

Attachments

UNDER SEPARATE COVER ORDINARY COUNCIL MEETING

6:00PM, TUESDAY, 24 September, 2019

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COOTAMUNDRA-
GUNDAGAI REGIONAL
COUNCIL

Draft Privacy Management Plan

28 August 2019

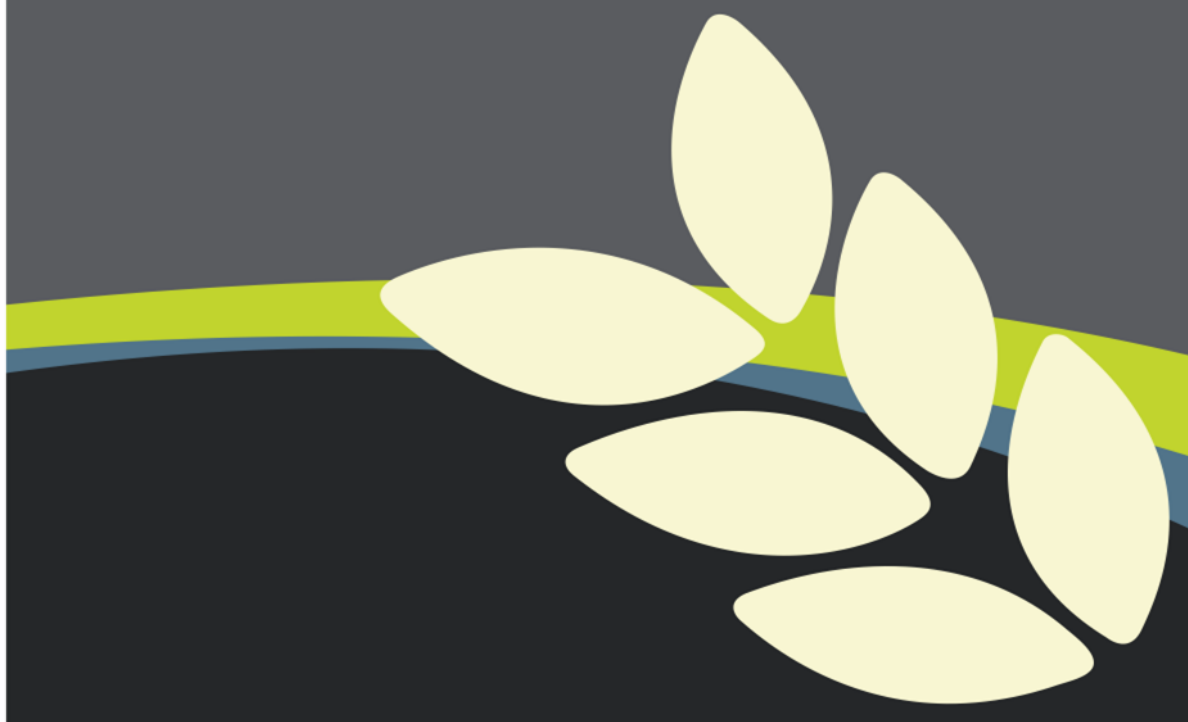


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Policy Approval and Distribution

Approved by	Council resolution
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0.1	17-09-2019	Presented to the Consultative Committee for feedback and endorsement.	N/A

Purpose

Council's Privacy Management Plan explains how Council will manage personal information in line with the Privacy and Personal Information Protection Act 1998 (NSW) (PPIPA) and health information in accordance with the Health Records and Information Privacy Act 2002 (NSW) (HRIPA).

The purpose of the Cootamundra-Gundagai Regional Council Privacy Management Plan is to inform:

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

Scope

The PPIPA, the HRIPA and this Plan apply, wherever practicable, to:

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the LGA).

Review Period

This document is to be reviewed at least every Four (4) years to ensure that it remains relevant and meets legislative requirements.

Definitions

Term	Meaning
LGA	Local Government Act 1993
PPIPA	Privacy and Personal Information Protection Act 1993
HRIPA	Health Records and Information Privacy Act 2002
The Code	Privacy Code of Practice for Local Government

POLICY STATEMENT

PART 1 – INTRODUCTION

The Privacy and Personal Information Protection Act 1998 (“PPIPA”) provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan (the “Plan”) to deal with:

- the devising of policies and practices to ensure compliance by the Council with the requirements of the PPIPA and the Health Records and Information Privacy Act 2002 (“HRIPA”);
- the dissemination of those policies and practices to persons within Council;
- the procedures that Council proposes for internal review of privacy complaints;
- 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 PPIPA.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles.

Those principles are listed below:

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

Those principles are *modified* by the [Privacy Code of Practice for Local Government](#) (“the Code”) made by the Attorney General. To date there has been no Health Records and Information Privacy Code of Practice made for Local Government.

The Privacy Code has been developed to enable Local Government to fulfil its statutory duties and functions under the *Local Government Act 1993* (the “LGA”) in a manner that seeks to comply with the PPIPA.

This Plan outlines how Council will incorporate the 12 Information Protection Principles into its everyday functions.

This Plan should be read in conjunction with the *Code of Practice for Local Government*.

Nothing in this Plan is to:

- affect any matter of interpretation of the Codes or the Information Protection Principles and the Health Privacy Principles as they apply to Council; affect any obligation at law cast upon Council by way of representation or holding out in any manner whatsoever;
- 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 Codes.

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

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

What is "personal information"?

"Personal information" is defined in section 4 of the PPIPA as follows:

"... 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".

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 PPIPA.

Section 4A of the PPIPA also specifically excludes "health information", as defined by section 6 of the HRIPA, from the definition of "personal information", but includes "health information" in the PPIPA's consideration of public registers (discussed below). "Health information" is considered in Part 4 of this Plan.

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 PPIPA (for example, section 8 of the Government Information (Public Access) Act 2009 (GIPA Act)).

Council considers the following to be publicly available publications:

- An advertisement containing personal information in a local, city or national newspaper;
- Personal information on the Internet;
- Books or magazines that are printed and distributed broadly to the general public;
- Council Business papers or that part that is available to the general public;

- Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA. Council's decision to publish in this way must be in accordance with PPIPA.

Application of this Plan

The PPIPA, the HRIPIA and this Plan apply, wherever practicable, to:

- Councillors;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the LGA).

Council will ensure that all such parties are made aware that they must comply with the PPIPA, the HRIPIA, any other applicable Privacy Code of Practice and this Plan.

Personal 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;
- DA applications and related submissions;
- Customer requests;
- Library lending records;
- CCTV footage;
- Donation, grant and sponsorship applications;
- Submissions and information collected as part of Council's community engagement and consultation activities;
- Public access forum applications; and
- Various types of health information (see Part 4 for detailed examples).

Council holds personal information concerning its current and former employees, such as:

- Recruitment material;
- Leave and payroll data;
- Personal contact information;
- Performance management plans;
- Disciplinary matters;
- Pecuniary interest returns;
- Wage and salary entitlements; and
- Health information (such medical certificates and workers compensation claims).

Applications for suppression in relation to general information (not public registers)

Under section 739 of the Local Government Act 1993 ("LGA") 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 LGA 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.

Caution as to unsolicited information

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information should be still treated in accordance with this Plan, the Codes, the HRIPA and the PPIPA for the purposes of IPPs 5-12 and HPPs 5-15 which relate to storage, access, use and disclosure of information.

Note that for the purposes of section 10 of the HRIPA, Council is not considered to have "collected" health information if the receipt of the information by Council is unsolicited.

Section 4(5) of the PPIPA also provides that personal information is not "collected" by Council if it is unsolicited.

PART 2 – PUBLIC REGISTERS

A public register is defined in section 3 of the PPIPA:

“...public register means 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 PPIPA and “non public registers”. A “non public register” is a register but it is not a “public register” for the purposes of the PPIPA. 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 of the PPIPA and the Privacy Code. Personal information cannot be accessed by 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 PPIPA 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 Information Protection Principles as outlined in Part 2 of this Plan and the Privacy Code where it includes personal information that is not published.

The Council holds the following public registers under the LGA: ***

- Section 53 - Land Register
- Section 113 - Records of Approvals
- Section 440AAB - Register of Pecuniary Interests
- Section 602 - Rates Record
-

***Note – this is purely indicative. Council may, by virtue of its own practice, hold other Public Registers, to which the PPIPA applies.

Council holds the following public register under the Environmental Planning and Assessment Act 1979:

- Section 4.58 – Register of consents and approvals
- Section 6.26 – Record of Building Certificates

Council holds the following public register under the Protection of the Environment (Operations) Act:

- Section 308 – Public register of licences held

Council holds the following public register under the Impounding Act 1993:

- Section 30 – Record of impoundings
- Section 31 – Record of Abandoned Vehicles impoundings

Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is set out in the sections that follow.

Public registers, the PPIPA and the HRIPIA

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 PPIPA, section 56A of the PPIPA includes as “personal information”, “health information” on public registers.

Section 57 of the PPIPA 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), a 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. (Form at **Appendix 1** may be used as a guide).

Councils also need to consider the [Privacy Code of Practice for Local Government](#) which has the effect of modifying the application of Part 6 of the PPIPA (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 PPIPA or as health information for the purposes of part 6 of the PPIPA.

Effect on section 6 of the GIPA Act

Section 57 of the PPIPA prevails over clause 1(3) of Schedule 1 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation) to the extent of any inconsistency. Therefore:

1. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.
2. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
 - i) if it is allowed under section 57(1) of the PPIPA; **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 of Practice for Local Government.

Where some information in the public register has been published

That part of a public register that is not published in a publicly available publication will be treated as a “public register” and the following procedure for disclosure will apply.

For example, the Register of Consents and Approvals held by Council under section 100 of the Environmental Planning and Assessment Act requires Council to advertise or publish applications for development consent.

When Council publishes the address of the property, it may identify the owner. The personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and hence also not published) will be treated as a public register under PPIPA.

Council may hold a register under the Contaminated Land Management Act on behalf of the Environment Protection Authority. This is not to be considered a public register of the Council as the statute does not place any obligations on Council to make this register publicly available as a register of contaminated land. Furthermore, the legislation foreshadows that the Environment Protection Authority may indeed post this list or register on the internet. This may constitute a publication of the information and therefore the PPIPA will not apply.

Disclosure of personal information contained in the public registers

A person seeking a disclosure concerning someone else’s personal 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 following section, 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”.

Purposes of public registers

Purposes of public registers under the Local Government Act

Section 53 - Land Register – The primary purpose is 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.

Section 113 - Records of Approvals – The primary purpose is to identify all approvals granted under the LGA.

Section 440AAB - Register of Pecuniary Interests – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

Section 602 - Rates Record – The primary purpose is 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 LGA) 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”.

Purposes of public register under the Environmental Planning and Assessment Act

Section 4.58 – Register of consents and approvals – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

Section 6.26 – Record of building certificates – The primary purpose is to identify all building certificates.

Purposes of the public register under the Impounding Act

Section 30 & 31 – Record of impounding – The primary purpose is to identify any impounding action by Council.

Secondary purpose of all Public Registers

Due to the general emphasis (to be found in the LGA and elsewhere) 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 PPIPA.

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 should be guided by the [Privacy Code of Practice for Local Government](#) in this respect. Where Council officers have doubt as to the intended use of the information, 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.

Other Purposes

Persons or organisations who apply to Council to have access to the 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 of Practice for Local Government](#) concerning Public Registers.

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.

Applications for suppression in relation to a public register

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than section 739 of the LGA.

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 PPIPA 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 PPIPA. ("Well-being" is defined in the Macquarie Dictionary as "the good or satisfactory condition of existence; welfare".)

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.

Other registers

Council may have other registers that are not public registers. The Information Protection Principles, this Plan, any applicable Codes and the PPIPA apply to those registers or databases.

PART 3 – THE INFORMATION PROTECTION PRINCIPLES

Information Protection Principle 1 – Section 8

Section 8 Collection of personal information for lawful purposes

1. *A public sector agency must not collect personal information unless:*
 - a) *the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and*
 - b) *the collection of the information is reasonably necessary for that purpose.*
2. *A public sector agency must not collect personal information by any unlawful means.*

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from the requirements of this principle.

Council Policy

Council will only collect personal information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions.

Section 22 of the LGA 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
- Recreation Vehicles Act 1983
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency Service Act 1989
- Strata Schemes Development Act 2015
- Strata Schemes Management Act 2015
- Swimming Pools Act 1992

This list is not exhaustive.

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

- Government Information (Public Access) Act 2009;
- Heritage Act 1977;
- State Emergency and Rescue Management Act 1989;
- Unclaimed Money Act 1995

The circumstances under which Council may collect information, including personal information, are varied and numerous.

Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

**Companion Animals Act

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Director General's guidelines, which have been developed with the PPIPA in mind.

Role of the Privacy Contact Officer

In order to ensure compliance with Information Protection Principle 1, internet contact forms, rates notices, application forms of whatsoever nature, or written requests by which personal information is collected by Council; will be referred to the Governance Officer (under the direction of the Privacy Contact Officer) prior to adoption or use.

The Privacy Contact Officer and relevant Section Managers 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.
4. Ultimately it is the responsibility of the relevant Section Manager to ensure Council forms are compliant with the Privacy Management Plan.

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

Information Protection Principle 2 – Direct Collection

Section 9 Collection of personal information directly from individual

A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:

- a) the individual has authorised collection of the information from someone else, or*
- b) in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.*

The Privacy Code of Practice for Local Government

The Code makes provision for Council to 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 the Land Titles Office would fit within section 9(a) 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 PPIPA.

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

Council regards all information concerning its customers as information protected by PPIPA. Council will therefore collect all personal information directly from its customers except as provided in section 9 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 PPIPA.

External and related bodies

Each of the following will be required to comply with this Plan, any applicable Privacy Code of Practice, and the PPIPA:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the PPIPA.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to:

- obtain a written authorisation and consent to that collection; and
- notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Council owned businesses, committees and private contractors or consultants must abide by this Plan, the Code and the PPIPA under the terms of their incorporation by Council or by contract.

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 PPIPA that may affect the application of Information Protection Principle 2.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 2 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 very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 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 PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 2 if a council is:

- 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) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 where the agency is lawfully authorised or required not to comply with the principle.

- iii) Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 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 PPIPA.
2. The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from the Land Titles Office.)
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.

Information Protection Principle 3 – Requirements when collecting personal information

Section 10 Requirements when collecting personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- a) the fact that the information is being collected,*
- b) the purposes for which the information is being collected,*
- c) the intended recipients of the information,*
- d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,*
- e) the existence of any right of access to, and correction of, the information,*
- f) the name and address of the agency that is collecting the information and the agency that is to hold the information.*

The Privacy Code of Practice for Local Government

The 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 adapt the general section 10 pre-collection Privacy Notification form as appropriate (See **Appendix 2**).

The following are examples of application procedures that will require a Privacy Notification Form in accordance with section 10:

- Lodging Development Applications;
- Lodging objections to Development Applications;
- Lodging applications for approval under the LGA;
- Any stamps or printed slips that contain the appropriate wording for notification under section 10 (see **Appendix 2**); and
- When collecting an impounded item.

In relation to the Privacy Notification Form that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections, anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.

Post - Collection

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, or otherwise by letter. **Appendix 3** contains a sample Privacy Notification Form that could be used for post-collection.

External and related bodies

Each of the following will be required to comply with Information Protection Principle 3:

- Council owned businesses
- Council consultants
- Private contractors
- Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the Information Protection Principle 3.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

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 PPIPA that may affect the application of Information Protection Principle 3.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 3 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.

The relevant statutory exemptions follow:

Section 23(3) permits non-compliance with Information Protection Principle 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) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 3 if a council is:

- 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) if compliance might detrimentally affect (or prevent the exercise of) the Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 3 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 3 if compliance would prejudice the interests of the individual concerned.

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

Disclosure of information of 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 PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

Information Protection Principle 4 – Other requirements relating to collection of personal information

Section 11 Other requirements relating to collection of personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

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

The Privacy Code of Practice for Local Government

The 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 collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by Council’s solicitor, Public Officer or other suitable person. Should Council have any residual doubts, the opinion of the Office of the Privacy Commissioner NSW will be sought.

NOTE:

Local council's use of Closed Circuit TV (CCTV)

Local councils in New South Wales have been granted an exemption from provisions under the PPIPA to use CCTV cameras in public places.

The Privacy and Personal Information Protection Amendment (CCTV) Regulation commenced on 17 May 2013.

Local councils are now exempt from some obligations in the PPIPA relating to the collection of personal information by using a CCTV camera installed for the purpose of filming in a public place, and the disclosure to NSW Police of that information by way of live transmission.

Clause 9 of this Regulation says:

9 Exemption for local councils in relation to CCTV cameras

- 1) A local council is exempt from section 11 of the Act with respect to the collection of personal information by using a CCTV camera that the council has installed for the purpose of filming a public place if the camera is positioned so no other land is filmed (unless it is not reasonably practicable to avoid filming the other land when filming the public place).*
- 2) The local council is also exempt from section 18 of the Act with respect to the disclosure to the NSW Police Force of personal information by way of live transmission from such a CCTV camera.*
- 3) In this clause, public place has the same meaning as in the Local Government Act 1993.*

NSW Government policy

Local councils are also encouraged to refer to the NSW Government policy statement and guidelines on the use of CCTV in public places.

Information Protection Principle 5 – Retention and security of personal information

Section 12 Retention and security of personal information

A public sector agency that holds personal information must ensure:

- a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
- b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and*
- c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
- d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.*

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

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

Records and Archives Services Manual;

- The Council's Policies relating to record keeping and archives, access to information, risk and security in relation to IT and the internet; and
- General Records Disposal Schedule for Local Government.

Disclosure of information of 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 PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

Information Protection Principle 6 – Information held by agencies

Section 13 Information about personal information held by agencies

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- a) whether the agency holds personal information, and*
- b) whether the agency holds personal information relating to that person, and*
- c) if the agency holds personal information relating to that person:*
 - i) the nature of that information, and*
 - ii) the main purposes for which the information is used, and*
 - iii) that person's entitlement to gain access to the information.*

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Section 13 of the PPIPA 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.

Under section 20(5) of the PPIPA, Information Protection Principle 6 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Any person can make application to Council by completing the appropriate form and submitting it to Council. An example is at **Appendix 4**.

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 within 28 days of the application being made. The fee structure is commensurate to that of the 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 PPIPA that may affect the application of Information Protection Principle 6.

Existing exemptions under the Act

Compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 6 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 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 its Web page (if it has one) and in its Annual Report concerning the nature of personal information it regularly collects, the purpose for which the personal information is used and an individual's right to access their own personal information.

Information Protection Principle 7 – Access to personal information held by agencies

Section 14 Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

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

Compliance with Information Protection Principle 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 Information Protection Principles 11 and 12 or the Public Register provisions apply.

Where a person makes an application for access under the PPIPA 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 PPIPA.

Under section 20(5) of the PPIPA, Information Protection Principle 7 is subject to any applicable conditions or limitations contained in the *Government Information (Public Access) Act 2009* ("GIPA Act"). Council must consider the relevant provisions of the GIPA Act.

Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the General Manager, who will make a determination. A sample form is provided at **Appendix 5**.

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Manager Business, 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 within 28 days of the application being made.

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 PPIPA that may affect the application of Information Protection Principle 7.

Existing exemptions under the Act

Compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA non-compliance with Information Protection Principle 7 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Information Protection Principle 8 – Alteration of personal information

Section 15 Alteration of personal information

- 1) *A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:*
 - a) *is accurate, and*
 - b) *having regard to the purpose for which the information was collected (or is to be used) and*

to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

- 2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*
- 3) 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 recipients of that information notified of the amendments made by the public sector agency.*
- 4) This section, and any provision of privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.*
- 5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.*
- 6) In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.*

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Section 15 of the PPIPA allows a person to make an application to council to amend (*this includes by way of corrections, deletions or additions*) 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.

If Council declines to amend personal information as requested, it will on request of the individual concerned, place an addendum on the information in accordance with section 15(2) of the PPIPA.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Manager Business in the first instance and treated in accordance with the "Staff Grievance Resolution Policy and Procedure".

Any alterations that are or could be the subject of a customer complaint or grievance will be referred to the General Manager, who will make a determination 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 PPIPA that may affect the application of Information Protection Principle 8.

Existing exemptions under the Act

Compliance with Information Protection Principle 8 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 PPIPA permits non-compliance with Information Protection Principle 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with section Information Protection Principle 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 an application to amend a record under s.15.

Council’s application form for alteration under IPP 8 is at **Appendix 6** at the end of this Plan.

Where Council is not prepared to amend

If Council is not prepared to amend the personal information in accordance with a request by the individual Council may attach to the information in such a manner as is capable of being read with the information, any statement provided by that individual.

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 PPIPA, some deletions may be allowed in accordance with Information Protection Principle 8.

Information Protection Principle 9 – Agency must check accuracy of personal information before use

Section 16 Agency must check accuracy of personal information before use

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

The Privacy Code of Practice for Local Government

The 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.

Information Protection Principle 10 - Limits on use of personal information

Section 17 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.*

The Privacy Code of Practice for Local Government

The 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

Council may use personal information obtained for one purpose for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under section 602 of the LGA 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.

External and related bodies

Each of the following will be required to comply with the Information Protection Principle 10:

- Council owned businesses
- Council consultants;
- Private contractors; and
- Council committees.

Council will seek to contractually bind each of these bodies or persons to comply.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with section 17(a) to the use of the information for another purpose.

The form of consent should include the following elements:

I, ⁽¹⁾ _____	(1) insert full name
of ⁽²⁾ _____	(2) insert address
hereby consent under section 17(a) of the Privacy and Personal Information Protection Act 1998 to ⁽³⁾ _____	(3) insert Council name
using the information collected from me by ⁽⁴⁾ _____	(4) insert name of collecting body / person
for the purpose of ⁽⁵⁾ _____	(5) insert purpose/s info was collected for
Signature _____	
Name to be printed _____	
Date signed / /	

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 PPIPA that may affect the application of Information Protection Principle 10.

Existing exemptions under the Act

Compliance with Information Protection Principle 10 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 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 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* means 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 PPIPA extends the operation of section 24(2) to councils and permits non-compliance with Information Protection Principle 10 if a council is:

- 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.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 28(3) of the PPIPA 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 Division 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.

Information Protection Principle 11 – Limits on disclosure of personal information

Section 18 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 Privacy Code of Practice for Local Government

The 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 PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 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 PPIPA that may affect the application of Information Protection Principle 11.

Existing exemptions under the Act

Compliance with Information Protection Principle 11 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 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purposes* 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 PPIPA permits non-compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. 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)(i) of the PPIPA permits non-compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 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.

(Note: "investigative agency" is defined at s.3 of PPIPA.)

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

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

Section 28(3) of the PPIPA 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 Division 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 s.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 1 of this Plan for more details about suppression of personal information.

Information Protection Principle 12 – Special restrictions on disclosure of personal information

Section 19 Special restrictions on disclosure of personal information

- 1) *A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, 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.*
- 2) *A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*
 - a) *a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction or applies to that Commonwealth agency, or*
 - b) *the disclosure is permitted under a privacy code of practice.*
- 3) *For the purposes of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.*

- 4) *The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales and to Commonwealth agencies.*
- 5) *Subsection (2) does not apply:*
- a) *until after the first anniversary of the commencement of this section, or*
 - b) *until a code referred to in subsection (4) is made, whichever is the later.*

The Privacy Code of Practice for Local Government

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

For the purposes of s.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 PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 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 PPIPA that may affect the application of Information Protection Principle 12.

Existing exemptions under the Act

Compliance with Information Protection Principle 12 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 23(7) of the PPIPA permits non-compliance with Information Protection Principle 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 PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.

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

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

Section 28(2) permits non-compliance with Information Protection Principle 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 PPIPA 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 Division 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 s.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 1 of this Plan for more details about suppression of personal information.

PART 4 – HEALTH PRIVACY PRINCIPLES

In 2002, most references to ‘health information’ were taken out of the PPIPA and separate legislation was enacted. The HRIPA was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIPA in their collection and management of health information.

Health information 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
- generic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIPA. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Protection Principles (“HPP”) set down in Schedule 1 to the HRIPA. Each of these HPPs are considered below. The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

- Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;
- Issuing of clean up orders which may include recording information about a residents health, GP professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, e.g. allergies for catering purposes;
- Seniors bus outings where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children’s services. e.g. history of illness, allergies, asthma, diabetes, epilepsy etc;
- Physical exercise classes;
- Some councils run Podiatry services;
- Information may be collected through a healthy community program;
- Children’s immunisation records; and
- Family counsellor/youth support workers records.

HPPs 1-4 concern the collection of health information, HPP 5 concerns the storage of health information, HPPs 6-9 concern the access and accuracy of health information, HPP 10 concerns the use of health information, HPP 11 concerns the disclosure of health information, HPPs 12-13 concern the identifiers and anonymity of the persons to which health information relate, HPPs 14-15 concern the transferral of health information and the linkage to health records across more than one organisation.

Health Privacy Principle 1

Purposes of collection of health information

(1) *An organisation must not collect health information unless:*

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

(2) *An organisation must not collect health information by any unlawful means.*

Health Privacy Principle 2

Information must be relevant, not excessive, accurate and not intrusive

An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

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

Health Privacy Principle 3

Collection to be from the individual concerned

- 1) An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.*
- 2) Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.*

Health Privacy Principle 4

Individual to be made aware of certain matters

- 1) An organisation that collects health information about an individual from the individual must, at or before the time it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the circumstances to ensure that the individual is aware of the following:*
 - a) the identity of the organisation and how to contact it,*
 - b) the fact that the individual is able to request access to the information,*
 - c) the purposes for which the information is collected,*
 - d) the persons to whom (or the type of persons to whom) the organisation usually discloses information of that kind,*
 - e) any law that requires the particular information to be collected,*
 - f) the main consequences (if any) for the individual if all or part of the information is not provided.*

- 2) *If the organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:*
 - a) *making the individual aware of the matters would impose a serious threat to the life or health of any individual, or*
 - b) *the collection is made in accordance with guidelines issued under subclause (3).*
- 3) *The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).*
- 4) *An organisation is not required to comply with a requirement of this clause if:*
 - a) *the individual to whom the information relates has expressly consented to the organisation not complying with it or,*
 - b) *the organisation is lawfully authorised or required not to comply with it, or*
 - c) *non-compliance is otherwise permitted (or necessarily implied or reasonably contemplated) under any Act or any other law including the State Records Act 1998), or*
 - d) *compliance by the organisation would, in the circumstances, prejudice the interests of the individual to whom the information relates, or*
 - e) *the information concerned is collected for law enforcement purposes or,*
 - f) *the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions.*
- 5) *If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances, to ensure that any authorised representative of the individual is aware of those matters.*
- 6) *Subclause (4) (e) does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence.*
- 7) *The exemption provided by subclause (4) (f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

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. (HPP3).

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 5).

Health Privacy Principle 5

Retention and Security

- 1) *An organisation that holds health information must ensure that:*
 - a) *the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
 - b) *the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and*
 - c) *the information is protected, by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
 - d) *if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of an organisation is done to prevent the unauthorised use or disclosure of the information.*

Note. Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

- 2) *An organisation is not required to comply with a requirement of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with it, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*
- 3) *An investigative agency is not required to comply with subclause (1)(a).*

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).

Health Privacy Principle 6

Information about health information held by organisations

- 1) *An organisation that holds health information must take such steps as are, in the circumstances, reasonable, to enable any individual to ascertain:*
 - a) *whether the organisation holds health information, and*
 - b) *whether the organisation holds health information relating to that individual, and*
 - c) *if the organisation holds health information relating to that individual:*
 - (i) *the nature of that information*
 - (ii) *the main purposes for which the information is used, and*
 - (iii) *that person's entitlement to request access to the information.*
- 2) *An organisation is not required to comply with a provision of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under any Act or any other law (including the State Records Act 1998).*

Health Privacy Principle 7

Access to health information

- 1) *An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

Note. Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause. Access to health information held by public sector agencies may also be available under the *Government Information (Public Access) Act 2009* or the *State Records Act 1998*.

- 2) *An organisation is not required to comply with a provision of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

Health Privacy Principle 8

Amendment of health information

- 1) *An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:*
 - a) *is accurate, and*
 - b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to day, complete and not misleading.*

- 2) *If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the individual to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*

- 3) *If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.*

Note. Division 4 (Amendment of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

Amendment of health information held by public sector agencies may also be able to be sought under the *Privacy and Personal Information Protection Act 1998*.

- 4) *An organisation is not required to comply with a provision of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

Health Privacy Principle 9

Accuracy

An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate and up to date, complete and not misleading.

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).

Health Privacy Principle 10

- 1) *An organisation that holds health information must not use the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

(a) Consent

The individual to whom the information relates has consented to the use of the information for that secondary purpose, or

(b) Direct relation

The secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for secondary purpose or,

Note: For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) Serious threat to health or welfare

The use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:

- i) a serious and imminent threat to the life, health or safety of the individual or another person, or*
- ii) a serious threat to public health and safety, or*

(d) Management of health services

The use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:

i) either:

(A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or

(B) reasonable steps are taken to de-identify the information, and

*ii) if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and**iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or***(e) Training**

The use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:

(i) either:

(A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or

(B) reasonable steps are taken to de-identify the information, and

*(ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and**(iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or***(f) Research**

The use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:

(i) either:

(A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or

(B) reasonable steps are taken to de-identify the information, and

*ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and**iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purpose of this paragraph, or***(g) Find missing person**

The use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or

(h) Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline

The organisation:

i) has reasonable grounds to suspect that:

- (A) *unlawful activity has been or may be engaged in, or*
 - (B) *a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or*
 - (C) *an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
- ii) *uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*
- (i) **Law enforcement**
The use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or
- (j) **Investigative agencies**
The use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or
- (k) **Prescribed circumstances**
The use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.
- 2) *An organisation is not required to comply with a provision of this clause if:*
 - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*
- 3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- 4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
 - (a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*
 - (b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- 5) *The exemption provided by subclause (1) (j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

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 10).

Health Privacy Principle 11

- 1) *An organisation that holds health information must not disclose the information for a purpose (a secondary purpose) other than the purpose (the primary purpose) for which it was collected unless:*

(a) Consent

The individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or

(b) Direct relation

The secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or
Note: For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) Serious threat to health or welfare

The disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:

- i) a serious and imminent threat to the life, health or safety of the individual or another person, or*
- ii) a serious threat to public health or public safety, or*

(d) Management of health services

The disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:

- i) either:*
 - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or*
 - (B) reasonable steps are taken to de-identify the information, and*
- ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) Training

The disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:

- (i) either:*
 - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent*

of the individual for the disclosure, or

(B) reasonable steps are taken to de-identify the information, and

(ii) if the information could reasonably be expected to identify the individual, the information is not made publicly available, and

(iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(f) Research

The disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:

(i) either:

(A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or

(B) reasonable steps are taken to de-identify the information, and

(ii) the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and

(iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(g) Compassionate reasons

The disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:

(i) the disclosure is limited to the extent reasonable for those compassionate reasons, and

(ii) the individual is incapable of giving consent to the disclosure of the information, and

(iii) the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and

(iv) if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or

(h) Finding missing person

The disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or

(i) Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline

The organisation:

(i) has reasonable grounds to suspect that:

(A) unlawful activity has been or may be engaged in, or

(B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or

(C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and

(ii) discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or

(j) Law enforcement

The disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or

(k) Investigative agencies

The disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or

(l) Prescribed circumstances

The disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.

- 2) *An organisation is not required to comply with a provision of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or*
 - c) *the organisation is an investigative agency disclosing information to another investigative agency.*
- 3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- 4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
 - a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*
 - b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- 5) *If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*
- 6) *The exemptions provided by subclauses (1) (k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

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).

Health Privacy Principle 12

Identifiers

- 1) *An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.*
- 2) *Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual an identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
 - a) *the individual has consented to the adoption of the same identifier, or*
 - b) *the use or disclosure of the identifier is required or authorised by or under law.*
- 3) *Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:*
 - a) *the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10 (1) (c)-(k) or 11 (1) (c)-(l), or*
 - b) *the individual has consented to the use or disclosure, or*
 - c) *the disclosure is to the public sector agency that assigned the identifier to enable the public sector agency to identify the individual for its own purposes.*
- 4) *If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:*
 - a) *adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or*
 - b) *use or disclose an identifier of the individual that has been assigned by the public sector agency.*

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).

Health Privacy Principle 13

Anonymity

Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.

Council Policy

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

Health Privacy Principle 14

Transborder data flows and data flow to Commonwealth agencies.

An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:

- a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles, or*
- b) the individual consents to the transfer, or*
- c) the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request, or*
- d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party, or*
- e) all of the following apply:*
 - i) the transfer is for the benefit of the individual,*
 - ii) it is impracticable to obtain the consent of the individual to that transfer,*
 - iii) if it were practicable to obtain such consent, the individual would be likely to give it, or*
- f) the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:*
 - (i) a serious and imminent threat to the life, health or safety of the individual or another person, or*
 - (ii) a serious threat to public health or public safety, or*
- g) the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or*
- h) the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.*

Council Policy

Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

Health Privacy Principle 15

Linkage of health records

- 1) *An organisation must not:*
 - a) *include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or*
 - b) *disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.*
- 2) *An organisation is not required to comply with a provision of this clause if:*
 - a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
 - b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or*
 - c) *the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual is to be disclosed) is a use of the information that complies with HPP 10 (1) (f) or a disclosure of the information that complies with HPP 11 (1) (f).*
- 3) *In this clause:*
health record *means an ongoing record of health care for an individual.*
health records linkage system *means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.*

Council Policy

Council will only include health information in a 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

Promoting the Plan to Council Officials

Council will promote awareness of this plan to Councillors, staff and members of council committees by:

- providing an overview at inductions and including a copy of the plan in induction packs
- publishing the plan on our website and staff intranet
- offering training sessions on a regular basis as required
- providing specialised on-the-job training to key groups
- promoting the plan regularly through newsletters, all staff emails, staff notice boards and initiatives such as Privacy Awareness Week

Promoting the Plan to the Community

Council will promote public awareness of this plan to the community by:

- making it publicly available and publishing it on our website
- telling people about the plan when they enquire about personal and health information
- provide a link on our website to the Information & Privacy Commission website

Responsibilities of the Privacy Contact Officer

The Public Officer within Council is assigned the role of the Privacy Contact Officer and will be responsible for the implementation of the Privacy Management Plan with the assistance of the Governance Officer. Cootamundra-Gundagai Regional Council's Public Officer is the Manager of Business.

Responsibilities of Governance Officer

In order to ensure compliance with PPIPA and the HRIPA, Council's Governance Officer will conduct a review of all application forms and any other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

Council may apply interim measures to ensure compliance with IPP 3, this may include the creation of stamps or printed slips that contain the appropriate wording (see Appendices 2 and 3).

Responsibilities of Council Officials

Council will ensure that computer screens in public areas have special provisions similar to the following:

- fast screen savers;
- face the computers away from the public; or

Council's electronic databases should also be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal and health information.

PART 6 – INTERNAL REVIEW

How does the process of Internal Review operate?

Under section 53 of the PIPA a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. An application for internal review is to be made within 6 months of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact 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 the council is required to consider any relevant material submitted by the Privacy Commissioner.

Council must provide the Privacy Commissioner with a draft of the council's internal review report to enable the Privacy Commissioner to make a submission.

Council may provide a copy of any submission by Privacy Commissioner's 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.

An internal review checklist has been prepared by the Office of the Privacy Commissioner NSW and can be accessed from its website <http://www.ipc.nsw.gov.au>.

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

What happens after an Internal Review?

If the complainant remains unsatisfied, he/she may appeal to the Administrative Decisions Tribunal 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

Contracts with consultants and other private contractors

It is necessary to have specific provisions to protect Council in any dealings with private contractors.

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 attaches 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 for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

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.

Regular review of the collection, storage and use of personal or health information

The information practices relating to the collection, storage and use of personal or health information will be reviewed by the Council every three (3) years. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

Regular review of Privacy Management Plan

When information practices are reviewed from time to time, the Privacy Management Plan will also be reviewed to ensure that the Plan is up to date.

Further information

For assistance in understanding the processes under the PPIPA and HRIPA, please contact:

Office of the Privacy Commissioner NSW

GPO Box 7011
Sydney NSW 2001
Phone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au

Administrative Decisions Tribunal

Level 10, John Maddison Tower
86-90 Goulburn Street
Sydney NSW 2000
Phone: (02) 9377 5711

COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

PART 8 – APPENDICES

DRAFT PRIVACY MANAGEMENT PLAN

Page 2



COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

Appendix 1: Statutory Declaration for access under Section 57 of the Privacy and Personal Information Protection Act 1998: To a Public Register Held by Council

Statutory Declaration Oaths Act, 1900, Ninth Schedule

I, the undersigned ⁽¹⁾ (1) insert full name

of ⁽²⁾ (2) insert address

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

I am ⁽³⁾ (3) insert relationship, if any, to person inquired about

I seek to know whether ⁽⁴⁾ (4) insert name

is on the public register of ⁽⁵⁾ (5) Applicant to describe the relevant public public register

The purpose for which I seek this information is ⁽⁶⁾ (6) insert purpose for seeking information

.....

The purpose for which the information is required is to ⁽⁷⁾ (7) insert purpose

.....

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

Signature of Applicant

Declared at: _____

in the said State this _____ day of _____ 20 _____

before me. _____

Signature of Justice of the Peace/Solicitor

Name of Justice of the Peace/Solicitor to be printed



COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

Appendix 2: Privacy Notification Form - Section 10 (Pre – Collection)

(Addressed to the person from whom information is about to be collected or has been collected.)

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA).

The intended recipients of the personal information are:

- officers within the Council;
- data service providers engaged by the Council from time to time;
- any other agent of the Council; and
- (INSERT NAME OF OTHER INTENDED RECIPIENTS)

The supply of information by you is: ☒ Voluntary ☐ Not voluntary

If you cannot provide, or do not wish to provide, the information sought, the Council

- ☐ May be unable to process your application.
- ☐ Will be unable to process your application.

Council is collecting this personal information from you in order to:

You may make application for access or amendment to information held by Council.

You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the PIPA.

Council is to be regarded as the agency that holds the information. However, if it **is not** Council who holds or controls the information, please state below who does:

(INSERT NAME OF AGENCY WHO HOLDS OR CONTROLS THE INFORMATION)

Enquiries concerning this matter can be addressed to:

Signature _____

Name to be printed

Date signed / /



(Addressed to the person from whom information has been collected.)

The intended recipients of the personal information are:

- The supply of information by you is: ☐ Voluntary ☐ Not voluntary

Council has collected this personal information from you in order to:

Council is to be regarded as the agency that holds the information. However, if it **is not** Council who holds or controls the information, please state below who does:

Enquiries concerning this matter can be addressed to:

Date signed



COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

Appendix 4: Application under Section 13 of the Privacy and Personal Information Protection Act 1998: To determine whether Council holds personal information about a person

Personal information held by the Council

I, ⁽¹⁾ _____ (1) insert full name
 of ⁽²⁾ _____ (2) insert address
 Hereby request the General Manager of ⁽³⁾ _____ (3) insert name of Council

 provide the following:

- Does the Council hold personal information about me? ☐ Yes ☐ No
- If so, what is the nature of that information? _____

- What is the main purpose for holding the information? _____

- Am I entitled to access the information? ☐ Yes ☐ No

My address for response to this application is:

 _____ State: _____ Post Code: _____

Note to applicants

Council **will not** record your address or any other contact details that you provide for any other purpose other than to respond to your application.

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA). There is a separate application form to gain access.

The Council may refuse to process this application in part or in whole if:

- there is an exemption to section 13 of the PPIPA; or
- a Code of Practice may restrict the operation of section 14.

Enquiries concerning this matter can be addressed to:



COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

Appendix 5: Application under section 14 of the Privacy and Personal Information Protection Act 1998: For access to Applicant's Personal Information

Personal information held by the Council

I, ⁽¹⁾

(1) insert full name

of ⁽²⁾

(2) insert address

Hereby request that the ⁽³⁾

(3) insert name of Council

Provide me with:

- ☐ (a) access to all personal information held concerning myself; or
- ☐ (b) access to the following personal information only (LIST INFORMATION REQUIRED BELOW):

My address for response to this application is:

State: Post Code:

Note to applicants:

As an applicant, you have a right of access to personal information concerning yourself that is held by the Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA).

You are entitled to have access without excessive delay or cost.

Council may refuse to process your application in part, or in whole, if:

- the correct amount of fees has not been paid;
- there is an exemption to section 14 of the PPIPA; or
- a Code of Practice may restrict disclosure.

Enquiries concerning this matter can be addressed to:



Appendix 6: Application under section 15 of the Privacy and Personal Information Protection Act 1998: For alteration of Applicant's Personal Information

Personal information held by the Council

I, ⁽¹⁾ _____ (1) insert full name

of ⁽²⁾ _____ (2) insert address

Hereby request that the ⁽³⁾ _____ (3) insert name of Council

alter personal information regarding myself in the following manner:

- I propose the following changes: _____
- The reasons for the changes are as follows: _____
- The documentary bases for those changes is as shown on the attached documents

Note to Applicants:

You have a right to request appropriate amendments are made (whether by way of corrections, deletions or additions) to ensure that the personal information held by the Council:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up-to- date, complete and not misleading.

If Council is not prepared to amend the personal information in accordance with a request by you, Council must take such steps as are reasonable to attach to the information in such a manner as is capable of being read with the information, any statement provided by you.

If your personal information is amended, you are entitled under the Privacy and Personal Information Protection Act 1998 (PPIPA), if it is reasonably practicable, to the have recipients of that information notified of the amendments made by Council.

Council may refuse to process your application in part, or in whole, if:

- there is an exemption to section 15 of the PPIPA; or
- a Code of Practice may restrict alteration.

Enquiries concerning this matter can be addressed to: _____



COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

ABN: 46 211 642 339

PO Box 420, Cootamundra NSW 2590

Email: mail@cgrc.nsw.gov.au

Phone: 1300 459 689

Fax: 02 6940 2127

www.cgrc.nsw.gov.au





Draft Rural Lands Strategy

2019



Rural Lands Strategy

Drafted 2019

Adopted 20##

© Cootamundra-Gundagai Regional Council

Cootamundra-Gundagai Regional Council acknowledges the significant input given to this project by the Australian Rail and Track Corporation, Department of Primary Industries, Goldenfields Water, Roads and Maritime Services and the keen members of the community.

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Fishing in Morley's Creek.



Introduction

Message from the Mayor & General Manager

We are pleased to announce the release of the Cootamundra-Gundagai Regional Council Rural Lands Strategy 2019.

The Cootamundra-Gundagai Regional Council area is a diverse and varied landscape which provides a range of opportunities for agricultural land uses and other broad acre industries. From the wheat fields of Wallendbeen, to the grassy slopes of Adjungbilly to the Lucene flats of Nangus, there is almost nothing which cannot be grown in our Local Government Area.

The changing requirements of consumers and development opportunities from tree changers, waste recycling and energy producers means that there is significant land use conflicts occurring on rural lands. This strategy creates a framework for Council's new Local Environmental Plan and Development Control Plan to dictate what development is permissible and under what circumstances. The current absence of strong documents like these, leaves our Council open to undesirable development outcomes which compromise the health, wellbeing and economic prosperity of future generations.

This strategy has been the result of robust community consultation and background research and creates an agricultural vision for our community connecting the development and use of rural lands to the prosperity of our towns and villages.



Abb McAlister
Mayor



Phil McMurray
Acting General Manager



Mayor Abb McAlister & Acting General Manager Phil McMurray



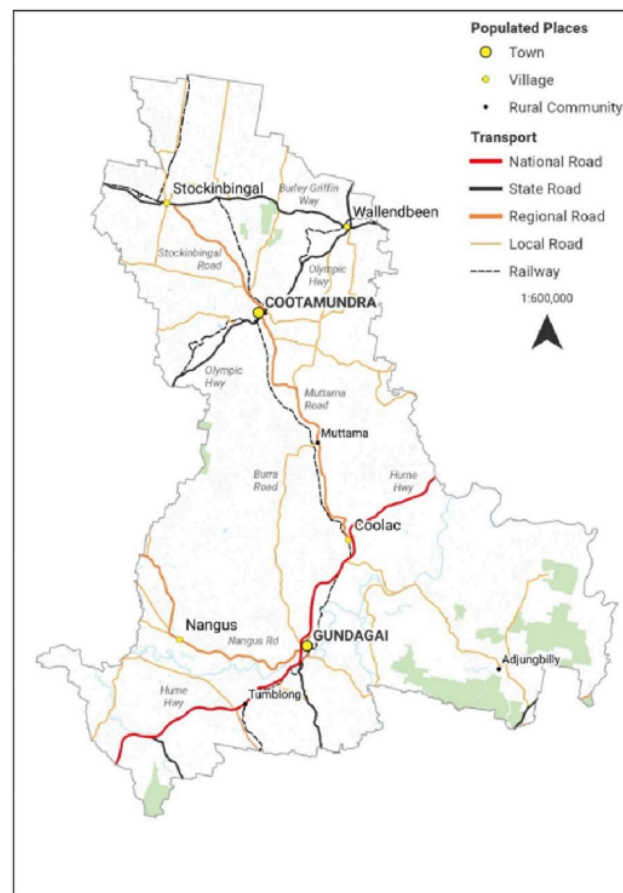
Purpose of the Rural Lands Strategy

The merger of Gundagai Shire Council and Cootamundra Shire Council as Cootamundra-Gundagai Regional Council (CGRC) has necessitated the need for new planning instruments and policies; in particular a Local Environment Plan (LEP) and Development Control Plan (DCP) which cover the entire regional council area. A strategy to deal specifically with the rural lands of CGRC was proposed, aiming to analyse agricultural trends and opportunities for the area. The Rural Lands Strategy will help to update mapping for the new LEP while also providing rationale and reasoning for zoning and minimum lot sizes in rural areas.

Rural land is often neglected from a planning perspective due to more pressing planning needs in larger centres. However, development on agricultural land often has a disproportionate impact on residential and economic activity of towns when compared to urban development, with intensive feedlots, quarries and landfills facilitated mostly located on rural land. Furthermore, agricultural uses themselves such as piggeries, vineyards, feedlots and so on have a long term impact on the use and viability of a site and surrounding lands. Through the strategic planning process, controls and principles of development can be implemented for agricultural land to ensure the viability of the land into perpetuity as well as providing opportunities for emerging and new agricultural enterprises to establish in the area in a manner which is fair and equitable.

The two former shires have varied terrain and soil quality which makes formulating one course of action or plan for rural land difficult. However this should be viewed as an opportunity which makes CGRC more attractive and marketable to residents, visitors and prospective investors as a wide variation of agricultural pursuits can be explored in this single local government area.

It is Council's intention that the Rural Lands Strategy serve not only as a land use planning document, but as a plan for economic success and growth through the shared identity of agriculture. This leverages off what CGRC does best (agriculture), connections to logistic hubs and routes as well as capitalising on changing recreation and tourism trends.



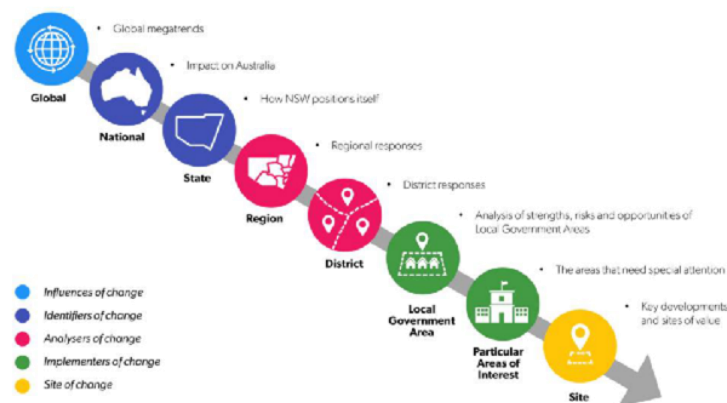
Cootamundra-Gundagai Regional Council

Strategic Context

The Rural Lands Strategy was developed over an 18 month period of research, consultation and review. This section outlines the context within which this strategy was developed.

Importantly, the Rural Lands Strategy will inform a key component of the Local Strategic Planning Statement's rural lands component and serve as the background document to the LEP and DCP.

Good strategic planning is not done in isolation, and in order to ensure the success of this strategy, it has been formulated in line with other strategic plans and considerations.



From the NSW Department of Planning's website

Community Strategic Plan: Our Place, Our Future 2018-28



The Integrated Planning and Reporting framework for local councils was developed to help Councils strengthen community participation in decision making, provide corporate strategic emphasis and reduce duplication of work. As a part of this Integrated Planning and Reporting framework, Council is required to prepare a community strategic plan.

The community strategic plan is a ten year document with high level objectives, developed by the community articulating the vision of "A vibrant region attracting people, investment and business through innovation, diversity and community spirit."

The formulation of the community strategic plan is based on the principles of equity, access, participation and rights. The plan takes a holistic view of our community by addressing social, economic, environment and civic leadership issues.

The key direction of "Sustainable natural and built environments: we connect with the places and spaces around us" speaks directly to the role and purpose of the Rural Lands Strategy and demonstrates the connection between the community strategic plan and this strategy.

Environmental Planning & Assessment Act 1979

The Environmental Planning & Assessment Act 1979 and associated regulation legislate how local environmental plans and other planning controls are to be created. A chapter on rural development and subdivision in the DCP will be informed by this Strategy. The Rural

Lands Strategy aims to inform changes to the existing Local Environmental Plans (Cootamundra and Gundagai) and inform the forthcoming Cootamundra-Gundagai Local Environmental Plan.

Objectives from the Act to encourage the proper management of land have influenced and shaped a number of the actions and recommendations of the Rural Lands Strategy.

NSW 2021

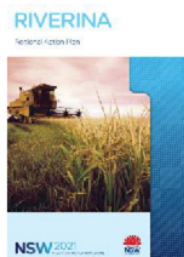


The NSW State Plan is a 10 year plan to guide policy and budget decision making. NSW 2021 works in conjunction with the NSW Budget to deliver identified community priorities. It sets goals and measurable targets outlining immediate actions that will help achieve these goals. These goals reflect the Government's commitment to whole of State growth and delivery of projects, to improve opportunities and quality of life for people in regional and metropolitan NSW.

The Plan indirectly guides residential development through infrastructure planning. Major infrastructure plans have been used to inform, justify and support recommendations of the Rural Lands Strategy in particular utilisation of existing and proposed freight and transport links.

Riverina Regional Action Plan 2021

The Riverina Regional Action Plan identifies the immediate actions the NSW Government will prioritise in the Riverina. These actions aim to compliment both long term strategies developed for NSW and existing regional strategies.



These priorities inform a number of directions and recommendations of the Rural Lands Strategy and serve as a basis for recommending the investment and expansion of a value add agricultural industry in our towns and villages.

Riverina-Murray Regional Plan



The Riverina-Murray Regional Plan looks broadly at the Riverina Region, with specific emphasis on the cities and towns of the region as key to the future 27% increase in population by 2036.

In terms of development, the Regional Plan provides good planning outcomes which influence recommendations for local environmental plan changes in particular.

NSW DPI Right to Farm Policy

Released in 2015, this policy establishes the baseline of agricultural land use rights and responsibilities for NSW. It emphasises the primary purpose of designated rural land as being first and foremost for the purpose of agriculture. A number of the actions from this policy have helped to shape the actions of this strategy.



Considerations of Directions Issued by the Minister (Section 9.1 Directions)

Employment & Resources

Business & Industrial Zones

The Strategy is consistent with this direction and proposes to increase usage of industrial land across the local government area, taking advantage of existing infrastructure.

Rural Zones

This strategy does not seek to rezone any rural zones to residential, business, industrial, village or tourist zone at this stage. It is acknowledged that rezonings may be required or justified by recommendations of this strategy, accordingly this document provides the strategic context for such changes and it is believed that such rezonings would be of minor significant and therefore comply with this direction.

Rural Lands

The Strategy is consistent with the purpose and intent of this direction and any resulting planning proposal from any recommendations of this strategy would be supportive of the direction.

Environment & Heritage

Environmental Protection Zones

The Strategy is consistent with this direction as it does not recommend diminishing any environmental protection zones nor impact the function of such areas.

Heritage Conservation

The Strategy is consistent with this direction as it seeks further recognition of heritage, particularly aboriginal and other cultural heritage.

Housing, Infrastructure & Urban Development

Integrated Land Use & Transport

The Strategy is consistent with this direction as it promotes greater employment opportunities and increases in services in industrial areas and identified tourism “hotspots”.

Hazard & Risk

Acid Sulfate Soils

The Strategy is consistent with this direction as it does not propose development on land identified as containing acid sulfate soils.

Mine Subsidence and Unstable Land

The Strategy is consistent with this direction as it does not propose development on land identified as unstable or in a mine subsidence area.

Flood Prone Land

The Strategy is largely consistent with this direction as it does not seek to rezone or repurpose land which is mapped as being flood prone. Noting that any development proposed in a flood prone area would

The Strategy does not seek to create, alter or reduce existing zones or reservations of land for public purposes and is consistent with this direction.

[illegible]

Preparation of the Strategy

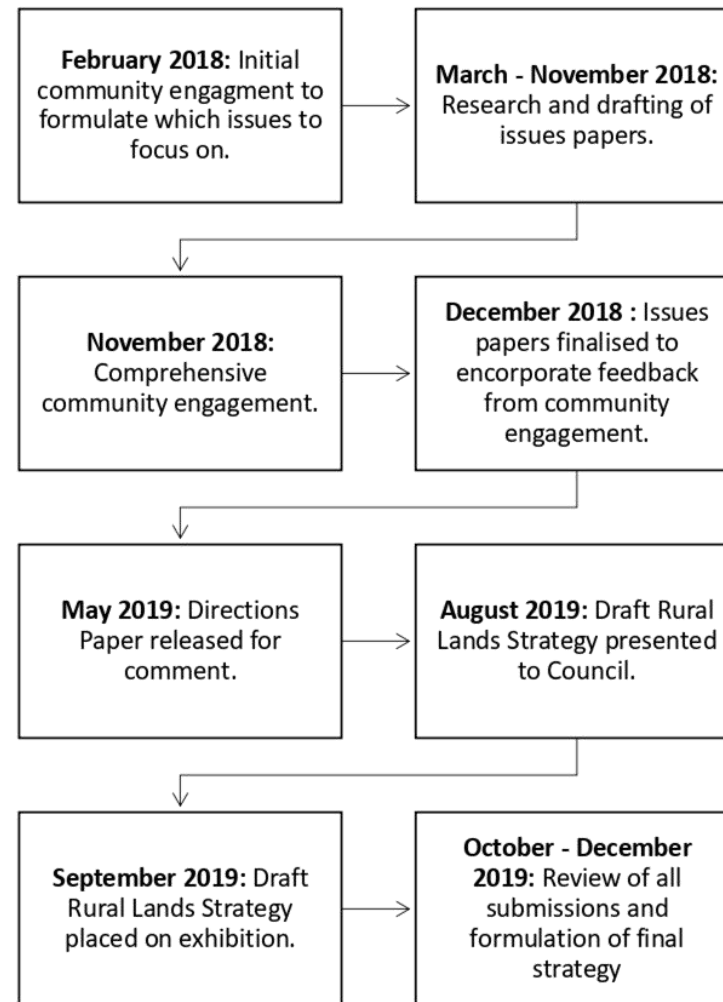
The CGRC Rural Lands Strategy is a strategic document which aims to create a vision for the villages and rural communities of Cootamundra-Gundagai Local Government Area. The strategy is the culmination of research, consultation and future planning.

Council began the process of creating a Rural Lands Strategy in February 2018 with the entire process showed in the flowchart to the right.

The amount of background research collated through the issues papers and community engagement meant that delays to the project timeline have pushed delivery of the final strategy back six months. While delays are never the preferred outcome, the extra time has allowed for greater consultation and reflection of the directions which shape and headline this strategy.



Community consultation for the Strategy February 2018





Direction One: Protect and Enhance Agricultural Land



Overview

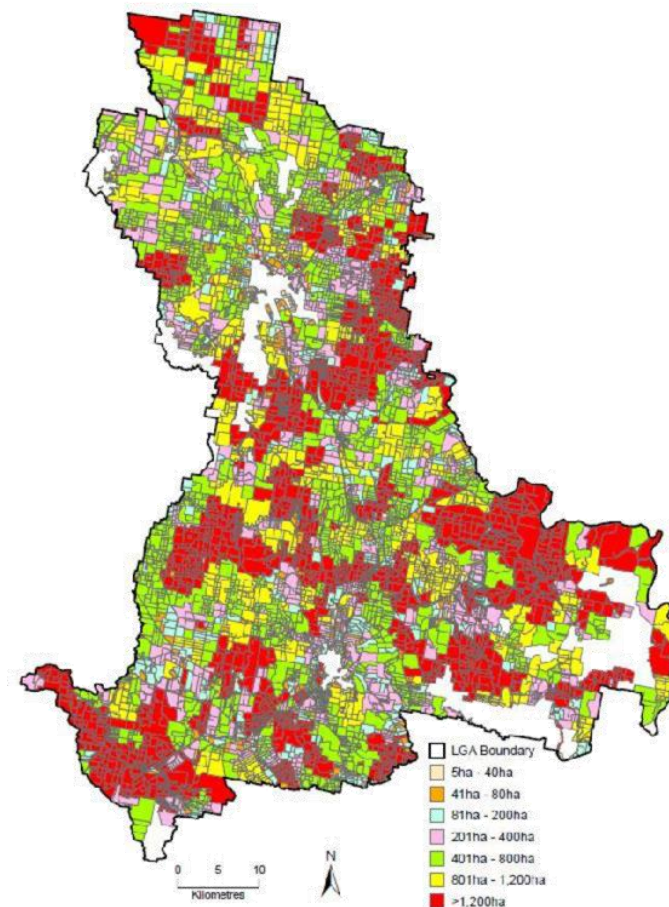
This direction focuses on protecting and enhancing the productive value of agricultural land. With such a diverse Council area, there are a range of agricultural land uses which can be undertaken in CGRC, however the increasing value of agricultural land and fragmentation of high value areas mean that the long term prosperity of broad acre industries and large framing enterprises are threatened.

Broad acre areas are not a limitless resource and while it may be desirable to split the family farm for succession purposes, this erodes the long term use of the area and encourages underutilisation of the area as well as driving up land values in the long term.

Considerations

Currently Zoned

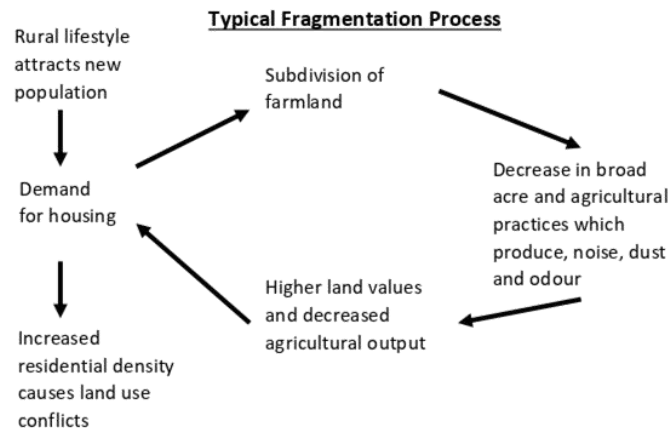
CGRC currently has an oversupply in zoned land catering to the small acreage market. Analysis of the undeveloped RU4 – Primary Production Small Lots across the LGA reveals that there is approximately 385.7 hectares which could be subdivided to yield 123 lots and associated dwellings. On average 2.5 dwellings are approved per year on these types of lots meaning that the LGA has almost 49 years supply of acreages and other small lots. Even if an average was taken from dwelling approvals on larger rural lots (considering the ability for lots regardless of size in former Gundagai Shire to apply for a dwelling) that is 9.3 dwellings approved per year, meaning that there is a 13.2 year supply of lots.



Current, rurally zoned holding sizes

Fragmented rural land and the “Tree Changer” effect

Decreasing affordability of our cities and interest in rural areas has seen a marked increase in city dwellers moving to regional areas. More often than not these people are either close to or near retirement and lack knowledge and practical skills to truly manage land and/or they are professionals seeking space. This has led to a rise in demand for smaller lots with no quantifiable agricultural output.



Succession planning

Succession planning is a complex issue. Family farms make up 60% of all farm businesses across Australia and there is an accumulative failure of rate of transition from the first generation onwards (see Farm Diversification and Succession Planning Issues Paper). Land owners typically hold onto numerous titles believing that each title adds incremental value or offers greater entitlement for dwellings and thus

ensures an informal succession plan. This is not the case, with the use of the land tied directly to the zoning and the land size, meaning that the number of titles can be often irrelevant. However, many families only become aware of this after an event such as a death has occurred which triggers a rapid transfer of assets. To clarify this and provide certainty it is essential that Part 4 of the LEP address subdivision and dwellings on rural land.

Diversification

Evidence suggests that larger farms have greater opportunities to diversify (see Farm Diversification and Succession Planning Issues Paper) with better incentives to invest in technology and more space to include opportunities through other industries such as tourism.

An individual’s education has also been proven to influence the diversification rate of a farm from a monocrop enterprise to a multi-faceted one. With changing social, economic and climatic conditions it is essential that farmers have better access to education and the internet.



Actions

Action 1.1. Minimum lot sizes

Minimum lot sizes, zoning and associated land uses be implemented in accordance with mapped agricultural land value (from either Council or Department of Primary Industries). This includes the introduction of other Rural and Environmental Zones aside from Primary Production to cater for lands with scenic and environmental values. Measures to provide consistent minimum lot sizes across the LGA are to be supported.

Action 1.2. "Dwelling entitlements"

Part 4 of the proposed CGRC LEP clearly articulate permissibility and circumstances for dwelling approvals on rural land.

Action 1.3. Dual occupancies

Dual occupancies (detached) be permissible as an alternate solution for succession planning and family farm enterprises.

Action 1.4. Agricultural subdivision

Subdivision and boundary realignments below the minimum lot size for agricultural purposes continue.

Action 1.5. Land use conflict and biosecurity

Setbacks for built structures and intensive agriculture development must achieve a minimum setback of 100m from a boundary under different ownership or provide mitigating solutions to reduce the impact on neighbours.

Land adjoining rural zones have setback requirements for buildings and strict controls requiring clearance areas for weeds and other pests.

Action 1.6. Innovation and enterprise support

Encouragement of holdings to diversify income streams to better cope with changing social, economic and climatic conditions. An ability to undertake multiple land uses on the same holding be supported in the DCP and through Council Policy.



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Direction Two: Grow Agritourism



Kimo Estate Wedding Setting

Overview

This direction focuses on supporting and allowing flexibility for tourism and regional food experiences to be developed on rural land. Impacts of standalone enterprises and the ability for holdings to be diversified to cater to the growing agritourism market need to be supported in a manner which promotes innovation but safeguards the primacy of agricultural production in rural areas.

Agritourism is an industry Council seeks to encourage not just because of the positive economic impacts of such development, but also because it provides an alternate source of income which improves the financial resilience of holdings and the community in challenging conditions.

Agritourism is a growing industry in Australia with visitor numbers to rural areas increasing by roughly 9% per annum and generating \$9.4 billion a year (see Agricultural Tourism Issues Paper).

Considerations

Land uses

Defining “agritourism” is problematic for development assessment staff as it is such a broad category with various standalone land uses interpreted differently in a mixed use environment. For ease of understanding, it is clear that there are certain uses which alone constitute an “agritourism” activity, with a further subset group which, when operating in conjunction with another land use, could be considered “agritourism”.

Agritourism

- Artisan food and drink industry
- Cellar door premises
- Farm stay accommodation
- Roadside stall

Subset of agritourism operating in a mixed use environment

- Agriculture
- Agricultural produce industry
- Bed and breakfast
- Caravan park
- Camping ground
- Restaurant or café
- Information and education facility
- Specialised retail premises

Ecotourism – as another visitor generating, rural land use

- Ecotourist facility
- Environment facility

Clause 5.4 Miscellaneous permissible uses

Particularly on smaller sites within proximity of urban areas, there can be a tendency for agritourism to encompass the entire site and create land use conflict. Accordingly, it is imperative that Clause 5.4 of the LEP be current and reflective of flexibility of agritourism whilst balancing potential land use conflicts. In particular, attention and limitation on the number of bedrooms for visitor accommodation and floor space limitation for retail areas need to be created and enforced. Current controls under 5.4 differ between the Cootamundra LEP 2013 and the Gundagai LEP 2011. A midground between the two should be implemented and then reviewed in five years.

Transport linkages

Emphasis on the vehicle accessibility of agritourist facilities needs to be considered in the assessment of any new development. In particular, assessment of roads and their ability to handle additional light traffic. Options for Council include the ability to develop a comprehensive road standard which all agritourist facilities must be accessed by.

Opportunities to develop regional tourist routes for self-travel or by coach further create a need to assess and provide adequate onsite car and coach parking. Potential cycling routes would further create a need to consider bike lockers and shower facilities. Connection to horse trails also create a need to have stabling and other grooming facilities onsite. These standards would be detailed in the DCP.

Water, sewer and electricity

Connection to services are essential for any enterprise, however with changing technology it is possible for a building to be “off grid” and still

achieve a high level of functionality. Council can be supportive of these undertakings provided that all development standards, building code requirements and requirements of other agencies are met. Additionally, a resilience plan for water during drought events would need to be prepared as a part of any application.

Regional food

Changing consumer demands for ethical and sustainable food as well as the rise of the global middle class is fuelling demand for premium agricultural products. Coupled with the reach of the internet, this market provides an opportunity for our LGA to utilise smaller holdings for the production of niche commodities as well as presenting value add opportunities either on farm or in town.

Farms wishing to diversify through regional or niche food cultivation and production should be encouraged in line with *Action 1.6 Innovation and enterprise support* of this strategy.



TASTE Riverina Food Festival showcases culinary produce of the region

Actions

Action 2.1. "Open" zones

Allow for all rural zones to be "open" meaning that "any development not specified in item 2 or 4" be listed under item 3 "permissible with consent" to allow for innovation and flexible land use.

Action 2.2. Miscellaneous permissible uses

Ensure that controls under Clause 5.4 of the LEP be realistic and unencumbering on development and use of site.

Action 2.3. Development control plan (DCP)

Create a specific subsection of the DCP under business and industrial development which deals with agritourism and artisan food businesses.

Action 2.4. Fact sheets and start up packs

Create a series of fact sheets on agritourism and regional food development. Couple this with development packs which contain all council forms and other agency contacts for a business to get started.

Action 2.5. Aboriginal heritage and culture

Undertake an Aboriginal heritage and cultural study to better understand the needs and opportunities of indigenous people and place as well as identifying opportunities for education and tourism.

Action 2.6. Active transport strategy

Undertake an active transport strategy that addresses rural links, particularly for cycling and horse riding using paper road reserves and former railway corridors.

Action 2.7. Coolac

Agritourism hotspot "Coolac" be master planned and serviced with water to allow for development and growth focused on providing produce direct to consumers and suppliers along the Hume Highway. Coolac can also be a staging pointing for recreational trails utilising former railway corridors.

Action 2.8. Employment and training

Support the implementation of the South West Slopes Regional Economic Development Strategy 2018-2022. Council to sponsor and partner with education providers to run short courses in agriculture and permaculture to capitalise on the "experience economy".





Overview

A key theme of this strategy is to advertise that CGRC is the area where you can find a place to grow and raise anything – this direction speaks directly to this. This direction seeks to encourage innovation and allow choice for farmers and other land holders of rural land.

Traditional cropping and grazing contributes the bulk of Australia's agricultural production. However, opportunities such as pharmaceuticals, timber and so on mean that a farm can be more than just grains and meat and still be profitable.

Consider the increased demand for native edibles and you start to view virulent pest flora like acacia baileyana a little differently. An increasingly aged population and growing middle class mean that there is increased demand for traditional and non-traditional medicines.

Considerations

Land uses

Building on the need to have "open" rural zones is the need to be specific when listing prohibited land uses. Although slightly unwieldy, to ensure clarity and confidence, land uses under item 4 need to be specific and not group terms i.e. "hardware and building supplies" rather than the group term of "retail premises".

Mixed use enterprises

Often biosecurity and farming conventions isolates produce cultivation and processing. Where it is safe and complies with state and federal guidelines, mixed use enterprises can offer security of income and

ensure that unexpected climatic conditions, economic or personal issues can be better mitigated and continuity of the stewardship of the land is maintained.

To better capture the impact of each use on another and neighbours, it is imperative that land holders obtain development consent for any applicable activity and when appropriate do a whole of farm approval to better manage impacts.

Trial opportunities

Farmers and other businesses are sometimes afforded opportunities to undertake development of new and emerging industries due to commercial opportunities or grants. Naturally, these opportunities compress the timeframe available for project planning – which often includes the approval process. Should this situation occur, Council can facilitate a working agreement with the business operator and other agencies to undertake the approval process while the trial is being conducted. The trial would have to be agreed to by all parties and for an agreed timeframe.

Particularly for new and emerging industries, data collected during the trial would directly inform any consents or licences required, should the activity be developed beyond a trial.

Internet

Research, reach and reporting are essential. Internet access is crucial for business owners to undertake a range of administrative and development tasks. Improving the coverage of telecommunications is a key priority for the development of rural industries. Council should

be advocating for continued improvement in internet coverage and access to high speed NBN with relevant State and Federal ministers.

Forestry

Forestry as an industry is a large employer and generates revenue for the eastern areas of the LGA. However, it is a contentious issue for many neighbours of plantations. The cyclic nature of a plantation means that it is a relatively “hands off” operation when compared to other agriculture such as animal grazing.

Australia has a problem with pest flora and fauna which requires constant vigilance from land owners and users. Forestry, has at times, not been as vigilant in eradicating and managing pests and it directly impacts neighbours who either suffer a profit loss and/or are required to put in greater effort in eradicating pests on property boundaries.

Strict requirements for dog proof fencing and clearances on the forestry side of a property boundary would go some way in mitigating conflicts between land holders and minimise the spread of pest flora and fauna. Education and opportunities for landholders to invest in drones and other surveillance equipment would also mitigate the physical work required to monitor boundaries.

Mining

Arguably, mining has had an extraordinary impact on the development of this LGA, in particular the gold field at Muttama which directly contributed to the founding of Cootamundra and asbestos mining around Gundagai and Coolac being a lucrative local industry for many years.

Despite this history, mining is generally restricted to quarries for gravel or sand these days. A local boom in quarrying for road base occurred with the duplication of the Hume Highway, and the ongoing demand for local road projects has continued to sustain a number of quarries.

It is likely that mining will be limited to quarries in the future with only six exploration licences for minerals active in the LGA, which are unlikely to result in large scale mining activities.

Landfill

The increasing sophistication of technology and resource recovery means that the likelihood of new landfill sites are limited. Despite this, the impact of such sites due to contamination and traffic generation bear discussion in relation to this LGA being a possible site for any new facilities.

Extensive consultation and evaluation via the Mining, Disused Mines and Landfill Issues Paper has resulted in a proposed stance for CGRC being that there is general support for the improvement of existing facilities to intensify operations provided the physical footprint is not expanded and impacts such as odour, noise and traffic are not increased or are generally acceptable. No new sites or facilities are supported outside of existing general and heavy industrial areas or within a 2km radius of a residential zone or receptor.

Electricity generating works

Electricity generating works, in particular solar and wind has become an emerging land use in rural Australia. Solar farms are preferably located on flat areas which are open and sunny – incidentally these are often areas of high agricultural value for cropping or grazing. Wind

farms are located on ridge lines which are typically cleared of vegetation and highly visible from great distances.

Evidence from large solar developments in surrounding areas indicate poor management of weeds which agitates neighbourhood conflicts. While some electricity generating farms would be approved as State Significant Development, those that would be approved by Councils are done so under the provisions of the State Environmental Planning Policy (Infrastructure) 2007. This leaves no ability for Council to prohibit such development on rurally zoned land.

Due to the low level of supervision usually required for such facilities, pest management and impacts can be problematic. Having said this, specific controls under the Business and Industrial section of the DCP relating to solar energy systems such as grazing of the site, appropriate fencing and measures to minimise the spread of weeds and other pests will help to mitigate the impacts of such development.

Actions

Action 3.1. Specific land uses prohibited

To ensure clarity and confidence land uses under item 4 need to be specific and not group terms i.e. “hardware and building supplies” rather than the group term of “retail premises”.

Action 3.2. Development control plan (DCP)

Create a specific subsection of the DCP under business and industrial development which deals with intensive agriculture and forestry to better manage land use conflicts.

Action 3.3. On farm trials

Allow for trials of small scale agriculture without development consent provided environmental and amenity impacts do not give rise for

concern for Council and other agencies. The scale and timeframe must also be agreed to in writing. These uses and circumstances would need to be listed in Schedule 2 of the LEP.

Action 3.4. Medical crop cultivation and processing industry

Encourage the development, where appropriate, of medical crop cultivation and allow for flexibility in land use to process on farm as an ancillary activity or as a standalone industrial facility in town.

Action 3.5. Native plants

Encourage exploration of endemic flora and fauna as a source of native food, wood and fibre. Look at opportunities for native plants to serve as drought fodder and wind brakes to increase the tree canopy of the LGA, improve water retention and resilience to drought.

Action 3.6. Forestry

Develop the RU3 – Forestry zone to include more objectives and detailed land uses to allow for reuse of disposed sites and to ensure that development consent is sought when required.

Action 3.7. Landfill

“Waste or resource management facility” including:

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

Be restricted to general and heavy industrial sites and rural zones with appropriate buffer distances and controls.

Action 3.8. Electricity generating works

Controls specific to electricity generating works (100kW or greater) be included in the DCP including site maintenance through grazing (this includes providing infrastructure for the sustainment of onsite grazing), fencing and clearance areas along boundaries.



Overview

This direction focuses on leveraging off of existing transport infrastructure as an impetus for developing a value add industry for agriculture in our towns and villages as well as enhancing opportunities for existing value add industries.

By minimising the length of time and distance between primary producer, manufacturer and market there is the added benefit of decreasing the carbon footprint of the agricultural process and retaining as many flow on benefits to the local area as possible.

Considerations

Brand “Riverina”

The intrinsic value of brand “Riverina” as an existing brand of agricultural reputation to encourage value add industry and primary production in our LGA. In the same way that “Margaret River” or “Sunraysia” evokes a certain image of region and quality, so too does “Riverina”. Being the northern gateway to the Riverina, this LGA has an ability to specialise in produce which is not grown elsewhere in the region and/or simply act as a staging point for Riverina products to reach market.



Riverina-Murray Region

A key focus of the Regional Plan is the importance of infrastructure, in particular freight and logistics infrastructure to get produce to markets.

This LGA is afforded many touch points into the freight network in four key areas:

Coolac

Coolac is a relatively flat village area which fronts the Hume Highway. Coolac Road (former Hume Highway) and the Muttama Road overpass are strategic assets which would be desirable to developers for industrial land use should connection to potable water be secured.

Cootamundra

Cootamundra’s main link into the freight network is via road which services local value add industries and provides connections to intermodal terminals such as Bomen or Harefield.

There is a unique opportunity for Cootamundra to develop as a hump rail yard or freight rail yard due to its proximity to the Inland Rail and position on the Sydney-Melbourne line. This proposal has limited impact on the agricultural production of the LGA, however it does mean that Cootamundra is limited to freight movement via road in the absence of a rail intermodal facility or the airport being developed as a small scale freight facility.

Gundagai

Gundagai links into the road freight network via the Hume Highway with several main regional and state roads which connect onto the highway including Gocup Road and Nangus Road. These roads connect other major regional towns such as Junee and Tumut to the Hume Highway but also service a number of agricultural enterprises between these. As such, Gundagai is a key touch point for agricultural freight. Development within Gundagai needs to be conducted in such a manner so as to not interfere with the purpose and use of freight network, meaning that the road hierarchy for Gundagai Town needs to afford these roads right of way.

With limited flat land appropriate for industrial development, it is assumed that Gundagai is limited to the Gundagai Meat Works as a bulk agriculture value add industry. Having said this, there is significant potential for Gundagai to develop as a touch point for local produce through the visitor information centre and retail along Sheridan Street. Establishment of a road hierarchy in town is essential to allow for the separation between freight heavy vehicles and commuter light vehicles. It is suggested that freight movements be concentrated in South Gundagai, with light vehicle ingress and movement around Gundagai Town focused through the northern and middle highway entry points.

Stockinbingal

Stockinbingal is in the fortunate position of being the cross section of the Inland Rail, Lake Cargelligo railway line, Burley Griffin Way and Stockinbingal Road. The development of the Inland Rail has the potential to enhance the grain receivable depots at Stockinbingal – one of the few guaranteed to operate year on year as well as develop

as a siding for produce from the Murrumbidgee Irrigation Area, in particular Griffith through the Burley Griffin Way connection.

Actions

Action 4.1. Establish urban containment lines for towns

As a part of the CGRC LEP drafting process, Council is to establish and adopt urban containment lines for Cootamundra and Gundagai. This is to include an articulation area of large residential lots as well as acreages. As part of this measure Council will investigate a value capture policy.

Action 4.2. Intermodal/siding at Stockinbingal

Work with ARTC and other relevant authorities to service a potential industrial site at Stockinbingal which is to be zoned as general industrial in the CGRC LEP.

Action 4.3. Improve signage off main roads and rural addressing

Improve the signage for local roads and encourage renewal of property addressing where it is unclear. Allocate all rural holdings a physical address based on entry point.

Action 4.4. Direct access to regional roads be limited

Where access can be achieved via a local road, consent for a new or additional entry onto to a regional, state or federal road is not to be granted.

Action 3.5. Agribusiness opportunities in industrial areas

Ensure that all industrial zones are open and allow for agribusiness to develop.



Direction Five: Increase Resource Efficiency



Overview

Environmental pressures of a changing climate and the spread of pest flora and fauna present a number of challenges for land owners with increased and prolonged drought. Despite the challenges, adversity can present opportunities for new business and innovation for existing business to solve problems or cater to a new market.

Council seeks to implement a regulatory framework which complies with State and other agency requirements but still allows for flexibility to trial and implement new business methods and opportunities.

Considerations

Water

Access to water is essential for agricultural production, however with less frequent rainfalls and decreasing reach of waterways, traditional farming and crops may no longer be viable. Earthworks such as terraforming and increased tree plantings can help retain water on farm, however this may decrease seepage and recharge of aquifers



and creeks which in turn will lead to a net loss of water in our waterways. Conversely flood events, including inundation events are increasing in frequency and can quickly wipe out stock and crops.

Water management is a complex issue which is impacted by a number of internal and external factors. Council can assist the management of

water by practicing good water management and adhering to the NSW Government's Water Reform Action Plan.

Riparian corridors

Riparian areas are land corridors alongside creeks, streams, gullies, rivers and wetlands. Revegetation along riparian corridors helps to improve water quality, reduce evaporation and mitigate erosion.

Riparian corridors are particularly vulnerable on cleared, grazed land with degradation from uncontrolled stock access and loss of bank stability. Fencing and vegetating riparian corridors improves the water quality and biodiversity of catchments, but also provides a number of on-farm benefits such as improving water supply, shading and wind breaks.

Weeds

Often a by-product of neglect, weeds are becoming an ever increasing problem with changing climate facilitating an environment for new, invasive weeds and out of season weed growth. While land owners have obligations under the Biosecurity Act 2015, there are also obligations relating to the impact of weeds on conservation areas and other native pastures under the Biodiversity Conservation Act 2016.

Small acreages and hobby farms pose a particular threat in this area (although forestry and other industries often harbour weeds and pests). These smaller properties are sometimes poorly managed and weeds can quickly spread onto neighbouring productive farms.

Council has a Bio Security Officer who looks at weed and pest control by enforcing State and Local legislation. Through the DCP and other

policy documents, Council could mitigate the spread of weeds by mandating better fencing and clearance areas during the development stage, and producing fact sheets and other guidance material on who and when to clear weeds and options such as using certain animals to target problem areas.



Field invaded by blackberry and rubus leucostachys

Feral animals

Feral animals cause millions of dollars' worth of damage to the agricultural economy through lost stock and productivity. While many primary producers see the value in better fencing to deter foxes, dogs, cats and so on, the cost of materials and labour can make this a cost prohibitive exercise, especially when other animals such as llamas, donkeys, maremma dogs and so on can cost less than fencing and deter some feral animals.

Land owners have responsibilities to not only maintain their site so as to not provide a harbour for feral animals but to also minimise the spread of feral animals where possible.

Regenerative farming

Regenerative farming uses practices and methods to increase biodiversity, improve soil and nurture endemic ecosystems. The most common management system is "no till" or "reduced till" pastures.

The primary objective of regenerative farming is to increase the top soil to such an extent that less external compost is required, the nutrient value of the soil is improved and the property is generally more resistant to extreme weather events. The economic benefit being reduced labour and fertiliser input overtime with greater yields.

There are a number of different methods and practices which follow the principles of regenerative farming, however the method chosen depends on the needs of the land owner, requirements of the land, land capability and finances. The rise in popularity for regenerative farming has grown in line with other whole of system thinking such as permaculture and rewilding through education as well as consideration of climatic and population concerns.

Trees

Trees serve not only to carbon capture as an above ground biomass, but can provide shelter for animals, habitat for birds, spiders and insects which eat crop pests, slow hot winds, decrease soil loss as a wind break and provide fodder during drought. Flowering trees also help support bee communities, which in turn improves crop yields.

Council is committed to increasing the tree canopy across the LGA and will set a tree canopy target through a tree canopy plan. Rural subdivision could contribute by conditioning tree plantings along new property boundaries.

Council process

Council regulates land uses and building work through State legislation and Local planning frameworks. Necessarily legalistic to allow for enforcement and reduce ambiguity, these documents can be jargonistic and difficult to understand.

As a merged council, CGRC's local planning instruments are more complex than necessary. Working towards a new Local Environmental Plan and Development Control Plan for the whole council area will assist in reducing confusion. The development of plain English fact sheets for various types of development will assist in the community's understanding of the development process.

It is not unusual for Council to be the last to be consulted, with applicants spending large amounts of money on plans and designs only to either have to redo them and/or discover that what they want to do is not permissible. Encouraging Council to be one of the first ports of call is essential for creating a positive development experience.

Actions

Action 5.1. Transparent decision making

Information on legislation and legislative process is readily and easily available to the general public. Plain English fact sheets and opportunities to meet with Council staff are available.

Action 5.2. Regularly reviewed legislation and policy

The LEP and DCP is reviewed every five years as a minimum. Policies and fact sheets are reviewed every two years as a minimum.

Action 5.3. Education and compliance

Education of the community regarding Council's responsibilities and the responsibilities of land owners is targeted through social media, print, radio and Council's website.

Action 5.4. Unified approach

Council, Department of Primary Industries, Office of Environment and Heritage (Environment) and Local Land Services create a working group which discusses matters relevant to the rural environment of CGRC and proposes actions for each organisation to implement or investigate.

Action 5.5. Regenerative farming encouraged

Regenerative farming encouraged through community education online and in newsletters as well as minimisation of red tape for major regeneration works with delays to integrated development along waterways minimised via representation through the working group proposed in Action 5.4.

Action 5.6. Improve water quality

Improve the quality of stormwater by reducing reliance on chemicals, reduce nutrient run off, erosion and loss of top soil through increased tree canopy across the LGA through a tree canopy plan.

Action 5.7. Tree canopy

Set a realistic target for total tree canopy for the LGA and set about implementing this in the next 30 years with an adopted tree canopy plan.



Implementation of the Rural Lands Strategy is organised in accordance with the identified actions of the Strategy.

Protect and Enhance Agricultural Land				
	<i>Action</i>	<i>Need</i>	<i>Timeframe</i>	<i>Outcome</i>
1.1.	Minimum lot sizes	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land which is already fragmented and in individual ownership.	Short term	Minimum lot sizes, zoning and associated land uses be implemented in accordance with mapped agricultural land value (from either Council or Department of Primary Industries). This includes the introduction of other Rural and Environmental Zones aside from Primary Production to cater for lands with scenic and environmental values.
1.2.	“Dwelling entitlements”	Clarification for land holders and consistency between the LEPs of former Cootamundra and Gundagai Shires.	Short term	Part 4 of the proposed CGRC LEP clearly articulate permissibility and circumstances for dwelling approvals on rural land.
1.3.	Dual occupancies	Alternate solution for farm succession planning rather than fragmenting existing holdings.	Ongoing	Dual occupancies (detached) be permissible as an alternate solution for succession planning and family farm enterprises.
1.4.	Agricultural subdivision	To allow for flexibility for land owners to expand and contract holdings when required.	Ongoing	Subdivision and boundary realignments below the minimum lot sizes for agricultural purposes continue.
1.5.	Land use conflict and biosecurity	Reduce land use conflict and promote rural amenity.	Ongoing	Setbacks for built structures and intensive agriculture development must achieve a minimum setback of 100m from a boundary under different ownership or provide mitigating solutions to reduce the impact on neighbours. Land adjoining rural zones have setback requirements for buildings and strict controls

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				requiring clearance areas for weeds and other pests.
1.6.	Innovation and enterprise support	Ensure that our agricultural holdings and enterprises are as resilient as possible.	Ongoing	Encouragement of holdings to diversify income streams to better cope with changing social, economic and climatic conditions including an ability to undertake multiple land uses on the same holding be supported in the DCP and through Council policy.

Grow Agritourism				
	<i>Action</i>	<i>Need</i>	<i>Timeframe</i>	<i>Outcome</i>
2.1.	"Open" zones	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land as appropriate.	Short term	Allow for all rural zones to be "open" meaning that "any development not specified in item 2 or 4" be listed under item 3 "permissible with consent" to allow for innovation and flexible land use.
2.2.	Miscellaneous permissible uses	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land as appropriate.	Short term	Ensure that controls under Clause 5.4 of the LEP be realistic and unencumbering on development and use of site.
2.3.	Development control plan (DCP)	Ensure that development assessment standards are consistent across the LGA.	Short term	Create a specific subsection of the DCP under business and industrial development which deals with agritourism and artisan food businesses.
2.4.	Fact sheets and start up packs	Clarify the development process and provide guidance.	Ongoing	Create a series of fact sheets on agritourism and regional food development. Couple this with development packs which contain all council

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				forms and other agency contacts for a business to get started.
2.5.	Aboriginal heritage and culture	Better understanding of the first people and how they interacted with the land as well as preserving artefacts and storylines through education and information.	Medium term	Undertake an Aboriginal heritage and cultural study to better understand the needs and opportunities of indigenous people and place as well as identifying opportunities for education and tourism.
2.6.	Active transport strategy	Achieve better connections with towns and villages as well as fostering a recreational tourism industry.	Medium term	Undertake an active transport strategy that addresses rural links, particularly for cycling and horse riding using paper road reserves and former railway corridors.
2.7.	Coolac	<ul style="list-style-type: none"> • Grow and promote Coolac as a major highway service hub. • Ensure that Council and developers are investing in the most cost efficient and value for money way. 	Medium – long term	Agritourism hotspot “Coolac” be master planned and serviced with water to allow for development and growth focused on providing produce direct to consumers and suppliers along the Hume Highway. Coolac can also be a staging point for recreational trails utilising former railway corridors.
2.8.	Employment and training	Consistency between Council and State plans.	Ongoing	Support the implementation of the South West Slopes Regional Economic Development Strategy 2018-2022. Council to sponsor and partner with education providers to run short courses in agriculture and permaculture to capitalise on the “experience economy”.

Encourage Diversity of Rural Industries				
	<i>Action</i>	<i>Need</i>	<i>Timeframe</i>	<i>Outcome</i>
3.1.	Specific land uses prohibited	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land as appropriate.	Short term	To ensure clarity and confidence land uses under item 4 need to be specific and not group terms i.e. “hardware and building supplies” rather than the group term of “retail premises”.
3.2.	Development control plan (DCP)	Ensure that development assessment standards are consistent across the LGA.	Short term	Create a specific subsection of the DCP under business and industrial development which deals with intensive agriculture and forestry to better manage land use conflicts.
3.3.	On farm trials	To allow for innovation and change.	Short term	Allow for trials of small scale agriculture without development consent provided it is not of concern to Council and other agencies. The scale and timeframe must also be agreed to in writing. Some uses and circumstance should be listed in Schedule 2 of the LEP.
3.4.	Medical crop cultivation and processing industry	To allow for flexibility for land owners to innovate when presented with opportunities.	Ongoing	Encourage the development, where appropriate, of medical crop cultivation and allow for flexibility in land use to process on farm as an ancillary activity or as a standalone industrial facility in town.
3.5.	Native plants	To allow for flexibility for land owners to innovate when presented with opportunities.	Ongoing	Encourage exploration of endemic flora and fauna as a source of native food, wood and fibre. Look at opportunities for native plants to serve as drought fodder and wind brakes to increase the tree canopy of the LGA, improve water retention and resilience to drought.
3.6.	Forestry	<ul style="list-style-type: none"> • To reduce land use conflict. • Provide option for the disposal of forestry land. 	Short term	Develop the RU3 – Forestry zone to include more objectives and detailed land uses to allow for reuse of disposed sites and to ensure that development consent is sought when required.

		<ul style="list-style-type: none"> • Allow flexibility and use for current land holders. 		
3.7.	Landfill	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land as appropriate.	Short term	<p>“Waste or resource management facility” including:</p> <ul style="list-style-type: none"> (a) a resource recovery facility, (b) a waste disposal facility, (c) a waste or resource transfer station, (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c). <p>Be prohibited in all rural zones and restricted to general and heavy industrial sites.</p>
3.8.	Solar farms	<ul style="list-style-type: none"> • Reduce land use conflicts. • Ensure that development assessment standards are consistent across the LGA. 	Short term	Controls specific to energy generating works (10kW or greater) be included in the DCP including site maintenance through grazing (this includes providing infrastructure for the sustainment of onsite grazing), dog proof fencing and clearance areas along boundaries.

Promote and Encourage Value Add Industries to Take Advantage of Transport Links and Local Resources				
	Action	Need	Timeframe	Outcome
4.1.	Establish urban containment lines for towns	Reduce urban sprawl and protect the primacy of agricultural land.	Short term	As a part of the CGRC LEP drafting process, Council is to establish and adopt urban containment lines for Cootamundra and Gundagai. This is to include an articulation area of large residential lots as well as acreages.
4.2.	Intermodal/siding at Stockinbingal	Take advantage of major infrastructure spending and implementation.	Short term	Work with ARTC and other relevant authorities to service a potential industrial site at Stockinbingal which is to be zoned as general industrial in the CGRC LEP.

4.3.	Improve signage off main roads and rural addressing	Improve accessibility.	Ongoing	Improve the signage for local roads and encourage renewal of property addressing where it is unclear. Allocate all rural holdings a physical street address based on main entry point.
4.4.	Direct access to regional roads be limited	Limit conflicts along major corridors and ensure that maximum speeds are achieved.	Ongoing	Where access can be achieved via a local road, consent for a new or additional entry onto a regional, state or federal road is not to be granted.
4.5.	Agribusiness opportunities in industrial areas	Achieve consistency between the LEPs of former Cootamundra and Gundagai Shires as well as allowing for development to occur on land as appropriate.	Short term	Ensure that all industrial zones are open and allow for agribusiness to develop.

Increase Resource Efficiency				
	Action	Need	Timeframe	Outcome
5.1.	Transparent decision making	Re-establish community trust in government organisations.	Ongoing	Information on legislation and legislative process is readily and easily available to the general public. Plain English fact sheets and opportunities to meet with Council staff are available.
5.2.	Regularly review legislation and policy	<ul style="list-style-type: none"> • Ensure that there is consistency between Council and State plans and policies. • Allow for innovation and emerging trends to develop in the area. 	Ongoing	The LEP and DCP is reviewed every five years as a minimum. Policies and fact sheets are reviewed every two years as a minimum.

5.3.	Education and compliance	<ul style="list-style-type: none"> • Improve education of the community as to Council's role. • Establish the benchmark for Council compliance. 	Ongoing	Education of the community regarding Council's responsibilities and the responsibilities of land owners is targeted through social media, print, radio and Council's website.
5.4.	Unified approach	Ensure that all government agencies are being consistent when dealing with rural issues.	Ongoing	Council, Department of Primary Industries, Office of Environment and Heritage (Environment) and Local Land Services create a working group which discusses matters relevant to the rural environment of CGRC and proposes actions for each organisation to implement or investigate.
5.5.	Regenerative farming encouraged	Improve resilience and yield of agricultural land.	Ongoing	Regenerative farming encouraged through community education online and in newsletters as well as minimisation of red tape for major regeneration works with delays to integrated development along waterways minimised via representation through the working group proposed in Action 5.4.
5.6.	Improve water quality	Ensure that water is managed appropriately.	Ongoing	Improve the quality of stormwater by reducing reliance on chemicals, reduce nutrient run off, erosion and loss of top soil through increased tree canopy across the LGA through a tree canopy plan.
5.7.	Tree canopy	To address climate risk and improve resilience of agricultural land.	Long term	Set a realistic target for total tree canopy for the LGA and set about implementing this in the next 30 years with a tree canopy plan.



Placeholder for Attachment A

Exhibition of Draft Cootamundra 2050 Strategy

Draft Cootamundra 2050 Strategy