
BLUE MOUNTAINS CITY COUNCIL



PRIVACY MANAGEMENT PLAN

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1. Background

1.1 Objective

The purpose of this Plan is to:

- Comply with the Privacy and Personal Information Protection Act 1998 (PIIP Act);
- Comply with the Public Register Provisions in the Privacy and Personal Information Protection Act 1998;
- Comply with the health privacy principles under the Health Records and Information Privacy Act 2002 (HRIP Act);
- Provide a clear privacy framework for internal and external stakeholders; and
- To ensure Council respects the privacy of individuals through the management and protection of their personal information held by Council.

1.2 Scope

This Plan applies to all Council staff, Councillors and contractors working on behalf of Council.

1.3 Relevant Legislation

The Department of Local Government prepared and released a Model Privacy Management Plan on 28 June 2000. This Plan has been developed to align to the Model Privacy Management Plan. Other relevant legislation includes:

- Privacy and Personal Information Protection Act 1998 (PIIP Act)
- Health Records and Information Privacy Act 2002 (HRIP Act)
- Freedom of Information Act (FOI) 1989
- State Records Act 1998

1.4 Relevant Council Documents

The following Council documents are relevant to this Plan:

- Access to Information Policy 2007
- Councillor Access to Information, Council Staff and Council Premises Policy 2009

2. Introduction

The Privacy and Personal Information Protection Act 1998 (“the PIIP Act”) introduces mandatory standards and requirements for New South Wales public sector agencies (“agencies”) and their staff relating to their collection and processing of personal information. The principal requirements imposed on agencies are:

- To comply with the information protection principles as modified by relevant exemptions or privacy codes of practice;
- To prepare and report on privacy management plans;
- To comply with public register provisions;
- To conduct internal reviews of conduct which infringes the information protection principles, privacy codes of practice or public register provisions; and
- Not to disclose personal information to which they have access otherwise than in accordance with their official functions.

This Privacy Management Plan has been prepared in accordance with Section 33 of the PIIP Act.

3. Privacy Principles (Part 2 Division 1 Sections 8 to 19, PPIP Act)

3.1 Collection of personal information for lawful purposes

Council will not collect personal information unless:

- a) Information is collected for a lawful purpose that is directly related to a function or activity of Council; and
- b) The collection of the information is reasonably necessary for that purpose.

Council will not collect personal information by any unlawful means. E.g. the collection of personal information for rates is lawful.

Council will collect and deliver personal information to and from Government Departments involved in the normal functions of Council's operation as outlined in the Privacy NSW Direction on Information Transfers Between Public Sector Agencies dated 31 December 2005.

Council will continue the practice of dealing with the NSW Department of Community Services (DOCS) for enquiries on personnel and recruitment matters, i.e. for pre-employment screening of people working with children (Commission for Children & Young Peoples Act 1998).

Council will use any personal information for a variety of purposes in accordance with the powers and obligations of the legislative instruments under which the Council operates, as on most occasions the information was collected for one main purpose; it may be used for a variety of other purposes. For example, the names and addresses of individual owners of property are used to notify adjoining owners of proposed development, identify companion animal ownership, evaluate road openings and obstructions, evaluate tree preservation orders, investigate parking controls, evaluate land dedications and laneway status as well as being the basis of the Rating and Charging Record.

3.2 Collection of personal information directly from an individual

When collecting personal information, Council will collect information only from the individual to whom the information relates unless:

- a) The individual has authorised collection from someone else; or
- b) The information has been provided by a parent or guardian of a person under the age of 16, or incapacitated by disability or age.

E.g. Council may collect personal information in the course of following up a Customer Service Request.

3.3 Requirements when collecting personal information

When Council collects personal information about an individual, that person will be notified of:

- a) The fact that the information is being collected;
- b) The purposes for which the information is collected;
- c) The intended recipients of the information;
- d) Whether the supply of the information is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided; and
- e) The existence of any right of access to, and correction of the information; and
- f) Council's name and address, and where the information will be stored.

Council has added a Privacy Protection Notice to forms where Council solicits personal information from the public. Internal forms are not affected (see attachment A).

3.4 Other requirements relating to collection of personal information

Council will take reasonable steps to ensure that:

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

Council collects information relevant to the requirement, for example, information about your health and fitness will be requested when joining the Leisure Centre, this is to ensure appropriate care is given to you.

3.5 Retention and security of personal information

With regards to the retention and security of personal information, Council will ensure:

- a) That information is used for a lawful purpose and is kept for no longer than is necessary;
- b) That the information will be disposed of securely;
- c) That the information is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse (as are reasonable in the circumstances); and
- d) If it is necessary to release the information to a person in connection with the provision of a service to Council, everything reasonable is done to prevent unauthorised use or disclosure of the information.

Council refers to the *State Records Act 1998* for the retention, culling and disposing of records.

Part 3 (24) of the *State Records Act 1998* prohibits the disposal of records created and maintained by NSW public sector organisations except where it is authorised. Under the Act, State Records can give permission for the disposal of records.

3.6. Information about personal information held by Council

If Council holds personal information about any individual, it must take the necessary steps to enable any person to ascertain:

- a) Whether Council holds personal information;
- b) Whether Council holds personal information relating to that person; and

If Council holds personal information relating to that person:

- c) The nature of that information;
- d) The main purposes that the information is being used; and
- e) That person's entitlement to gain access to that information.

Principle 2.6 is only subject to the Freedom of Information provisions and not available under Section 12 of the Local Government Act.

A full Privacy Statement is available on the Blue Mountains City Council website which explains the way in which Council deals with personal information held by Council (see Attachment B).

3.7 Access to personal information held by Council

At the request of an individual Council will provide, without excessive delay and expense, details of the personal information it holds that relate to that individual.

Personal information for this purpose includes, name, address, postal address and contact details.

Employees should enquire at the Human Resources Department to access their employee records.

3.8 Alteration of personal information

Any person, who is concerned with the inaccuracy or unacceptable use of their personal information kept by Council, may request, in writing, that amendments be made to that information. Information will not be amended on behalf of a relative or spouse.

Personal information must be used for the purpose that it was collected and used to any purpose that is directly related to that purpose. It must be relevant, up to date, complete and not misleading.

Principle 2.8 is subject to the Freedom of Information (FOI) provisions. Council has an obligation to take such steps to amend personal information where necessary. If Council decides that it will not amend the information, it must add the additional information, enabling it to be read with the existing information and notify the individual concerned. The individual to whom the information relates is entitled to have the recipients notified of the amendments made by Council.

Incorrect records will be physically altered, whether computerised or in hard copy form. The Privacy Contact Officer will approve required changes where applicable. FOI applications may not be required where an individual can prove mistakes quickly.

3.9 Council must check accuracy of personal information before use

Council will take reasonable steps to ensure the accuracy of personal information prior to use, having regard to the purpose it was collected, its proposed use, its relevance, accuracy, whether it is up to date, complete and not misleading, in accordance with Council's Code of Conduct, approved policies and recorded procedures.

3.10 Limits on use of personal information

Council will not use personal information for a purpose other than for which it was collected unless:

- a) The individual to whom the information relates has consented to use the information for that other purpose;
- b) The other purpose for which the information is used is directly related to the purpose for which it was collected; or
- c) The use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom that information relates or of another person.

Officers using relevant personal information will not notify individuals for approval to perform usual office functions.

Officers will discuss personnel and recruiting records with solicitors and administrative staff when necessary without prior approval of individuals. These processes relate to the

normal operational functions of Council and officers will use any personal information collected for multiple purposes if required for the business of Council.

3.11 Limits on disclosure of personal information

Council will not disclose personal information unless:

- a) The disclosure is directly related to the purpose for which it was collected and there is no reason to believe the individual concerned would object;
- b) The individual has been made aware that this kind of information is usually released; or
- c) Disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.

Section 12 of the Local Government Act 1993 overrides the restrictions on disclosure of personal information under sections 18 and 19 of PPIP Act to the extent that it lawfully authorises, requires, necessarily implies or reasonably contemplates that Councils need not comply with these sections. Council will make records available listed in this Section for inspection and/or copy, and may be available subject to the public interest test.

Council may release exempt documents under Section 12(6) Local Government Act 1993 and under the Freedom of Information Act 1989 following the application process and the payment of the fee. Council will deal with the disclosure of personal information contained on Council files and computer records under the provisions of these Acts.

3.12 Special restrictions on disclosure of personal information

Council will not disclose personal information that:

- a) Relates to an individual's ethnic or racial origin, political opinions, religion or philosophical beliefs, trade union membership, health, or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person; or
- b) Relates to any enquiry from anyone outside the state of New South Wales unless:
 - i. A relevant privacy law applies to personal information in force in that jurisdiction; or
 - ii. The disclosure is permitted under a privacy code of practice (a law determined by the Privacy Commissioner and published in the Government Gazette).

Section 12 of the Local Government Act 1993 overrides the restrictions on disclosure of personal information under sections 18 and 19 of PPIP Act to the extent that it lawfully authorises, requires, necessarily implies or reasonably contemplates that Councils need not comply with these sections. Council will make records available listed in this Section for inspection and/or copy, and may be available subject to the public interest test.

Council may release exempt documents under Section 12(6) Local Government Act 1993 and under the Freedom of Information Act 1989 following the application process and the payment of the fee. Council will deal with the disclosure of personal information contained on Council files and computer records under the provisions of these Acts.

4. Health Records & Information Privacy (HRIP) Act 2002

Council will comply with the requirements of the HRIP Act when dealing with health records and information it holds on an individual. The HRIP Act relates to information regarding an individual's health history or illness which may have been gathered, for example, during investigations.

5. Public Registers (Part 6 Clauses 57, 58 & 59 PPIP Act)

Council will not disclose personal information kept in a Public Register, unless the information is to be used for a purpose for which it was collected or accessible under an Act under which the Register is kept. For example, under Section 12 of the Local Government Act the Pecuniary Interest Register holds personal information for the purpose of declarations of interest relating to responsibilities at Council, which is disclosed by appointment.

Council requires that any person, who applies for a record or page from a public register containing personal information, does so by completing a Statutory Declaration. Any such declaration must describe the intended use of the information requested and be witnessed by a Justice of the Peace.

Public Registers can be viewed at Council offices by appointment.

Council holds the following Public Registers:

- **Information that is publicly available (Section 12, Local Government Act 1993)**
Section 12 lists information available to the public free of charge. Refer to Council's website (visit <http://www.bmcc.nsw.gov.au/yourcouncil/accesstoinformation>).
- **Land Register (Section 53, Local Government Act 1993)**
Information contained in this register is available for public inspection free of charge via the Council's Interactive Mapping website (visit http://www.bmcc.nsw.gov.au/bmccmap/Disclaimer_bmccmap.cfm).

The following information as stated in the *Local Government Act 1993 Sec 53 (2)*:

- The name (if any) by which the land is known
- The address or location of the land
- The reference to title of the land
- The name of the owner of the land
- Whether or not the land is Crown land
- The classification under this Part of the land
- Whether or not there is a plan of management for the land
- The zoning (if any) of the land under an environmental planning instrument
- Particulars of any agreement (including any lease or licence) entered into by the council with respect to the land.

Council will not release names and addresses of the owner of the land unless it can be proven that the intended use is for the purpose that it was collected.

- **Register Pecuniary Interest Returns (Section 450A Local Govt Act 1993)**
This Register is available for inspections available by appointment free of charge.
- **Companion Animals Register (Companion Animals Act 1998)**
Council will only allow access to authorised council staff or a police officer.
- **Development Consent Register (Section 100 Environmental Planning and Assessment Act 1979)**
Register available for public inspection free of charge.
- **Building Certificates Register (Section 149G Environment Planning and Assessment Act 1979)**

Register available for inspection free of charge. Copies of certificates are only available with owner's consent and the payment of the prescribed fee.

- **Record of Approvals Register**
This Register is available for inspections available by appointment free of charge.
- **Political Donations and Gifts Register**
This Register is available for inspections available by appointment free of charge.
- **Cemetery Register**
Information contained in this register is available for public inspection free of charge via the Council's website (visit http://www.bmcc.nsw.gov.au/cemetery_register/index.cfm).
- **Delegations Register**
This Register is available for inspections available by appointment free of charge.
- **Heritage Register**
This Register is available for inspections available by appointment free of charge.
- **Skin Penetration Register**
This Register is available for inspections available by appointment free of charge.
- **Policy Register**
This Register is available for inspections available free of charge on the Council website (visit <http://www.bmcc.nsw.gov.au/yourcouncil/policyandplanregister/>)
- **Protection of the Environment Operations Act Register**
This Register is available for inspections available by appointment free of charge.

Council requires that during certain circumstances it may be possible to suppress personal information held on registers. A letter addressed to the General Manager stating reasons and any supporting evidence may be required. Council's Privacy Contact Officer will determine applications to suppress personal information.

6. Internal Review – Review of Certain Conduct (Part 5 PPIP Act)

Where a person who has requested information is aggrieved by the conduct of Council in the following circumstances:

- a) Contravention of a privacy principle that applies to Council;
- b) Contravention of a code of practice that applies to Council; or
- c) Disclosure of personal information kept on a public register.

The person (applicant) is entitled to apply for an Internal Review. The application for review must be in writing, outline the conduct of Council and be addressed to:

Privacy Contact Officer
Locked Bag 1005
Katoomba NSW 2780

On receipt of the Review Request, Council will forward a copy to the Privacy Commissioner. Council will inform the Privacy Commissioner of progress and the outcome of the review.

The aggrieved individual must lodge an application within six months from the time the applicant first became aware of the conduct (the subject of the application).

Council will keep the contents of the review confidential in accordance with Council's Code of Conduct.

The application will be dealt with by the Privacy Contact Officer, who will consider any relevant material submitted by either the applicant or the Privacy Commissioner. Council will complete the review as soon as reasonably practicable within 60 days from receipt of the application for review.

Following completion of the review, Council will do one or more of the following:

- a) Take no further action on the matter;
- b) Make a formal apology to the applicant;
- c) Take appropriate remedial action;
- d) Provide undertakings that the conduct will not occur again; and/or
- e) Implement administrative measures to ensure that the conduct will not occur again.

As soon as practicable within 14 days of the completion of the review, Council will notify the applicant in writing of:

- a) The findings and the reasons for those findings;
- b) Any proposed actions to be taken; and
- c) The right of the applicant to have those findings and the Council's proposed action, reviewed by the Administrative Decisions Tribunal.

7. Training & Education

Employees are made aware during the induction period of the responsibilities and provisions of the PPIP Act. Employees have access to and are required to undertake online privacy training accessible via the Council Intranet.

8. Contact Details

You may obtain further information by contacting:

Blue Mountains City Council's Privacy Contact Officer on 02 7480 5508

Or

The NSW Privacy Commissioner's Office

Phone 02 8688 8585 or email privacy_nsw@agd.nsw.gov.au

ATTACHMENT: A

Privacy Statement

Blue Mountains City Council (BMCC) is committed to protecting your personal information. BMCC will collect this information for the purposes in which it is intended and will only disclose it to the relevant Council Officers unless asking your permission. For further information please see BMCC's full Privacy Statement on the Blue Mountains City Council's website.

Blue Mountains City Council, 2 Civic Place Katoomba NSW 2780

ATTACHMENT: B

PRIVACY STATEMENT

Last updated 09/12/2008

Introduction

Blue Mountains City Council is committed to protecting your personal information. This Statement outlines Council's practices relating to personal information obtained through access to its website.

Council has adopted a Privacy Management Plan in accordance with the Privacy and Personal Information Protection Act 1998 (the Privacy Act) and the Department of Local Government Model Privacy Management Plan 2000.

Collecting Your Information

Council will only collect personal information directly from you, or your authorised agent. The information collected will be for lawful purposes directly related to the functions of Council. Council will only request information that is necessary for the purpose of the collection. If you do not wish to provide personal information to Council, it may be unable to provide you with the services required.

In accordance with the Privacy Act, you can make application for Council to consider suppressing your personal information from a public register held by Council.

How we use your personal information

Council will use your information for the purpose for which it was collected. Council will use your information to understand community and customer needs to improve our services.

Council may use your information to let you know about services or other information available. (eg News from the Hill).

Disclosure of your personal information

Council will only disclose your personal information if:

- You have consented to the disclosure
- The disclosure is required or authorised by law
- Where it is necessary to lessen a threat to someone's life or health

Accuracy of your personal information

Council will take reasonable care to ensure that the personal information it collects, uses or discloses is accurate, complete and up to date.

Storage and Security of your personal information

Council will take all reasonable steps to protect the personal information it holds from misuse, unauthorised access and modification.

How to access, correct or update your personal information

If you want to know exactly what personal information the Council is holding about you, you are welcome to request such information by contacting the Council's Privacy Officer.

You can apply to Council to amend your personal information to ensure it is relevant, up to date and complete and not misleading. Use the **Personal Information Form** to make an application to amend your personal information Council has recorded. Note: you will need to

present some personal identification when you make an application so Council staff can verify that you have the authority to amend the information.

How we dispose of your personal information

Council will dispose of your personal information in accordance with the *State Records Act 1998*.

Other important information

Cookies

Council tracks the pattern of visitor usage using a facility called a cookie. This cookie identifies and recognises the computer (but not the person using the computer) when you visit Council's website.

Cookies are pieces of information that a website can transfer to an individual's computer hard drive for record keeping.

The use of cookies is an industry standard and you will find most major websites use them. Most Internet browsers are pre-set to accept cookies. If you prefer not to receive cookies, you can adjust your internet browser to disable cookies or to warn you when cookies are being used.

Links to other websites

Council's website contains links to other websites. These linked sites are not under the control of Council.

Council is not responsible for the management or protection of any personal information you provide to these sites.

Before disclosing your personal information on any other website, the Council recommends you examine the terms and conditions of using their website.

Children's Privacy

Council will take all reasonable steps to protect the privacy of children. Council asks that children under the age of 18 have a parent or guardian submit personal information on their behalf when required.

Changes to this statement

Council will occasionally update this Privacy Statement. When it is updated, Council will revise the "last updated" date at the top of the statement.

How to Contact Us

If you have any questions, please contact Council's Privacy Officer on 02 4780 5508 or email council@bmcc.nsw.gov.au. Other information can be obtained from Privacy NSW.