



KEMPSEY  
Shire Council

## GENERAL MANAGER'S REPORT

14<sup>th</sup> November 2006

**GM5                      CONFERENCES AND SEMINARS**  
**FILE: 117                      AVB {Folio No. \* }**

### SUMMARY:

To advise Council of the Department of Local Government response to the disclosure of personal information.



### DESCRIPTION:

Council on 18 July 2006 resolved "that Council ask the Department of Local Government for further advice regarding the Privacy and Personal Information Act". This was as a result of advice received from the Local Government and Shires Association [\(Appendix E\)](#). A reply from the Department of Local Government has now been received [\(Appendix F\)](#).

I have spoken to the author of the Department's letter who advises that any report to Council is to be to open Council as personnel not personal information is covered by section 10 of the Local Government Act (Confidential Reports). She also advised that she used the word arguable as it can be argued either way.

The Local Government and Shires Associations is still strongly of the belief that names should not be recorded and some staff also believe that the publication of names without permission is contrary to Principles 10 and 11 of Council's Privacy Management Plan and the PPIP Act.

Principles 10 and 11 as outlined in the Plan and Act are:

#### **Information Protection Principle 10 – Limits on use of personal information**

A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- (c) 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 the information relates or of another person.

**Information Protection Principle 11 – Limits on disclosure of personal information**

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
  - (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
  - (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
  - (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- (2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

The Department of Local Government has recommended that Council consult with the Office of the NSW Privacy Commissioner which I have done and am awaiting a reply.

***REPORT IMPLICATIONS:***

- ***Environmental***

*Nil*

- *Social*

*Nil*

- *Economic (Financial)*

*Nil*

- *Policy or Statutory*

*If names are to be made available Council's Privacy Management Plan will need to be amended to alert Councillors and staff that disclosure of names may be made in respect of expenditure of public funds.*

- *General Manager's Review*

*Nil*

**RECOMMENDATION:**

**That the information be noted.**

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**A V Burgess**  
**GENERAL MANAGER**