



PRIVACY MANAGEMENT PLAN

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Privacy Management Plan

1. Introduction

The North Sydney Council Privacy Management Plan details the practices and procedures adopted by Council to protect the privacy rights of individuals with respect to all forms of information held by Council.

The Plan ensures Council's compliance with the Privacy and Personal Information Protection Act 1998 (PPIPA) and the Health Records and Information Privacy Act 2002 (HRIPA) and the Government Information (Public Access) Act 2009.

(NB: Nothing in the Privacy and Personal Information Protection Act affects the operation of the Government Information (Public Access) Act nor does it operate to lessen any obligations under GIPA.)

2. Personal Information

The privacy legislation applies to personal information.

Personal information is defined in Section 4 of PPIPA as:

- (1) information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Personal information does not include information about an individual that is:

- (a) information about an individual who has been dead for more than 30 years,
- (b) 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 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 legislation that authorises Council to hold and publish that information and not on the PPIPA (e.g. Schedule 1 of the Government Information (Public Access) Regulation 2009)).

- (c) information or an opinion about an individual's suitability for appointment or employment as a public sector official

3. Information Protection Principles

In accordance with PPIPA & HRIPA Council will comply with the twelve information protection principles (IPPs) in managing the collection, storage and security of personal information.

3.1. Collection of Personal Information (IPP1)

The Council will not collect personal information unless:

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

The Council will not collect personal information by any unlawful means.

Council continues to exchange personal information with Government Departments involved in the normal functions of Council's operations.

3.2. Collection of Personal Information Directly from Individual (IPP2)

When collecting personal information, Council will collect information only from the individual to whom the information relates unless he or she has authorised collection from someone else, or the information has been provided by a parent or guardian of a person under the age of 16.

3.3. Requirements when Collecting Personal Information (IPP 3)

Wherever possible, when Council collects personal information about an individual, he or she will be notified of:

- the fact that the information is being collected,
- the purposes for which the information is collected,
- the intended recipients of the information, including the publishing of information on DA Tracking
- 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,
- the existence of any right of access to, and correction of the information,
- Council's name and address and where the information will be stored.

A Privacy Protection Notice will be added to all forms, where the Council solicits personal information from the general public. Internal forms are not affected.

3.4. Other requirements relating to collection of Personal Information (IPP 4)

Council will take reasonable steps to ensure that:

- information is collected for a specific purpose, is not excessive, and is accurate, up to date and complete, and
- the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Where Council has a need to collect information in a manner that does not comply with the above information protection principles it will take reasonable measures to ensure that the proposed non-compliance is permitted under the privacy legislation or other relevant legislation.

3.5. Retention and Security of Personal Information (IPP 5)

Council will ensure:

- that, subject to the flexibility of Council's data storage and management systems, information is kept for no longer than is necessary,
- that the information will be disposed of securely,
- that reasonable measures are taken to protect the information against loss, unauthorised access, use, modification or disclosure and against all other misuse, and
- 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.

The records' disposal schedule used as the basis for records disposal is GA 39: General Records Disposal Schedule for Local Government Records, issued by State Records NSW and having effect under the *State Records Act 1998*.

3.6. Information about Personal Information Held by Council (IPP 6)

Council will take the necessary steps to enable any person to ascertain:

- whether the Council holds personal information,
- whether the Council holds personal information relating to that person, and
- if Council holds personal information relating to that person:
 - the nature of that information,
 - the main purposes that the information is being used, and
 - that person's entitlement to gain access to that information

3.7. Access to Personal Information (IPP 7)

If requested by the person to whom information relates, we will provide that person with access to the information without excessive delay or expense.

3.8. Alteration of Personal Information (IPP 8)

Any person who is concerned with the inaccuracy or unacceptable use of their personal information kept by Council, may request amendments be made to that information by writing to the General Manager or completing an Informal Access Application. (Schedule 3, Part 2, Clause 4 of GIPA also applies to the alteration of Personal Information.)

Council must, at the request of the person to whom the information relates, make appropriate amendments (where by way of corrections, deletions or additions) to ensure that the personal information:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading

If Council decides that it will not amend the information, a statement recording the request for amendment will be added so it can be read with the existing information. The individual to whom the information relates is also entitled to have the recipients notified of the amendments made by Council (wherever practicable).

3.9. Checking Accuracy before Use (IPP 9)

Council will take reasonable steps to ensure that personal information is relevant, accurate, up to date, complete and not misleading. In doing so we will have regard to the purpose for which information is to be used.

3.10. Limits on Use of Information (IPP 10)

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

- the individual to whom the information relates has consented to the use of the information for that other purpose, or
- the other purpose for which the information is used is directly related to the purpose for which it was collected, or
- 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, or

- the use is in pursuance of council's lawful and proper functions and Council is satisfied that the personal information is reasonably necessary for the exercise of such functions.

3.11. Limits on Disclosure of personal information (IPP 11)

Council will take reasonable care not to disclose personal information unless:

- 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; or
- the individual concerned is reasonably likely to have been made aware, or has been made aware in accordance with IPP 3 that this kind of information is usually disclosed; or
- disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.

3.12. Special Restrictions on disclosure of personal information (IPP 12)

Council will take reasonable care not to disclose personal information that:

- 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.
- relates to any enquiry from anyone outside the state of New South Wales unless:
 - a relevant privacy law applies to personal information in force in that jurisdiction, or
 - the disclosure is permitted under a privacy code of practice (a law determined by the Privacy Commissioner and published in the Government Gazette) (IPP 12)
 - they agree to be bound by NSW privacy laws.

GIPA and other applicable legislation may override the restrictions on disclosure of personal information.

4. Public Registers

(See Part 6 Clauses 57, 58 & 59 PPIP Act and Schedule 1 of GIPA for details)

There is a listing of Council's various registers on the North Sydney Council website – Access to Information Page, as well as in the Council's Publication Guide, together with information on how to access the registers. A limited number of registers are

defined in Schedule 1 of GIPA as open access information and these are therefore made available on line.

With respect to other registers, Council will not disclose personal information kept in a Public Register unless the information is to be used for a purpose relating to the purpose of the Register, or an Act under which the Register is kept. The NSW Local Government Privacy Code of Practice permits inspection, or a copy to be taken, of a single item or one page of a Public Register without explanation.

Where a copy of the whole or a substantial part of a public register is requested, the applicant is required to complete a statutory declaration describing the intended use of any information obtained from the inspection.

Council will, not provide a copy of the whole or a substantial part of a Public Register, unless the personal information is to be used for a purpose relating to the purpose of the Register, or an Act under which the Register is kept.

Registers available on Council's Website:

- Delegations Register
- Investments Register
- Register of voting on planning matters kept in accordance with section 375A of the Local Government Act
- Register of current declarations of disclosures of political donations (Section 328A of the Local Government Act) – online link to the Election Funding Authority website
- Food Premises Register

Registers available for inspection, free of charge, by appointment at Council's Customer Services Centre:

- Councils Land Register (Section 53 & 54, Local Government Act) -Public register. Available for inspection, free of charge.
- Register of Disclosures of Interest (Section 450A Local Government Act) Public register. Available for inspection, free of charge.
- Development Consent Register (Section 100 Environmental Planning and Assessment Act) Public register. Available for inspection, free of charge.
- Register of Graffiti Removal Work
- Gifts and Benefits Register

Other Registers:

- Building Certificates Register (Section 149G Environment Planning and Assessment Act) Public register. Copies of certificates only available with owners' consent and the payment of the prescribed fee.
- Rate and Charging Record (Section 602, Local Government Act) Not a public register. Council will not release the names and addresses of owners. Exceptions are to neighbours for dividing fences.
- Companion Animals Register (Companion Animals Act 1998). Not a public register. Council will only allow access to council staff or a police officer.

In circumstances such as domestic violence, crime or concern for your safety, it is possible to suppress personal information held in Council's registers. Public safety is a concern of Council. A letter addressed to the General Manager requesting suppression of the author's personal information, along with any supporting documents such as a copy of an Apprehended Violence Order is required in order for Council to take such action. Determination of any request will be made by the General Manager and Privacy Contact Officer. If you are not satisfied with the decision you may request a review (See Section 6 – Internal Review Process).

5. Health Information

The Health Records and Information Privacy Act 2002 (HRIP Act) protects the privacy of health information in New South Wales and applies to all personal health information.

'Health information' may be in the form of fact or professional opinion, about the physical or mental health or disability of an individual. It also includes information or a professional opinion about:

- A health service provided or to be provided to an individual
- An individual's express wish about the future provision of health services to him or her
- Other personal 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 his or her relatives or descendants.

There are 15 privacy guidelines to be observed by Council in connection with health information.

5.1. Collection

Council must only collect personal health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose. (HPP 1)

Council must ensure that the health information is relevant, accurate, up to date and not excessive, and that the collection is not unnecessarily intrusive into the personal affairs of the individual. (HPP 2)

Council must only collect health information directly from the subject of the information, unless it is unreasonable or impractical for us to do so. (HPP 3)

Council must tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if he or she decides not to provide it. We must also tell the person how he or she can see and correct the health information.

If Council collects health information about a person from someone else, we must still take reasonable steps to ensure that the subject of the information is aware of the above points. (HPP 4)

5.2. Storage

Health information must be stored securely and protected from unauthorized access, use or disclosure. It must not be kept for longer than necessary and must be disposed of appropriately. (HPP 5)

5.3. Access & Accuracy

Council must provide the person with details about what health information we are storing about him or her, why we are storing it and what rights of access he or she has. (HPP 6)

Council must allow the person to access his or her health information without unreasonable delay or expense. (HPP 7)

Council must allow the person to update, correct or amend his or her health information where necessary. (HPP 8)

Council must make sure that the health information is relevant and accurate before using it. (HPP 9)

5.4. Usage

Council may only use the health information for the purpose for which it was collected, or for a purpose directly related to that purpose and that the person to whom the information relates would expect. Otherwise Council needs their consent. (HPP 10)

5.5. Disclosure

Council may only disclose health information:

- with the consent of the person to whom the information relates; or
- for the purpose for which it was collected or a directly related purpose that the person to whom the information relates would expect; or
- if an exemption applies. (HPP 11)

5.6. Identifiers

Council may only give a person an identification number if it is reasonably necessary to carry out its functions efficiently. (HPP 12)

5.7. Anonymity

Council must provide health services anonymously where this is lawful and practical. (HPP 13)

5.8. Transfer out of NSW

Council may only transfer personal information out of New South Wales if the requirements of this HPP are met. (HPP 14)

5.9. Linkage

Council may only include health information in a system to link health records across more than one organisation if the person to whom the information relates expressly consents to this. (HPP 15)

6. Internal Review Process

A person may request an internal review if he or she is aggrieved by the conduct of Council in the following circumstances:

- perceived contravention of a privacy principle or a health privacy principle that applies to Council,
- perceived contravention of a code of practice that applies to Council, or
- disclosure of personal information kept on a public register.

The request must be in writing and addressed to:

The General Manager
North Sydney Council
PO Box 12
North Sydney NSW 2059

On receipt of the request for review, a copy will be forwarded to the Privacy Commissioner. The Privacy Commissioner will be informed of progress and the outcome of the review.

The request must be lodged within 6 months from the time the applicant first became aware of the conduct (the subject of the request).

The review will be completed as soon as reasonably practicable within 60 days from receipt of the request for review.

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

- take no further action on the matter,
- make a formal apology to the applicant,
- take appropriate remedial action,
- provide undertakings that the conduct will not occur again,
- 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:

- the findings and the reasons for those findings,
- any proposed actions to be taken, and
- the right of the applicant to have those findings and the Council's proposed action, reviewed by the Administrative Decisions Tribunal.

7. Training & Education

The Privacy Management Plan will be posted on Council's website

Council's Privacy Contact Officer will provide advice to staff when required.

The Privacy Management Plan will be made available to all staff and Councillors, together with a copy of the *Quick Reference Guide for Staff- Re Release of Personal Information*. The Privacy Management Plan will also be placed on Council's Document Management System for access by staff.

Appropriate training and/or briefings will be provided to staff and Councillors on privacy matters. New staff will be briefed on issues surrounding privacy during their induction.

This Privacy Management Plan will be reviewed on a regular basis by Council's Privacy Contact Officer or as required. The plan's effectiveness will be assessed and this will lead to any necessary changes.

8. Further Information

For assistance in understanding the processes associated with the Privacy & Personal Information Protection Act, please contact the following:

- North Sydney Council's Privacy Contact Officer, or
- Office of the Privacy Commissioner New South Wales

9. Related Documents

Privacy and Personal Information Protection Act 1998
Health Records and Information Privacy Act 2002
Local Government Act 1993
Government Information (Public Access) Act 2009
Government Information (Public Access) Regulation 2009
Office of the Information Commissioner – Guidelines – as published from time to time
Privacy Code of Practice for Local Government (DLG)
Code of Meeting Principles and Practices
Access to Council Information Policy
Collection and Recording of Information Policy
Councillor Access to Information & Interaction with Staff Policy
Community Information Policy
Complaints Handling Policy
Confidentiality of Employee Information Policy
Open Government Policy
Media Liaison Policy
Procedures Manual for Document Perusals
Record-Keeping Plan of Management
State Records Act 1998