.

HPP 1 to 4 – Collection of Health Information

Council Policy

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1).

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it.

Council will also tell the person how he or she can see and correct the health information. If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 4).

HPP 5 – Storage of Health Information

Council Policy

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

HPP 6 to 9 – Access and Accuracy of Health Information

Council Policy

Council will provide details about what health information Council is holding about an individual and with information about why Council is storing that information and what rights of access the individual has (HPP 6).

Council will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary (HPP 8).

Council will make sure that the health information is relevant and accurate before using it (HPP 9).

HPP 10 – Limits on use of Health Information

Council Policy

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent.

HPP 11 – Limits on disclosure of Health Information

Council Policy

Council will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

HPP 12 – Identifiers

Council Policy

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

HPP 13 – Anonymity

Council Policy

Council will provide health services anonymously where it is lawful and practical (HPP 13).

HPP 14 – Transborder data flows and data flow to Commonwealth Agencies

Council Policy

Council will only transfer personal information out of New South Wales if all the requirements of HPP 14 are met.

HPP 15 – Linkage of health records

Council Policy

Council will only include health information in system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

PART 5 – IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN

5.1 Council Officer Training

During induction, all employees are made aware that personal information is held in their personnel files including information on their individual work performance or competency.

Council Officials, including Councillors, members of staff of Council, administrators, Council committee members and delegates of Council, are to be acquainted with the general provisions of the PPIP Act, the HRIP Act and in particular, the 12 IPPs, the 15 HPPs, the Public Register provisions, the Privacy Code, this Plan and any other applicable Code of Practice.

5.2 Privacy Contact Officer

The Public Officer is assigned the role of Privacy Contact Officer, unless otherwise directed by the General Manager.

The role of the Privacy Contact Officer includes:

- Oversight of privacy training with Council Officers, contractors and volunteers;
- Review of all contracts and agreements, rates notices, application forms or other written requests by which personal or health information is collected by Council to ensure compliance with PPIP Act and HRIP Act; and
- Oversight of the Privacy Statement provided on Council's webpage and any privacy reporting matters including the Privacy Statement contained in Council forms and publications.

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

- (i) Whether the personal or health information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal or health information is reasonably necessary for the specified purpose.

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

5.3 Distribution of Information to Public

Council may prepare its own literature such as pamphlets on the PPIP Act, the HRIP Act or it may obtain and distribute copies of literature available from the NSW Information and Privacy Commission (IPC).

PART 6 – INTERNAL REVIEW

6.1 How does the process of Internal Review operate?

Under section 53 of the PPIP Act, a person (the applicant) who is aggrieved by the conduct of a council in relation to their personal information is entitled to a review of that conduct. An application for internal review is to be made within **six months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to:

The General Manager
Uralla Shire Council
PO Box 106
Uralla NSW 2358

The Public 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. The Reviewing Officer must be an employee and suitability qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgement, the applicant is entitled to seek external review.

Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and Council is required to consider any relevant material submitted by the Privacy Commissioner. Council must provide the Privacy Commissioner with a draft of 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.

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.

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

6.2 What happens after an Internal Review?

If the complainant remains unsatisfied, an appeal may be made to the NSW Civil and Administrative Tribunal (NCAT) which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an information protection principle or a health privacy principle.

PART 7 – OTHER RELEVANT MATTERS

7.1 Confidentiality

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

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

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

7.2 Misuse of Personal or Health Information

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

7.3 Regular Review of Uralla Shire Council Privacy Management Plan

When information practices are reviewed from time to time, the Privacy Management Plan will be reviewed to ensure that the Plan is up to date. A copy of this Privacy Management Plan will be provided to the Privacy Commissioner as soon as is practicable whenever the plan is amended.

7.4 Further Information

For assistance in understanding the processes under the PPIP Act and HRIP Act, please contact Council's Privacy Contact Officer or the IPC.

APPENDIX 1 – URALLA SHIRE COUNCIL PRIVACY STATEMENT

Uralla Shire Council is required to comply with the Information Privacy Principles (IPPs) in the *Privacy and Personal Information Protection Act 1998* (PIIP Act). These regulate the collection, storage, use and disclosure of personal information held by us.

Your personal information

Any personal information you provide to us will be used and disclosure for Uralla Shire Council purposes, or a directly related purpose, unless you consent to another use or disclosure, in emergencies or as otherwise required or authorised by law.

The provision of information to Uralla Shire Council is voluntary; no law requires you to provide any personal information to Uralla Shire Council, however, failure to provide certain personal information to Uralla Shire Council may inhibit our ability to provide you with the services you require.

Under the PPIP Act, you have the right to access your personal information held by Uralla Shire Council, without excessive delay or expense. You also have the right to have your personal information corrected in certain circumstances (e.g. if it is inaccurate). Should you wish to access or correct your personal information, please make a written request to the Privacy Contact Officer by:

- **Post:** PO Box 106, Uralla NSW 2358
- **Email:** council@uralla.nsw.gov.au

For further information, please read our Privacy Management Plan.

If you have any enquiries about this Privacy Statement, please contact Uralla Shire Council.