

ADOPTED BY COUNCIL: 25 JUNE 2018

BACKGROUND

This policy has been developed in order to outline that Wollongong City Council collects, stores and uses a broad range of information for the purpose of facilitating its business. A significant part of that information is personal and health information. It is important that the community and Council officials, including Councillors, employees, contractors and volunteers, understand how we manage personal information.

In addition, Council is required to have a privacy management plan under s33 of the *Privacy and Personal Information Protection Act 1998 (NSW)* (PPIPA).

This Plan outlines how Council complies with the legislative requirements of the PPIPA, the Health Records and Information Privacy Act 2002 (HRIPA) and the Privacy Code of Practice for Local Government (Code).

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

Nothing in this Plan is to:

- Affect any matter of interpretation of the Codes or the Information Protection Principles and the Health Privacy Principles as they apply to the Council.
- Affect any obligation at law cast upon the Council by way of representation or holding out in any manner whatsoever.
- Create, extend or lessen any obligation at law which the Council may have.

OBJECTIVE

The main objectives of this policy are to –

- 1 Inform the community about how their personal information will be collected, used, stored and accessed by Council.
- 2 Provide Council officials with their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.
- 3 Introduce Council policies and procedures to maximise compliance with the PPIPA and the HRIPA.

POLICY STATEMENT

Wollongong City Council is committed to protecting the privacy of our customers, business contacts, Councillors, employees, contractors and volunteers.

This policy aims to ensure Council manages the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities ethically and appropriately.

POLICY REVIEW AND VARIATION

- 1 Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
- 2 A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

Table of contents

Part 1 – Personal and health information3

 1.1 What is personal information?3

 1.2 What is not “personal information”3

 1.3 Electoral Rolls3

 1.4 What is health information?3

 1.5 Application of this Plan.....3

 1.6 Personal and health information held by Council4

 1.7 Unsolicited Information.....5

Part 2 – Public registers.....5

 2.1 What are public registers?5

 2.2 Disclosure of personal information contained in public registers.....5

 2.3 Purposes of Public Registers.....6

 2.4 Secondary purpose of all Public Registers6

 2.5 Other purposes6

 2.6 Other registers6

Part 3 – Accessing personal or health information7

 3.1 How do I access or amend my own personal or health information?7

 3.2 Accessing or amending other people’s personal or health information7

 3.3 Applications for suppression of personal information in a public register.....7

Part 4 – Policies and legislation8

Part 5 – Information Protection Principles8

 5.1 Information Protection and Health Privacy Principles.....8

 5.2 Specific Health Information Privacy Principles 11

 5.3 How the Privacy Code of Practice for Local Government affects the IPPs 12

Part 6 – Dissemination of the Privacy Management Plan 12

 6.1 Compliance strategy 12

 6.2 Communication strategy 12

 6.3 Responsibilities of Council Officials 13

 6.4 Promoting the Plan to the Community 13

Part 7 – Complaint process..... 13

 7.1 Internal Review 13

 7.2 How does the process of Internal Review operate? 13

 7.3 Alternative to lodging an application for internal review..... 14

 7.4 External Review 14

 7.5 Offences..... 14

Part 8 – Specific exemptions in PPIPA and HRIPA relevant to Council..... 14

Part 9 – Other information..... 14

 9.1 Review of the collection, storage and use of personal or health information 14

 9.2 NSW Civil and Administrative Tribunal (NCAT)..... 14

Part 10 – Contact details..... 15

STATEMENT OF PROCEDURES

Definitions

<i>Council official</i>	Includes councillors, members of staff of Council, administrators, contractors, volunteers, Council committee members and delegates of Council.
<i>Public register</i>	A register of personal information that is required by law to be, or is made, publicly available or open to public inspection.
<i>Privacy Contact Officer</i>	Assigned to Council's Public Officer.
<i>Code</i>	Privacy Code of Practice for Local Government.
<i>PPIPA</i>	Privacy and Personal Information Protection Act 1998 (NSW).
<i>HRIPA</i>	Health Records and Information Privacy Act 2002.

Part 1 – Personal and health information

1.1 What is personal information?

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. Personal information can include a person's name, address, family life, sexual preferences, financial information, fingerprints and photos. This information can be on a database and does not necessarily have to be recorded in a material form.

1.2 What is not “personal information”

“Personal information” does not include information about an individual that is contained in a publicly available publication. This information ceases to be covered by the PPIPA.

The following are examples of publicly available publications:

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

1.3 Electoral Rolls

Electoral rolls are held by the Australian Electoral Commission (AEC). Anyone wanting to view an electoral roll can request access from the AEC.

1.4 What is health information?

Health information is defined in the HRIPA as:

“personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual or an individual's express wishes about the future provision of health services to him or her or a health service provided or to be provided to an individual”.

1.5 Application of this Plan

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

- Councillors.
- Council employees.
- Consultants and contractors of the Council.
- Volunteers.
- Council owned businesses.
- Council committees (including those which may be established under section 355 of the Local Government Act 1993 (LGA)).
- Anyone working for and on behalf of Council in whatever capacity.

1.6 Personal and health information held by Council

The following is a list of examples of the types of personal and health information and circumstances in which we may collect personal information in exercising Council functions:

Councillors

Council holds personal information concerning Councillors, such as:

- Personal contact information
- Complaints and disciplinary matters
- Pecuniary interest returns
- Entitlements to fees, expenses and facilities.

Customers, ratepayers and residents

Council holds personal and health information in its records such as:

- Rates records
- Development applications and related submissions
- Library lending records
- Library special needs statements
- Leases, licences and agreements
- Waste services records
- Customer requests
- Tree removal requests, including for requests for health reasons
- Fitness testing records
- Burial and cremation records
- Financial records
- Donation, grant and sponsorship applications
- Photos of vehicle registration plates
- Responses to clean up notices regarding health issues
- Youth health information for excursions
- Golf club records - membership, financial and agreements, member fitness medical records
- Child care information, immunisation, illness and accident records
- Community service utilisation e.g. Community Transport.
- Age & disability support records including health records.
- Submissions and information collected as part of Council's community engagement and consultation activities.
- Public access forum applications.
- CCTV footage.

Employees, volunteers and contractors

The Council holds personal and health information concerning its employees, volunteers and contractors, such as:

- Personal contact information.
- Recruitment material.
- Pre-employment medical information.
- Bank account details.
- Wage and salary entitlements.
- Leave and payroll data.
- Employee immunisation records and medical certificates.
- Volunteers' medical information.
- Disclosure of interest returns.
- Workers' compensation investigations.
- Public interest disclosure investigations.
- Performance management plans.
- Disciplinary matters.

1.7 Unsolicited Information

Unsolicited information is personal or health information received by Council in circumstances where Council has not asked for or required the information to be provided. It includes gratuitous or irrelevant information received. Such information is not deemed to have been collected by Council but the retention, use and disclosure principles of the information will apply to any such information in Council's possession. Personal information contained in petitions received in response to a call for submissions or unsolicited petitions tabled at Council meetings will be treated the same as any other submission and may be made available for release to the public.

Personal or health information disclosed publicly and recorded for the purposes of webcasting at Council Meetings is not deemed to have been collected by Council. Retention and Use Principles of this information will apply to such information in Council's possession, however Disclosure Principles will not apply as the information was voluntarily disclosed with the prior knowledge that it would be recorded, broadcast via the internet to the public and made available by Council for public viewing.

Part 2 – Public registers

2.1 What are public registers?

A public register is defined in section 3 of the PPIPA as “a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee)”.

Council holds public registers under the *LGA*, including:

- Land Register.
- Records of Approvals.
- Register of Disclosures of Interests.

Note: this above list is purely indicative. Council may, by virtue of its own practice, hold other public registers, to which PPIPA applies.

Council holds public registers under the *Environmental Planning and Assessment Act 1979 [EPA]*, including:

- Register of consents and certificates.
- Record of building certificates.

Council hold public registers under the *Protection of the Environment Operations Act 1997 [POEO]*, including:

- Public register of licences.

Council holds a public register under the *Impounding Act 1993 [IA]*:

- Record of impounding.

The purpose for each of these public registers is set out in this Plan.

2.2 Disclosure of personal information contained in public registers

Personal information contained in a public register, other than where required by legislation, will only be disclosed where Council is satisfied that it is to be used for a purpose relating to the purpose of the register.

A person seeking a disclosure of someone else's personal information from a public register must satisfy Council that the intended use of the information is for a purpose directly relating to the purpose of the register or the Act under which the register is kept.

2.3 Purposes of Public Registers

Register	Primary purpose of the Register is to:
<i>Land register</i>	Identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council.
<i>Records of approvals</i>	Identify all approvals granted under the LGA.
<i>Register of disclosures of interests</i>	Determine whether or not a Council official has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.
<i>Register of consents and certificates</i>	Identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.
<i>Record of building certificates</i>	Identify all building certificates.
<i>Public register of licences</i>	Identify all licences granted under the <i>Protection of the Environment Operations Act 1997</i> .
<i>Record of impounding</i>	Identify any impounding action by Council.

2.4 Secondary purpose of all public registers

Due to the general emphasis on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore, disclosure of specific records from public registers would normally be considered to be allowable under section 57 of PPIPA.

However, requests for access, copying, or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council will make an assessment as to the minimum amount of personal information that is required to be disclosed with regard to any request and may seek a statutory declaration to satisfy itself as to the intended use of the information.

2.5 Other purposes

Persons or organisations who apply to Council to have access to the information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Code.

2.6 Other registers

Council may keep other registers that are not public registers. The Information Protection Principles, this Plan, the Code and PPIPA apply to the use and disclosure of information in those registers.

A register that Council keeps that is not a public register is the rates record and Council’s position on this record is as follows:

Register	Primary purpose of the Register is to:
<i>Rates record</i>	Record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land.

Public access to the rates record will only be granted where the purpose of the access is to obtain information necessary for a statutory purpose such as the service of a notice under the *Dividing Fences Act 1991*, or when there is an overriding public interest in favour of disclosure.

The rates record will also be used by Council to notify relevant land owners of development applications and other matters where Council is required or wishes to consult its local community.

Part 3 – Accessing personal or health information

Council ensures that people can access information we hold about them. People have a right to amend their own personal or health information.

3.1 How do I access or amend my own personal or health information?

Informal Request

Individuals wanting to access Council's records to confirm or amend their own personal or health information, such as updating contact details can do so by contacting Council either in person or in writing. Council will take steps to verify the identity of the person requesting access or changes to information.

A formal application may not be necessary and is only used as a last resort.

Formal Application

Individuals wanting to access or amend their own personal or health information must put the request to Council in writing. This application must contain the following information:

- The full name, date of birth¹ and contact details of the person making the request.
- State whether the application is under the PPIPA (personal information) or HRIPA (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, including (but not limited to) the following methods:
 - Copies of the information (copy charges may apply, see Council's Fees and Charges).
 - Viewing the information, but not taking copies or taking notes.
 - Confirmation of the applicant's identity.

3.2 Accessing or amending other people's personal or health information

Council is restricted from giving individuals access to someone else's personal and health information unless that person provides us with written consent. An "authorised" person must confirm their identification to act on behalf of someone else.

There may be other reasons Council is authorised to disclose personal and health information, such as in the event of a serious and imminent threat to the life, health and safety of the individual, to find a missing person or for compassionate reasons. A third party could also consider making an application for access to government information under the GIPA Act.

3.3 Applications for suppression of personal information in a public register

A person about whom personal information is contained (or is proposed to be contained) in a public register, may request Council to have the information removed from or not placed on the register by submitting an application in the form of a Statutory Declaration.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the person's personal information, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information.

The information may still be used in the exercise of Council functions, but it cannot be disclosed to other parties.

¹ A date of birth may assist Council in distinguishing between individuals with the same or similar names.

Part 4 – Policies and legislation

Policies and legislation affecting the processing of information and related to this plan include:

- Council's *Public Access to Documents and Information held by Council* policy

This Plan should be read in conjunction with the *Public Access to Documents and Information Held by Council* policy, the *Privacy Code of Practice for Local Government*, together with Council's *Information Guide*.

The above documents are available for viewing at www.wollongong.nsw.gov.au .
- *Environmental Planning and Assessment Act 1979* (EPAA)

The EPAA contains provisions that require Council to make development applications and accompanying information publicly available and provides a right for people to inspect and make copies of elevation plans during the submission period.

The EPAA is available for viewing at www.austlii.edu.au/
- *Health Records and Information Privacy Act 2002* (HRIPA)

The HRIPA governs both the public and private sector in NSW. It contains a set of 15 Health Privacy Principles and sets up a complaints mechanism to ensure agencies abide by them.

The HRIPA is available for viewing at www.ipc.nsw.gov.au
- *Privacy and Personal Information Protection Act 1998* (PPIPA)

In addition to requirements covered in this plan, the PPIPA prohibits disclosure of personal information by public sector officers that are not done in accordance with the performance of their official duties. These provisions are generally directed at corrupt or irregular disclosure of personal information staff may have access to at work and not inadvertent failure to follow procedures or guidelines. Corrupt or irregular disclosure can include intentionally disclosing or using personal information accessed in doing our jobs for an unauthorised purpose, or to offer to supply personal information that has been disclosed unlawfully. Offences can be found listed in s62-68 of the PPIPA, are considered serious and may, in some cases, lead to imprisonment.

The PPIPA is available for viewing at www.ipc.nsw.gov.au
- *Public Interest Disclosures Act 1994* (PIDA)

The definition of personal information under PPIPA excludes information contained in a public interest disclosure. This means that a person cannot seek review of the use or disclosure of a public interest disclosure or be prosecuted for unauthorised disclosure of public interest disclosure information under PPIPA. However, this plan is still able to address strategies for the protection of personal information disclosed under PIDA.

The PIDA is available for viewing at www.legislation.nsw.gov.au – further information can be obtained from the NSW Ombudsman at www.ombo.nsw.gov.au.

Part 5 – Information Protection Principles

5.1 Information Protection and Health Privacy Principles

This section contains a general summary of how we must manage personal and health information under the PPIPA and HRIPA and other relevant laws.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles and HRIPA provides for the protection of health information by means of 15 Health Information Protection Principles.

Council complies with the Information Protection Principles (IPPs) prescribed under PPIPA and Health Privacy Principles (HPPs) prescribed under HRIPA as follows:

IPP 1 & HPP 1 Lawful collection

Council will only collect personal and/or health information for a lawful purpose as part of its proper functions.

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

Such personal and health information may include names, residential address, phone numbers, email addresses, signatures, medical certificates, photographs and video footage (CCTV).

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal and health information must agree to be bound not to collect personal information by any unlawful means.

Any forms, notices or requests by which personal and health information is collected by Council will be referred to the Privacy Contact Officer prior to adoption or use.

IPP 2 & HPP 2 Direct collection

Personal information will be collected directly from the individual, unless that person consents otherwise. Parents or guardians may give consent for minors.

Health information will be collected directly from the person concerned, unless it is unreasonable or impracticable to do so.

Collection may occur via phone, written correspondence to Council, email, facsimile, Council forms or in person.

The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

PIPPA permits non-compliance with this principle if council is exercising complaint handling, investigative functions or is authorised or required not to comply with the principle under any Act or law.

IPP 3 & HPP 3 Requirements when collecting

Council will inform individuals that their personal information is being collected, why it is being collected and who will be storing and using it. Council will also inform the person how they can view and correct their information.

A Privacy Statement is published on Council's website, intranet, included on forms where personal or health information is collected and available as a handout to the public.

Council will inform persons why health information is being collected about them, what will be done with it and who might see it. Council will also inform the person how they can view and correct their health information and any consequences if they do not provide their information. If health information is collected about a person from someone else, reasonable steps will be taken to ensure that the person has been notified as above.

IPP 4 & HPP 4 Relevance of collection

Council will seek to ensure that personal and health information collected is directly relevant to its functions, is accurate, and is up-to-date and complete. The collection will not be excessive or intrude into the personal affairs of individuals.

Council will in normal circumstances rely on the individual to supply accurate, complete information, although in special circumstances some verification processes may be necessary.

IPP 5 & HPP 5 Secure storage

Council will store personal and health information securely, for no longer than as required by the General Retention and Disposal Authorities for Local Government Records issued by State Records Authority of NSW. It will then be disposed of appropriately. It will be protected from unauthorised access, use or disclosure by application of appropriate access levels to Council's electronic data management system and staff training.

If it is necessary for the information to be given to a person in connection with the provision of a service to the Council (e.g. consultants and contractors), everything reasonably within the power of the Council is done to prevent unauthorised use or disclosure of the information.

IPP 6 & HPP 6 Transparent access

Council will provide reasonable detail about what personal and/or health information is stored on an individual. Council stores information for the purpose of carrying out its services and functions and in order to comply with relevant records keeping legislation.

Individuals have a right to request access to their own information to determine what, if any information is stored, how long it will be stored for and how it is stored (e.g. electronically with open or restricted access to staff, in hard copy in a locked cabinet etc.).

Where Council receives an application or request by a person as to whether council holds information about them, council will undertake a search of its records to answer the enquiry. Council may ask the applicant to describe what dealings the applicant has had with council in order to assist council to conduct the search.

Council will ordinarily provide a response to applications of this kind within 28 days of the application being made.

Council will issue a statement to be included on its Web and in its Annual Report concerning the nature of personal information it regularly collects, the purpose for which the personal information is used and an individual's right to access their own personal information.

IPP 7 & HPP 7 Access to own information

Council will ensure individuals are allowed to access their own personal and health information without unreasonable delay or expense.

Compliance with this principle does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act.

Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act.

IPP 8 & HPP 8 Right to request to alter own information

Council will, at the request of a person, allow them to make appropriate amendments (i.e. corrections, deletions or additions) to their own personal and health information so as to ensure the information is accurate, relevant to the purpose for which it was collected, up to date and not misleading.

Changes of name, address and other minor amendments require appropriate supporting documentation. Where substantive amendments are involved, an application form will be required and appropriate evidence must be provided as to why the amendment is needed.

If Council is unable to amend or delete the personal information a statement can be attached in such a manner as to be read with the information.

IPP 9 & HPP 9 Accurate use of information collected

Council will take all reasonable steps necessary to ensure personal and health information is accurate, relevant and up to date before using it.

Council will take into account the age of the information, its significance, the likelihood of change and the particular function for which the information was collected.

IPP 10 & HPP 10 Limits to use of information collected

Council will only use personal and health information for the purpose for which it was collected, for a directly related purpose or for a purpose for which a person has given consent.

It may also be used without consent in order to deal with a serious and imminent threat to any person's life, health or safety, for the management of a health service, for training, research or to find a missing person.

Additionally, Council may use personal information to exercise complaint handling or investigative functions.

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- Where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s.
- Where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

IPP 11 & HPP 11 Restricted and Limited disclosure of personal and health information

Council will only disclose personal and health information with the individual's consent or if the individual was told at the time of collection that it would do so. Council may also disclose information if it is for a related purpose and it considers that the individual would not object.

Personal and health information may also be used without the individual's consent in order to deal with a serious and imminent threat to any person's life, health, safety, for the management of a health service, for training, research or to find a missing person.

PPIPA permits non-compliance of this principle if the disclosure is in relation to a complaint that is made to or referred from an investigative agency.

PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) if the disclosure is for the purposes of informing that Minister about any matter within that administration, or by a public sector agency under the administration of the Premier if the disclosure is for the purpose of informing the Premier about any matter.

IPP 12 Special limits on disclosure

Council will not disclose sensitive personal information without consent unless it is necessary to prevent a serious and imminent threat to the life or health of an individual, in relation to the following:

- Ethnic or racial origin.
- Political opinions.
- Religious or philosophical beliefs.
- Trade union membership.
- Health or sexual activities.

Council will not disclose this information to any person or body who is in a jurisdiction outside New South Wales unless:

- A relevant privacy law that applies to the personal information concerned is in force in that jurisdiction.
- The disclosure is permitted under a Privacy Code of Practice.
- Council is requested by a potential employer outside NSW, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person’s suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person’s suitability for the position for which he/she has applied.

5.2 Specific Health Information Privacy Principles

Health information includes information or an opinion about the physical or mental health or a disability of an individual and includes personal information about:

- A health service provided, or to be provided, to an individual.
- An individual's express wishes about the future provision of health services.
- Information collected in connection with the donation of human tissue.
- Genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is given a higher level of protection regarding use and disclosure than is other personal information.

In addition to the principles, above, the following four additional principles apply specifically to health information:

HPP 12 Unique Identifiers

Council will only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the Council to carry out any of its functions efficiently.

HPP 13 Anonymity

Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving any health service(s) from Council.

HPP 14 Transborder data flow

Council will not transfer health information out of NSW without the individual's consent unless:

- Council is unable to obtain consent, it is of benefit to the individual and that they would likely give it.
- It is necessary for a contract with a third party.
- To help prevent a serious and imminent threat to life, health or safety of individuals.
- It is permitted by an Act or other law.
- The recipient is subject to protection laws similar to the HRIPA.
-

HPP 15 Cross-organisational linkages

Council does not participate in a system to link health records across more than one organisation at this time. If Council decided to use a system like this in the future, Council would make sure that the individual to whom the health information relates expressly consents to the link.

5.3 How the Privacy Code of Practice for Local Government affects the Information Protection Principles

With regard to IPPs 2, 3, 10 and 11, the Code makes provision for Council to depart from these principles where the collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

With regard to IPP 10, in addition to the above, the Code makes provision that Council may use personal information for a purpose other than the purpose for which it was collected where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s.

With regard to IPP 11, in addition to the above, the Code makes provision for Council to depart from this principle in the circumstances described below:

- 1 Council may disclose personal information to public sector agencies or public utilities on condition that:
 - i The agency has approached Council in writing.
 - ii Council is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and
 - iii Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's function/s.

- 2 Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for Council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

Part 6 – Dissemination of the Privacy Management Plan

6.1 Compliance strategy

During induction and on a regular basis all employees will be made aware of this Plan and it will be made available for on Council's Intranet and Council's website.

Council officials will be regularly acquainted with the general provisions of the PPIPA and HRIPA and, in particular, this Plan, the Information Protection Principles, the Public Register provisions, the Privacy Code of Practice for Local Government, and any other applicable Code of Practice.

6.2 Communication strategy

Council will promote awareness of this plan and rights under PPIPA, HRIPA and this Plan to Council officials by:

- Providing an overview at inductions and including a copy of the plan in induction packs.
- Publishing the plan on our internal and external websites.
- Offering training sessions on a regular basis as required.
- Providing specialised and on-the-job training to key groups.
- Promoting the plan regularly through newsletters, all staff emails, staff notice boards and initiatives such as Privacy Awareness Week.
-

6.3 Responsibilities of Council Officials

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

- Fast screen savers.
- Facing of the computers away from the public.
- Only allowing the record system to show one record at a time.

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

6.4 Promoting the Plan to the Community

Council promotes public awareness of this Plan to the community by:

- Making it publicly available and publishing it on our website.
- Writing the Plan in plain English.
- Telling people about the Plan when they enquire about personal and health information.
- Provide a link on our website to the Information & Privacy Commission website and distributing copies of literature available on that site.
- Including privacy statements on application forms and invitations for community engagement.
- Publishing a Privacy Handout advising how to access information on an individual's rights under PPIPA, HRIPA and this Plan.

Part 7 – Complaint process

Council encourages individuals to try to resolve privacy issues with us informally before going through the formal review process. People can contact Council by phone and speak to a Customer Service Officer for advice and if the issue is not resolved they may be referred to the Privacy Contact Officer. People can also write a letter or email us with their concerns and Council will respond providing advice on the best course of action.

7.1 Internal Review

If an issue has not been resolved after discussions with Council's Privacy Contact Officer, or if they think that Council has breached the PPIPA or HRIPA relating to their own personal or health information they may seek an internal review.

Individuals cannot seek an internal review for a breach of someone else's privacy, unless they are an authorised representative.

An application for internal review is to be made in writing to Council's Privacy Contact Officer within 6 months of when the person first became aware of the conduct or decision that is the subject of the application.

7.2 How does the process of Internal Review operate?

The Privacy Contact Officer will appoint a suitably qualified Reviewing Officer to conduct the internal review. The Reviewing Officer will report their findings to the Privacy Contact Officer.

The review is to be completed within 60 days of receipt of the application. The applicant will be notified of the outcome of the review within 14 days of its determination.

The Privacy Contact Officer will notify the Privacy Commissioner of a review application as soon as is practicable after it is received. Council will brief the Privacy Commissioner on the progress of an internal review and notify them of the outcome.

The role of the Privacy Commissioner in the internal review process

The Privacy Commissioner can make submissions provide relevant material in relation to internal reviews for Councils consideration. Council can, if it deems it appropriate, ask the Privacy Commissioner to conduct the internal review.

7.3 Alternative to lodging an application for internal review

If a person does not want to lodge an application for internal review with Council, they may contact the Privacy Commissioner directly.

The complaint does not need to be reviewed internally before being reviewed by the Information Commissioner. The role of the Privacy Commissioner includes promoting the adoption of and compliance with the information protection principles, investigating complaints, initiating privacy codes of practice, assisting agencies manage personal information and implement privacy management plans, conducting research, recommending legislative, administrative or other action in the interests of privacy as well as conducting inquiries and investigations into privacy related matters.

7.4 External Review

If the applicant disagrees with the outcome of an internal review or is not notified of an outcome within 60 days, they have the right to seek an external review.

If the applicant remains unsatisfied with the outcome of an internal review they may appeal to the NSW Civil and Administrative Tribunal (NCAT) for a review of Councils conduct.

An application for external review can only be made after an internal review has been completed and must be made within **28 days** from the date of the internal review decision.

7.5 Offences

It is an offence for Council Officials to:

- Intentionally disclose or use personal information about another person accessed in the exercising of official functions for an unauthorised purpose.
- Offer to supply personal information that has been disclosed unlawfully.

Part 8 – Specific exemptions in PPIPA and HRIPA relevant to Council

There are a number of exemptions from compliance with the PPIPA and HRIPA that apply directly to Council. These relate to situations where:

- Information is collected in connection with proceedings (whether commenced or not) before any Court or Tribunal.
- Information is collected for law enforcement purposes.
- Information is used for a purpose reasonably necessary for law enforcement purposes or to protect the public revenue.
- Council is authorised or required by a subpoena or search warrant or other statutory instrument.
- Council is investigating a complaint that may be referred or made to an investigative agency.
- Council is permitted by a law or Act not to comply.
- Compliance would prejudice the interests of the individual to whom the information relates.
- The individual to whom the information relates has given express consent to Council not to comply.
- Disclosure is permitted under the Privacy Code of Practice for Local Government..

Part 9 – Other information

9.1 Review of the collection, storage and use of personal or health information

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

9.2 NSW Civil and Administrative Tribunal (NCAT)

NCAT was established in 1 January 2014, NCAT consolidates the work previously dealt with by 22 separate tribunals. Council's previous Privacy Management Plan was covered under the Administrative Decisions Tribunal (ADT).

NCAT's broad and diverse jurisdiction and matter types are dealt with in four specialist Divisions. The division that is relevant to this Plan is the Administrative and Equal Opportunity Division. This division reviews administrative decisions made by NSW Government agencies and resolves discrimination matters.

Part 10 – Contact details

For assistance in understanding the processes under the PPIPA and HRIPA, please contact Council's Privacy Contact Officer or the Information & Privacy Commission.

All communication should be addressed to:

The Privacy Contact Officer
 Wollongong City Council
 Locked Bag 8821, Wollongong DC NSW 2500
 Phone: 02 4227 7111
 Email: council@wollongong.nsw.gov.au
 Website: www.wollongong.nsw.gov.au

Wollongong Administration Centre

Administration Building
 41 Burelli Street, Wollongong
 Monday to Friday – 8.30 am to 5.00 pm

Information & Privacy Commission

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

NSW Civil and Administrative Tribunal (NCAT)

Level 10, John Maddison Tower
 86-90 Goulburn Street
 SYDNEY NSW 2000
 Phone 02 9377 5859
 Or 1300 006228

SUMMARY SHEET	
Responsible Division	Governance and Information
Date adopted by Council	25 June 2018
Date of previous adoptions	09/05/2016, 11/03/2013, 23/11/2010, 17/07/2007, 17/07/2000
Date of next review	June 2020
Legislative or other requirement for review	<i>The Information and Privacy Commission guidelines for Privacy Management Plans recommend review at least every two years.</i>
Responsible Manager	Manager Governance and Information
Authorised by	Director Corporate Services