

## Privacy Management Policy

### 1 Background

Kiama Council collects stores and uses a broad range of information to enable the day to day and strategic operations of the organisation. As such Council has a responsibility to use and manage this information in ways that are lawful, acceptable to the community, and in ways for which the information is intended to be used. This policy incorporates both the Information Protection Principles within the *Privacy and Personal Information Protection Act 1998* (PIIP Act) and the Health Privacy Principles within the *Health Records and Information Privacy Act 2002* (HRIP Act).

### 2 Purpose

The purpose of this policy is to guide Councillors, employees, the community and clients on legislative responsibilities and better practice management in the collection, storage and disclosure of private, personal and health information.

### 3 Objectives

The objectives of this policy are to ensure that;

- Council has a structure and process in place to comply with legislative responsibilities under the PPIP Act and the HRIP Act
- there are processes in place to ensure the protection of private and personal information collected by Council
- employees are aware of their roles and responsibilities in the collection, storage and disclosure of this information
- Council incorporates the 12 Information Protection Principles and the 15 Health Privacy Principles into it's operations.

### 4 Scope

This policy has been prepared using the relevant legislation, the Model Privacy Management Plan for Local Government and the Privacy Code of Practice for Local Government that applies to the collection, storage and disclosure of personal information by Council. The policy applies to all Council officials and employees. In addition, the policy applies to all Council contractors and volunteers.

For the purposes of administration of this policy, the Public Officer will be considered the Privacy Officer.

## 5 References

Council will manage personal and health information within the legislative requirements of the:

*Privacy and Personal Information Protection Act 1998 (NSW)*  
*Health Records and Information Privacy Act 2002 (NSW)*  
*Local Government Act 1993 (NSW)*  
*Public Interest Disclosures Act 1994 (NSW)*  
*Government Information (Public Access) Act 2009 (NSW)*

This document should also be read in conjunction with:

Kiama Councils Privacy Management Plan  
The Privacy Code of Practice for Local Government  
Kiama Council's Code of Conduct  
Fairness and Equity Policy

## 6 Definitions

|                                |   |
|--------------------------------|---|
| <b>Information Privacy</b>     | The way in which governments or organisations manage an individual's personal information such as age, address, race, sexual preference etc.  |
| <b>Personal Information</b>    | Personal information is any information or opinion about an identifiable person. This includes records containing a person's name, address, sex, etc., or physical information like fingerprints, body samples or a person's DNA. |
| <b>Health Information</b>      | Health information is a specific type of <i>personal information</i> . Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual.   |
| <b>Public register</b>         | 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).   |
| <b>Privacy Officer</b>         | For overseeing administration of Councils policy and management plan and as the point of contact for relevant matters, Council's Public Officer will be considered the Privacy Officer.   |
| <b>Privacy Management Plan</b> | Regulates the collection, use and disclosure of, and the procedures for dealing with, personal information held by Council.   |

## 7 Policy

### 7.1 The Information Protection & Health Privacy Principles

Council is committed to ensuring the adequate protection of all personal and health information that is collected and held by Council.

To ensure the proper collection, management, use and disclosure of personal and health information Council will apply the following general principles, based on the 12 Information Protection Principles and the 15 Health Privacy Principles outlined in the relevant legislation.

Modifications and exceptions to the following general principles are set out in detail in Council's Privacy Management Plan:

**PPIPA & HRIPA Principle 1 - Lawful**

Council will collect personal information for a lawful purpose and only if it is directly related to Council's activities and necessary for that purpose.

**PPIPA & HRIPA Principle 2 – Direct**

Council will ensure that the information is collected directly from the person concerned, unless consent from the person has been given otherwise. Parents and guardians can give consent for minors.

**PPIPA & HRIPA Principle 3 – Open**

Council will inform the person as soon as is practicable that the information is being collected, why it is being collected and who will be storing and using it. Council will also inform the individual how they can view and amend this information once collected.

**PPIPA & HRIPA Principle 4 – Relevant**

Council will ensure that the information is relevant, accurate, up-to-date and not excessive. The collection of information will not unreasonably intrude into the personal affairs of the individual.

**PPIPA & HRIPA Principle 5 – Secure**

Information must be stored securely, not kept any longer than necessary and disposed of appropriately. It will be protected from unauthorised access, use or disclosure.

**PPIPA & HRIPA Principle 6 – Transparent**

Council will ensure that individuals are provided with enough details about what personal information is being held, how it is being stored and what rights they have to access it.

**PPIPA & HRIPA Principle 7 – Accessible**

Council will allow access for individuals to their personal information, without unreasonable delay or expense.

**PPIPA & HRIPA Principle 8 – Correct**

Council will allow individuals to update correct or amend personal information where necessary.

**PPIPA & HRIPA Principle 9 – Accurate**

Council will take all reasonable steps to ensure that personal information is accurate before using it.

**PPIPA Principle 10 – Limited**

Council will only use personal information for the purpose for which it was collected, a directly related purpose, or for a purpose to which the individual has given consent. Personal information can also be used without the individuals consent in order to deal with a serious and imminent threat to any person's health or safety.

**HRIPA Principle 10 – Limited use**

Council can only use an individual's health information for the purpose for which it was collected, or a directly related purpose. Otherwise it can only be used with the individual's consent.

**PPIPA Principle 11 – Restricted**

Council will only disclose personal information with the individual's consent or if they are informed at the time of collection that it would be disclosed. Council may also disclose personal information if it is for a related purpose and it is considered that the individual would

Policy: Privacy Management Policy  
Date adopted: 19 August 2014  
Last Revised:  
Next Review: 19 August 2016  
TRIM 14/29514

not object. Personal information can also be used without consent to deal with a serious and imminent threat to any person's health or safety.

#### **HRIPA Principle 11 – Limited disclosure**

Council can only disclose an individual's health information for the purpose for which it was collected, or a directly related purpose. Otherwise it can only be used with the individual's consent.

#### **PPIPA Principle 12 – Safeguarded**

Council cannot disclose sensitive personal information without consent, for example information about an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership. Council is only allowed to disclose sensitive information without an individual's consent in order to deal with a serious and imminent threat to any person's health or safety.

The first 9 principles as outlined under the PPIP Act also apply to the collection, use and storage of an individual's health information as well as the following;

#### **HRIPA Principle 12 – Not identified**

Council will only issue an identification number if it is reasonably necessary to carry out Council's functions efficiently.

#### **HRIPA Principle 13 – Anonymous**

Council supports the principle that individual's are able to receive health service anonymously, where this is lawful and practicable.

#### **HRIPA Principle 14 – Controlled**

Council will not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency, except in those circumstances as outlined in the HRIPA.

#### **HRIPA Principle 15 – Authorised**

Council will only include an individual's health information in a system to link health records across more than one organisation if the individual consents to the link.

## **7.2 Access to Personal and Health Information**

Individuals can seek access to view or amend their own personal and health information under s14 of PPIP Act and s26 of HRIP Act. Various forms relating to the collection, notification, capture and accessibility are available as Appendices in Council's Privacy Management Plan, on Council's website, or details can be sought direct from Council. Proof of identity is required to access and/or amend personal or health information.

Another means to view personal information held by Council is for the individual to submit a GIPA application.

## **7.3 Disclosure of Personal Information**

Disclosure of personal information in Public Registers and other Council Registers to third parties is covered in Council's Privacy Management Plan in more detail. Council will comply with the relevant legislation and privacy Code of Practice in regards to the disclosure of Privacy Information. Personal Information will be provided at Council's discretion, only where it would be in the public interest to do so.

#### **7.4 Requesting a Review**

An internal review can be requested in relation to a privacy matter or against a decision made regarding disclosure or non disclosure of personal information, where requested in writing and addressed to the General Manager. Alternatively, a complaint may be made to the Privacy Commissioner.

If the person is not satisfied with the internal review, or it is not completed within 60 days, an application can be made to the Administrative Decisions Tribunal.

#### **7.5 Policy Review**

Council will review this policy not greater than 12 months from adoption and then at three year intervals or as required due to legislative or regulatory amendments.