



DIRECTOR CORPORATE SERVICES REPORT

12th July 2005

**DCS4 REVIEW OF PRIVACY MANAGEMENT PLAN
FILE: * PJH**

SUMMARY:

To review the Council's Privacy Management Plan.



In July 2000, Council adopted its Privacy Management Plan. This was the Model Plan recommended by the Department of Local Government and the Privacy Commissioner.

While the Privacy Management Plan has been reviewed annually by the designated Privacy Contact Officer (Manager Administration) it is recommended that the Plan be also reviewed periodically by Council.

Privacy and Personal Information Protection Act

The requirement to have a Privacy Management Plan comes from the Privacy and Personal Information Protection Act (PPIPA). The Model Plan was developed by Privacy NSW, Department of Local Government and Shires Association with the objective of having a uniform approach to the use of personal information by Councils.

This objective has generally been achieved however there has been some issues arise regarding the different interpretations across Councils about what personal information is to be made available from a Council's public registers e.g. development applications, rates record. A Privacy Code of Practice was developed to supplement each Council's Plan and this has clarified some of the issues.

A full copy of our Privacy Management Plan, including the Privacy Code of Practice, has been provided to each Councillor as a separate document with the Business Paper.

The underlying theme of the PPIP Act is to protect the personal information that is given to Council in the normal course of our business. This personal information must be used for Council business and any release of personal information for other purposes must not be done unless the person has consented to such use or Council has no reason to believe the individual would object and this other use is related to the reason Council collected the information in the first place.

Review of Privacy Management Plan

The Privacy Management Plan adopted by Council has been reviewed by Council's Privacy Contact Officer and it is felt there is no amendment required to the Plan provided it is read in conjunction with the Privacy Code of Practice for Local Government. The Privacy Code of Practice allows Councils to vary from the privacy principles in the PPIP Act in certain circumstances. The Privacy Code of Practice has therefore been added to the Privacy Management Plan document as an attachment.

The Plans purpose is to set out the procedures Council will follow in dealing with personal information so as to comply with the PPIP Act. As it was developed the Plan complies with the PPIP Act and if Council was to amend the Plan it would be required to refer it to the Privacy Commissioner for approval.

Key areas that have arisen since commencement of PPIP Act

Since the introduction of the PPIP Act and the adoption of the Privacy Management Plan a number of issues have arisen that Council should be aware of as all Councillors and Council committee members are also required to comply with the Act.

In particular, any complaints against Council for misuse of personal information must be in writing and once received Council must conduct an internal review of the complaint and inform the Privacy Commissioner. The Privacy Commissioner must have input into the review and see Council's proposed response to the complainant before any decision is given to the complainant. Since the commencement of PPIP Act Council has received two (2) written complaints which were referred to the Privacy Commissioner. In both instances the Privacy Commissioner agreed that Council had not breached the Act, but did suggest that Council be more particular in its collecting of personal information to ensure that the persons providing the information are made aware of the way Council will use the information.

The following are other matters that have arisen in since the commencement of the PPIP Act that Council should be aware of: -

- All application forms that collect personal information are required to include a privacy statement setting out what the personal information collected will be used for.

- Even though Council has public registers that must be available for inspection under section 12 of the Local Government Act e.g. development applications, land owners & addresses (rates records), it cannot allow copying of more than a single entry in these registers unless an application is completed stating why the information is required. Such requests cannot be approved unless the request complies with the information protection principles of the PPIP Act. This area of granting access and whether or not to require the application form to be completed has created some confusion amongst customer service staff and it is proposed to introduce a consistent approach by requiring that all access to personal information from Council's registers shall require the application form to be completed.
- Personal information is not to be given out over the telephone even if it is information available on a Council public register. Section 12 of the Local Government Act clearly states the information on the public registers is for "inspection". Persons not able to call in must apply in writing.
- Council is allowed to give personal information to other public sector agencies or public utilities e.g. Government departments, Police, Country Energy, Telstra provided they apply in writing. This is generally names and addresses provided from Council's rate records. The purpose they need the information must be for the proper and lawful functions of that agency.
- The personal information provided within Council's business paper agenda is deemed as public information once the paper is printed and available. The actual decision to print personal information in the agendas (e.g. names & addresses) is one that is made by the officers of Council, who must make this decision in accordance with the PPIP Act.
- The list of payments (financial warrant) previously supplied to Council was ceased, as this does not meet the requirements of the PPIP Act. This was using personal information for a purpose other than what it was collected for.

Staff Training

When the PPIP Act commenced a selection of customer service staff undertook training provided by the LGSA in December 2000. Since that time the Privacy Contact Officer (Manager Administration) has conducted in-house workshops on the PPIP Act.

The staff of the proposed Customer First Centre will be given specific training on this prior the commencement of the Customer First Centre.

While Councillors have not undergone specific training in the PPIP Act, they need to be aware of their obligations regarding the use of

personal information. Any information provided in the Business Paper other than in the confidential section, is publicly available and can be used. Any information in confidential reports or from internal Council memos or letters sent direct to Councillors by residents should not be released or used by Councillors for other purposes.

Regular notices to the public

Council includes regular notices in its Council page about its collection and use of personal information under an item called "Privacy – You and Your Council".

REPORT IMPLICATIONS:

- *Environmental*

Nil

- *Social*

Council's social obligation is to protect the rights of its residents in its use of their personal information. A key to this is making the people aware of how their information is used and them having the confidence in Council's stated uses of that information.

- *Economic (Financial)*

The management of the privacy legislation has been generally a hidden cost in the staff time in training, implementing, answering enquiries and dealing with complaints. When a complaint is lodged against Council for a breach of the privacy legislation it has been a very time consuming process, particularly in having to report such complaints to the Privacy Commissioner and receive his/her input.

- *Policy or Statutory*

Council is required to comply with the Privacy and Personal Information Protection Act in its handling of personal information. Also section 12 of the Local Government list documents and registers that a Council must have publicly available so Council must comply with both Acts, which can conflict in certain areas. The need for customer service staff to receive clear training on these Acts is important.

- *Director's Review*

Nil

RECOMMENDATION:

That the information be noted and no amendments be made to Council's Privacy Management Plan.

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G B Snape
DIRECTOR CORPORATE SERVICES