

Privacy Management Plan

As at September 2017

 <p>STRATHFIELD COUNCIL</p>	<h1>PRIVACY MANAGEMENT PLAN</h1>		
RESPONSIBILITY			
DATE ADOPTED	7 May 2002	MINUTE	165/02; 87/10
REVISED	September 2017	REVIEW	2019
ECM No	1352112		
ASSOCIATED POLICIES	<ul style="list-style-type: none"> • NSW Privacy (2009), A guide for making privacy management plans. • Strathfield Council Access to Information Policy • Strathfield Council Code of Conduct • Strathfield Council Guidelines for Accessing Information • Strathfield Council Security Systems Policy • Strathfield Council Records Management Policy • Strathfield Council Acceptable Use of IT Policy 		
ASSOCIATED LEGISLATION	<ul style="list-style-type: none"> • <i>Privacy and Personal Information Protection Act 1998 (PPIPA)</i> • <i>NSW Health Records and Information Privacy Act 2002 (HRIPA)</i> • <i>Privacy Code of Practice for Local Government</i> • <i>Local Government Act 1993</i> 		

1.0 Introduction

Council's Privacy Management Plan sets out how Strathfield Council handles personal and health information in accordance with the *NSW Privacy and Personal Information Protection Act 1998 (PPIPA)* and the *NSW Health Records and Information Privacy Act 2002 (HRIPA)*. These Acts provide for the protection of personal and health information and for the protection of the privacy of individuals.

Council has an obligation to handle personal and health information in a fair and reasonable manner consistent with legislative obligations, subject to its requirement to be open and accountable in the conduct of public functions.

Council endorsed its first Privacy Management Plan in 2000 by adoption of the Model Privacy Management Plan for Local Government. On 6 April 2010, Council adopted amendments to the first plan. The third version incorporates amendments by the *Government Information (Public Access) Act 2009* and was endorsed by Council at the meeting of 3 April 2012.

This Plan has been prepared as required by Section 33 of PPIPA and NSW Privacy 'A Guide to Making Privacy Management Plans' (2009).

1.1 Statutory Provisions

The legislation sets out principles that apply to the handling of personal and health information. The principles are also modified by other legislation, Codes of Practice approved by the Attorney General, Directions issued by the NSW Privacy Commissioner and (in respect of health information) Guidelines issued by the Minister for Health.

These modifications are contained in the Privacy Code of Practice for Local Government, and Directions from the Privacy Commissioner relating to the Processing of Information for the Purpose of Investigations, the Use of Information for Research Purposes, and Certain Information Transfers between Government Agencies.

The Minister for Health has issued Statutory Guidelines concerning notification requirements when health information is collected about a person from someone else, and the use and disclosure of health information for training or research purposes.

Council does not currently provide a health service of the kind referred to in HRIPA. It does however collect, hold and use health information in carrying out various functions and in that respect is required to comply with the Health Privacy Principles contained in that Act.

The full text of the Acts, Codes, Directions and Guidelines can be accessed from the website of the NSW Privacy Commissioner.

Other legislation such as the *Government Information (Public Access) Act 2009* and *Environmental Planning & Assessment Act 1979* requires Council to make certain documents available for public inspection. To the extent of any inconsistency, those requirements generally prevail over privacy legislation. Further details about public access to Council documents are contained in Council's *Access to Information Policy*, which is available on Council's website.

Under the Local Government Act, any person may apply to have information concerning place of living suppressed from publicly available documents where they consider disclosure constitutes a risk to personal safety. Any request should be made to Council's Public Officer together with supporting material. An application form is available on Council's website.

1.2 Definitions

a) Personal and Health Information

'Personal information' is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

'Health information' is personal information about the physical or mental health or a disability of an individual, or a health service provided or to be provided to an individual.

Some personal and health information is excluded from the provisions of the Acts including information about a person who has been dead for 30 years or longer. Information in a publicly available publication (refer 1.3(c)) is also excluded from handling principles contained in the Acts.

b) Unsolicited information

Unsolicited information is personal or health information received by Council in circumstances where Council has not asked for or required the information to be provided. It includes volunteered, gratuitous or irrelevant information received. Such information is not subject to the collection principles in the Acts but the storage, use and disclosure principles will apply to any record of such information retained by Council.

Council generally treats the particulars of complainants on a confidential basis. However, identity may become apparent in the course of conducting an investigation into certain types of complaints, or in the event of court proceedings.

c) Publicly available publication

Personal or health information contained in a publicly available publication is not information subject to the handling principles in the Acts. The following are examples of types of publicly available publications:

- Newspapers, magazines and books in general circulation.
- Information available for unrestricted access on the Internet.
- Directories including the White Pages and information about property ownership available to any member of the public from the NSW Land and Property Information Service, Department of Lands.
- Council Business papers concerning matters considered in open session.

d) Public Register

A public register is a register required by law to be available for public inspection or which Council chooses to make available for public inspection. The Acts and Codes impose an obligation on Council to ensure that access to personal or health

information contained in such registers is for a purpose consistent with the purpose for which the register exists.

1.3 Application of This Plan

The Acts, this Plan and Council policy, apply to all functions of the Council in particular to:

- Councillors in carrying out their duties as members of the governing body of the Council
- Council employees
- Consultants and contractors of the Council

The principles regarding collection and use of personal information do not apply to papers or records deposited with the Council's library, which have been prepared by individuals and/or given to the library. Personal information in such records is handled in accordance with the NSW Privacy Commissioner's Direction on the Use of Information for Research Purposes, which includes Strathfield Council in its schedule.

1.4 Personal and Health Information Held by Council

The principles in the Acts apply to personal and health information held in Council records, information acquired by Councillors and staff in the course of carrying out their duties, and information held by contractors or agents in the course of undertaking an engagement on Council's behalf.

Council holds personal information concerning Councillors such as:

- Personal contact information
- Complaints and associated matters
- Pecuniary interest returns
- Entitlements to fees, expenses, facilities and reimbursements including bank account details

Council holds personal information concerning its customers, ratepayers and residents such as:

- Names and home addresses of individuals
- Property ownership details and information regarding concessions
- Personal information relevant to the processing of development applications
- Information concerning contact with Council regarding provision of services
- Bank account details

Council holds personal information concerning its employees such as:

- Information acquired in the course of recruitment/selection

- Leave and payroll data
- Personal contact information
- Performance management plans
- Disciplinary matters
- Pecuniary interest returns
- Wage and salary entitlements and payments including bank account details.
- Workers compensation claims and injury register

Council holds health information including information about the health status of:

- Some residents and ratepayers acquired in the course of carrying out Council functions
- Children and young people attending council events eg vacation programs
- Volunteers participating in programs such as Bushcare
- Council staff, where relevant to their employment

2.0 Principles

2.1 Collection of necessary information

Council will only collect personal or health information reasonably necessary for a lawful purpose directly related to a function or activity of the Council. Council will not collect personal or health information by any unlawful means.

Council collects information in order to carry out its functions and provide services to the community.

2.2 Direct collection

Council will usually collect information directly from the individual concerned but may collect from others where:

- the individual has authorised collection from someone else, for example in nominating referees when applying for a position with Council
- in the case of personal information relating to a person who is under the age of 16 years information collected from a parent or guardian, or in regard to health information about a child under 18 years of age, from the person having parental responsibility
- indirect collection is reasonably necessary to confer an award, prize or benefit or similar form of personal recognition on the person
- indirect collection is necessary in Council's conduct of a lawful investigation
- information is provided to Council in accordance with legislative requirements or the collection is undertaken as required by another act. For example, information provided to Council by the NSW Government's Land and Property Information Service about transfers of property and associated matters is provided in accordance with provisions of the *Local Government Act*. Council is also required

by law to undertake pre-employment screening, including collection of information for people working with children

- information collected in connection with proceedings before a court or tribunal
- it is unreasonable or impracticable in the circumstances to collect health information directly from the individual

2.3 Notice requirements

When Council collects information from an individual, it will take steps reasonable in the circumstances to ensure the individual is made aware:

- that information is being collected
- the purposes for which the information is being collected
- intended recipients of the information
- whether the supply of the information is required by law or is voluntary and any consequences if the information (or any part of it) is not provided
- the existence of the right of access to, and correction of, the information
- the name and address of Council as the collector of the information

Council will ensure that relevant forms and applications include a statement that addresses these matters. Rights of access are as set out in this plan. Council will provide information on Council's website to inform members of the public and others about information handling practices. It will sometimes be impracticable to specifically refer to these matters in counter transactions, interviews or telephone conversations.

Information collected will usually be available to Council officers responsible for dealing with the matter and related matters. This may include Councillors where there is a requirement for Councillors to be informed.

Council will ensure that any collection of personal information by use of security video cameras or other devices will be accompanied by appropriate signage as required by law. Council employees have been provided with notice regarding surveillance in accordance with the NSW Workplace Surveillance Act and Council's *Security Systems Policy*.

Council is not required to give notice of collection where:

- the information is unsolicited or has been lawfully collected from someone other than the person concerned
- the person consents to dispensing with the requirement
- collection is reasonably necessary to confer an award, prize or benefit or similar form of personal recognition on the person
- collection is necessary in Council's conduct of a lawful investigation
- information is collected in connection with proceedings before a court or tribunal
- compliance would prejudice the interests of the individual to whom the information relates.

If health information is collected about a person from someone other than the person concerned, Council will take reasonable steps to ensure that the person concerned is notified.

Council collects information from those who access its website in accordance with the Privacy Statement available on the site at www.strathfield.nsw.gov.au. The disclaimer provides the conditions for use of the website.

2.4 Other requirements regarding collection

When Council collects personal or health information from an individual, it will take such steps as are reasonable in the circumstances to ensure that: the information is relevant to that purpose, is not excessive, and is accurate, up-to-date and complete; and collection does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Council will in normal circumstances rely on the provider of the information regarding accuracy and completeness, although in special circumstances some verification processes may be necessary or appropriate.

2.5 Security

Council will ensure that:

- information is protected, by reasonable security safeguards against loss, unauthorised access, use, modification or disclosure, and against all other misuse
- information is kept for no longer than necessary for the purposes for which the information may lawfully be used, consistent with other legislative requirements
- information is disposed of securely
- if it is necessary for the information to be accessed by a Council contractor or agent in connection with the provision of a service, Council takes steps to prevent unauthorised use or disclosure of the information.

Information will be held in an appropriately secure manner. IT security requirements including the use of passwords are set out in Council's *Acceptable Use of IT Policy*. Paper based and electronic records will be managed in accordance with Council's *Records Management Policy*.

Information in documentary form is held and retained in accordance with the provisions of the State Records Act. Any disposal of records is carried out in accordance with the approved disposal schedule: GDA 39 – General Retention and Disposal Authority for Local Government Records.

Council will include in its documents concerning employment and in any contractual arrangements, provisions that ensure that staff, contractors and agents are aware of

their obligations regarding the handling of personal or health information obtained in the course of their employment or engagement.

2.6 Information held

Council will respond to requests about whether it holds personal information relating to a person, the nature of that information, the main purposes for which the information is used, and rights to access the information.

Broad categories of personal and health information held by the Council are referred to in this plan.

Should an individual seek information generally about the nature of any information held, Council may require an indication of the types of dealings the person has had with Council in order to assist in the identification of relevant information held on different files and in various parts of its information and data systems.

2.7 Access to information

Council will provide the individual to whom the information relates, with access promptly and in any event within 20 working days.

Requests for access should be made in writing.

Staff members seeking access to records held about them have rights of access to their personnel file in accordance with Council policy.

Where any relevant documents held may be subject to any conditions or limitations on access under the *Government Information (Public Access) Act* or Work Cover rules, Council may refuse access or impose such conditions in responding to an application.

Rights to access personal and health information under the Acts do not extend to information held about other persons. Where an individual's personal and health information is contained in documents that also contain information about others any application for access will need to be made and processed under the *Government Information (Public Access) Act 2009*.

2.8 Alteration and amendment

Council will at the request of the individual concerned, consider any request to alter or amend information held, to ensure information is accurate, relevant, up-to-date, complete and not misleading.

Changes of name, address and other minor amendments, require appropriate supporting documentation. Where substantive amendments are involved, a written

application will be required. The application should set out the grounds on which changes are sought.

Council may refuse to amend information where it is not satisfied that it is incorrect or incomplete. If Council refuses a request for amendment, the individual may request a notation to be added to the record.

If information in a Council record is amended, the person is entitled, if practicable, to have previous recipients of that information notified of the amendments.

2.9 Accuracy before use or disclosure

Prior to use or disclosure Council will take steps reasonable in the circumstances to ensure that information is relevant, accurate, up-to-date, complete and not misleading.

2.10 Use of information

Use means the employment of information for a purpose associated with Council functions.

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

- the individual has consented to such use
- the other purpose is directly related to the purpose for which the information was collected
- the use is necessary to prevent or lessen a serious and imminent threat to the life or health of any person
- the use is reasonably necessary for another lawful and proper function of Council
- where personal information is to be used for the purpose of conferring an award, prize, benefit or similar form of personal recognition
- compliance is reasonably likely to detrimentally affect, or prevent the proper exercise of conduct of a lawful Council investigation.

Some information collected by Council may be used for a variety of purposes. For example, the names and addresses of individual owners of property kept as part of Council's rates records may be used to notify adjoining owners of proposed developments, to identify companion animal ownership, evaluate road openings and obstructions, evaluate tree preservation orders, investigate parking controls, evaluate land dedications and laneway status and to notify residents and ratepayers of Council services and activities.

Any use of information for the purposes of research will be in accordance with the Direction issued by the NSW Privacy Commissioner.

Council will only use health information for the purpose:

- for which it was collected
- a directly related purpose that the person would expect
- with the consent of the individual to lessen or prevent a threat to public health or safety
- for law enforcement purposes where an offence may have been committed
- where required by another act or law
- in accordance with the Guidelines issued by the Minister for Health regarding the use of information for research or training purposes.

2.11 Limits on disclosure

Council will not disclose personal information to a person (other than the individual to whom the information relates) or other body, unless:

- the disclosure is directly related to the purpose for which the information was collected and Council has no reason to believe that the individual concerned would object to the disclosure
- the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with the Act, that information of that kind is usually disclosed to that other person or body
- Council believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person
- the individual expressly consents to the disclosure. For example Council may provide information about an employee or former employee to a potential employer, or verify details concerning salary or wages to a financial institution where the person concerned has consented
- required or permitted by another act or law.

The *Local Government Act* for example requires Council to make specified documents available for public inspection. Some documents must be made available, including development applications and associated documents while others are subject to disclosure unless on balance this would be contrary to the public interest. Submissions and objections to development applications and the name of the owner of a particular property in certain circumstances are made available on these grounds. The *Local Government Act* also:

- provides for the provision to a member of the public of various certificates and notices concerning a particular property. Council may also be required by other laws to provide some information to Centrelink and other organisations such as the Australian Tax Office and the Australian Bureau of Statistics. It also must notify the Department of Community Services of a child at risk under the *Children and Young Persons (Care and Protection) Act*. Where documents are subpoenaed for production in a Court, personal information may be contained in those documents
- to Federal and NSW Police Services where required or permitted to do so or where there are reasonable grounds to believe an offence has been committed

- to another NSW public sector agency or public utility where the agency has approached Council in writing, Council is satisfied that the information is to be used for proper and lawful function/s, and that the information is reasonably necessary for the exercise of that agency's function. Electricity and water utilities, and the State Electoral Commission seek details from Council of property owners in particular localities
- information is to be disclosed for the purpose of conferring upon that person an award, prize, benefit or similar form of personal recognition
- for the protection of public revenue.

2.12 Council obligations to provide access to documents under the Government Information (Public Access) Act 2009

Council obligations to provide access to information under the *Government Information (Public Access) Act* (GIPA) 2009 are determined by the provision of considerations against disclosure of personal information. Any application will be dealt with in accordance with the provisions of the GIPA Act. The Act allows public interest considerations against disclosure to be balanced with the public interest considerations in favour of disclosure. This applies to access to information that would reveal confidential sources of information, legal advice, information concerning the personal affairs of other persons and other documents that are subject to public interest considerations under the GIPA Act.

Council will only disclose health information where this is consistent with the purpose for which it was collected; a directly related purpose that the person would expect; with the consent of the individual; to lessen or prevent a threat to public health or safety; for law enforcement purposes where an offence may have been committed; where required by another act or law; or in accordance with the Guidelines issued by the Minister for Health regarding the disclosure of information for research or training purposes.

3.0 Special restrictions

Council will not disclose information relating to an individual's ethnic or racial origin, political opinions, religious 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.

Council will not disclose information to any person or body outside New South Wales unless a privacy law applies in that jurisdiction; or the disclosure is permitted under a Privacy Code of Practice (a Code determined by the Privacy Commissioner and published in the Government Gazette).

Council where requested by a potential employer, may confirm that a current or former employee works or has worked for Council, the duration of that work and the position occupied during that time.

4.0 Additional health information privacy principles

Health information held by Council must only be used or disclosed in accordance with the Health Privacy Principles contained in HRIP Act. Most of these principles are the same or similar to the information privacy principles in PPIP Act.

There are special requirements regarding giving of notice when health information is collected from a third party. Council will comply with the Statutory Guidelines approved by the Minister for Health regarding the giving of notice in these circumstances.

There are additional Health Privacy Principles contained in HRIPA concerning the use of identifiers in the handling of health information, the provision of a health service on the basis of anonymity, transfers of health information outside New South Wales or to a Commonwealth Government agency, and the inclusion of health information in a state or nationwide linked system.

The Council does not use identifiers in the handling of health information, does not currently provide a health service, or participate in any linked health record system.

Council will only transfer health information outside the state or to a Commonwealth Government body where satisfied that this is required by law, or otherwise is in accordance with the provisions of HRIP Act.

5.0 Public Registers

Council is required by law to maintain a number of public registers and to make them available for public inspection. Some of these registers contain personal information as defined in the Acts. Any person may inspect a public register at a Council office and copy an entry or page but in seeking to copy additional information will need to satisfy Council that access is for a purpose consistent with the purpose for which the register exists.

Council reserves the right to require a person seeking access to provide information about the purpose for which the information will be used, and if access is given, to require an undertaking not to use the information for any other purpose.

Some registers have been created to serve a number of purposes. Where Parliament has stipulated that the register is to be available for public inspection one purpose is clearly to provide access to any member of the public with a legitimate interest in inspecting the register.

Among the public registers that Council holds and may contain personal information are as follows:

- Register of Consents and Certificates regarding development applications including Complying Development Certificates

- Register of Contributions imposed by Council in connection with approval of development.
- Records of Approvals of Activities under the *Local Government Act*
- Contracts Register
- Register of Contributions imposed by Council in connection with approval of development.

6.0 Privacy Contact Officer

Council's Public Officer is the person responsible for management of privacy related issues and is appointed Council's Privacy Contact Officer (PCO).

This involves provision of information and advice regarding legislative obligations and the privacy implications of new projects, plans, initiatives or policies; dealing with inquiries from members of the public; managing or undertaking investigations of complaints; and review of Council policy, procedures and the privacy management plan.

Ongoing staff training will be provided on the management of personal and health information. The Annual Report will include details of privacy related issues that have been dealt with during the year.

7.0 Complaints Regarding Privacy

Council's Privacy Contact Officer can assist with inquiries about privacy related issues and can be contacted on 9748 9999.

Formal complaints about any breach of Council's legislative obligations must be made within 6 months of the complainant being first aware of the issue. Council may accept a complaint at a later time. Complaints must be in writing and addressed to:

Strathfield Council
 P.O. Box 120
 STRATHFIELD NSW 2135

Any complaint should provide sufficient detail of the alleged infringement to enable Council to investigate. Council will appoint a reviewing officer to undertake an investigation and inform the NSW Privacy Commissioner that a complaint has been received.

The investigation will be undertaken promptly and the complainant and the Privacy Commissioner informed of the findings within 60 days.

The Council may conclude that no breach of the privacy principles has occurred, that any breach was justified by a relevant exemption that applies to Council's handling of the information, or that a breach has occurred without justification. Any finding of a breach may result in a formal apology, appropriate remedial action including payment

of monetary compensation, an undertaking that the conduct will not occur again, or the implementation of administrative changes.

Should a complainant not be satisfied, he or she may lodge an appeal to the Administrative Decisions Tribunal, which will hear the matter and impose its own decision. It may also award damages where satisfied that a breach of an information protection principle has occurred and that the person concerned has suffered loss or damage as a result.

Any person may complain about a general privacy concern directly to the NSW Privacy Commissioner.