

JUNEE SHIRE COUNCIL

POLICY REGISTER

SUBJECT: PRIVACY AND PERSONAL INFORMATION

POLICY TITLE: JUNEE SHIRE COUNCIL PRIVACY MANAGEMENT PLAN

OBJECTIVE: This Privacy Management Plan has been prepared in accordance with the requirements of Section 33 of the Privacy and Personal Information Protection Act (PIPP Act).

By implementing this Plan Council is demonstrating its respect for the privacy of its residents and ratepayers. In order to comply with the requirements of the PIPP Act, Council will observe the Protection Principles under the PIPP Act in relation to its handling of Personal Information.

Personal information is defined as “any information about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion”.

POLICY:

A. PRIVACY PRINCIPLES. (PART 2 DIVISION 1. SECTIONS 8 TO 19 INCLUSIVE, PIPP ACT)

1. The Council will not collect personal information unless:

- 1.1) the information is collected for a lawful purpose that is directly related to a function or activity of Council, and
- 1.2) the collection of the information is reasonably necessary for that purpose.

The Council will not collect personal information by any unlawful means.

Council will continue to receive personal information from and deliver personal information to Government Departments in the normal course of Council’s operation.

Council will use any personal information for a variety of purposes within its departments, even though on most occasions the information was collected for one main purpose. For example, the names and addresses of individual owners of property kept on the Rate Register are used to notify adjoining owners of proposed development, identify companion animal ownership, evaluate road openings, evaluate land dedications and laneway status as well as being the basis of the Rating and Valuation Register.

2. When collecting personal information, Council will collect information only from

the individual to whom the information relates unless:

- 2.1) the individual has authorised collection from someone else, or
- 2.2) the information has been provided by a parent or guardian of a person under the age of 16.

3. When Council collects personal information about an individual, that person will be notified of:

- 3.1) the fact that the information is being collected.
- 3.2) the purposes for which the information is collected,
- 3.3) the intended recipients of the information,
- 3.4) 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,
- 3.5) the existence of any right of access to, and correction of the information,
- 3.6) Council's name and address, where the information will be stored.

Council officers will use their discretion as to whether or not to release the names and addresses of complainants or objectors.

A Privacy Protection Notice has been added to all forms where the Council solicits personal information from the general public. Internal forms will not be affected.

4. Council will take reasonable steps to ensure that:

- 4.1) information collected is relevant to a purpose, is not excessive, and is accurate, up to date and complete, and
- 4.2) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Information may be released to public enquiry under Section 12 of the Local Government Act.

5. With regards to the retention and security of personal information, Council will ensure:

- 5.1) that information is used for a lawful purpose and is kept for no longer than is necessary,
- 5.2) that the information will be disposed of securely,
- 5.3) 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
- 5.4) 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.

The culling and destruction of records is carried out in accordance with the State Records Authority of NSW, General Disposal Authority Local Government Records. The Records Disposal Register is available for public inspection.

6. If Council holds personal information about any individual it must take the necessary steps to enable any person to ascertain:

- 6.1) whether the Council holds personal information; and
- 6.2) whether the Council holds personal information relating to that person,
and
- 6.3) if Council holds personal information relating to that person:
 - 6.3.1) the nature of that information; and
 - 6.3.2) the main purposes that the information is being used, and
 - 6.3.3) that person's entitlement to gain access to that information.

Principle 6 is subject to the Freedom of Information provisions.

7. Any person will be able to ascertain whether Council holds their personal information by making a request in writing under Section 12 of the Local Government Act or a Freedom of Information Application Form under the Freedom of Information Act. Employees should see their supervisor to access their employee records.

8. Any person who is concerned with the inaccuracy or unacceptable use of their personal information kept by Council, may request amendments be made to that information by writing to Council or completing an FOI Form. Personal information must be used for the purpose that it was collected and used to any purpose that is directly related to that purpose, it must be relevant, up to date, complete and not misleading.

Principle 8 is subject to the Freedom of Information Provisions.

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

9. 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 up to date, complete and not misleading, in accordance with Council's Code of Conduct, approved policies and recorded procedures.

10. Council will not use personal information for a purpose other than for which it was collected unless:

- 10.1) the individual to whom the information relates has consented to use the information for that other purpose, or
- 10.2) the other purpose for which the information is used is directly related to the purpose for which it was collected, and
- 10.3) 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.

Staff using relevant personal information will not notify individuals for approval to perform usual office functions. Personnel and recruiting records will be discussed with 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.

11. Council will take reasonable care not to disclose personal information unless:

- 11.1) 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
- 11.2) the individual has been made aware that this kind of information is usually released; or
- 11.3) disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.

Section 12 of the Local Government Act overrides the restrictions on disclosure of personal information. Records must be made available for inspection and/or copy, and may be available subject to the public interest test.

12. Council will take reasonable care not to disclose personal information that:

- 12.1) 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.
- 12.2) relates to any enquiry from anyone outside the state of New South Wales unless:
 - 12.2.1) a relevant privacy law applies to personal information in force in that jurisdiction, or
 - 12.2.2) the disclosure is permitted under a privacy code of practice (a law determined

by the Privacy Commissioner and published in the Government Gazette).

Section 12 of the Local Government Act overrides the restrictions on disclosure of personal information. Records must be made available for public inspection and/or copy and may be available subject to the public interest test.

Exempt documents under Section 12(6) Local Government Act may be released under the Freedom of Information Act following the application process and the payment of the fee. The disclosure of personal information contained on Council files and computer records will be dealt with the provisions of these Acts, and where information released may cause personal hardship to a resident or ratepayer. Reasonable care will be taken to ensure appropriate levels of disclosure will be maintained.

B. PUBLIC REGISTERS (PART 6 CLAUSES 57, 58 & 59 PPIP ACT)

Council will not disclose personal information kept in a Public Register unless the information is to be used for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.

The Privacy Code of Practice encourages disclosure of single items or one page in a Register without explanation.

Where whole or a substantial part of a register is requested the applicant may be required to complete a statutory declaration describing the intended use of any information obtained from the inspection. A Justice of the Peace must witness signatures on statutory declarations for this purpose.

1. Delegations Register

Full unrestricted public access and copying.

2. Public Land Register (Section 53, Local Government Act)

Available for inspection free of charge.

3. Register and Tabling of Pecuniary Interest Returns (Section 450A Local Govt Act)

Available for inspection free of charge.

4. Rate and Charging Record (Section 602, Local Government Act)

Council will not release the names and addresses of owners to any commercial valuation enquiries. Adjoining property owners can enquire for fence or development / building purposes.

5. Companion Animals Register (Companion Animals Act 1998).

Council will only allow access to council staff or a police officer.

6. Development Consent Register (Section 100 Environmental Planning and Assessment Act)

Available for inspection free of charge.

7. Building Certificates Register (Section 149G Environment Planning and Assessment Act)

Available for inspection free of charge. Copies of certificates only available with owners consent and the payment of the prescribed fee.

8. Investments Register

Available for inspection free of charge.

9. Community Land Register

Available for inspection free of charge.

Council requires that during certain circumstances it may be necessary to suppress personal information held on registers. A letter addressed to the General Manager stating reasons and any supporting evidence may be required. Managers of appropriate sections will make determination.

C. REVIEW OF CERTAIN CONDUCT (INTERNAL REVIEW PROCESS) (PART 5 CLAUSES 52 & 53 PIPP ACT)

Where a person who has requested information is aggrieved by the conduct of Council in the following circumstances:

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

The person (applicant) is entitled to apply for an Internal Review.

As is the normal correspondence practice at Council, the application for review must be in writing and addressed to:

The General Manager		by completing a Freedom of
PO Box 93	or	Information Internal Review
JUNEE NSW 2663		Form

On receipt of the Review Request a copy will be forwarded to the Privacy Commissioner. The Privacy Commissioner will be informed of progress and the outcome of the review.

The application must be lodged 6 months from the time the applicant first became aware of the conduct (the subject of the application).

At all times the contents of the review will be kept confidential in accordance with Council's Code of Conduct.

The application will be dealt with by the Manager Corporate Services, who will consider any relevant material submitted by either the applicant or the Privacy Commissioner.

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:

- a) take no further action on the matter,
- b) make a formal apology to the applicant.
- c) take appropriate remedial action,
- d) provide undertakings that the conduct will not occur again,
- e) 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:

- i) the findings and the reasons for those findings;
- ii) any proposed actions to be
- iii) the right of the applicant to have those findings and the Council's proposed action, reviewed by the Administrative Appeals Tribunal.

D. TRAINING & EDUCATION

Staff will be trained in the requirements of the PPIP Act. A Privacy Statement will be distributed during Council's Staff Induction Program.

Each section of each department will be trained about requirements of the Privacy and Personal Information Protection Act and their individual responsibilities will be discussed.

This Privacy Management Plan will be reviewed on a yearly basis by Council's Privacy Officer. The plans effectiveness will be assessed and this will lead to any necessary changes.

Further information may be obtained by contacting:

The Junee Shire Council Freedom of Information Co-ordinator on phone 6924 1277

The Junee Shire Council Privacy Officer on phone 6924 1277

or

The NSW Privacy Commissioners Officer on phone 9268 5588 or fax 9268 5501.

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