



Policy: Council

PRIVACY MANAGEMENT PLAN



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2013	23 April 2013 (Minute No: 144)	New model plan & DLG directive
2015	23 June 2015 (Minute No: 573)	General update and review

Related Documents

This document should be read in conjunction with:

- [Revised Model Privacy Management Plan for Local Government](#)
- [Privacy Code of Practice for Local Government](#)

Related Legislation:

- [Privacy and Personal Information Protection Act 1998 \(NSW\)](#)
- [Health Records and Information Privacy Act 2002 \(NSW\)](#)
- [Local Government Act 1993 \(NSW\)](#)

OBJECTIVE/PURPOSE

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

The object of this Plan is to inform:

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

[Section 33](#) of the *Privacy and Personal Information Protection Act 1998* (NSW) ('PPIPA') requires all councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the *Health Records and Information Privacy Act 2002* (NSW) ('HRIPA'). This Plan has been prepared for the purpose of complying with section 33 of PPIPA.

Section 33(2) of PPIPA requires that this Plan must include:

- information about Council's policies and practices to ensure compliance with PPIPA and HRIPA;
- how staff and contractors are made aware of these policies and practices;
- the internal review procedures; and
- anything else considered relevant to the Plan in relation to privacy and the personal and health information Council holds.

Any reference to Council staff in this document also includes reference to Councillors and contractors.

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IMPLEMENTATION OF THE PRIVACY MANAGEMENT PLAN

This plan will be made available on the Council intranet and public web page and hardcopies will be kept at Council's offices and libraries for staff and public reference as required.

All of the following persons will be made aware of this amended Plan, and provided a hardcopy where they notify Council that they cannot access web or intranet versions of this document: (a) all existing staff; (b) all new staff upon commencement of their positions at Council; (c) all Councillors and (d) all members of Council committees.

This Plan will be used as a key resource in staff training on privacy matters.

DEFINITIONS/QUICK REFERENCE

Health information: Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, and information about a person's medical appointments. It can also include some personal information that is collected to provide a health service, such as a name and telephone number and a person's wishes with respect to future provision of health services (see [HRIPA, s6 for the full definition](#)).

Personal information: Personal information means information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (see [PPIPA, s4 for the full definition](#)).

Certain information is excluded from the definition of 'personal information', for example information about someone who has been dead for more than 30 years, information about someone that is contained in a publicly available publication, or information or an opinion about a person's suitability for employment as a public sector official (see [PPIPA, s4 for full list of exclusions](#)). Health information is also excluded from the definition of personal information, and is instead covered under HRIPA.

Public register: A public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).

THE INFORMATION PROTECTION PRINCIPLES

The PPIPA provides for the protection of personal information by means of 12 Information Protection Principles ('IPPs'). Those principles are as follows. Please note that certain statutory exemptions to these principles may apply.

COLLECTION

1. Council will only collect personal information for a lawful purpose, and which directly relates to its functions. Council will collect only as much information as is reasonably necessary for that purpose.
2. Council will only collect personal information directly from a person. Exceptions to this include: (a) where an individual has authorised collection from someone else; (b) where the person is under 16 years of age and information has been collected by a parent or guardian or the person; or (c) where indirect collection is necessary when an award, prize or benefit is intended to be given to the person.
3. Council will give certain information to people from whom they collect personal information. Namely: (a) that information is being collected; (b) why it is being collected; (c) to whom the

information will be disclosed; (d) whether the collection of the information is voluntary or required by law and whether there are any consequences for not providing the information; (e) regarding rights to access or amend the information. Council may depart from this principle if the information is being collected for an award, prize or benefit to be given to a person.

4. Council will ensure that personal information collected is relevant, accurate, complete and not excessive. Council will ensure that collection of information does not unreasonably intrude into a person's affairs.

STORAGE

5. Council will keep personal information secure, protect it against loss, unauthorised use or disclosure, and dispose of it securely and in accordance with any requirements for the retention and disposal of [personal information](#) when it is no longer necessary.

ACCESS AND ACCURACY

6. Council will take reasonable steps to enable a person to find out about the personal information it holds, the purposes for which the information is used, and how a person may gain access to their information held by Council, in accordance with Council's Code of Conduct, approved policies and recorded procedures. Council will maintain a statement on its website about the information it holds, and include a statement in its annual report.
7. Council will allow people to access their own personal information held by Council without excess delay or expense. A person has the right to insist that their application for their own personal information is made under the PPIPA. An application under the Government Information (Public Access) Act 2009 (NSW) ('GIPA Act') may be made as a last resort. Please use the [Application to Access Information Form](#) on Council's website or contact Council for further information.
8. Council will allow people to update, amend or correct their personal information as necessary. Council will not charge a person to amend a record.
9. Council will take reasonable steps to ensure that personal information is relevant, accurate, up-to-date and not misleading before using that information.

USE

10. Council will only use personal information for the purpose for which it was collected unless it has consent to use it for another purpose. Council may use information other than for the original purpose, so long as it is consistent with Council's lawful and proper functions and is reasonably necessary for such functions, or when an award, prize or benefit is intended to be given to the person.

DISCLOSURE

11. Council will not disclose a person's personal information without consent, unless otherwise permitted under the PPIPA or other legislation. Council may disclose information to a public sector agency or public utility if that agency has approached Council in writing and Council is satisfied that the disclosure of the information is reasonably necessary and for the proper or lawful functions of that agency. A further exception applies where the information has been collected with the intention of giving an award, prize or benefit to the person.
12. Council will not disclose sensitive personal information. This includes personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.

OFFENCES

Offences can be found in [s62-68 of the PPIPA](#).

It is an offence for Council to:

- intentionally disclose or use personal information for an unauthorised purpose;
- offer to supply personal information that has been disclosed unlawfully;
- hinder the NSW Privacy Commissioner or their staff from doing their job.

THE HEALTH PRIVACY PRINCIPLES

The HRIPA provides for the protection of health information by means of 15 Health Privacy Principles (HPPs). Those principles are as follows. Please note that certain statutory exemptions to these principles may apply.

COLLECTION

1. Council will only collect information for a lawful purpose, and which directly relates to its functions. Council will collect only as much information as is reasonably necessary for that purpose.
2. Council will ensure that health information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.
3. Council will only collect health information directly from the person concerned, unless it is unreasonable or impractical to do so.
4. Council will give certain information to people from whom they collect health information. Namely: (a) the identity of Council and how to contact Council; (b) the reason why health information is being collected and who that information will be disclosure to; (c) information regarding rights to access the information; and (d) whether the collection of the information is voluntary or required by law and whether there are any consequences for not providing the information.

STORAGE

5. Council will keep health information secure, protect it against loss, unauthorised use or disclosure, and dispose of it securely and in accordance with any requirements for the retention and disposal of [health information](#) when it is no longer necessary.

ACCESS AND ACCURACY

6. Council will take reasonable steps to enable a person to find out about the health information it holds, the purposes for which the information is used, and how a person may access it.
7. Council will allow people to access their own health information held by Council without excess delay or expense. Please contact Council for further information.
8. Council will allow people to update, amend or correct their health information as necessary.
9. Council will take reasonable steps to ensure that health information is relevant, accurate, up-to-date and not misleading before using that information.

USE

10. Council will only use health information for the purpose for which it was collected unless it has consent to use it for another purpose.

DISCLOSURE

11. Council will not disclose a person's health information without consent, unless otherwise permitted under the HRIPA or other legislation

IDENTIFIERS AND ANONIMITY

12. Council may use unique identifiers for individuals if reasonable necessary to carry out its functions efficiently.
13. Council will allow people to remain anonymous where it is lawful and practicable.

INFORMATION TRANSFERS AND LINKAGE

14. Council will not transfer health information outside NSW except as permitted under HRIPA. Council does not usually transfer health information outside of NSW.
15. Council will not include health information of an individual in a health linkage system unless the person has given their express consent to that link. Council does not currently use a health information linkages system.

OFFENCES

Offences can be found in [s68-70 of the HRIPA](#).

It is an offence for Council to:

- intentionally disclose or use health information for an unauthorised purpose;
- offer to supply health information that has been disclosed unlawfully.

HOW COUNCIL MANAGES PERSONAL AND HEALTH INFORMATION

In this section, a reference to personal information is also a reference to health information.

How Council collects personal information

Council collects personal information to enable it to conduct its functions. Council assesses the level of personal information that is appropriate to be collected on a case-by-case basis. Personal information may be collected electronically, in writing, over the telephone and/or in person.

Personal information may be collected from:

- members of the public;
- NSW public sector agencies;
- businesses; and
- non-government organisations.

Contractors acting on Council's behalf may also collect personal information. Council includes clauses in its contracts that require contractors to comply with relevant privacy obligations.

Council has a range of functions requiring or involving the collection of personal information, including:

- levying and collecting rates;
- providing services, for example, child care, libraries, sport and aquatic facilities and waste collection;
- consultation with the community, businesses and other stakeholders;
- assessing development and major project applications;
- recording, investigating, and managing complaints and allegations;
- site inspections and audits;
- human resources and recruitment;
- incident management;
- enforcing regulations and legislation;

- issuing approvals, consents, licences and permits; and
- providing funding grants.

Personal information may be collected by Council in any of the following ways:

- incident reports;
- submissions;
- application forms;
- CCTV footage;
- public registers;
- correspondence;
- financial transaction records; and
- contracts.

We decide what level of personal information is appropriate to be collected for each enquiry on a case-by-case basis, with the understanding that the detail we collect must contain enough information to be an accurate record of the issue and assistance given but should not contain unnecessary personal information.

Examples of health information collected by Council

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

- seniors' services where information may be collected on special medical needs;
- information on carers and families for the purposes of children's services;
- volunteer programs where volunteers are asked to disclose health conditions which assist Council to provide support in the event of an incident or which may preclude them from some types of volunteer work;
- information in relation to the need for assisted waste services; and
- information relating to employee health for example medical certificates and workers' compensation
- medical certificates to the extent that they relate to public liability claims

Personal or health information provided to Council

Individuals may provide Council with personal information when they make enquiries and when Council delivers services to them. This can include names, contact details, opinions, health conditions, family relationships, housing or tenancy information, work and education details. Individuals may also provide Council with personal information about other people in certain circumstances.

Caution as to unsolicited information

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

Note that for the purposes of Section 10 of the HRIPA, the Council is not considered to have "collected" health information if the receipt of the information by the Council is unsolicited. Section 4(5) of the PPIPA also provides that personal information is not "collected" by Council if it is unsolicited.

STORAGE, ACCESS AND ACCURACY OF INFORMATION

Personal and health information is stored electronically and in physical files.

The following applies to the information that Council holds:

- Only Council staff can access personal information;
- Staff will make every effort to ensure that information is accurate before using it;
- Staff will use personal information only for the purpose of which it is collected; and
- Staff will not disclose personal or health information of a person to anyone else without the consent of the person or unless legally required or permitted to disclose that information.

Electronic information is stored on secure information systems. Networks will be secure and require individual logins. New systems are assessed for compliance with the PPIPA and HRIPA. Please also refer to the Information Privacy Principles (IPPs) below.

We take reasonable steps to make sure personal information is accurate before using it. For example we may check contact details directly with the person to make sure we have recorded them correctly and ask people to spell their names where necessary. We do this to make sure we send personal information to the right person.

USE AND DISCLOSURE OF PERSONAL INFORMATION

Staff will use the personal information collected to:

- Deliver services;
- Conduct research;
- Provide advice; and
- Continually improve services.

PRIVACY PROTECTION NOTICE

Under [section 10 of the PPIPA](#), when Council collects personal information from an individual, Council must make the individual aware of certain matters. To ensure that Council complies with the PPIPA, a *Privacy Protection Notice* will be included on all forms, letters and documents that are used to collect personal information from individuals.

The following is an example statement that will be used as a guide when developing new forms for use by Council in collecting personal information. Forms should be signed and dated by the person to whom the information relates.

Note to Staff: Draft forms to be used for the collection of personal or health information must be provided to the Privacy Contact Officer for approval prior to use, to ensure compliance with IPPs 1, 3 & 4 and HPPs 1, 2 & 4. Please include the appropriate form of the privacy notification statement below when drafting your document prior to Privacy Contact Officer review and approval.

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

Intended Recipients: The intended recipients of the personal information are: *[[add or delete from list as necessary]]*

- Officers within the Council;
- Other agent of the Council;
- Data service providers engaged by the Council from time to time; and
- *[[other entry as necessary]].*

Reason for collection: *[[Complete as appropriate]]* Council is collecting this personal information from you in order to *[[include explanation]].*

Supply: *[[Complete as appropriate]]* The supply of information by you is *[[voluntary]]* *[[mandatory]].* If you do not provide Council with this information, *[[include consequences of not including information, for example, that Council will be unable to provide certain services, or will/may not be able to process an application]].*

Access and Correction: You may make an application to access or amend information held by Council.

Storage: *[[Select as appropriate]]* *[[Council is the agency that holds and controls the information.]]* or *[[The agency which holds and controls the information is [insert]].]*

Enquiries: Contact *[[complete with name/position and contact details]].*

HOW TO ACCESS AND AMEND PERSONAL AND HEALTH INFORMATION

The PPIPA and the HRIPA give people the right to access and amend their own information.

Members of the public wishing to access or amend personal and health information the City holds about them should contact Council using the contact information on the last page of this plan. Council does not charge a fee to access and amend personal and health information.

Limits on accessing or amending information

Council is prohibited from providing a person access to another person's personal and health information. However:

- a person can give Council consent to disclose their personal information to someone that would not normally have access to it ([PPIPA, s26](#));
- an 'authorised person' can act on behalf of someone else ([HRIPA, ss7&8](#)); and
- Council may be authorised to disclose 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.

REVIEW RIGHTS AND COMPLAINTS

Council encourages the informal resolution of privacy issues before undertaking the review process. Please use the contact details for Council at the end of this Plan.

Internal review

Individuals have the right to seek an internal review under Part 5 of the PIPPA if they believe that Council has breached the PPIPA or the HRIPA with respect to their own personal or health information. Individuals cannot seek an internal review for a breach of someone else's privacy, unless they are an authorised representative of the other person.

Applications for an internal review must be made within **six months** from the date when the applicant first became aware of the breach. Applications must be made in writing and addressed to Council's Privacy Contact Officer.

The Privacy Contact Officer will usually conduct the internal review unless the internal review is about the conduct of the Privacy Contact Officer. In this case the Executive Officer will appoint another person to conduct the internal review. An internal review checklist has been prepared by the Information Privacy Commission and can be accessed from its website <http://www.ipc.nsw.gov.au>.

Council will:

- acknowledge receipt of an internal review within **5 working days**;
- notify the NSW Privacy Commissioner of the internal review;
- complete an internal review within **60 calendar days**.

The Privacy Commissioner is entitled to make submissions to Council regarding internal reviews. The Council officer conducting the internal review must consider any relevant material submitted by the applicant or the NSW Privacy Commissioner in reviewing the subject of the application.

The Privacy Contact Officer will contact the applicant in writing within **14 calendar days** from the day on which an internal review is determined to inform the applicant of the outcome of the internal review.

External review by NCAT

- If an applicant **is** notified regarding the determination of an internal review within 60 days from the initial application date, a person may seek a subsequent external review with NCAT if they are unsatisfied with the findings of the review or the action taken by Council in relation to their application. An application must be made to the NSW Civil and Administrative Tribunal (NCAT) **within 28 days** after the applicant has been informed of the outcome of the internal review.
- If an applicant **is not** notified of the outcome of an internal review within 60 calendar days from the initial contact with Council about the alleged privacy breach, the applicant may seek an external review by application to the NCAT within 28 days of the later date of (a) the date when the applicant was notified of the result of the internal review, or (b) the day on which the 60-day review period expires (see [Rule 24 of the Civil and Administrative Tribunal Rules 2014 \(Amendment No 2\)](#).)

PUBLIC REGISTERS

Council is required by law to maintain a number of public registers and to make them available for public inspection. PPIPA requires strict controls over the disclosure of information held in a public register.

Council staff members are prevented from giving access to information held on a public register if the purpose of the applicant seeking the information does not match the purpose for which the register is kept (Part 6: PPIPA). Council may require a person seeking information on a public register to complete a statutory declaration stating the proposed use of that information ([s57\(2\): PPIPA](#)).

If the proposed use of the information is not related to the purpose of the register, access may be given

at the discretion of Council but only in accordance with the Privacy Code of Practice for Local Government concerning Public Registers.

Suppression of information

A person can apply to have information contained in material available for public inspection suppressed if the disclosure of that information would place the safety or well-being of a person at risk.

Applications for suppression of personal information should be made in writing to the Executive Officer via Council's corporate contact details on the last page of this Plan. When in doubt, Council will err in favour of suppression.

Public registers held by Council

Examples of public registers which may contain personal or health information held by Council include, but are not limited to, the following:

- Land Register
- Records of Approvals
- Register of Pecuniary Interests
- Rates Record
- Register of development consents and approvals
- Record of building certificates
- Public register of licences held
- Record of impounding

ROLE OF THE PRIVACY CONTACT OFFICER

The Privacy Contact Officer shall be the Executive Officer, unless otherwise directed by the General Manager.

The role of the Privacy Contact Officer includes:

- Oversight of privacy training with Council staff, Councillors and other roles as required;
- Review of all contracts and agreements, rates notices, application forms or other written requests by which personal or health information is collected by Council to ensure compliance with PPIPA and HRIPA (interim measures may include the creation of stamps or printed slips to be attached to forms to ensure compliance with IPP 3 in particular); and
- To oversee the Privacy Statement provided on Council's webpage and any privacy reporting matters including the privacy statement contained in Council's Annual Report.

The Privacy Contact Officer will also provide opinions within Council as to:

- Whether the personal or health information is collected for a lawful purpose;
- If that lawful purpose is directly related to a function of Council; and
- Whether or not the collection of that personal or health information is reasonably necessary for the specified purpose.

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

Any further concerns of a legal nature will be referred to Council's solicitor, and in the event of any residual doubts, the Privacy Contact Officer will seek the opinion of the Information and Privacy Commission.

ROLE OF COUNCILLORS AND COUNCIL STAFF

This Plan applies in its entirety to Councillors and Council staff. Councillors and Council staff are particularly reminded of the following:

- **Offences:** Offences apply for the intentional unlawful disclosure or misuse of the personal or health information of a person, or offer to unlawfully supply personal or health information under PPIPA and HRIPA, respectfully. Offences also apply under s664 of the Local Government Act.
- **Breaches:** Any known or suspected breaches of this plan should be reported immediately to your supervisor or to Council's Privacy Contact Officer.
- **Information requests:** All requests for a person's personal or health information should be referred to the Executive Officer to be handled by the Compliance team. Under no circumstances should a person's personal information be given over the phone.
- **Forms:** Drafts of forms to be used for the collection of personal or health information must be provided to the Privacy Contact Officer for approval prior to use, to ensure compliance with IPPs 1, 3 & 4 and HPPs 1, 2 & 4. Please use the **privacy notification statement** in this Plan when drafting your document prior to Privacy Contact Officer review and approval.
- **Confidentiality:** The obligation of confidentiality is additional to and separate from that of privacy. An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

ROLE OF EXTERNAL AND RELATED BODIES

This Plan also applies to certain non-Council bodies, including:

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

Council will seek to contractually bind each of these bodies or persons to comply with the relevant sections of this Plan.

Where any of the above seek to use personal information collected or held by Council, that body or person will be required to obtain the written consent of those persons in accordance with [PPIPA, s17\(a\)](#).

FURTHER INFORMATION

For assistance in understanding the processes under the PPIPA and the HRIPA, please contact the Blue Mountains City Council or the Information and Privacy Commission NSW.

Blue Mountains City Council
Attention: Privacy Contact Officer
Blue Mountains City Council
Locked Bag 1005
Katoomba NSW 2780

Email: council@bmcc.nsw.gov.au
Phone: 02 4780 5000

Information and Privacy Commission NSW.
Information and Privacy Commission
GPO Box 7011,
Sydney NSW 2001

Email: ipcinfo@ipc.nsw.gov.au
Phone: 1800 472 679