

Privacy Management Plan

Version 5.2

Contents

1. Abbreviations and definitions	5
Abbreviations	5
Definitions	5
2. Introduction	6
3. Purpose	6
4. Scope	6
5. Policy details	6
Privacy principles	6
What is ‘personal information’ and ‘health information’?	6
Privacy awareness	7
The NSW Electoral Commission’s functions and activities	8
6. Information protection principles	9
Collection	9
Storage	10
Access and accuracy	10
Use	10
Disclosure	10
Relevant exemptions to the IPPs	10
7. Health privacy principles	12
Collection	13
Storage	13
Access and accuracy	13
Use	14
Disclosure	14
Identifiers and anonymity	14
Transferrals and linkage	14
Relevant exemptions to the HPPs	15
8. Other laws regulating information handling	15
<i>Crimes Act 1900</i>	15
<i>Government Information (Public Access) Act 2009</i>	15
<i>Government Sector Employment Act 2013</i>	16
<i>Independent Commission Against Corruption Act 1988</i>	16
<i>Industrial Relations Act 1996</i>	16
<i>Jury Act 1977</i>	16

<i>Fines Act 1996</i>	16
<i>Public Interest Disclosures Act 1994</i>	16
<i>State Records Act 1998</i>	16
<i>Work Health and Safety Act 2011</i>	17
9. Offences	17
Offences under the PPIP Act	17
Offences under the HRIP Act	17
Offences under the Electoral Act	17
10. NSW Electoral Commission Code of Ethics and Conduct	18
11. Privacy statement	18
12. Categories of information	19
Enrolment information	19
Email and SMS reminders to enrol and keep enrolment details updated	20
Electoral information	21
Election information	22
Silent elector information	23
Research information	23
Candidate information	23
Party registration information	24
Funding and disclosure information	24
Investigative information	25
Lobbyist information	25
Statutory ballots	26
Feedback (including complaints) and enquiries information	26
Website information	27
Online applications for postal voting	27
Online applications for registration of electoral material	28
Technology-assisted voting (telephone voting)	28
Visitor information	30
Business contracts and contracts with third parties for the provision of services	31
Administrative and finance records	32
Human resources information	32
Health information	33
Camera surveillance	35
13. Public registers and inspections	35
14. General procedures for confirming and verifying identity	36

In person	36
Over the telephone	36
15. Serious or imminent threat to a person’s health or safety	37
16. Police and regulatory agency requests for enrolment information	38
17. Implementation and development of policy instruments and systems	38
Privacy by design	38
Privacy impact assessments	39
Procurement	40
18. Data breach management and MNDB scheme	40
19. Access to and alteration of personal and/or health information	41
20. Discussing privacy concerns	42
21. Internal review of conduct	42
Internal review guidelines	43
Service standards	43
Review of conduct by NCAT	44
Review of conduct by NSW Privacy Commissioner	44
22. Privacy Officer contact details	45
23. Further information for staff	45
24. Roles and responsibilities	46
25. Monitoring, evaluation and review	50
26. Associated documents	50
27. Relevant legislation	51
28. References	51
29. Document control	52
Document management	52
Publication details	52
Revision record	52

1. Abbreviations and definitions

Abbreviations

AEC	Australian Electoral Commission
CCTV	Closed Circuit Television
Electoral Act	<i>Electoral Act 2017</i> (NSW)
EF Act	<i>Electoral Funding Act 2018</i> (NSW)
GIPA Act	<i>Government Information (Public Access) Act 2009</i> (NSW)
GSE Act	<i>Government Sector Employment Act 2013</i> (NSW)
HPPs	Health Privacy Principles
HRIP Act	<i>Health Records and Information Privacy Act 2002</i> (NSW)
IPC	Information & Privacy Commission
IPPs	Information Protection Principles
IR Act	<i>Industrial Relations Act 1996</i> (NSW)
LG Act	<i>Local Government Act 1993</i> (NSW)
LOGO Act	<i>Lobbying of Government Officials Act 2011</i> (NSW)
PIA	Privacy Impact Assessment
Plan	Privacy Management Plan
PIIP Act	<i>Privacy and Personal Information Protection Act 1998</i> (NSW)
PIIP Regulation	<i>Privacy and Personal Information Protection Regulation 2019</i>
State Records Act	<i>State Records Act 1998</i> (NSW)
WHS Act	<i>Work Health and Safety Act 2011</i> (NSW)

Definitions

Data Custodian is a senior staff member who holds overall accountability and responsibility for a particular data set.

Health information see paragraph 5.6 of this Plan.

New South Wales Electoral Commission (NSW Electoral Commission) unless otherwise specified, this term is used throughout this Plan to refer to both the three-member body incorporated by s. 8 of the *Electoral Act 2017*, and the Staff Agency established to enable it to carry out its functions.

Personal information see paragraph 5.3 of this Plan.

Public register is a register of personal information that is required by law to be publicly available or open for public inspection.

Sensitive personal information see paragraph 6.15 of this Plan.

Staff member means an ongoing, temporary or casual employee of the NSW Electoral Commission or a contingent labour hire or consultant engaged to work in the NSW Electoral Commission for a temporary period.



2. Introduction

- 2.1. The New South Wales Electoral Commission is committed to the privacy protection of all personal information and health information it collects, manages and stores.
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3. Purpose

- 3.1. Section 33 of the *Privacy and Personal Information Protection Act 1998* (PPIP Act) requires all NSW agencies to have a Privacy Management Plan. This Plan details how the NSW Electoral Commission manages personal information collected to ensure compliance with the PPIP Act and the *Health Records and Information Privacy Act 2002* (HRIP Act).
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4. Scope

- 4.1. This Plan applies to all people who work at the NSW Electoral Commission, including employees, contractors and other stakeholders who in the course of their work have access to personal information and/or health information held by the NSW Electoral Commission. It applies to all personal information and health information collected, received and held by the NSW Electoral Commission.
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5. Policy details

Privacy principles

- 5.1. The NSW Electoral Commission complies with the PPIP Act and the HRIP Act in its collection, use, disclosure and storage of personal information and health information.
- 5.2. Personal information and health information is to be managed and protected across the full lifecycle of that information for example, from procurement or service design, through to creation and to final disposal.

What is 'personal information' and 'health information'?

- 5.3. The PPIP Act defines personal information as: "information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion."
- 5.4. A person's identity does not have to be apparent from or expressly included in the information, it is sufficient that it "can reasonably be ascertained from the information", including by reference to other sources (both internal and external to the agency).

- 5.5. The PPIP Act and the *Privacy and Personal Information Protection Regulation 2019* (PPIP Regulation) exclude particular types of information from the definition of personal information, including:
- information about an individual who has been dead for more than 30 years;
 - information about an individual that is contained in a publicly available publication;
 - information about an individual arising out of a royal commission or special commission of enquiry;
 - information about an individual that is contained in a public interest disclosure; and
 - information about an individual's suitability for employment or employment as a public sector official.
- 5.6. This information is not "personal information" and so is not regulated by the PPIP Act. Health information is regulated separately, as a particular type of "personal information". It is defined broadly in the HRIP Act and includes information or an opinion about:
- the physical or mental health or disability of an individual;
 - information about a health service provided or to be provided to an individual; or
 - an individual's express wishes about the future provision of health services to him or her.
- 5.7. Health information is regulated in a similar way to personal information, but in some circumstances is given a different level of protection. The NSW Electoral Commission does not often collect health information when exercising its functions but does in some circumstances. For example, health information may be contained in personnel files, and the NSW Electoral Commission collects information from blind and low vision voters in order to provide technology assisted voting services (see the section of this Plan titled, "Health information" for further information).

Privacy awareness

- 5.8. The NSW Electoral Commission ensures that all staff members are aware of this Plan and their privacy obligations. Privacy obligations are discussed during staff inductions and periodically brought to the attention of staff members through awareness campaigns, the placement of privacy awareness posters in prominent positions in the office and periodic refresher, specialised and on-the-job privacy training. A mandatory online Privacy/GIPA training module must be completed annually by all staff members.
- 5.9. The NSW Electoral Commission promotes public awareness of this Plan by writing the Plan in plain English, referring to the Plan in privacy notices and telling people about the Plan when we answer questions about how we manage personal information and health information.
- 5.10. The Plan is available in the policy library on the NSW Electoral Commission's website: see Home – About us – Policy library (<https://elections.nsw.gov.au/about-us/policy-library>). If an individual is unable to access the internet, the NSW Electoral Commission will provide a hard copy of the Plan free of charge on request.
- 5.11. The NSW Electoral Commission also has a specific *Website Privacy Statement* that explains how personal information will be treated as individual's access and interact with NSW Electoral Commission websites. The *Website Privacy Statement* also contains a link to this Plan. The *Website Privacy Statement* is accessible from the NSW Electoral Commission's homepage: see Home – Privacy (<https://elections.nsw.gov.au/privacy>).
- 5.12. The NSW Electoral Commission also has an audible *Telephone Privacy Statement* that all callers to its enquiry lines are invited to listen to. The statement enables callers to hear more about privacy and how a person can access this Plan for further information.

The NSW Electoral Commission's functions and activities

- 5.13. The NSW Electoral Commission implements the democratic principles of an impartial and fair electoral system in which elections are conducted at arm's length from government and in accordance with the law. The NSW Electoral Commission has functions conferred or imposed on it by or under the *Electoral Act 2017* (Electoral Act), the *Electoral Funding Act 2018* (EF Act), the *Lobbying of Government Officials Act 2011* (LOGO Act), the *Local Government Act 1993* (LG Act) and other legislation which include:
- providing assistance for the conduct of elections by the Electoral Commissioner;
 - instituting proceedings for offences under the Electoral Act, the EF Act, the LG Act (in connection with the conduct of a local government election) and the LOGO Act;
 - administering the election funding, expenditure and disclosure scheme under the EF Act and registering electoral participants for the purposes of that scheme;
 - maintaining the Register of Third-Party Lobbyists and Lobbyists Watch List under the LOGO Act;
 - conducting and promoting research into electoral matters and other matters that relate to its functions;
 - promoting public awareness of electoral matters and political donations;
 - promoting compliance by parties, elected members, candidates, groups, agents, third-party campaigners and donors with the requirements of the election funding, expenditure and disclosure scheme.
- 5.14. Under the Electoral Act, the Electoral Commissioner is responsible for the registration of political parties, the preparation of lists and authorised rolls of electors, and the conduct of elections and referendums for the Parliament of NSW.
- 5.15. A local government council can enter into an arrangement with the Electoral Commissioner for the Electoral Commissioner to administer elections, polls and referendums for the council in accordance with the LG Act. Under the LG Act, the Electoral Commissioner is also responsible for maintaining residential rolls for all local government areas in NSW.
- 5.16. The Electoral Commissioner also conducts elections and polls for Aboriginal Land Councils (*Aboriginal Land Rights Act 1983*), registered clubs (*Registered Clubs Act 1976*), certain statutory boards/authorities (e.g. *Health Practitioner Regulation (NSW) Regulation 2016*) and State registered industrial organisations (*Industrial Relations Act 1996*).
- 5.17. The NSW Electoral Commission also reports to the Parliamentary Joint Standing Committee on Electoral Matters.
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6. Information protection principles

- 6.1. All employees and contractors of the NSW Electoral Commission are required to understand and comply with the Information Protection Principles (the IPPs). The NSW Electoral Commission is also subject to specific privacy provisions contained in its governing Acts and other relevant legislation.
- 6.2. There are 12 IPPs which are discussed in general terms below. All staff members should consider the IPPs as the starting point for compliance with the PPIP Act. However, the IPPs do not apply in all instances. There are exclusions from the definition of “personal information”, there are exceptions within the IPPs themselves, and there are statutory exemptions in Part 2, Div. 3 of the PPIP Act. The application of the IPPs can be modified by Public Interest Directions (made by the Privacy Commissioner) and Codes of practice (made by the Minister). Other legislation, such as the Electoral Act, authorises the handling of information in ways that are contrary to the IPPs.
- 6.3. The summary below is a guide only and is largely derived from a fact sheet published by the NSW Information & Privacy Commission (IPC), titled *The Information Protection Principles (IPPs) Guidance for agencies and organisations* (see IPC Fact Sheet FS2017/003). Staff members can locate the IPPs in full at sections 8 to 19 of the PPIP Act (see <https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-133#pt.2>). The PPIP Act is deemed beneficial legislation and any exemptions to the IPPs should be construed narrowly.

Collection

IPP1. Lawful (s. 8 PPIP Act)

- 6.4. Only collect personal information for a lawful purpose, which is directly related to the agency’s function or activities and necessary for that purpose.

IPP2. Direct (s. 9 PPIP Act)

- 6.5. Only collect personal information directly from the person concerned, unless they have authorised collection from someone else, or if the person is under the age of 16 and the information has been provided by a parent or guardian.

IPP3. Open (s. 10 PPIP Act)

- 6.6. Inform the person the information is being collected from why the agency is collecting it, what the agency will do with it and who else might see it. Tell the person how they can view and correct their personal information, if the information is required by law or voluntary, and any consequences that may apply if they decide not to provide their information.

Note: The NSW Electoral Commission generally complies with this IPP by providing a privacy collection notice when it collects personal information from an individual.

IPP4. Relevant (s. 11 PPIP Act)

- 6.7. Ensure that the personal information is relevant, accurate, complete, up-to-date and not excessive and that the collection does not unreasonably intrude into the personal affairs of the individual. The NSW Electoral Commission’s physical and electronic forms/applications only ask for information that is needed to undertake the relevant statutory functions.

Storage

IPP5. Secure (s. 12 PPIP Act)

- 6.8. Store personal information securely, keep it no longer than necessary (in accordance with the Electoral Act and State Records Act) and dispose of it appropriately, once the agency no longer needs it. Information must be protected from unauthorised access, use, modification or disclosure.

Access and accuracy

IPP6. Transparent (s. 13 PPIP Act)

- 6.9. Explain to the person what personal information about them is being stored, the nature of that information, why it is being used and any rights they have to access it.

IPP7. Accessible (s. 14 PPIP Act)

- 6.10. Allow people to access their personal information without excessive delay or expense.

IPP8. Correct (s. 15 PPIP Act)

- 6.11. Allow people to update, correct or amend their personal information where necessary.

Use

IPP9. Accurate (s. 16 PPIP Act)

- 6.12. Make sure that the personal information is relevant, accurate, up to date and complete before using it by taking steps that are reasonable in the circumstances and having regard to the purpose for which the information is proposed to be used.

IPP10. Limited (s. 17 PPIP Act)

- 6.13. Only use personal information for the purpose it was collected unless the person has given their consent, or the purpose of use is directly related to the purpose for which it was collected, or to prevent or lessen a serious or imminent threat to any person's health or safety.

Disclosure

IPP11. Restricted (s. 18 PPIP Act)

- 6.14. Only disclose personal information with a person's consent or if the person was told at the time that it would be disclosed, if disclosure is directly related to the purpose for which the information was collected and there is no reason to believe the person would object, or the person has been made aware that information of that kind is usually disclosed, or if disclosure is necessary to prevent a serious and imminent threat to any person's health or safety.

IPP12. Safeguarded (s. 19 PPIP Act)

- 6.15. An agency cannot disclose sensitive personal information without a person's consent, for example, information about ethnic or racial origin, political opinions, religious or philosophical beliefs, sexual activities or trade union membership. It can only disclose sensitive personal information without consent in order to deal with a serious and imminent threat to any person's health or safety.

Relevant exemptions to the IPPs

- 6.16. Exemptions to the IPPs include those mentioned below. They are included in this Plan as a guide only. NSW Electoral Commission staff should seek legal advice if in doubt about whether an exemption is available in any particular circumstances.

6.17. **Non-compliance is authorised or reasonably contemplated under another law:** The NSW Electoral Commission is not required to comply with ss. 9, 10, 13, 14, 15, 17, 18 or 19 of the PPIP Act if non-compliance is lawfully authorised or required, or is otherwise permitted, necessarily implied or reasonably contemplated under an Act or any other law: PPIP Act, s. 25. This exemption applies when the NSW Electoral Commission handles personal information in a particular way pursuant to a statutory provision. For example, the NSW Electoral Commission can:

- Collect information as necessary for the maintenance and revision of the Electoral Information Register under s. 44 of the Electoral Act (collection and maintenance of electoral information) despite the usual requirement to collect information directly from the person to whom it relates, in s. 9 of the PPIP Act
- disclose information under s. 50 of the Electoral Act (provision of enrolment information to other persons) despite the general prohibition on the disclosure of personal information by s. 18 of the PPIP Act
- exchange information with the Commonwealth for the purposes of there being a joint enrolment process under s. 56 of the Electoral Act, despite the IPPs that ordinarily apply
- disclose information pursuant to s. 268(2) or (3) of the Electoral Act (reporting on progress or outcome of investigation and disclosure is in the public interest – see the *Compliance and Enforcement Publication Policy*) despite the general prohibition on the disclosure of personal information by s. 18 of the PPIP Act.

6.18. **Law enforcement:** The NSW Electoral Commission is not a “law enforcement agency” for the purposes of the PPIP Act. However, there are various circumstances in which the law enforcement exemption (in s. 23 of the PPIP Act) is available to the NSW Electoral Commission. For example, the NSW Electoral Commission:

- is not required to comply with s. 9 (collection from directly from the individual) when the information is collected in connection with proceedings before a court or tribunal (s. 23(2)).
- is not required to comply with s. 17 (use for another purpose) if the proposed use is reasonably necessary for law enforcement purposes or for the protection of public revenue (s. 23(4)).
- is not required to comply with the IPPs with respect to the collection, use or disclosure of personal information if the NSW Electoral Commission is providing the information to another public sector agency or the NSW Electoral Commission is being provided with the information by another public sector agency and the collection, use or disclosure of the information is reasonably necessary for law enforcement purposes (s. 23(6A)).

6.19. **Investigations:** The NSW Electoral Commission is an “investigative agency” within the meaning of the PPIP Act, which means it:

- is not required to comply with ss. 9, 10, 13, 14, 15, 18 or 19 (1) if compliance with those sections might detrimentally affect (or prevent the proper exercise of) the NSW Electoral Commission’s complaint handling functions or any of its investigative functions (s. 24(1)).
- is not required to comply with s. 17 (use for another purpose) if the proposed use is reasonably necessary to enable it to exercise its complaint handling or investigative functions (s. 24(2)).

6.20. Various other exemptions can be found under s. 24 of the PPIP Act for investigative agencies.

6.21. There are also various exemptions where:

- compliance with ss. 9 or 10 would prejudice the interests of the individual concerned (see s. 26(1) of the PPIP Act).
- the individual has expressly consented to the agency not complying with ss. 10, 18 or 19 (see s. 26(2) of the PPIP Act).
- the collection, use or disclosure of personal information is exchanged between public sector agencies to enable the agencies to respond to a Minister or member of Parliament, to enable inquiries to be referred between the agencies concerned, or to enable the auditing of the accounts or performance of a public sector agency (see s. 27A of the PPIP Act).
- the collection, use or disclosure of personal information is reasonably necessary for the purpose of research that is in the public interest subject to certain conditions (see. 27B of the PPIP Act and the Statutory Guidelines on Research issued by Privacy Commissioner that sets out when it may be appropriate to rely on s. 27B of the PPIP Act).
- the disclosure of information is to a public sector agency under the administration of the Premier and the disclosure is for the purposes of informing the Premier about any matter (see s. 28(3)(b) of the PPIP Act).
- the collection, use or disclosure of information is reasonably necessary to assist in an emergency (see s. 27D of the PPIP Act).

6.22. Privacy codes of practice (made by the Attorney General) and public interest directions (made by the Privacy Commissioner) may modify the IPPs. These are available on IPC's website. Some of these instruments may affect how the NSW Electoral Commission manages personal information. For example:

- the *ID Support NSW Privacy Code of Practice – identity remediation services* (https://www.ipc.nsw.gov.au/sites/default/files/2022-07/Privacy_Code_of_Practice_IDSUPPORT_NSW_1_July_2022_0.pdf) modifies the application of the IPPs to public sector agencies that are affected by a data compromise or that are assisting with identity remediation as set out in the Code.

7. Health privacy principles

- 7.1. All employees and contractors of the NSW Electoral Commission are required to understand and comply with the health privacy principles (HPPs). The NSW Electoral Commission is also subject to specific privacy provisions contained in its governing Acts and other relevant legislation.
- 7.2. There are 15 HPPs which are discussed in general terms below. All staff members should consider the HPPs as the starting point for compliance with the HRIP Act.
- 7.3. The summary below is a guide only and is largely derived from a fact sheet published by the NSW Information & Privacy Commission (IPC), titled *The Health Privacy Principles (HPPs) guidance for agencies and organisations* (see IPC Fact Sheet dated August 2019). Staff members can locate the HPPs in full in Schedule 1 of the HRIP Act (see <https://legislation.nsw.gov.au/view/html/inforce/current/act-2002-071#sch.1>).

Collection

HPP1. Lawful (sch. 1(1) HRIP Act)

- 7.4. Only collect health information for a lawful purpose that is directly related to the agency's activities and necessary for that purpose.

HPP2. Relevant (sch. 1(2) HRIP Act)

- 7.5. Ensure health information is relevant, accurate, up-to-date and not excessive, and that the collection does not unreasonably intrude into the personal affairs of a person.

HPP3. Direct (sch. 1(3) HRIP Act)

- 7.6. Only collect health information from the person concerned, unless it is unreasonable or impracticable to do so or otherwise required or authorised by law. There may be circumstances in which the individual to whom the information relates consents to the agency collecting health information from another person or entity.

HPP4. Open (sch. 1(4) HRIP Act)

- 7.7. Inform a person as to why the agency is collecting health information, what the agency will do with it, and who else may see it. Inform the person how they can view and correct their health information and any consequences that will occur if they decide not to provide their information to the agency.
- 7.8. If an agency collects health information about a person from a third party it must still take reasonable steps to notify the person that this has occurred. The NSW Electoral Commission will take all reasonable steps to relay this information at time of collection through appropriate notifications on our websites, forms and in this Plan.

Storage

HPP5. Secure (sch. 1(5) HRIP Act)

- 7.9. Ensure the health information is stored securely, not kept any longer than necessary, and disposed of appropriately. The NSW Electoral Commission takes such security safeguards as are reasonable in the circumstances to protect health information from unauthorised access, use, modification or disclosure.

Access and accuracy

HPP6. Transparent (sch. 1(6) HRIP Act)

- 7.10. Explain to the person what health information is being stored, the reasons it is being used and any rights they have to access it.

HPP7. Accessible (sch. 1(7) HRIP Act)

- 7.11. Allow a person to access their health information without unreasonable delay or expense. The NSW Electoral Commission allows people to update, correct, or amend their health information where necessary (see the section of this Plan titled, "Access to and alteration of personal and/or health information" for further information).

HPP8. Correct (sch. 1(8) HRIP Act)

- 7.12. Allow a person to update, correct or amend their personal information where necessary.

HPP9. Accurate (sch. 1(9) HRIP Act)

- 7.13. Ensure that the health information is relevant and accurate before using it.

Use

HPP10. Limited (sch. 1(10) HRIP Act)

- 7.14. Only use health information for the purpose for which it was collected or for a directly related purpose, which a person would expect (unless exemptions apply or the NSW Electoral Commission has obtained consent to use the health information for a secondary purpose). Otherwise, the NSW Electoral Commission would generally need their consent to use the health information for a secondary purpose.

Disclosure

HPP11. Limited (sch. 1(11) HRIP Act)

- 7.15. Only disclose health information for the purpose for which it was collected, or for a directly related purpose that a person would expect (unless exemptions apply or the NSW Electoral Commission has obtained consent). Otherwise, the NSW Electoral Commission would generally need their consent.

Identifiers and anonymity

HPP12. Not identified (sch. 1(12) HRIP Act)

- 7.16. Only identify people by using unique identifiers if it is reasonably necessary to carry out the agency's functions efficiently.

HPP13. Anonymous (sch. 1(13) HRIP Act)

- 7.17. Give the person the option of receiving services from the agency anonymously, where this is lawful and practicable.

Transferrals and linkage

HPP14. Controlled (sch. 1(14) HRIP Act)

- 7.18. Only transfer health information outside New South Wales in accordance with HPP 14.

HPP15. Authorised (sch. 1(15) HRIP Act)

- 7.19. Only use health records linkage systems if the person has provided or expressed their consent.
- 7.20. The three HPPs 12, 14 and 15 are unlikely to be relevant to the NSW Electoral Commission
- 7.21. The NSW Electoral Commission allows people to stay anonymous where it is lawful and practical, for example using de-identified health information to undertake its research functions which include conducting surveys and data analysis for the purpose of improving accessibility to services and educational resources.
- 7.22. The NSW Electoral Commission does not use unique identifiers for health information, as they are not needed to carry out the functions of the NSW Electoral Commission. With exception to the use of Medicare numbers for DVS purposes (see the section of this Plan titled, "Funding and Disclosure information" for further information), the NSW Electoral Commission does not usually transfer health information outside of NSW and does not currently use a health records linkage system.

Relevant exemptions to the HPPs

- 7.23. Exemptions are located mainly in Schedule 1 of the HRIP Act and may exempt the NSW Electoral Commission from compliance with HPPs in certain situations. For example, the NSW Electoral Commission is not required to comply with HPPs 4-8 and 10 if the NSW Electoral Commission is lawfully authorised, required, or permitted not to comply with them. The NSW Electoral Commission does not use the other exemptions on a regular basis as they are not usually relevant to the work of the NSW Electoral Commission.
- 7.24. Health Privacy Codes of Practice (made by the Minister for Health) and Health Public Interest Directions (made by the Privacy Commissioner) may modify the HPPs. These are available on IPC's website. There are currently no health codes of practice or public interest directions that are likely to affect how the NSW Electoral Commission manages health information.

8. Other laws regulating information handling

- 8.1. Other laws that may affect the NSW Electoral Commission's handling of personal or health information include the following:

Crimes Act 1900

- 8.2. Under this Act the NSW Electoral Commission and its staff members must not access or interfere with data in computers or other electronic devices unless authorised to do so.

Government Information (Public Access) Act 2009

- 8.3. Schedule 1 to the GIPA Act specifies categories of government information for which it is to be conclusively presumed that there is an overriding public interest against disclosure. This includes:
 - **Overriding secrecy laws** (Sch. 1, cl. 1): Information the disclosure of which is prohibited by specified provisions of the Electoral Act, whether or not the prohibition is subject to specified qualifications. For example, s. 268 of the Electoral Act prohibits the disclosure of information obtained in connection with the administration or execution of that Act or any other Act conferring or imposing functions on the NSW Electoral Commission or the Electoral Commissioner. So, information provided to the Electoral Commissioner for the purposes of updating and administering the Electoral Information Register is not accessible by applicants under the GIPA Act.
 - **Excluded information:** (Sch. 1, cl. 6 and Sch. 2, cl. 4): Information relating to the complaint handling, audit, reporting, investigative and prosecuting functions of the NSW Electoral Commission, unless the NSW Electoral Commission has consented to the disclosure.
- 8.4. Requests by individuals to obtain access to personal information about themselves are dealt with under the PPIP Act (provided there is no overriding public interest against disclosure of the information). Individuals can also request access to other personal and non-personal information under the GIPA Act.
- 8.5. The definition of personal information differs between the PPIP Act and the GIPA Act. For example, personal information under the GIPA Act does not include information about an individual (comprising the individual's name and non-personal contact details) that reveals nothing more than the fact that the person was engaged in the exercise of public functions.

- 8.6. Under the GIPA Act there is a public interest consideration against the disclosure of information if the disclosure could reveal another individual's personal information or contravene a principle outlined in the PPIP Act. It is not an absolute barrier to the information being disclosed. It is only a relevant factor that needs to be weighed against other factors for and against disclosure. The Information Commissioner has issued a Guideline titled, *Personal information as a public interest consideration under the GIPA Act* (November 2018). The public interest test is only relevant if there is no conclusive presumption that there is an overriding public interest against disclosure of the information being sought.

Government Sector Employment Act 2013

- 8.7. Information about a person's suitability for appointment or employment as a public sector official is not regulated by privacy law, as this type of information is excluded from the definitions of "personal information" and "health information" (s. 4(3)(j) of the PPIP Act and s. 5(3)(m) of the HRIP Act). Information about the findings of a disciplinary inquiry under the *Government Sector Employment Act 2013* (GSE Act) and information contained in selection committee reports, for example, may include this type of information. Provided the individual's suitability for appointment or employment is a live issue, there may be a basis for disclosing such information, e.g. where another agency or employer makes a reference check.

Independent Commission Against Corruption Act 1988

- 8.8. Under this law the NSW Electoral Commission and its staff members must not misuse information we have obtained in the course of doing our jobs.

Industrial Relations Act 1996

- 8.9. Certain disclosures of personal information contained in staff files held by the NSW Electoral Commission's Human Resources Business Unit are lawful under the *Industrial Relations Act 1996* (IR Act).

Jury Act 1977

- 8.10. The *Jury Act 1977* requires the NSW Electoral Commission to prepare and provide a list of people who might qualify and be required for jury duty.

Fines Act 1996

- 8.11. The NSW Electoral Commission may disclose certain information to Revenue NSW to administer penalty notice enforcement orders under the Electoral Act, the EF Act, the LG Act and the *Fines Act 1996*.

Public Interest Disclosures Act 1994

- 8.12. The protection of information contained in a public interest disclosure is dealt with in the *Public Interest Disclosures Act 1994*. Note that the definition of personal information under the PPIP Act excludes information about an individual that is contained in a public interest disclosure.

State Records Act 1998

- 8.13. The State Records Act sets out when the NSW Electoral Commission can destroy its records. It also authorises the State Records Authority to establish policies, standards and codes to ensure that NSW public sector agencies manage their records appropriately.
- 8.14. There are currently two functional retention and disposal authorities that apply specifically to the NSW Electoral Commission known as, FA357 and FA297. FA357 covers records documenting the function of election management from 1972 onwards. FA297 covers records documenting the function of administration of political funding from 1982 onwards.

- 8.15. The purpose of FA357 and FA297 is to identify those records created and maintained by the NSW Electoral Commission which are required as State archives and to provide approval for the destruction of certain other records after minimum retention periods have been met.

Work Health and Safety Act 2011

- 8.16. If an authorised representative of a union or industrial organisation suspects a breach has occurred under the *Work Health and Safety Act 2011* (WHS Act), and they hold a current work health and safety entry permit issued by the Industrial Relations Commission, they are authorised under that Act to enter work premises. They may require the production of documents which directly deal with the work health and safety of employees working at those premises.

9. Offences

Offences under the PPIP Act

- 9.1. Offences can be found in Part 8 of the PPIP Act. It is an offence to:
- intentionally disclose or use personal information otherwise than in connection with the lawful exercise of official functions;
 - offer to supply personal information that has been or is proposed to be disclosed in contravention of s. 62;
 - hinder the Privacy Commissioner or a member of staff from doing their job.

Offences under the HRIP Act

- 9.2. Offences can be found in sections 68 to 70 of the HRIP Act. It is an offence to:
- intentionally disclose or use health information otherwise than in connection with the lawful exercise of official functions;
 - offer to supply health information that has been or is proposed to be disclosed unlawfully in contravention of s. 68;
 - attempt to persuade a person from making or pursuing a request for health information, a complaint to the Privacy Commissioner or an internal review under the PPIP Act.

Offences under the Electoral Act

- 9.3. There are specific offences in relation to the disclosure and use of enrolment information that apply to registered parties, members, candidates and other persons or entities in receipt of enrolment information from the NSW Electoral Commission. For example, s. 51 and s. 52 of the Electoral Act limit the use and disclosure of enrolment information. Failure to comply with the relevant provisions may result in a maximum penalty of 1,000 penalty units (\$110,000).
- 9.4. There is also a specific offence in relation to the disclosure of electoral information that applies to all NSW Electoral Commission officers. Section 55 of the Electoral Act limits the use and disclosure of electoral information. Failure to comply with s. 55 may result in a maximum penalty of 1,000 penalty units (\$110,000).

- 9.5. Under s. 268 of the Electoral Act, there is also a general prohibition against disclosure of information obtained in connection with the administration or execution of the Electoral Act (or any other Act conferring or imposing functions on the NSW Electoral Commission or Electoral Commissioner) unless that disclosure is made:
- with the consent of the person the information relates to; or
 - in connection with the administration or execution of the Electoral Act (or other Act); or
 - for the purposes of any legal proceedings under the Electoral Act (or other Act); or
 - as required under the *Ombudsman Act 1974*; or
 - other lawful excuse.
- 9.6. Information can also be disclosed if reasonably necessary for the purpose of reporting on the progress or outcome of an investigation and is in the public interest: s. 268(2) and (3).
- 9.7. Failure to comply with s. 268 may result in a maximum penalty of 1,000 penalty units (\$110,000).
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10. NSW Electoral Commission Code of Ethics and Conduct

- 10.1. All staff members are required to abide by the *NSW Electoral Commission Code of Ethics and Conduct*. The Code includes an obligation to protect the privacy of personal information. This obligation survives the expiration or termination of employment/engagement.
- 10.2. The *Business Ethics Confidentiality and Compliance Agreement* for both individual contractors and service providers also include provisions to protect personal information.
- 10.3. The NSW Electoral Commission must take action against any staff members who breach the Code of Ethics and Conduct, including contractors. This may result in the imposition of sanctions, up to and including, termination of employment and/or other disciplinary action for misconduct pursuant to s. 69 of the GSE Act.
- 10.4. In some circumstances, breaches of the Code may also be a criminal act or a breach of legislation. In these cases the NSW Electoral Commission must notify the relevant statutory authority and more severe penalties including criminal sanctions, fines or imprisonment may apply.
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11. Privacy statement

- 11.1. The NSW Electoral Commission should only collect personal information that is reasonably necessary to perform its statutory functions or other activities. The NSW Electoral Commission must also collect personal information directly from the individual to whom the information relates unless the individual has authorised collection of the information from someone else, or it is lawfully authorised to collect the information from third parties. Such an authorisation includes collecting enrolment information about NSW electors, including from the Australian Electoral Commission (AEC) under joint roll arrangements between NSW and the Commonwealth.
- 11.2. The NSW Electoral Commission may use private sector companies or contractors to provide services to or for our office that may involve the handling of personal information. The NSW Electoral Commission is legally required to take steps to protect such information from misuse.

- 11.3. The NSW Electoral Commission must, subject to any applicable exemptions:
- use personal information for the purpose for which it was collected unless authorised by law or the individual concerned. Notification of authorised use and disclosure is provided at the time of collection, on the NSW Electoral Commission website and in this Plan;
 - take such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which personal information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading;
 - make every reasonable effort to ensure that the personal information collected is accurate, up to date and complete (see the section of this Plan titled, “Access to and alteration of personal and/or health information” for further information).
- 11.4. The NSW Electoral Commission must take such security safeguards as are reasonable in the circumstances against the loss, unauthorised access, use, modification or disclosure of personal information. All electronic information is stored on secure information systems. The systems comply with relevant standards pursuant to the Information Security Policy. In order to preserve the confidentiality, integrity and availability of information assets, NSW Electoral Commission will maintain an Information Security Management System (ISMS) aligned to the recent International Standard for Information Security. IT security precautions include firewalls, access control and employment of user IDs and passwords allocated to individual staff members. Officers of the NSW Electoral Commission are not permitted to share passwords or let anyone else use their computer login. Information of a sensitive nature is subject to access controls.
- 11.5. All personal information must be removed from printers and securely stored when not in use. All staff members should practice a ‘clean desk’ approach, and secure hard copy case files at the end of the day or when not in use.
- 11.6. Hard copy information is located in NSW Electoral Commission offices. Personal information may also be held from time to time at other locations including logistics centres, warehouses and voting centres. The NSW Electoral Commission archives older physical files in a secure storage facility in compliance with the State Records Act. All premises are secure premises. Visitors cannot enter without permission.
- 11.7. Staff members are required to follow this Plan and other procedures and policies relating to the collection, use, disclosure and protection of personal and health information. When communicating with visitors and stakeholders, staff members must take reasonable steps to verify that person’s identity.
- 11.8. The NSW Electoral Commission must retain and dispose of personal information in accordance with its obligations under the State Records Act and other relevant laws and regulations.
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12. Categories of information

- 12.1. Information collected and held by the NSW Electoral Commission includes the following:

Enrolment information

- 12.2. Under the Electoral Act, authorised rolls containing the full name and address of electors (excluding silent elector addresses) must be made available for public inspection after the issue of the writ for an election for a period of 40 days after the return of the writ for the election. They may be inspected at the NSW Electoral Commission or at other places determined by the NSW Electoral Commissioner. The latest copy of a residential roll for each NSW local government area must also be available for public inspection.

- 12.3. Under the LG Act and the *City of Sydney Act 1988*, council general managers must ensure copies of the latest non-residential rolls and the roll of occupiers and rate paying lessees are available at council offices for public inspection.
- 12.4. People inspecting the rolls may not make copies or record the information by electronic means.
- 12.5. Under s. 49 of the Electoral Act, the NSW Electoral Commissioner must provide a current list of electors and their particulars to political parties, members of parliament, groups and candidates. A registered party, member and candidate must not use or disclose enrolment information except for a purpose in connection with an election and as set out in a written undertaking about the security and safeguard of enrolment information. Under clause 284A of the LG Regulation, the NSW Electoral Commissioner must also provide a copy of the relevant residential roll, upon request, to a candidate who has nominated for a local government election. Use of enrolment information for a commercial purpose is strictly prohibited. Other penalties also apply to the misuse of both state and local government enrolment information.
- 12.6. Under s. 50 of the Electoral Act, the NSW Electoral Commissioner must consider requests for current lists of electors from third parties. The NSW Electoral Commission is required to identify the public interest in providing the requested information and determine whether the public interest in providing such information outweighs the public interest in keeping such information private. While the Electoral Commissioner will consider each request on its merits, disclosure of enrolment information under s. 50 is very limited and is strictly controlled.
- 12.7. Under the LG Act the Electoral Commissioner is to provide the general manager with a printed and an electronic copy of the residential roll for the area after the closing date for an election that is to be administered by the general manager of the council concerned.
- 12.8. Under s. 56 of the Electoral Act, the NSW Electoral Commission may exchange information with the AEC as required for the maintenance of the NSW and Commonwealth electoral rolls. For example, following an election the NSW Electoral Commission shares enrolment information captured on provisional votes, i.e. enrolment declaration voter information for the purpose of providing the AEC with new/updated elector information. Following an election we share information captured on provisional votes, i.e. enrolment declaration voter information for the purpose of providing the AEC with new/update elector information.
- 12.9. The Electoral Act does not prevent the NSW Electoral Commission providing elector information to its contractors in order for the NSW Electoral Commission to conduct its business. The NSW Electoral Commission provides elector information to a mail house contractor and a printer. Such contractors are required to sign a confidentiality agreement.
- 12.10. For more information about access to and use of enrolment information, see the *Disclosure of Enrolment, Electoral and Election Information Policy*: see Home – About us – Policy library.

Email and SMS reminders to enrol and keep enrolment details updated

- 12.11. The NSW Electoral Commission is required under the Electoral Act to maintain and update the Electoral Information Register. The register is used to print out the authorised roll or electoral roll for an election. The Electoral Information Register includes the surname, given name or names, date of birth and sex of each enrolled person, the residence of the person (except in relation to an eligible overseas elector or an itinerant elector), the electoral district for which the person is enrolled, whether the person is a silent elector, whether the person is a special elector, whether the person is a registered early voter and other particulars like emails and mobile numbers (see section 41 of the Electoral Act).
- 12.12. In accordance with section 44 of the Electoral Act, mobile telephone numbers and email addresses have been included in the Electoral Information Register. They have been obtained from the AEC pursuant to section 56 of the Electoral Act; from individuals through voluntary subscriptions to the Election Reminder Service; and from Transport for NSW pursuant to section 45 of the Electoral Act.

- 12.13. The Electoral Commissioner is required under the Electoral Act to use the Electoral Commissioner's best endeavours to revise and update the Electoral Information Register (see section 42 of the Electoral Act). To do this, the NSW Electoral Commission promotes public awareness about the importance of updating enrolment details via newspaper advertisements, television and radio campaigns, information seminars, content on its websites, social media and through the use of email/SMS reminders.
- 12.14. The Electoral Commissioner (and officers acting under the direction of the Electoral Commissioner) are exempt from any requirements of the PPIP Act relating to the collection, use or disclosure of personal information to the extent that personal information is collected, used or disclosed for the purposes of or in connection with the maintenance and revision of the Electoral Information Register (see section 44 of the Electoral Act).
- 12.15. The sending of reminders by email/SMS to update enrolment details is undertaken by the NSW Electoral Commission and/or a service provider. Where a service provider is used, the provider does not have access to the Electoral Information Register. The service provider is only provided email addresses and/or mobile numbers. The NSW Electoral Commission has in place security arrangements to safeguard the use of these email addresses and mobile numbers by the service provider. These safeguards include strict contractual provisions concerning the security of any personal information, how data is handled by the service provider and the destruction of data at the completion of the contracted service.

Electoral information

- 12.16. Electoral Information is personal information collected by the NSW Electoral Commission for the maintenance of the Electoral Information Register under sections 44 and 45 of the Electoral Act. Electoral information includes identifying particulars of electors such as name, address, date of birth, contact emails and phone numbers, the geo-code location reference of residences and other unique identifiers or codes used by the NSW Electoral Commission or other agencies from whom we request information. There are a number of privacy related exemptions in the Electoral Act that are relevant to the collection, use or disclosure of electoral information.
- 12.17. Under s. 44 and s. 45 of the Electoral Act, the NSW Electoral Commission may collect electoral information from other people or organisations for the purposes of determining whether the address for which the person is enrolled is the person's real residence, or if the person is not enrolled – whether the person is entitled to be enrolled for any district.
- 12.18. If the NSW Electoral Commission identifies persons who are eligible to be enrolled, the NSW Electoral Commission may notify them of its intention to automatically enrol them by email, SMS text message or other electronic means. Recipients of these notices are advised to contact the NSW Electoral Commission if they believe an error has occurred and they are not eligible to be enrolled. If they agree they are eligible they are not required to take any further action.
- 12.19. The NSW Electoral Commissioner also has a statutory duty under section 44(2) of the Electoral Act to maintain and regularly revise the electoral information held in the Electoral Information Register. The principles of collection, use and disclosure under the PPIP Act do not apply to the exercise of that duty, which may include using the information in the register to contact electors to invite them to update their registered enrolment details for an upcoming election or referendum at which voting is compulsory.
- 12.20. Section 55 of the Electoral Act prohibits any person who acquires electoral information in carrying out their functions under the Electoral Act from making a copy of, or divulging the information to, another person except in the exercise of those functions.
- 12.21. Electoral information may be divulged under s. 55 to a particular person or persons, if the Electoral Commissioner certifies that it is necessary in the public interest that the information be divulged to the person or persons, or to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.

- 12.22. Electoral information is sourced from government agencies such as the AEC and, via the AEC, the Federal Department of Immigration and Border Protection. Other agencies include Transport for NSW (through Service NSW), NSW Education Standards Authority, TAFE NSW and business units within the NSW Department of Customer Service (including the NSW Registry of Births, Deaths and Marriages and Revenue NSW).
- 12.23. Pursuant to the Electoral Act, the NSW Electoral Commission may also request certain people or organisations to provide personal information about individuals in order to prepare, maintain and review the Electoral Information Register. Such people or organisations include:
- a person employed in the public service;
 - a police officer;
 - a member of a staff of a council;
 - the Sydney Water Corporation;
 - a distribution network (i.e. energy) service provider;
 - a university established or constituted by an Act of NSW; and
 - an elector or person entitled to be enrolled.
- 12.24. The NSW Electoral Commission allows voters to sign up for election reminder service. Subscribers to the election reminder service will have their email address and/or mobile number added to the election reminder service contact list. The NSW Electoral Commission may use their email address and mobile number to send reminders about upcoming State and local government elections and by-elections. At times the NSW Electoral Commission may invite subscribers via email or text message to participate in surveys for research purposes.
- 12.25. Subscribers email address and mobile number may also be recorded on the Electoral Information Register. In accordance with the *Electoral Act 2017* (Electoral Act) and the exchange of information agreement between the NSW Electoral Commission and the Australian Electoral Commission (AEC), the NSW Electoral Commission may disclose details from the Electoral Information Register to the AEC. This information may include their email and mobile number. The NSW Electoral Commission does not share this information with any other agency without their consent unless required or authorised by law.
- 12.26. Where necessary, the NSW Electoral Commission may have Memoranda of Understanding with those organisations providing information.
- 12.27. Please refer to the *Disclosure of Enrolment, Electoral and Election Information Policy* for further information about the disclosure of electoral information: see Home – About us – Policy library.

Election information

- 12.28. Under both the Electoral Act and the LG Regulation (in relation to elections administered by the Electoral Commissioner), the NSW Electoral Commission collects the names and addresses of people who voted in an election, other than silent or itinerate electors, whether they voted personally, by post or by another authorised method (such as technology assisted voting), and if they voted at a polling place for the district for which they were enrolled, the location of the polling place.
- 12.29. Under s. 222 of the Electoral Act, the NSW Electoral Commission must provide this election information to political parties and independent members of parliament, if requested. Clause 393 of the LG Regulation requires the Electoral Commissioner (in relation to elections administered by the Electoral Commissioner) to provide relevant election information to each registered political party and each councillor and mayor who is not a member of a registered political party, if requested.

- 12.30. Certain types of voting such as postal votes and absentee votes are received and briefly held by the NSW Electoral Commission inside ballot paper envelopes that have the voter's names and address attached. There are strict security and scrutiny procedures in place to ensure that the vote is counted and voting secrecy is maintained.
- 12.31. Technology assisted voting (currently, voting by telephone) also has strict security and scrutiny procedures in place to ensure that the secrecy of the ballot is maintained. When the votes are counted, there is no information linking an individual to a vote.
- 12.32. Please refer to the *Disclosure of Enrolment, Electoral and Election Information Policy* for further information about the disclosure of election information: see Home – About us – Policy library.

Silent elector information

- 12.33. Under the Electoral Act, a person may apply to be a silent elector if they believe that having their residential address shown on the electoral roll will put them or their family at risk. Consistent with arrangements made under the joint enrolment agreement between New South Wales and the Commonwealth, such applications are processed by the AEC on behalf of the NSW Electoral Commission.

Research information

- 12.34. One of the functions of the NSW Electoral Commission is to conduct and promote research into electoral matters and other matters that relate to its functions and publish the results of any such research. The NSW Electoral Commission may seek voluntary completion of surveys to help it identify current issues. The NSW Electoral Commission ensures any proposed survey or other kind of collection complies with its privacy obligations.
- 12.35. In most cases, survey data is depersonalised. For example, an elector may be asked general questions about his or her voting experience. As another example, persons who have participated in an information seminar conducted by the NSW Electoral Commission may be asked for feedback concerning the content of the presentation and seminar facilities. The NSW Electoral Commission will not ask an elector who they intend to vote for, or who they voted for.
- 12.36. If the NSW Electoral Commission seeks to rely on the exemption with respect to the collection, use or disclosure of personal information in the PPIP Act when undertaking research that is in the public interest, it must carefully consider whether the exemption is applicable and follow the Statutory Guidelines on Research issued by the Privacy Commissioner pursuant to s. 27B of the PPIP Act.

Candidate information

- 12.37. The NSW Electoral Commission collects personal information associated with registrations and nominations of candidates for elections. In relation to local government elections, s. 308 of the LG Act requires the returning officer to make each candidate information sheet available for public inspection at the office of the returning officer and at any other place determined by the returning officer. Section 308 also requires candidate information sheets to be displayed at each polling place. Clause 290 of the *Local Government (General) Regulation 2005* requires the Electoral Commissioner to publish candidate information sheets on the NSW Electoral Commission website until at least election day.
- 12.38. In relation to state elections, if a poll is required to take place for an election the Electoral Commissioner must publish on its website the candidate's name, and the suburb, town or other locality of the enrolled address of each candidate (as stated on the nomination paper).

- 12.39. A nomination must be accompanied by a child protection declaration (applies only to state elections). Child protection declarations are also required to be made public by the NSW Electoral Commission and are provided to the Children’s Guardian. The Children’s Guardian must, as soon as practicable after receiving a copy of a child protection declaration, investigate the accuracy of the declaration. The Children’s Guardian must prepare a report on the results of those investigations. The report is to be presented to the Presiding Officer of the House of Parliament to which the persons concerned have been elected. The report is then laid before that House.

Party registration information

- 12.40. The NSW Electoral Commission maintains a state Register of Parties and a Local Government Register of Political Parties. The registers are available to be inspected at the office of the NSW Electoral Commission during ordinary office hours. The NSW Electoral Commission is required to publish particular documents and information in relation to each registered party on the NSW Electoral Commission’s website, including the name of the registered officer of the party, the name of the deputy registered officer of the party, the name of the secretary of the party, the address of the party headquarters in New South Wales and a copy of the registered party’s written constitution.
- 12.41. A party register also contains other particulars or documents required under the Electoral Act (and the Electoral Act as applied by the LG Act) – this may include the latest annual return with respect to continued registration and the names and addresses (as enrolled) of electors who are members of the party and on whom the party relies for the purpose of qualifying as an eligible party (see the section of this Plan titled, “Public registers and inspections” for further information).

Funding and disclosure information

- 12.42. The NSW Electoral Commission collects information associated with regulating the campaign finances of political parties, groups, candidates, elected members, third-party campaigners, major political donors, associated entities, senior office holders of political parties, and party and official agents.
- 12.43. Declarations for political donations received and electoral expenditure incurred are required to be published on the NSW Electoral Commission’s website pursuant to the EF Act. Personal information contained in declarations include the name of candidates, elected members, official agents, the names and addresses of donors and the name of suppliers or service providers. The NSW Electoral Commission must also publish on its website a copy of any claim made for public funding. Additionally, documents received in connection with such claim may be made available for public inspection. Personal information contained within these claims or documents are redacted prior to publication or inspection.
- 12.44. Under the EF Act, the NSW Electoral Commission publishes a number of registers on its website, see the section of this Plan titled, “Public registers and inspections” for further information. Persons attending to inspect will be asked to complete a form and provide ID. The Registers of Candidates includes the full name and enrolled address of candidates and the candidate’s party or group affiliation (if any). The Registers of Third-party Campaigners includes the full name and address of the third-party campaigners. The Register of Party Agents includes the name of the party agent and the address and occupation of the party agent. The Register of Official Agents includes the name, address and occupation of the official agent and the name of the associated entity or third-party campaigner that appointed the official agent. The NSW Electoral Commission may make determinations that a person is not a prohibited donor – these determinations are required to be published in a register on the NSW Electoral Commission’s website.
- 12.45. In order to receive payment under Part 4 or 5 of the EF Act, parties must provide the NSW Electoral Commission a list of its senior office holders and a summary of the roles and responsibilities of those senior office holders. The NSW Electoral Commission is required to publish those details on its website.

- 12.46. Funding and disclosure information may be collected by the NSW Electoral Commission via NSW Electoral Commission paper-based forms or an online system: Funding and disclosure online. Use of the online system is governed by the NSW Electoral Commission's *Website Privacy Statement* and the system's specific *Terms of use*. The *Terms of use* sets out what personal information is collected why we are collecting it, if it is compulsory, what we will do with it and whether it can be accessed or amended.
- 12.47. Applications to use the online system must be supported by two types of personal identification information, e.g. a drivers licence number, Medicare number or passport number. These identification numbers are submitted to the Document Verification Service (DVS) (part of the Commonwealth's Department of Home Affairs) for the purpose of confirming that they match records held by the government authority that issued them. The identification numbers are not retained by the NSW Electoral Commission. The NSW Electoral Commission will only retain the response provided by the DVS, which is generally a 'yes' or 'no' response with respect to the matching process, the type of identification document provided (e.g., 'Driver Licence') and the name provided by the political participant. Additional information about how the DVS works can be found by visiting dvs.gov.au. If a political participant does not provide the information that is required by DVS, or the DVS check does not confirm a positive match with two forms of identification, they will not be able to progress the request for portal access. NSW Electoral Commission forms continue to be available for political participants who cannot lodge online through the website.

Investigative information

- 12.48. The NSW Electoral Commission collects personal information with respect to its investigative and compliance functions under the EF Act, the Electoral Act, the Local Government Act and the LOGO Act. The NSW Electoral Commission's investigative powers under the EF Act includes the power to require the provision of documents or information. There are a number of exemptions in the PPIP Act that are relevant to the NSW Electoral Commission as an investigative agency.
- 12.49. The NSW Electoral Commission is able to disclose information if reasonably necessary for the purpose of reporting on the progress or outcome of an investigation and the disclosure is in the public interest: s. 268(2) and (3) of the Electoral Act. Otherwise, only statistical information and personal information that has become public due to legal proceedings arising from investigations may be published. For more information, including as to how the public interest test is applied, see the *Compliance and Enforcement Publication Policy*.

Lobbyist information

- 12.50. The application and confirmation process required of third-party lobbyists requires the NSW Electoral Commission to collect personal information pertaining to the lobbyist, employees of the lobbyist, business registration details, address details and other relevant information. A failure to provide all the necessary personal information will prevent the application from being considered. The NSW Electoral Commission is required under the LOGO Act to make publicly available certain information. The following information provided by lobbyists may be included in the Lobbyists Register and may be accessed on the NSW Electoral Commission's website:
- business registration details including, where the business is not a publicly listed company, the names of owners, partners or major shareholders, as applicable;
 - the names and positions of persons employed, contracted or otherwise engaged by the lobbyist to carry out lobbying activities, and the names of clients on whose behalf the lobbyist conducts lobbying activities.

- 12.51. The LOGO Act requires the NSW Electoral Commission to maintain a Lobbyists Watch List that contains the names and other identifying details of any lobbyist whom the NSW Electoral Commission determines should be placed on the Lobbyists Watch List because of contraventions of that Act or of the Lobbyists Code. Further information concerning lobbyist information can be found on the NSW Electoral Commission website.
- 12.52. The Electoral Commission is, amongst other things, required to publish notice of and reasons for its decision to refuse to register a third-party lobbyist, to cancel or suspend the registration of a third-party lobbyist and to place the name of a third-party or other lobbyist on the Lobbyists Watch List (unless there is an overriding public interest against the disclosure of the information within the meaning of the GIPA Act).

Statutory ballots

- 12.53. The NSW Electoral Commission collects personal information associated with ballots that the NSW Electoral Commission is authorised to conduct for registered clubs, industrial organisations and Aboriginal land councils. The way personal information is collected and disclosed in order to conduct such statutory ballots is determined by the PPIP Act and the legislation or regulations governing the particular entity. For example, an eligible voter member list may, according to the regulations of a club or organisation, be required for inspection at the office of the returning officer.

Feedback (including complaints) and enquiries information

- 12.54. This section of this Plan does not relate to public interest disclosures made by NSW Electoral Commission staff, Code of Conduct complaints, staff grievances, requests for information under the GIPA Act and PPIP Act, and disagreements relating to regulatory functions (where a person disagrees with a decision made by the NSW Electoral Commission).
- 12.55. The NSW Electoral Commission accepts feedback (including complaints) and enquiries over the phone and in writing. Complaints about service delivery by the NSW Electoral Commission are managed subject to the *Complaints Management Policy*. Allegations or reports about third parties failing to comply with electoral laws are managed differently and, where applicable, in accordance with the NSW Electoral Commission's Compliance and Enforcement Policy and the NSW Electoral Commission's Compliance and Enforcement Procedures, which are both available on its website.
- 12.56. The NSW Electoral Commission's telephones should display the number of the person who called, except for private/silent numbers. Telephone calls made through the NSW Electoral Commission's election enquiries centre are recorded and monitored for quality and training purposes during major election events. The person making the telephone call can let the Customer Service Officer know they do not want the call to be recorded. Depending on the nature of the enquiry, callers will be asked to verify their identity (see the section of this Plan titled, "General procedures for confirming and verifying identity" for further information).
- 12.57. The NSW Electoral Commission decides what level of information is appropriate to be collected on a case-by-case basis, with the understanding that the details collected must contain enough information to be an accurate record of the issue. The information is collected for the purpose of facilitating the management, response and investigation of issues raised. The information will also be used to facilitate the legislative and administrative functions of the NSW Electoral Commission and for the improvement and review of its services.
- 12.58. Written records and file notes of telephone conversations are generally kept by the NSW Electoral Commission in its electronic document management system or in a hard copy file. Telephone calls via the general enquiries line are fed through an Interactive Voice Response system where an elector will be presented with a variety of options for selection to help channel their enquiry through a specific queue. The nature of the call and the caller's postcode may be logged separately for statistical purposes. The NSW Electoral Commission also records complaints in its complaints register in order to manage complaints and feedback.

- 12.59. The feedback or enquiry may be disclosed to relevant staff members, its contractors and other investigative or law enforcement bodies. The NSW Electoral Commission has agreements with for example, ICAC to share relevant information, to receive referrals of potential breaches of the laws administered by the NSW Electoral Commission and to coordinate investigation and enforcement. In some instances, it may be necessary to disclose the identity of the complainant to provide the subject of a complaint with the full grounds to which they must respond.
- 12.60. The provision of any personal/health information when providing feedback (including a complaint) or making an enquiry is entirely voluntary. There may be instances where, for example, via telephone, persons may wish to remain anonymous. If this was to occur, the NSW Electoral Commission may not be able to properly investigate, consider or respond to the complaint or enquiry without sufficient information. In these cases, it is up to the person who contacted the NSW Electoral Commission to decide if they want to continue with the enquiry or not.
- 12.61. As previously mentioned, the NSW Electoral Commission is an investigative agency within the meaning of the PPIP Act, which means there are a number of exemptions from compliance with the IPPs with respect to the NSW Electoral Commission's complaint handling functions and/or investigative functions (see the section of this Plan titled, "Relevant exemptions to the IPPs" for further information.

Website information

- 12.62. When visiting a NSW Electoral Commission website, a record of the visit and associated metadata (for example, IP address and browser type) is captured. Cookies and pixels capture aggregated data about users when interacting with our websites.
- 12.63. In addition to click stream data, some services and forms provided directly through our websites are designed to collect information that identifies the user. Further information is available on the NSW Electoral Commission's *Website Privacy Statement* (see Home – Privacy) or privacy statements found on our webpages where registration occurs or on the online forms/applications to be completed.

Online applications for postal voting

- 12.64. The NSW Electoral Commission collects this information for the purpose of ascertaining an applicant's eligibility to vote by post and to provide information to an applicant about the application/voting processes.
- 12.65. The NSW Electoral Commission may also use this information to seek feedback about its online registration processes and voting experiences as part of its research functions.
- 12.66. Any personal details including mobile numbers and email addresses not already known to the NSW Electoral Commission may be added to the Electoral Information Register as part of the NSW Electoral Commission's functions to maintain and verify enrolment information. This information may also be used to inform electors about upcoming election events.
- 12.67. The administration of these voting services and research functions are undertaken by relevant staff and contractors engaged by the NSW Electoral Commission. The information may be disclosed to the AEC in accordance with the joint enrolment arrangement under the Electoral Act and as otherwise required or authorised by law.
- 12.68. The NSW Electoral Commission does not retain an individual's application to vote by post for future election events, i.e. an applicant is required to complete an application for each election event (unless a registered early voter). Any personal and health information collected must be kept in secure storage until the conclusion of the election's preservation period. An applicant should refer to the NSW Electoral Commission's *Website Privacy Statement* (see Home – Privacy) for details as to how personal information will be treated when accessing and interacting with NSW Electoral Commission websites.

Online applications for registration of electoral material

- 12.69. The NSW Electoral Commission collects personal information from online applications for registration of electoral material for the purpose of ascertaining whether an application is compliant with applicable laws. The NSW Electoral Commission may also use the information to communicate with an applicant and/or an individual on whose instructions the material was produced to clarify information in the application and to provide updates about the application process. The NSW Electoral Commission may also use the information to seek feedback about the registration process and to enable the NSW Electoral Commission to exercise its other statutory functions, including its research, enrolment, audit, investigative and compliance functions.
- 12.70. Any personal details including mobile numbers and email addresses not already known to the NSW Electoral Commission may be added to the Electoral Information Register as part of the NSW Electoral Commission's functions to maintain and verify enrolment information. This information may also be used to inform electors about upcoming election events.
- 12.71. The administration of the NSW Electoral Commission's online applications for registration of electoral material are undertaken by relevant staff and contractors engaged by the NSW Electoral Commission.
- 12.72. In relation to state elections the NSW Electoral Commission is required to make available for public inspection on its website the registered electoral material and the relevant certificate of registration from the Monday preceding the election day until 6 pm on election day. After this period of time, the material, certificate and application must be kept in secure storage until the conclusion of the election's preservation period.
- 12.73. In relation to local government elections administered by the NSW Electoral Commission, the NSW Electoral Commission is required to make available for public inspection on its website the registered electoral material and the relevant certificate of registration during the hours of polling on election day and on all the days to which the polling is adjourned. After this period of time, the material, certificate and application must be kept in secure storage until the conclusion of the election's preservation period.
- 12.74. An applicant should refer to the NSW Electoral Commission's *Website Privacy Statement* (see Home – Privacy) for details as to how his/her personal information will be treated when accessing and interacting with NSW Electoral Commission websites.

Technology-assisted voting (telephone voting)

- 12.75. The process for technology-assisted voting by telephone is designed to ensure electors who are blind or have low vision are able to vote independently, without the assistance of another person who may then know how the elector voted.
- 12.76. Technology-assisted voting by telephone involves the elector giving verbal instructions to election officials, but an elector's registration to use the service and their personal information is kept strictly separate from the voting process.

Registration process for telephone voting

- 12.77. During registration to use technology assisted voting, electors will be asked to provide their full name, date of birth and enrolled address. The Registration officer will use this information to check the elector is on the electoral roll. Before being issued a randomly generated application number, the elector will also be asked to declare whether they are blind or have low vision to confirm their eligibility to use technology assisted voting. The elector will nominate a PIN to use for voting.

12.78. The elector will be asked whether they would like to provide a mobile number or email address so the NSW Electoral Commission can:

- SMS or email the application number to the elector,
- contact the elector with information about the election,
- contact the elector if there are any issues with a particular application,
- invite the elector to provide feedback about their experience with the system for the purpose of improving our services.

12.79. At this point in the process, the elector will be recorded on the authorised roll as having voted using technology assisted voting.

Telephone voting process

12.80. The election officials who record the vote do not know the identity of the elector. Voting operators do not have system access to information that may identify electors. The elector provides their unique application number and PIN to the voting operator and is instructed by the operator to not identify themselves using personal details. If an elector identifies themselves during the voting process, they are placed back into the voting call queue for another voting operator to assist.

12.81. The teams of operators are managed and supervised separately and their access to information is different and controlled by system credentials to ensure there is no crossover of information (including elector identity information) between the team handling voter applications and the team recording votes cast. Physical controls are also in place to ensure the two teams cannot overhear calls received and handled by the other team.

12.82. If after close of voting an elector who registered to use technology-assisted voting by telephone does not vote, the recording made on the authorised roll at time of registration is removed (indicating that the elector did not vote using technology assisted voting).

Verification of telephone voting process

12.83. To ensure the voting process is conducted fairly and accurately, a second voting operator monitors every voting call from beginning to end. The first Voting operator marks the ballot paper as per the elector's verbal instructions, while the second voting operator listens to the call to verify that the elector's preferences are transcribed onto the ballot paper accurately by the first voting operator as per the elector's instructions.

12.84. Electors have the option of asking the second Voting operator (known as the reviewing officer) to also read out their vote as a means of verification that the first voting operator followed the elector's instructions correctly.

12.85. As is the case with the Voting operator, the reviewing officer does not know or have access to the elector's application details or personal information at any time.

Retention of telephone voting registration data

12.86. The NSW Electoral Commission does not retain an individual's registration to use technology assisted voting by telephone for future election events, i.e. an applicant is required to complete the registration process for each election event.

- 12.87. At time of registration, the platform used by the NSW Electoral Commission to facilitate technology assisted voting will capture the following information:
- Full name,
 - Elector ID (a unique identifier that is allocated to each elector),
 - Pin number (chosen by the elector),
 - Application number (randomly generated),
 - Email address or mobile number (if provided by the elector).
- 12.88. If an elector has provided an email address or mobile number, the elector's application number and contact information (email or mobile number) will be entered into an additional platform for the purpose of sending out the necessary communications.
- 12.89. The information captured by both platforms are retained on our servers and only accessible to a very limited number of officers working for the NSW Electoral Commission.
- 12.90. The above information is known as election material and will be kept in secure storage until the conclusion of the election's preservation period (generally 6 months) in accordance with section 175 of the Electoral Act. The information captured by both platforms at time of registration is destroyed at the conclusion of the preservation period.

Retention of voting methods

- 12.91. Unless an elector fails to vote before close of technology assisted voting, the record made on the authorised roll at time of registration indicating that the elector voted will be retained. This information, like any other method of voting is captured on the authorised roll for the purpose of undertaking our functions with respect to failure to vote, multiple voting, the provision of election information (discussed further below) and as otherwise authorised under our enabling legislation.
- 12.92. Under the Electoral Act the NSW Electoral Commission is required to keep records of the names and the addresses of all electors who voted, whether they voted personally, by post or by another method such as technology assisted voting. This information is known as election information and is required to be made available to registered state political parties and independent members of parliament (in respect of their district) upon request. You can find additional information about election information in the NSW Electoral Commission's Disclosure of Enrolment, Electoral and Election Information Policy.

Visitor information

- 12.93. The NSW Electoral Commission's head office is located in a secure building that does not allow access to members of the public. Visitors cannot access our premises unless accompanied by a NSW Electoral Commission staff member.
- 12.94. Preference is for visitors to telephone or email the NSW Electoral Commission first for the purpose of arranging an appointment to visit our premises or the visitor speaks to the concierge and then they call the reception number at NSW Electoral Commission.
- 12.95. Visitors may need to present photo ID to the building concierge and/or NSW Electoral Commission staff. The visitor may be asked to provide information pertaining to the visit including:
- Full name;
 - Purpose of visit;
 - Name of staff member expecting visitor;
 - Time of entry and departure; and
 - Contact number.

- 12.96. In most instances, this information will be used by the NSW Electoral Commission to confirm a visitor's identification as part of a suite of building security measures. The information may also be used or disclosed for a purpose that is directly or indirectly related to:
- establishing security arrangements;
 - building security audits and investigations;
 - taking measures to prevent or minimise the opportunity for unlawful activity;
 - the detection, investigation or prosecution of an offence under the Electoral Act, the EF Act, the LOGO Act and the LG Act;
 - taking any other action authorised or required by or under the PPIP Act or any other law.
- 12.97. Separately to visitor information, NSW Electoral Commission may require photo ID and personal information to be provided by persons who attend our premises for the purpose of public inspection of records under the EF Act, the Electoral Act and the Local Government Act (see the section of this Plan titled, "Public registers and inspections" for further information)). These persons may be required to complete inspection forms. Visitors may request a form in advance when making an appointment to attend our premises.
- 12.98. This information must be kept until its administrative or reference use ceases, then destroyed. If a visitor's information is required for evidentiary purposes that become part of the records of an investigation or criminal or court proceedings then those records must be managed and disposed of in accordance with the requirements for that class of record under the State Records Act.

Business contracts and contracts with third parties for the provision of services

- 12.99. Under the GIPA Act, the NSW Electoral Commission is required to keep a register of government contracts that records information about particular contracts. The register is made available on the NSW Electoral Commission website and the NSW e-tendering website. Information on the register includes the name and business address of the contractor, particulars of any related body corporate in respect of the contractor and the estimated amount payable to the contractor under the contract.
- 12.100. The NSW Electoral Commission may use private sector companies, contractors, or other government agencies for services. If these organisations or individuals have or are likely to have access to personal information, the NSW Electoral Commission ensures that personal and health information is managed in line with the requirements of the PPIP Act, HRIP Act and information security policies. The NSW Electoral Commission might do this by:
- asking for evidence of their information handling processes;
 - inserting appropriate privacy and confidentiality clauses into our contracts;
 - requiring the service provider to have and maintain adequate systems and procedures with respect to the security of personal information;
 - requiring the service provider to keep personal information private and confidential at all times;
 - prohibiting the service provider from copying personal information for the provider's own purposes;
 - requiring the service provider to use personal information only for an approved purpose;
 - requiring any subcontractors of the service provider to agree to the same obligations as the service provider;
 - maintaining control as to how the personal information is handled by the service provider;

- requiring the service provider to return personal information to the NSW Electoral Commission for destruction at the completion of the contracted service; and
- requiring the service provider to enter into a Confidentiality and Privacy Deed or Agreement with the NSW Electoral Commission.

12.101. An external entity that may manage or collect personal information on behalf of the NSW Electoral Commission includes:

- a secure shredding company in order to carry out the destruction of sensitive documents;
- a printing company, mail house or fulfilment company;
- temporary staff procured from contingent labour suppliers;
- a research company;
- a contractor and IT service provider.

Administrative and finance records

12.102. Administrative and finance records include vehicle usage, telephone records, internal internet access and usage, stored electronic mail messages, network and electronic mail accounts and invoices and financial data. Finance data includes Tax File Numbers, dates of birth, bank account details, nominated super funds, and home addresses.

12.103. Personal use of the NSW Electoral Commission's communication devices is not considered private, and staff members using such devices do not have the same personal privacy rights as they would when using private or public telephone communication devices. The NSW Electoral Commission will monitor files, e-mails and network use by staff members using agency equipment or services. Further information is available to staff in the NSW Electoral Commission's information security and acceptable usage policies available on the intranet.

12.104. Financial records containing information about debtors, creditors and service providers are also held by the finance business unit in paper and electronic form and personal information collected is used for administration purposes.

Human resources information

12.105. The NSW Electoral Commission collects information associated with employment at an election or at the NSW Electoral Commission, including expressions of interest to work at an election, personnel records, attendance and leave records, medical certificates, injury management records, training records, next of kin and contact details, family and care arrangements, conflict of interests, financial data for payroll purposes and employment, training and educational history.

12.106. The NSW Electoral Commission also requires criminal record checks for all ongoing and temporary staff members. Information collected by the NSW Electoral Commission is retained, to the extent necessary and managed securely. The NSW Electoral Commission holds past and current employee records containing personal and health information relating to staff members. These personnel records maintain and enable employee history, payroll and administrative and security related activities.

12.107. Personal information collected on the Expression of Interest form on the NSW Electoral Commission website is used to assess a candidate's suitability for employment as an election official with the NSW Electoral Commission and, with the consent of the applicant, may be provided to electoral management bodies for similar purposes.

12.108. When people apply for jobs at the NSW Electoral Commission their job applications, resumes and related forms are provided to the interview panel, Human Resources and other relevant staff (or contractors engaged by the NSW Electoral Commission) for the purpose of determining an individual's suitability for employment at the NSW Electoral Commission. The NSW Electoral Commission must retain information relating to successful applicants and an eligibility list in which applicants may be contacted for future working opportunities at the NSW Electoral Commission.

12.109. As noted in paragraph 5.4, information about an individual's suitability for employment or employment as a public sector official is not personal information within the meaning of the PPIP Act or health information within the meaning of the HRIP Act and as such is not regulated by privacy law.

Health information

12.110. The NSW Electoral Commission does not routinely collect or use health information. In limited circumstances the NSW Electoral Commission may obtain health information when exercising its functions, for example:

- when people apply to use technology assisted voting for elections (see the section of this Plan titled "Technology-assisted voting (telephone voting)" for further information);
- when people apply to vote by post for state or local government elections (this is discussed further below);
- when people request to vote at a declared facility (this is discussed further below);
- when people respond to a penalty notice for their failure to vote and include medical certificates or other records containing health information to support their explanation for not voting;
- when NSW Electoral Commission staff members provide medical certificates or reports in relation to leave entitlements or work health and safety issues (see the section of this Plan titled "*Work Health and Safety Act 2011*" for further information).

Applications to vote other than on election day

12.111. An elector who will be unable to attend at a voting centre on election day may apply to vote by post (if eligible). An elector may also apply to vote at an election by means of technology assisted voting (if eligible). The eligibility requirements are outlined in the Electoral Act and the LG Regulation. There are a number of eligibility requirements that pertain to health information. For example, an individual with a vision impairment may be eligible to vote using Technology Assisted Voting for NSW state elections. As another example, an individual who is ill, infirm or in hospital or an individual with a disability, may be eligible to vote by post for NSW state or local government elections.

12.112. The nature of the health information collected by the NSW Electoral Commission is minimal. The eligibility requirements to vote electronically or by post are already set out on the relevant application form. An applicant only needs to select which ground or grounds are applicable, e.g. that the individual is ill. There is no requirement to identify their illness, infirmity, type of vision impairment, or disability.

12.113. The NSW Electoral Commission only uses this health information for the purpose of ascertaining an individual's eligibility to vote electronically or by post as required under the Electoral Act or LG Act. It is not possible for applicants to stay anonymous and complete an application to vote electronically or by post. The voting itself is secret and there is nothing to link a person's completed ballot to their application to vote using a particular method.

12.114. The NSW Electoral Commission may use de-identified health information as part of its research functions under the Electoral Act. Statistical analysis of this data is designed to improve NSW Electoral Commission services. Applications to vote electronically or by post are processed by relevant staff and contractors working for the NSW Electoral Commission.

- 12.115. The NSW Electoral Commission does not retain an individual's application to vote electronically or by post for future election events, i.e. an applicant is required to complete an application for each election event (unless a registered early voter). All applications are held in secure storage until the completion of the preservation period and kept for no longer than is necessary for the purposes for which the information may lawfully be used (see the section in this Plan titled, "Technology-assisted voting (telephone voting)", the NSW Electoral Commission's *Website Privacy Statement* and the privacy notification on the relevant forms for further information).
- 12.116. In accordance with the joint roll arrangement between the NSW Electoral Commission and the AEC, applications for enrolment (including applications to be a general postal voter) are dealt with by the AEC. The NSW Electoral Commission obtains from the AEC a list of general postal voters. This list does not contain the grounds on which those individuals are eligible to postal vote. General postal voters automatically receive ballot papers in the mail for federal, State and local government elections.

Declared facilities

- 12.117. The NSW Electoral Commission may declare that a particular nursing home, convalescent home, hospital, retirement village or similar facility is to be provided with a mobile voting centre (a declared facility). NSW Electoral Commission staff and its contractors visit declared facilities before an election day to allow eligible residents to vote in person at the declared facility. The NSW Electoral Commission receives requests to vote directly from a resident of a declared facility or from a member of staff of a declared facility on behalf of a resident.
- 12.118. The nature of the health information collected by the NSW Electoral Commission is minimal. The NSW Electoral Commission is able to ascertain from a request that an elector is a resident of a declared facility by reason of illness or infirmity and is unable to attend at the voting centre to record the elector's vote.
- 12.119. The NSW Electoral Commission only uses this health information for the purpose of ascertaining an individual's eligibility to vote. The NSW Electoral Commission may use de-identified health information as part of its research functions under the Electoral Act. Statistical analysis of this data is designed to improve NSW Electoral Commission services.
- 12.120. It is not possible for a resident to stay anonymous and request an opportunity to vote at a declared facility by sending a message directly to the NSW Electoral Commission or via a member of staff of a declared facility. The NSW Electoral Commission requires the names and dates of birth of temporary or permanent residents or inpatients of a declared facility in order to ascertain the resident's eligibility to vote and how many ordinary and absent votes will need to be issued for the purpose of taking the poll at the facility.
- 12.121. Requests to vote at a declared facility are processed by relevant staff and contractors working for the NSW Electoral Commission. The NSW Electoral Commission does not retain a resident's request to vote at a declared facility for future election events. All requests are held in secure storage until the completion of the preservation period and kept for no longer than is necessary for the purposes for which the information may lawfully be used.

Employee health information

- 12.122. As mentioned in the section of the Plan titled, "Human resources information", the NSW Electoral Commission may collect health information about its employees with respect to injury management notes, medical certificates or medical reports disclosed by an employee, medical practitioner or insurer for purposes relating to leave requirements, working conditions, injury management, workers compensation and other associated purposes. The information is retained, to the extent necessary and managed securely. The information is stored securely on the employee's personnel record.

Camera surveillance

- 12.123. CCTV security cameras may have been installed in the NSW Electoral Commission offices as part of the security risk management system. Any security camera system, and recordings of staff and visitors to the office, are managed strictly in accordance with the *Workplace Surveillance Act 2005* (NSW), *Surveillance Devices Act 2007* (NSW), and the PPIP Act.
- 12.124. Staff can refer to the NSW Electoral Commission's Security Camera Policy for further details about the security camera system and its operation. Any concerns can be raised with the Privacy Officer.
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13. Public registers and inspections

- 13.1. Under the PPIP Act, a public register is a register of personal information that is required by law to be publicly available or open for public inspection. The PPIP Act regulates the way in which government agencies deal with public registers. Under the PPIP Act, particularly Part 6, personal information may only be disclosed from a public register if it is for a purpose related to the purpose of the register or the Act under which the register is kept.
- 13.2. The PPIP Act also provides for suppression of personal information contained in a public register. A person may request to have personal information removed from or not placed on the register as publicly available and not disclosed to the public if they feel their safety and wellbeing would be affected.
- 13.3. The NSW Electoral Commission maintains the following public registers:
- Authorised rolls for state elections (available for inspection for a limited period of time);
 - Residential roll for local government elections (available for inspection);
 - Register of Parties for state and local government elections (available for inspection and available in part online);
 - Register of Candidates (available online);
 - Register of Associated entities (available online);
 - Register of Official Agents (available online);
 - Register of Party Agents (available online);
 - Register of Third-Party Campaigners (available online); and
 - Register of Third-Party Lobbyists (available online).
- 13.4. Importantly, the Register of Parties, Registers of Candidates, Register of Associated Entities, Register of Official Agents, Register of Party Agents, Registers of Third-Party Campaigners and the Lobbyist Register are exempt from the requirements of Part 6 of the PPIP Act (see cl. 7 of the PPIP Regulation).
- 13.5. An authorised roll for a state district is available for public inspection at the office of the NSW Electoral Commission for a very limited period of time. A residential roll for a local government area is available for inspection at the office of the NSW Electoral Commission. Individuals may also check if they are enrolled and whether their details are correct through the NSW Electoral Commission's enrolment verification facility, which is also available on the NSW Electoral Commission website.

- 13.6. The Register of Parties for both state and local government elections is also available for inspection at the office of the NSW Electoral Commission – particular information and documents from the Register is required to be published on the NSW Electoral Commission’s website. If individuals wish to attend the office of the NSW Electoral Commission to inspect a register of parties, it is advisable that they organise an appointment with an appropriate NSW Electoral Commission officer beforehand.
- 13.7. Persons wishing to inspect an authorised roll for a district or a residential roll for a local government area will be required to complete an application form to inspect these registers (an applicant must produce personal identification upon request). The application form will be used to determine whether the inspection of the register is for a purpose relating to the purpose of the register or the Act under which the register is kept.
- 13.8. For example, persons seeking to find out the address of acquaintances and relatives in order to renew contact, persons seeking to undertake research into their antecedents, solicitors seeking information for the completion of probate processes or Councils seeking to supplement their council rates mailing lists are not considered by the Electoral Commissioner as valid reasons to inspect or gain access to electoral rolls. Please refer to the Disclosure of Enrolment, Electoral and Election Information Policy for further information.
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14. General procedures for confirming and verifying identity

- 14.1. When interacting with the NSW Electoral Commission in person or over the telephone, an individual may be asked a number of personal identification questions and/or asked to show identification material for the purposes of verifying that person’s identity, ensuring that public registers are inspected for a lawful purpose and as part of building and information security measures.

In person

- 14.2. When a visitor to the NSW Electoral Commission presents an identification card for the purposes of entering our premises or completing an application to inspect a public register, relevant staff must:
- check that the identification material presented by the visitor is unaltered and authentic;
 - check that the information, photo and signature on each identification material is consistent with the information provided by the visitor or application to inspect a public register;
 - record identification numbers when required.
- 14.3. Acceptable identification material includes an Australian passport, Australian driver licence, proof of age card and any other Australian government issued photo ID card that contains the full name and photo of the visitor.

Over the telephone

- 14.4. If persons make telephone calls to the NSW Electoral Commission or receive telephone calls from the NSW Electoral Commission, they may be asked, depending on the nature of the telephone call a number of personal identification questions for the purpose of verifying that person’s identity.

- 14.5. In order to verify a person's identity over the telephone, staff should ask three questions pertaining to the following:
- full name;
 - date of birth; and
 - registered address.
- 14.6. If an address has not been updated, a person may need to provide a previous address in order to identify themselves. At no time should staff prompt or provide address information over the phone.
- 14.7. If persons are unable to correctly answer any of these three questions, the NSW Electoral Commission must not disclose personal information to that person and the telephone call may be terminated.
- 14.8. Staff may also be required to ask additional questions pertaining to the following:
- contact telephone number;
 - email address; and
 - customer or enquiry reference number.
- 14.9. At no time should staff look up another person's enrolment details because of personal interest – this includes family, friends, colleagues or famous people. Such a use of enrolment information would be a breach of NSW privacy laws and considered to be misconduct. Its disclosure would be a criminal offence under the Electoral Act.
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15. Serious or imminent threat to a person's health or safety

- 15.1. There are exemptions in ss. 17, 18 and 19 that refers to a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.
- 15.2. Any threat must be both serious and imminent i.e. likely to occur at any moment or impending. The exemptions are to be construed narrowly and applied in very limited, clear and unambiguous circumstances on a case by case basis.
- 15.3. The exemption in s. 27D of the PPIP Act (exemptions relating to emergency situations) may also be relevant.
- 15.4. All requests for information under these circumstances should:
- be made in writing; and
 - set out the grounds and reasons for the request.
- 15.5. If a request for personal information in the above circumstances includes enrolment or electoral information (electoral information may include mobile numbers and email addresses), the request must be referred to the Electoral Commissioner or the Commissioner's delegate for consideration and appropriate application of prescribed public interest tests where required. All other requests should be referred to the Privacy Officer, the Electoral Commissioner, an Executive Director or Director for approval.
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16. Police and regulatory agency requests for enrolment information

- 16.1. As noted throughout this Plan, there are exemptions relating to the disclosure of personal information in the PPIP Act, for example those exemptions relating to law enforcement purposes, missing persons, a serious and imminent threat to the life of a person, the protection of public revenue and the investigation of an offence. The NSW Electoral Commission must only consider releasing enrolment information pursuant to an exemption in the PPIP Act in limited circumstances.
- 16.2. It is preferable that any request for enrolment information (about a particular elector) from NSW Police or a NSW regulatory agency be made under statutory notice or subpoena. In response to any request, however, the Electoral Commissioner must consider whether provision of the enrolment information is in the public interest. To assist in this consideration, the Electoral Commissioner may also, depending on the circumstances, seek supplementary written advice from the agency as to the reasons for the request/notice/subpoena. If a request is not made under a statutory notice or subpoena, however, it should come from a senior Police or other officer and set out the public interest reasons the requesting agency says apply to the provision of the information. Any requests for enrolment information must be dealt with in accordance with the *Disclosure of Enrolment, Electoral and Election Information Policy*.
- 16.3. In relation to a list of electors, the NSW Electoral Commission has ongoing agreements in place under section 50 of the Electoral Act with NSW Police to provide this type of information for certain law enforcement uses. Any request to vary existing agreements should be made by the NSW Police Commissioner's Office and addressed to the NSW Electoral Commissioner. This should allow the relevant public interest tests to be appropriately considered and applied, in accordance with the requirements of the Electoral Act and the *Disclosure of Enrolment, Electoral and Election Information Policy*.

17. Implementation and development of policy instruments and systems

Privacy by design

- 17.1. It is important that privacy is considered at the start and throughout the development and implementation of a new or revised policy, system or form. The IPC states that privacy by design is built around seven foundational principles. The following is adopted from IPC's fact *The Role of the Privacy Commissioner: Consulting the IPC on Initiatives and Projects*, March 2020:
- *Proactive not reactive, preventative not remedial*: meaning anticipating the risks and preventing privacy invasive events before they occur.
 - *Privacy as a default setting*: ensuring that personal information is automatically protected in any given initiative or project as the default.
 - *Privacy embedded into design*: privacy measures are embedded into the design of initiatives and projects so that privacy becomes an essential component of the core functionality being delivered. Privacy should be integral to the system, without diminishing functionality.
 - *Full functionality*: positive-sum not zero-sum: legitimate interests and objectives should be accommodated in a positive-sum (win-win) manner, not through a zero-sum (either/or) approach, where unnecessary trade-offs are made.
 - *End-to-end security – full lifecycle protection*: this ensures that all information is securely collected, used, retained, and then securely destroyed at the end of the process, in a timely fashion.

- *Visibility and transparency – keep it open*: the individual should be made fully aware of the personal information being collected, and for what purposes. All the component parts and operations should be visible and transparent to users and providers.
 - *Respect for user privacy – keep it user centric*: the interests of the individual are paramount and safeguarded through privacy defaults, appropriate notice, and empowering user-friendly options.
- 17.2. The staff member responsible for the development or amendment of a policy, system or form must consider whether it will require the NSW Electoral Commission to collect, use, disclose and store personal information and/or health information.
 - 17.3. The Privacy Commissioner has developed a checklist which will assist in this process. The checklist can be found on the IPC's website and is also available in the NSW Electoral Commission's Policy Framework. The Policy Framework sets out when the relevant staff member should consult with the NSW Electoral Commission Privacy Officer.
 - 17.4. The Privacy Officer will assist the relevant staff member in identifying system requirements or processes that may impact the IPPs and/or HPPs. It is important that the relevant staff member works together with the Privacy Officer and Information Services to ensure privacy implications and protections are considered in design specifications and the architecture of new systems and processes.
 - 17.5. The relevant staff member should also consult with the NSW Electoral Commission's Data Custodians, CISO or delegate and Cyber and Data Governance Committee who can identify and monitor privacy breaches, and ensure risk frameworks adequately consider the risk to privacy.
 - 17.6. The relevant staff member should also consult with the NSW Electoral Commission's Records and Information Manager who can assist in identifying those records created and maintained by the NSW Electoral Commission which are required as State archives or for destruction after minimum retention periods have been met under the State Records Act, the Electoral Act and other relevant legislation.
 - 17.7. It is the responsibility of the relevant staff member responsible for implementing new or revised policies, procedures, systems and forms across their business unit activities, to consult with the Privacy Officer when required.
 - 17.8. All staff members must actively consider and comply with privacy policies and procedures.

Privacy impact assessments

- 17.9. The Privacy Officer may also assist the relevant staff member with completing a Privacy Impact Assessment (PIA), which is one 'privacy by design' process. It is necessary to consider at the start of each project whether a PIA will be required. A PIA should be conducted for any project that involves the handling of personal or health information. PIAs vary in their length and complexity, and this will be determined by the individual project's complexity and scope. . The Privacy Commissioner advises that it is best undertaken as part of a project decision making process and supported by organisation risk management processes. The NSW Electoral Commission has developed a guideline to assist staff in undertaking this threshold assessment.
- 17.10. The guideline also contains a PIA template. The PIA template is designed to be used for a variety of projects and it may be that some parts of the template are not applicable to a project. The time required to complete a PIA will depend on the nature/size of the project.

Procurement

- 17.11. Staff members with responsibility for procurement and review of contracts with external service providers who may have access to personal information held by the NSW Electoral Commission or who may collect personal information on behalf of the NSW Electoral Commission should ensure contracts contain confidentiality clauses or separate confidentiality agreements. These staff members must also ensure that service providers are required to comply with the PPIP Act and relevant privacy and information security policies. The NSW Electoral Commission may do this by asking for evidence of their information-handling processes and inserting a privacy clause into contracts (see the section of this Plan, titled “Business contracts and contracts with third parties for the provision of services” for further information). Staff members may consult with the Manager Contracts or Legal Business Unit should assistance be required.
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18. Data breach management and MNDB scheme

- 18.1. The mandatory notification of data breach scheme (MNDB scheme) requires public sector agencies to prepare and publish a data breach policy. Separate from this PMP, the NSW Electoral Commission has a Data Breach Policy published on its website that outlines the agency’s approach to managing data breaches, involving personal information handled by the NSW Electoral Commission.
- 18.2. The NSW Electoral Commission’s Data Breach Policy includes a plan for managing data breaches as follows:
- Step 1: Contain,
 - Step 2: Assess,
 - Step 3: Notify (if the data breach is assessed to be an eligible data breach),
 - Step 4: Review.
- 18.3. All staff are required to report Data Breaches to the Privacy Officer and the staff member’s manager as soon as practicable and within 24 hours and in accordance with any internal Electoral Commission data breach procedures.
- 18.4. If a data breach is a result of a cybersecurity event, the data breach notification procedures set out in the NSW Electoral Commission’s Data Breach Policy are intended to complement the NSW Electoral Commission’s existing cybersecurity incident response plans and procedures. The Director, Information Security has an obligation to assess and activate the appropriate cyber security response including whether NSW Police must be informed.
- 18.5. NSW Police must be informed if the assessment of the data breach identifies that the cause is cybercrime or other theft (e.g. theft of laptops that had personal information stored on them).
- 18.6. For information relating to the right of internal review of a contravention of the IPPs or HPPs, see the section of this Plan titled, “Internal review of conduct” which details the procedures for a person to apply for an internal review of the NSW Electoral Commission’s conduct which they believe breaches an IPP or HPP.
- 18.7. For instances where information received from other NSW Government agencies which includes health information or personal information is breached, the *Data Sharing (Government Sector) Act 2015* requires that both the data provider and the Privacy Commissioner be notified as soon as practicable (if applicable) if the information was provided under that Act.

- 18.8. For breaches involving tax file numbers (TFN), the NSW Electoral Commission may be required under the federal Notifiable Data Breaches (NBD) scheme to report the breach to the Office of the Australian Information Commissioner (OAIC) if the TFN data breach is 'likely to result in serious harm' to any individual.
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19. Access to and alteration of personal and/or health information

- 19.1. Access to and alteration of personal information is dealt with in the IPPs and HPPs. Subject to any exemptions under the PPIP Act and the HRIP Act, such as in relation to the NSW Electoral Commission's investigative function, and other relevant laws, the NSW Electoral Commission must take reasonable steps to enable a person to ascertain whether the NSW Electoral Commission holds personal information relating to that person (including the nature of that information) and may provide that individual access to that information without excessive delay or expense.
- 19.2. The NSW Electoral Commission at the request of the individual to whom the information relates, may make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information is accurate, relevant, up to date, complete and not misleading. If the NSW Electoral Commission is not prepared to amend personal information/health information in accordance with a request by the individual to whom the information relates, the NSW Electoral Commission must, if requested by the individual concerned, take reasonable steps to attach to the information in a manner capable of being read with the information, any statement provided by that individual of the amendment sought. If personal information/health information is amended, the individual to whom the information relates is entitled, if reasonably practicable, to have recipients of that information notified of the amendments made by the NSW Electoral Commission.
- 19.3. Applications should be made in writing and directed to the NSW Electoral Commission Privacy Officer by email or post (see contact details below). The application should:
- include the person's name and contact details (postal address, telephone number and email address if applicable);
 - state whether the person is making the application under the PPIP Act (personal information) or HRIP Act (health information);
 - explain what personal or health information the person wants to access or amend;
 - explain how the person wants to access or amend it; and
 - provide proof of identity in the form of a certified copy of any one of the following documents:
 - Australian drivers licence – with photograph, signature and current address
 - Current Australian Passport – with current address
 - Other proof of identity (e.g. Government issued identify or proof of age card) – with current address
- 19.4. The NSW Electoral Commission must aim to respond in writing to applications within 20 working days after receiving the application.
- 19.5. The Privacy Officer will co-ordinate the search for information. In doing so, the Privacy Officer may be required to disclose the nature and content of an application as well as the identity of the applicant to relevant staff for the purposes of locating and assessing the relevant information and administering the application.

- 19.6. A person's entitlement under the PPIP Act and HRIP Act to access or amend their own information is subject to any conditions or limitations imposed by the GIPA Act, including where it is to be conclusively presumed that there is an overriding public interest against disclosure of information by an overriding secrecy law.¹
 - 19.7. An individual can access their own information to ascertain whether they are correctly enrolled under s. 53 of the Electoral Act.
 - 19.8. The Electoral Commissioner can amend information on the Electoral Information Register to ensure that it is accurate under s. 42 of the Electoral Act.
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20. Discussing privacy concerns

- 20.1. The NSW Electoral Commission encourages persons who may have privacy concerns to have a preliminary discussion with the NSW Electoral Commission's Privacy Officer before lodging an application for internal review. A preliminary discussion with the NSW Electoral Commission Privacy Officer may for example assist a person in understanding the NSW Electoral Commission's complex and extensive statutory requirements concerning the disclosure of enrolment, electoral and election information to registered political parties, candidates, members of parliament and other persons/entities.
 - 20.2. A person may seek to resolve or raise their privacy concerns informally by contacting the Privacy Officer via telephone (02 9290 5999), by email (privacy@elections.nsw.gov.au) or by mail (GPO Box 832, Sydney NSW 2001). The Privacy Officer may need to investigate or make further enquiries with respect to the matter raised and in doing so may need to disclose the nature and content of the complaint and the name of the person making the complaint to relevant staff of the NSW Electoral Commission.
 - 20.3. NSW Electoral Commission staff who have concerns about corrupt conduct should refer to the NSW Electoral Commission's *Public Interest Disclosures Policy* for further information.
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21. Internal review of conduct

- 21.1. Part 5 of the PPIP Act establishes procedures for a person to apply for an internal review of the NSW Electoral Commission's conduct which they believe breaches an IPP or HPP. A request for review can only be made where it is alleged that the NSW Electoral Commission has breached any of the IPPs or HPPs that apply to the NSW Electoral Commission.

¹ See GIPA Act, Sch. 1, cl. 1 and PPIP Act, ss. 5 and 20(5).

Internal review guidelines

21.2. Applications for an internal review must:

- be in writing;
- be addressed to:
Privacy Officer
NSW Electoral Commission
GPO Box 832
Sydney NSW 2001
- specify an address in Australia to which the NSW Electoral Commission may send notification of its findings; and
- be lodged within 6 months of the complainant becoming aware of the alleged privacy breach.

21.3. To assist an applicant, the IPC has prepared an internal review application form that is accessible from the IPC's website. Use of the IPC's application form is not compulsory but is recommended.

21.4. The NSW Electoral Commission Privacy Officer assists applicants by determining whether the matter concerns a breach of the PPIP Act and/or the HRIP Act. Where an internal review is required the NSW Electoral Commission Privacy Officer will refer the matter to the NSW Electoral Commission's Legal Unit for review. The reviewing officer should be a person who:

- was not substantially involved in any matter relating to the conduct which is the subject of the application;
- is an employee of the NSW Electoral Commission; and
- is suitably qualified to deal with the matters raised by the application.

21.5. There is no requirement under the PPIP Act to formally delegate or authorise someone to act as a reviewing officer.

21.6. If the Privacy Officer finds that the complaint is not a complaint under the PPIP Act and/or HRIP Act, the complaint will be handled as part of the regular complaints handling process outlined in the NSW Electoral Commission's Complaints Handling Policy.

21.7. The Privacy Officer and reviewing officer may disclose the nature or content of the complaint as well as the identity of the applicant to relevant staff of the NSW Electoral Commission for the purpose of processing and investigating the alleged conduct.

Service standards

21.8. The reviewing officer should write to the applicant to acknowledge receipt of the application, including a statement of the officer's understanding of the conduct complained about and the privacy principle/s at issue. The reviewing officer must confirm whether an internal review will be conducted and provide the name, title, and contact details of the reviewing officer, how the reviewing officer is independent of the person/s responsible for the alleged conduct and the estimated completion date for the review process. The applicant must also be advised of their review rights and informed that a copy of the letter will be provided to the Privacy Commissioner.

21.9. The reviewing officer should endeavour to send both the applicant and the Privacy Commissioner a progress report during the review process.

- 21.10. Before completing the review, the reviewing officer should check whether the Privacy Commissioner wishes to make a submission. Ideally the reviewing officer should provide a draft copy of the preliminary determination to the Privacy Commissioner for comment. The reviewing officer must complete the review as soon as is practical within 60 days from the day the application was received.
- 21.11. Within 14 days after the completion of the review, the reviewing officer must notify the applicant of:
- the findings and the reason for the findings;
 - the action proposed to be taken; and
 - the right of the person to have those findings and the NSW Electoral Commission's proposed actions reviewed by the NSW Civil and Administrative Tribunal (NCAT).
- 21.12. Following the review the NSW Electoral Commission may do any one or more of the following:
- take no further action;
 - make a formal apology to the applicant;
 - take appropriate remedial action (as it thinks appropriate);
 - provide an undertaking that the incident will not happen again; and/or
 - implement administrative measures to ensure that it must not happen again.
- 21.13. The reviewing officer must notify the Privacy Commissioner of the outcome of the review and the action taken. The reviewing officer should also provide a copy of the completed review to the Privacy Officer.
- 21.14. The Privacy Officer must keep a record of the review for the NSW Electoral Commission's annual reporting requirements. The annual report of each public sector agency must include statistical details of any internal review conducted: see cl 6 of the *Annual Reports (Departments) Regulation 2015* and cl 8 of the *Annual Reports (Statutory Bodies) Regulation 2015*.

Review of conduct by NCAT

- 21.15. If the applicant is unsatisfied with the outcome of the review or the action taken by the NSW Electoral Commission in relation to a privacy review he or she may apply to the NCAT for a review of the subject of the privacy complaint.
- 21.16. NCAT's details are as follows:

NSW Civil and Administrative Tribunal
Administrative and Equal Opportunity Division
Level 10, John Maddison Tower
86-90 Goulburn Street
SYDNEY NSW 2000
Telephone: 1300 006 228

Review of conduct by NSW Privacy Commissioner

- 21.17. Complaints about the NSW Electoral Commission's conduct may also be made to the NSW Privacy Commissioner. A complaint must be made within 6 months (or such later time as the Privacy Commissioner may allow) from the time the complainant first became aware of the conduct or matter the subject of the complaint. The Privacy Commissioner may decide to deal with the complaint or take no further action. The Privacy Commissioner must endeavour to resolve the complaint by conciliation and may make a written direction for the NSW Electoral Commission and the complainant to appear before the Privacy Commissioner in conciliation proceedings.

21.18. The Privacy Commissioner's details are as follows:

NSW Privacy Commissioner
Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000
GPO Box 7011, Sydney NSW 2001
Email: ipcinfo@ipc.nsw.gov.au
Phone: 1800 472 679

22. Privacy Officer contact details

22.1. Enquiries or complaints relating to the privacy of personal information at the NSW Electoral Commission should be directed to:

Privacy Officer
NSW Electoral Commission
GPO Box 832 Sydney NSW 2001
Phone: 02 92905999
Email: privacy@elections.nsw.gov.au

23. Further information for staff

- 23.1. If staff members have questions about how to manage personal and health information and this Plan does not directly answer them, they should consult their Executive Director, Director, or the NSW Electoral Commission's Privacy Officer.
- 23.2. Staff should obtain legal advice from the Legal business unit if unsure about how to management personal or health information or if unsure about whether an exemption applies in any particular circumstances.
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24. Roles and responsibilities

24.1. The following table outlines the nature of the commitment expected from staff members and the way that commitment should be implemented:

Who	Commitment	How
Electoral Commissioner	Promote a culture that values privacy protection.	<ul style="list-style-type: none"> • Report publicly on this Plan. • Provide adequate support and direction to key staff members responsible for the Plan. • Encourage all staff members to be alert to privacy protection matters and assist those responsible for privacy management to resolve them promptly. • Consider, and if approved, support recommendations for privacy management improvements.
Executive Directors and Directors	Develop policies and procedures relevant to the business unit that are consistent with the NSW Electoral Commission's privacy obligations.	<ul style="list-style-type: none"> • Identify policies, procedures, projects, programs, service delivery, manuals and forms that may involve the collection, storage, use and disclosure of personal information. • Ensure that policies, procedures, projects, programs, service delivery, manuals and forms are consistent with the NSW Electoral Commission's privacy obligations and this Plan. • Are supported by the NSW Electoral Commission's Cyber Security and Data Governance Committee, Privacy Officer and Data Custodians to discharge this commitment.
Director, Legal	Lead the Agency's Privacy and Information Access functions	<ul style="list-style-type: none"> • Develop and implement processes, policies and procedures to meet legislative obligations and stakeholder expectations. • Raise privacy awareness within the NSW Electoral Commission by developing and delivering privacy training to staff and embedding good privacy practices into the NSW Electoral Commission's information systems, business processes and decision-making. • Provide reports to the Electoral Commissioner (and the NSW Electoral Commission where appropriate) on issues relating to information privacy, including legislative change and impact on the NSW Electoral Commission's business activities.
Staff members with responsibility for procurement and reviewing contracts	Ensure contracts are consistent with this Plan and the NSW Electoral Commission's privacy obligations.	<ul style="list-style-type: none"> • Ensure contracts with external service providers who may have access to personal information held by the NSW Electoral Commission or who may collect personal information on behalf of the NSW Electoral Commission contain confidentiality clauses or separate confidentiality agreements.

Who	Commitment	How
		<ul style="list-style-type: none"> • Ensure that service providers are required to comply with PPIP Act and relevant privacy and information security policies. The NSW Electoral Commission may do this by asking for evidence of their information-handling processes and inserting a privacy clause into contracts.
Staff members whose duties include handling privacy matters	Demonstrate exemplary privacy practices.	<ul style="list-style-type: none"> • Treat all people with respect, including people who raise privacy protection concerns. • Comply with this Plan and any associated procedures. • Keep informed about best practice in privacy management. • Provide feedback to management on issues arising from privacy protection. • Provide suggestions to management on ways to improve the organisation's privacy management.
Privacy Officer	Assist the NSW Electoral Commission with the application of the PPIP Act and the HRIP Act.	<ul style="list-style-type: none"> • Monitor the implementation of and adherence to this Plan. • Receive advice and updated information from the IPC about the implementation of the PPIP Act and the HRIP Act. • Act as a first point of contact/liaison with the IPC for all matters related to privacy and personal information. • Act as a focal point within the NSW Electoral Commission for all matters related to privacy and personal information. • Act as a first point of contact for members of the public for all matters related to privacy and personal information. • Coordinate searches for information in response to applications from members of the public. • Assess complaints and make recommendations about whether or not it is about personal information under the PPIP Act and/or health information under the HRIP Act. • Consider applications for internal review (in consultation with the Electoral Commissioner and Director Legal). • Disseminate information on privacy issues within the NSW Electoral Commission. • Notify the Electoral Commissioner when a privacy complaint or request for internal review is received. • Co-ordinate the steps to be taken by the NSW Electoral Commission in order to implement the PPIP Act and the HRIP Act, including this Plan, Privacy Notifications (s.10) and privacy training for staff.

Who	Commitment	How
		<ul style="list-style-type: none"> • Notify the Privacy Commissioner of amendments made to this Plan. • Encourage all staff members to be alert to privacy protection and assist those responsible for privacy management to resolve them promptly. • Maintain currency and adequacy of the NSW Electoral Commission's Privacy Management Framework.
Information Services division	Manage the NSW Electoral Commission's IT infrastructure and business systems	<ul style="list-style-type: none"> • Evaluate all changes proposed to the Electoral Commission's business systems to minimise risks (Change Advisory Board). • Maintain the NSW Electoral Commission's Information Asset Register. • Establish security architecture and assess security for projects. • User account and access management. • Management of an audit log and status reporting. • Provide technical support for systems to undertake analysis. • Work collaboratively with the Privacy Officer, Data Custodians and Project Owners with respect to development or alteration of new systems.
CISO	Provide information security, strategy, and coordination across the NSW Electoral Commission	<ul style="list-style-type: none"> • Coordinate and document information security program activities related to NSW Electoral Commission information security practices. • Oversee the creation and maintenance of NSW Electoral Commission information security related policies, standards, and guidelines. • Provide oversight, direction, and management for information security incident investigations. • Liaison with law enforcement and other authorities who may need to be informed about an information security incident.
Records and Information Manager	Assist the NSW Electoral Commission with respect to the storage of personal information and/or health information	<ul style="list-style-type: none"> • Work collaboratively with Executive Directors and Directors when identifying records required as State archives and those records that may be approved for destruction after minimum retention periods have been met.
Legal business unit	Work collaboratively with the Privacy Officer and respond to requests for advice in a timely manner.	<ul style="list-style-type: none"> • Respond to requests for advice concerning the PPIP Act and other relevant legislation. • Identify relevant legislative amendments and communicate these as relevant within the NSW Electoral Commission.

Who	Commitment	How
		<ul style="list-style-type: none"> • Assist the Privacy Officer with the development of training material when requested. • Assist the Privacy Officer with the review of privacy by design measures when requested.
Project Owners	Comply with privacy by design measures	<ul style="list-style-type: none"> • Ensure the security and protection of personal information is considered and addressed at the start and throughout a project. • Work collaboratively with the Privacy Officer, Data Custodians, and Information Services at the start and throughout a project. • Undertake a Privacy Impact Statement where appropriate and in consultation with the Privacy Officer.
Data Custodians	Proactively identify, implement and encourage best privacy practices with respect to data within their area of responsibility	<ul style="list-style-type: none"> • With respect to data within their area of responsibility, work with Business Owners, Project Owners, the Privacy Officer and other staff to: • Ensure that NSW Electoral Commission's principles and priorities for data governance are followed. • Provide advice on its proper use, distribution and sharing. • Approve its information classification. • Ensure its retention and disposal in accordance with NSW Electoral Commission's Records Management Policy. • Identify and escalate risks and issues to the Cyber Security and Data Governance Committee if required.
Cyber Security and Data Governance Committee	Approve/develop data governance policies, standards and strategies, manage related risks and issues	<ul style="list-style-type: none"> • Is supported by the Data Governance Working Group to discharge this commitment.
All staff members	Understand and comply with this Plan.	<ul style="list-style-type: none"> • Be aware of NSW Electoral Commission's privacy policies and procedures. • Apply the IPPs and HPPs when working with personal information and/or health information. • Comply with legislation concerning the protection of personal information and/or health information. • Do not disclose personal information and/or health information without approval from the Right to Information Officer and/or Privacy Officer. • Complete privacy training conducted by the NSW Electoral Commission. • Be alert to privacy protection and assist staff members handling privacy management to resolve matters promptly.

Who	Commitment	How
		<ul style="list-style-type: none"> • Provide feedback to management on issues arising from privacy protection. • Report data breaches to the Privacy Officer as soon as possible i.e. as a matter of urgency and within 24 hours. Where the data breach involves cyber security events the Director, Information Security, IS must also be notified. • Staff who have concerns about corrupt conduct should refer to the NSW Electoral Commission's Public Interest Disclosures Policy for further information. • Refer all requests for access to personal information to the Privacy Officer and/or the Right to Information Officer. • Refer all complaints concerning privacy to the Privacy Officer. • Raise any uncertainties concerning the collection, use, disclosure and storage of personal information and/or health information with management, to the Privacy Officer, the Records Manager and/or the Legal business unit. • Respond to requests for information from the Privacy Officer and/or Legal business unit within reasonable timeframes.

25. Monitoring, evaluation and review

- 25.1. Legal business unit is responsible for reviewing and updating this Plan and arranging training and education of staff members about their privacy obligations where required. This Plan will be reviewed every two years or earlier if required.
- 25.2. Section 33(5) of the PPIP Act requires an agency to notify the Privacy Commissioner of amendments made to this Plan.

26. Associated documents

- 26.1. There may also be additional privacy statements and terms of use related to individual business systems, e.g. the Terms of Use for Funding and disclosure online and the *Website Privacy Statement*.
- 26.2. There are a number of NSW Electoral Commission policies and procedures that may be relevant to this Plan. Staff may find these policies and procedures on the NSW Electoral Commission's website and/or staff intranet.

- 26.3. Those policies requiring publication under the GIPA Act are published in the policy library on the NSW Electoral Commission's website and available to members of the public, unless there is an overriding public interest against disclosure or the content of the policy relates to an excluded function of the NSW Electoral Commission: see Home – About us – Policy library (<https://elections.nsw.gov.au/about-us/policy-library>).
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27. Relevant legislation

- *Anti-Discrimination Act 1977*
 - *Electoral Act 2017*
 - *Electoral Funding Act 2018*
 - *Government Information (Public Access) Act 2009*
 - *Government Sector Employment Act 2013*
 - *Health Records and Information Privacy Act 2002*
 - *Industrial Relations Act 1996*
 - *Jury Act 1977*
 - *Lobbying of Government Officials Act 2011*
 - *Local Government Act 1993*
 - *Privacy and Personal Information Protection Act 1998*
 - *Public Interest Disclosures Act 1994*
 - *State Records Act 1998*
 - *Surveillance Devices Act 2007*
 - *Workplace Surveillance Act 2005*
 - *Work Health and Safety Act 2011*
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28. References

- Office of the Information and Privacy Commission, Guideline 4: Personal information as a public interest consideration under the GIPA Act, May 2022.
- Office of the Information and Privacy Commission, A Guide to Privacy Impact Assessments, May 2020.
- Office of the Information and Privacy Commission, Checklist Identifying privacy issues, July 2019.
- Office of the Information and Privacy Commission, Fact Sheet Privacy by design, May 2020.
- Office of the Information and Privacy Commission, Statutory Guidelines on Research – section 27B, September 2019.
- Office of the Information and Privacy Commission, The Role of the Privacy Commissioner: Consulting the IPC on Initiatives and Projects, March 2020.
- Office of the Information and Privacy Commission, *The Information Protection Principles (IPPs) Guidance for agencies and organisations*, Fact Sheet FS2017/003, May 2017.

29. Document control

Document management

Approved by	John Schmidt, NSW Electoral Commissioner
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Revision record

Date	Version	Revision description
13 December 2013	V1.1	New policy template, content updated and inclusion of additional information.
19 March 2014	V2	Content updated after consultation.
2015	V2.1	Content updated and inclusion of additional information.
26 April 2017	V3	Existing instrument updated in new template.
28 June 2017	V3.1	Content updated and finalised after consultation.
21 August 2018	V4	Content updated (new Electoral Act and EF Act) and finalised after consultation.
30 June 2021	V4.1	Content updated to include additional categories of personal/health information, roles and responsibilities and new policy template. Content updated after consultation.
27 July 2021	V5	Approved Cyber Security and Data Governance Committee
10 March 2023	V5.1	Updated to reflect current privacy state
2 December 2023	V5.2	Content with respect to data breaches updated to reflect commencement of the MNDB Scheme.