

# PRIVACY MANAGEMENT PLAN

## COUNCIL POLICY

## BACKGROUND

Council collects and holds personal and health information for the purpose of facilitating its business. It is important that the use of this information is confined to the purpose for which it is acquired. In order to properly manage the personal information it holds it is essential for the provisions of this policy to be observed by Council officials, employees and contractors.

## OBJECTIVE

The *Privacy and Personal Information Protection Act 1998* [PPIPA] requires all public sector agencies to prepare, implement and review their Privacy Management Plan. This policy outlines how Wollongong City 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].

## POLICY STATEMENT

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

The Privacy Management Plan details how Wollongong City Council manages the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities.

# STATEMENT OF PROCEDURES

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## **Part 1 - Introduction**

### **1.1 What is personal information?**

Personal information is defined as:

*“information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form”*

### **1.2 What is not personal information?**

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

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA (for example, a formal or informal request under the *Government Information (Public Access) Act 2009* [GIPAA]).

In accordance with GIPAA, when inviting public submissions and as soon as practicable after a submission is received Council will advise people that their submission, including any personal information in the submission, will be made publicly available.

### **1.3 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”.*

### **1.4 Application of this Plan**

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

- Council officials;
- Council employees;
- Consultants and contractors of the Council;
- Council owned businesses; and
- Council committees (including those which may be established under section 355 of the *Local Government Act 1993* [LGA]).

### **1.5 Personal and Health information held by Council**

The Council holds personal information concerning Council officials, such as:

- personal contact information;
- complaints and disciplinary matters;
- disclosure of interest returns; and
- entitlements to fees, expenses and facilities;

The Council holds personal and health information concerning its customers, ratepayers and residents, in records such as:

- rates records;
- library lending records;
- fitness testing records;
- burial and cremation records;
- community service utilisation;
- CCTV footage; and
- development applications and submissions.

The Council holds personal and health information concerning its current and former employees in records such as:

- recruitment material;
- pre-employment medical information;
- workers compensation investigations;
- protected disclosure investigations;
- leave and payroll data;
- personal contact information;
- performance management plans;
- disciplinary matters;
- disclosure of interest returns; and
- wage and salary entitlements.

## Part 2 - Public Registers

### 2.1 A public register is defined 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*:

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

\*Note — this 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]*:

- Register of consents and certificates
- Record of building certificates

Council holds a public register under the *Protection of the Environment Operations Act 1997 [POEO]*:

- 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 will only be disclosed where Council is satisfied that it is to be used for a purpose relating to the purpose of the register.

Disclosure in relation to personal information not contained in a public register must comply with the Information Protection Principles as outlined in this Plan.

A person seeking a disclosure concerning someone else's personal information from a public register must make application to Council and outline their reasons and purpose.

## 2.3 Purposes of Public Registers

*Land Register* — The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

*Records of Approvals* — The primary purpose is to identify all approvals granted under the LGA.

*Register of Disclosures of Interests* — The primary purpose of this register is to 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.

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

*Record of building certificates* — The primary purpose is to identify all building certificates.

*Public register of licences*— The primary purpose is to identify all licences granted under the POEO.

*Record of impounding* — The primary purpose is to identify any impounding action by Council.

## 2.4 Secondary purpose of all Public Registers

Council aims to be open and accountable and 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. Disclosure of specific records from public registers would normally be permitted.

Requests for access, copying or the sale of the whole or a substantial part of a public register 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.

## 2.5 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:

*Rates Record* - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, a disclosure on a rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is "a purpose relating to the purpose of the register". 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*. 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.

## 2.6 Applications for access to own personal information

A person wishing to have access to Council's records to confirm their own personal information should submit a Confirm Personal Information Application and if the person wishes to alter their personal information they should submit a Change of Personal Information Application.

## 2.7 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.

## Part 3—Information Protection Principles

The following table sets out the Privacy and Health Protection Principles contained in the PPIPA and HRIPA respectively.

Information Protection Principles	
Privacy and Personal Information Protection Act 1998	Health Records and Information Privacy Act 2002
<b>Collection</b>	
<b>1 Lawful</b> – Personal information must be collected for a lawful purpose that is directly related to the agency's functions or activities and be necessary for that purpose.	<b>1 Lawful</b> – Health information must be collected for a lawful purpose that is directly related to the agency's functions or activities and be necessary for that purpose.
<b>2 Direct</b> – Personal information must be collected directly from the individual, unless that person consents otherwise. Parents or guardians may give consent for minors.	<b>2 Direct</b> – Health information must be collected directly from the person concerned, unless it is unreasonable or impracticable to do so.
<b>3 Awareness</b> – An individual must be informed that the personal information is being collected, why it is being collected and who will be storing and using it. The agency should also inform the person how they can view and correct the information.	<b>3 Awareness</b> – The person concerned must be informed why health information is being collected about them, what will be done with it and who might see it. The agency should 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 must be taken to ensure that the person has been notified as above.
<b>4 Relevant</b> – Personal information must be relevant, accurate, up-to-date, complete and not excessive. The collection should not unreasonably intrude into the individual's personal affairs.	<b>4 Relevant</b> – Health information must be relevant, accurate, complete and up-to-date. The collection should not unreasonably intrude into the individual's personal affairs.

Information Protection Principles	
Privacy and Personal Information Protection Act 1998	Health Records and Information Privacy Act 2002
<b>Storage</b>	
<b>5 Secure</b> – Personal information must be stored securely, not kept any longer than as required by the General Retention and Disposal Authority for Local Government Records issued by State Records Authority of NSW, and be disposed of appropriately. It should be protected from unauthorised access, use or disclosure.	<b>5 Secure</b> – Health information must be stored securely, not kept any longer than as required by the General Retention and Disposal Authority for Local Government Records issued by State Records Authority of NSW, and be disposed of appropriately. It should be protected from unauthorised access, use or disclosure.
<b>Access</b>	
<b>6 Transparent</b> – Enough detail must be given about what personal information is stored, why it is stored and what rights an individual has to access it.	<b>6 Transparent</b> – Enough detail must be given about what health information is stored, why it is stored and what rights an individual has to access it.
<b>7 Access</b> – An individual must be allowed to access their personal information without unreasonable delay or expense.	<b>7 Access</b> – An individual must be allowed to access their health information without unreasonable delay or expense.
<b>8 Alteration</b> – An individual must be allowed to update, correct or amend their personal information, where requested.	<b>8 Alteration</b> – An individual must be allowed to update, correct or amend their health information, where requested.
<b>Use</b>	
<b>9 Accurate</b> – An agency must ensure that personal information is accurate before using it.	<b>9 Accurate</b> – An agency must ensure that health information is accurate before using it.
<b>10 Limits</b> – An agency may only use personal information for the purpose for which it was collected, for a directly related purpose or for a purpose for which the individual 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.	<b>10 Limits</b> – An agency may only use health information for the purpose for which it was collected, or a directly related purpose that the person would expect. Otherwise, consent is generally required. Secondary purposes include where there is 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, a secondary purpose includes investigation of suspected unlawful activity, to exercise complaint handling functions or investigative functions.
<b>Disclosure</b>	
<b>11 Restricted</b> – An agency may only disclose personal information with the individual's consent or if the individual was told at the time of collection that it would do so. The agency may also disclose information if it is for a related purpose and it considers that the individual would not object. Personal 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 or safety.	<b>11 Limited</b> – An agency may only disclose health information for the purpose for which it was collected, or a directly related purpose that the person would expect. Otherwise, consent is generally required. Secondary purposes include where there is 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, a secondary purpose includes investigation of suspected unlawful activity, to exercise complaint handling or investigation functions.

Information Protection Principles	
Privacy and Personal Information Protection Act 1998	Health Records and Information Privacy Act 2002
<p><b>12 Special Limits on Disclosure</b> – the agency cannot disclose an individual’s sensitive personal information without their consent. For example, information about ethnic or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership. It may only disclose sensitive information without consent in order to prevent a serious and imminent threat to any person’s life or health.</p>	
Identifiers and Anonymity	
	<p><b>12 Identifiers</b> – Individuals should only be identified by using unique identifiers if it is reasonably necessary to carry out the agency’s functions efficiently.</p>
	<p><b>13 Anonymity</b> – Individuals must be given the opportunity of receiving services from an agency anonymously where this is lawful and practicable.</p>
Transferrals and Linkage	
	<p><b>14 Transborder Data Flow</b> – Health information must only be transferred outside NSW if Council reasonably believes that the recipient is subject to laws or obligations substantially similar to those imposed by the HRIPA or consent has been given or transfer is under a contract between Council and the individual or transfer will benefit the individual or to lessen a serious threat to an individual’s health and welfare, or steps have been taken to ensure that the information will not be handled inconsistently with the HRIPA or transfer is permitted or required under any other law.</p>
	<p><b>15 Linkage</b> – Individuals must expressly consent to participate in any system that links health records across more than one organisation. Health information or the disclosure of their identifier for the purpose of the health records linkage system should only be included if the person has given express consent.</p>

## **Part 4 – Dissemination of the Privacy Management Plan**

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 and employees 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.

## **Part 5 - Internal Review**

### **How does the process of Internal Review operate?**

An application for a review of the outcome of a complaint investigation is to be made in writing to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review.

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 Commissioner must be notified of a review application as soon as is practicable after it is received, be briefed on progress and be notified of the outcome of an internal review.

### **What happens after an Internal Review?**

If the applicant remains dissatisfied with the outcome of a review an application may be made to the Administrative Decisions Tribunal for a review of Council's conduct.

## SUMMARY SHEET

<b>RESPONSIBLE DIVISION</b>	Governance and Information
<b>DATE ADOPTED ON BEHALF OF COUNCIL</b>	23 November 2010
<b>DATE OF PREVIOUS ADOPTION(S)</b>	17 July 2000, 17 July 2007
<b>DATE FOR REVIEW</b>	August 2012
<b>PREPARED BY</b>	Peter Weber
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