



RESPECT



INNOVATION



INTEGRITY



TEAMWORK



EXCELLENCE

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Privacy Management Plan

1.0 Purpose

Section 33 of the *NSW Privacy and Personal Information Protection Act 1998* (PPIPA) requires public sector agencies to prepare and implement a Privacy Management Plan (PMP) which includes provisions relating to the following:

- the devising of policies and practices to ensure compliance by Council with the requirements of the PPIPA and the *Health Records and Information Privacy Act 2002* (HRIPA)
- the dissemination of those policies and practices to Council staff
- the procedures that Council proposes for internal review of privacy complaints
- such other matters as are considered relevant by Council in relation to privacy and the protection of personal information held by it.

The purpose of this PMP is to explain how Kiama Municipal Council manages personal and health information. It informs individuals about how their personal and health information will be collected, stored, accessed, used and disclosed and how they can access and amend their own personal information. It informs Council officials of their responsibilities in relation to privacy and their role in the protection of an individual's personal and health information.

Nothing in this PMP is to:

- affect any matter of interpretation of the Codes or the Information Protection Principles and the Health Privacy Principles as they apply to Council
- affect any legal obligations of Council
- create, extend or lessen any legal obligations Council has.

Council must provide a copy of its PMP to the NSW Privacy Commissioner whenever it is amended.

2.0 Objectives

The objectives of this PMP are to ensure that:

- Council complies with requirements under the PPIP Act and the HRIP Act, any associated Regulations, Codes of Practice, Privacy Directions or Guidelines issued by the NSW Privacy Commissioner
- there are processes in place to ensure the protection of the privacy of individuals whose personal information is collected by Council
- employees are made aware of their roles and responsibilities in relation to the collection, storage, access, use, access and disclosure of personal information
- Council incorporates the 12 Information Protection Principles and the 15 Health Privacy Principles into its processes and procedures.

3.0 Scope

This PMP applies to all Council officials including Councillors, contractors, committee members, delegates, volunteers and anyone working for and on behalf of Council in whatever capacity.

Kiama Council collects, stores and uses a broad range of information. A significant part of that information is personal and health information. This PMP applies to that part of Council's information that is personal and health information.

4.0 References

- *Privacy and Personal Information Protection Act 1998* (NSW) (PPIPA)
- *Privacy and Personal Information Protection Regulation 2014*
- *Health Records and Information Privacy Act 2002* (NSW) (HRIPA)
- *Healthcare Identifiers Act 2010*
- *Healthcare Identifiers Regulations 2010*
- *Local Government Act 1993* (NSW) (LG Act)
- *Government Information (Public Access) Act 2009* (NSW) (GIPA)
- *State Records Act 1998*
- Office of Local Government
- Privacy Code of Practice for Local Government 2019
- NSW Information and Privacy Commission's Guide to making privacy management plans

Internal consultation:

- Blue Haven Aged Care
- Information Technology
- Human Resources
- Communications
- Environment and Health
- Community Services
- Kiama Leisure Centre
- Governance
- Records Management

5.0 Definitions

For the purpose of this document the following definitions apply:

Term	Definition
Code	The Privacy Code of Practice for Local Government
GIPA	<i>Government Information (Public Access) Act 2009</i> (NSW)
Healthcare Identifiers	An identifier assigned to an individual in relation to the individual's health information for the purpose of uniquely identifying that individual
Health Information	Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual including express wishes about the future provision of their health services and a health service provided, or to be provided.
HRIPA	<i>Health Records and Information Privacy Act 2002</i> (NSW)

Information Protection Principle ("IPP")	Those principles contained in Part 2 Division 1 of the PPIP Act. The privacy principles set out the minimum standards for all NSW public sector agencies when handling personal and health information and where exemptions may apply.
LG Act	<i>Local Government Act 1993 (NSW)</i>
NCAT	NSW Civil and Administrative Tribunal
Personal Information	Personal information is 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.
PPIPA	<i>Privacy and Personal Information Protection Act 1998 (NSW)</i>
PMP	Council's Privacy Management Plan
Privacy Contact Officer	Council's Public Officer is appointed as Council's Privacy Contact Officer and is the main point of contact for all privacy related matters.
Public Register	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).
Section	Refers to a section of the PPIPA unless otherwise indicated
Utility Provider	Refers to a private sector organisation, state owned corporation or public sector agency that provides utility services to the public, including but not limited to gas, electricity, telecommunications or water.

6.0 Policy/Plan

6.1 What is personal information?

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. It can be stored in a database and does not necessarily have to be recorded in a material form. Personal information can include a person's name, contact details, photographs, images, video or audio footage.

6.2 What is not personal information?

Personal information does not include information about an individual that is contained in a publicly available publication.

The following are examples of publicly available publications:

- An advertisement containing personal information in a newspaper
- Personal information on the Internet
- Books or magazines that are printed and distributed broadly to the general public
- Council Business papers or that part that is available to the general public

- Personal information that may be a part of a public display on view to the general public.

6.3 What is health information?

Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual about:

- a health service provided, or to be provided, to an individual
- an individual's express wishes about the future provision of health services
- 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 their relatives or descendants
- healthcare identifiers.

6.4 Personal and Health Information held by Council

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

- rates records
- aged care records
- DA applications and submissions
- community consultation and submissions
- library membership records
- burial and cremation records
- leases, licences and agreements
- waste services records
- customer requests/complaints
- tree removal/lopping requests where applicants submit health information for consideration of a tree pruning/removal application on medical grounds
- financial records
- community services records
- age and disability support records
- youth services records
- Kiama Leisure Centre customer and membership records.

Council holds personal and health information of employees, including Councillors, contractors and volunteers, such as:

- recruitment information including pre-employment screening and bank account details
- employees immunisation records and medical certificates
- injury/illness records
- workers compensation claims
- payroll data

- personal contact information
- returns of interests
- healthcare identifiers.

6.5 Privacy Codes of Practice

Council must comply with any privacy code of practice that apply to local government. The current Privacy Codes of Practice that are relevant to Kiama Municipal Council are listed below.

- The Privacy Code of Practice for Local Government (the Code) modifies the information protection principles of the PPIP Act.
- The Privacy Code of Practice for the Disclosure of Personal Information by NSW Councils to NBN Co Limited for the delivery and ongoing operation of the NBN network
- Health Records and Information Privacy Code of Practice provides for human services agencies or allied agencies to authorise the collection, use and disclosure between human services agencies.

6.6 Applications for suppression of personal information (not public registers).

Under the *NSW Local Government Act 1993* (LG Act) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person's place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

This section relates to publicly available material other than public registers. Part 2 of this PMP provides guidance around suppression of information on public registers.

An application for suppression under this part must be verified by statutory declaration.

6.7 Caution as to unsolicited information

Personal or health information is not "collected" by Council if it is unsolicited. This means that the Information Protection Principles and Health Privacy Principles in relation to the collection of personal or health information do not apply. However, it is important to know that the Principles in relation to storage, access, use and disclosure of the personal information once held by Council do apply.

2.0 Public registers

A public register is defined under PPIPA as a register of personal information that is required by law to be, or is made, publicly available or open to public inspection.

Council currently holds the following public registers:

- Register of Returns of Interest Disclosures by Councillors and Designated persons (GIPA Act)
- Land register (GIPA Act)
- Register of government contracts with private sector valued at \$150,000 or more
- Register of graffiti removal work kept in accordance with (Graffiti Control Act 2008)
- Register of current declarations of disclosures of political donations (LG Act and EPA Act)
- Register of voting on planning matters kept in accordance with (LG Act)
- Register of Licences Held (GIPA Act)

- Cemetery Operator's Register (Cemeteries and Crematoria Act)
- Register of consents and certificates (Environmental Planning and Assessment Act).

2.1 Applications for suppression in relation to a public register

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under PPIPA or the LG Act to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information.

When in doubt, Council will err in favour of suppression.

The information may still be used in the exercise of council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the Chief Executive Officer and must outline the reasons for the request. Council may require supporting documentation where appropriate such as a statutory declaration.

2.2 The Privacy Code of Practice for Local Government and Public Registers

The Code modifies this section to the extent that:

- Council may allow any person to inspect a publicly available copy of a public register in council premises
- copy a single entry or a page of the register without requiring the person to provide a reason for accessing the register and without determining that the proposed use of the register is consistent with the purpose of the register or the Act under which the register is kept.
- Council should not require any person to provide a reason for inspecting the council's pecuniary interest register or any register on which the council records returns of interests made by councillors or designated persons under Part 4 of the Model Code of Conduct for Local Councils in NSW.
- Council should not require the making of a statutory declaration as to the intended use of any information obtained from an inspection the council's pecuniary interest register or any register on which the council records returns of interests made by councillors or designated persons under Part 4 of the Model Code of Conduct for Local Councils in NSW.

3.0 The Information Protection Principles

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles. The privacy principles set out the minimum standards for all NSW public sector agencies when handling personal information and where exemptions may apply. Those principles are summarised below:

Principle 1 - Collection of personal information for lawful purposes

Principle 2 - Collection of personal information directly from individual

Principle 3 - Requirements when collecting personal information

Principle 4 - Other requirements relating to collection of personal information

Principle 5 - Retention and security of personal information

Principle 6 - Information about personal information held by agencies

Principle 7 - Access to personal information held by agencies

Principle 8 - Alteration of personal information

Principle 9 - Agency must check accuracy of personal information before use

Principle 10 - Limits on use of personal information

Principle 11 - Limits on disclosure of personal information

Principle 12 - Special restrictions on disclosure of personal information

This PMP outlines how Council will incorporate the 12 Information Protection Principles into its functions.

3.1 Collection of personal information for lawful purposes (IPP1 – s8)

Council will only collect personal information for a lawful purpose that is directly related to a function or activity of Council and when the collection of the information is reasonably necessary for that purpose.

3.2 Collection of personal information directly from individual (IPP 2 – s9)

Council will only collect personal information directly from the individual to whom the information relates, unless authorised by the individual to whom the information relates, or where the person is under the age of 16 and the information has been provided by a parent or guardian of that person.

Exemptions

PPIPA provides exemptions from this principle in relation to complaint handling, investigative functions, law enforcement, court or tribunal proceedings, or if it is authorised or required by any other law or Act.

Council is not required to comply with this principle if collection is between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence
- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency.

The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be, or may be, conferred upon the person to whom the information relates.

Note: This principle does not apply where Council is given unsolicited information.

3.3 Requirements when collecting personal information (IPP3 - s10)

Council will take steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware that their personal information is being collected, why it is being collected, what it will be used for, who the intended recipients will be and whether the supply is voluntary or required by law (and any consequences if it is not provided). Council will also inform individuals on how they can access and correct their information.

A privacy statement to this effect will be included wherever personal information is being collected, including hard copy forms and any online platforms Council uses. See Appendix 1 for example templates.

People lodging submissions on development applications and other planning matters have a right to remain anonymous if they so choose. However, anonymous submissions may be given less weight in the overall consideration of the matter because Council staff will not be able to contact them to substantiate their submission.

Exemptions

Council is not required to comply with this principle if it is exercising complaint handling and investigative functions or if the information is collected for law enforcement purposes.

Council is not required to comply with this principle if collection is between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence
- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition that is intended to be, or may be, conferred upon the person to whom the information relates.

3.4 Other requirements relating to collection of personal information (IPP4 – s11)

Council will ensure that personal information collected is directly relevant to its functions, is accurate, up-to-date and complete. The collection will not be excessive or intrude into the personal affairs of individuals.

To help prevent identity theft, Council will not keep copies of identification. Where individuals need to provide Council with proof of their identity to access a service, once sighted by a council official any copies will be destroyed as soon as practicable after collection.

Exemptions

The *Privacy and Personal Information Protection Regulation 2014* exempts Council from this section in relation to the collection of personal information by CCTV installed for the purpose of filming a public place if the camera is positioned so no other land is filmed (unless it is not reasonably practicable to avoid filming the other land when filming the public place).

3.5 Retention and security of personal information (IPP5 – s12)

Council will store personal information for as long as required by the General Retention Disposal Schedule for Local Government in accordance with the *State Records Act 1989* and Council's Records Management Policy. It will then be disposed of securely.

Council will store personal information securely and protect it from unauthorised access, use or disclosure by applying security access levels to Council's electronic records management system.

3.6 Personal information held by agencies and access rights (IPP6 & 7 – s13 & s14)

Individuals have a right to know whether Council holds personal information about them, and if so the nature of that information, the main purposes for which it is used, and how they can access the information.

Council will ensure that individuals who request their own personal information are provided with that information without unreasonable delay or expense. The identity of the person will be verified by staff sighting their photo ID.

Exemptions

Council is not required to comply with this principle when sharing information between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence
- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency.

Note: If the information is not readily available and involves confidential, sensitive information or information of other people, Council may request that an access application be made under the GIPA Act. There is an application fee of \$30 which includes the first 20 hours of processing time. There may be additional processing charges of \$30 per hour if the applicant is requesting information other than their own.

3.7 Alteration of personal information (IPP8 – s15)

Individuals can make an application to Council to amend or correct personal information held about them to ensure the information is up to date, accurate, relevant to the purpose for which it was collected, complete and not misleading. If Council is unable to amend or delete the personal information, a statement of the amendment sought can be attached to the file.

If personal information is amended, where practicable recipients of the information will be notified of the amendments made.

Exemptions

Council is not required to comply with this principle when sharing information between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence
- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency.

3.8 Agency must check accuracy of personal information before use (IPP9 – s16)

Council will take all reasonable steps necessary to ensure personal information is accurate, relevant and up to date before using it. Council will take into account the age of the information, its significance, the likelihood of change and the particular function for which the information was collected.

3.9 Limits on use of personal information (IPP10 – s17)

Council must 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 the information 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 the information relates or of another person.

Exemptions

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was collected where the use is for the purpose of undertaking Council's lawful and proper functions and Council is satisfied that the personal information is reasonably necessary for the exercise of such functions.

Council may use the Rates register to:

- identify neighbours of a proposed development for notification purposes
- evaluate a road opening
- evaluate a tree preservation order
- identify property owners for noxious weeds control notification
- consult its local community on matters where council is required to.

The Code also makes provision that Council may use personal information where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

Council is not required to comply with this principle when sharing information between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence
- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency.

Council is exempt from this principle when:

- the use of the information is reasonably necessary for law enforcement purposes or for the protection of the public revenue
- it is reasonably necessary in order to enable council to exercise its complaint handling functions or any of its investigative functions.

3.10 Limits on disclosure of personal information (IPP11 – s18)

Council must not disclose personal information (other than to the individual to whom the information relates) 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, or
- the individual concerned is reasonably likely to have been aware, or has been made aware that information of that kind is usually disclosed, or
- Council believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health an individual.

Exemptions

The Code makes provision for council to depart from this principle in the circumstances described below:

- Council may disclose personal information to public sector agencies or public utilities on condition that:
 - the agency or utility provider has approached Council in writing
 - Council is satisfied that the information is to be used by that agency or utility provider for the proper and lawful functions of that agency or utility provider, and
 - Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's or utility provider's functions
- Where personal information about an individual collected or held by Council is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit

or similar form of personal recognition.

- Where Council is requested by a potential employer, it may verify:
 - that a current or former employee works or has worked for Council
 - the duration of their employment, and
 - the position occupied during their employment.

Note: This exception shall not permit Council to give an opinion as to that person's suitability to a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which they have applied.

The Privacy Code of Practice for the Disclosure of Personal Information by NSW Councils to NBN co for the delivery and ongoing operation of the NBN network allows Councils to disclose personal information to NBN and their contractors.

Council is exempt from this principle where the disclosure is:

- permitted by any other law or Act
- made in connection with proceedings for an offence or for law enforcement purposes
- made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing
- authorised by subpoena, search warrant or other statutory instrument
- reasonably necessary for the protection of the public revenue
- reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed
- reasonably necessary to investigate a complaint that could be referred or made to, or has been referred from or made by, an investigative agency
- to report the progress or outcomes of an investigation into a complaint to the complainant or any action taken as a result of the complaint
- made to the Office of Local Government
- to the NSW Police Force by way of live transmission from a CCTV camera.

3.11 Special restrictions on disclosure of personal information (IPP12 – s19)

Council will not disclose 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.

Council will not disclose personal information to any person or body who is in a jurisdiction outside NSW or to a Commonwealth agency, unless a relevant privacy law, Privacy Code of Practice or Public Interest Direction allows disclosure to that jurisdiction or Commonwealth agency.

Exemptions

Council is exempt from this principle where the disclosure is necessary for law enforcement where there are reasonable grounds to believe that an offence may have been, or may be, committed.

Council is not required to comply with this principle when sharing information between itself and another public sector agency, when:

- it is permitted by any other law or Act
- dealing with ministerial/parliamentary correspondence

- inquiries are referred between the agencies concerned
- enabling auditing of accounts or performance of a public sector agency

The Code makes provision for Council to depart from this principle where Council is requested by a potential employer outside NSW to verify that:

- a current or former employee works or has worked for Council
- the duration of their employment, and
- the position occupied during their employment.

Note: This exception does not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which they have applied.

4.0 Health Privacy Principles

The 15 Health Privacy Principles are legal obligations that Council must abide by when we collect, hold, use and disclose a person's health information. The principles are listed below:

- HPP 1 – Purposes of collection of health information
- HPP 2 – Information must be relevant, not excessive, accurate and not intrusive
- HPP 3 – Collection to be from the individual concerned
- HPP 4 – Individual to be made aware of certain matters
- HPP 5 – Retention and Security
- HPP 6 – Information about health information held by organisations
- HPP 7 – Access to health information
- HPP 8 – Amendment of health information
- HPP 9 – Accuracy
- HPP 10 – Limits on use of health information
- HPP 11 – Limits on disclosure of health information
- HPP 12 – Identifiers
- HPP 13 – Anonymity
- HPP 14 – Transborder data flows and data flow to Commonwealth agencies
- HPP 15 – Linkage of health records

This PMP outlines how Council will incorporate the 15 Health Privacy Principles into its everyday functions.

4.1 Purposes of collection of health information (HPP1)

Council will only collect health information that is reasonably necessary for a lawful purpose that is directly related to its functions and activities.

4.2 Information must be relevant, not excessive, accurate and not intrusive (HPP 2)

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

4.3 Collection to be from the individual concerned (HPP 3)

Council will only collect health information directly from the individual concerned unless it is unreasonable or impracticable to do so.

4.4 Individual to be made aware of certain matters (HPP 4)

Council will ensure that the individual (or their authorised representative) is made aware of the following at the time of collection or as soon as practicable after that time:

- Council's name and contact details
- the purposes for which the information is collected and that the individual is able to request access to the information
- the persons to whom Council usually discloses information of that kind
- any law that requires the particular information to be collected and the consequences if the information is not provided.

If Council does collect health information about an individual from someone else, it will take reasonable steps to ensure that the individual is made aware, unless it would pose a serious threat to the life or health of a person.

Exemptions

Council is not required to comply with this principle if:

- the individual has expressly consented that Council not comply
- it is permitted or authorised by any other law or Act
- it is collected for law enforcement purposes or for investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency.

4.5 Retention and Security (HPP 5)

Council will store health information securely and protect it from unauthorised access, use or disclosure by applying security access levels to Council's electronic records management system. We will keep it no longer than necessary and destroy it securely according to the NSW Records Act.

If it is necessary for the information to be given to a person in connection with the provision of a service to Council, everything reasonably within the power of Council is done to prevent unauthorised use or disclosure of the information.

Exemptions

Council is not required to comply with this principle if it is permitted by any other law or Act.

4.6 Information about health information held by organisations (HPP 6)

Council will be transparent to people about the health information it holds about them, the nature and main purposes for which it is used, and how they can access it.

Exemptions

Council is not required to comply with this principle if it is permitted by any other law or Act.

4.7 Access to health information (HPP 7)

Council will allow individuals to access their own health information without unreasonable delay or expense.

Note: If the information is not readily available and involves confidential, sensitive information or information of other people, Council may request that an access application be made under the GIPA Act. There is an application fee of \$30 which includes the first 20 hours of processing time. There may be additional processing charges of \$30 per hour if the applicant is requesting information other than their own.

Exemptions

Council is not required to comply with this principle if it is permitted by any other law or Act.

4.8 Amendment of health information (HPP 8)

Individuals can make an application to Council to amend or correct health information held about them to ensure the information is up to date, accurate, relevant to the purpose for which it was collected, complete and not misleading. If Council is unable to amend or delete the health information, a statement of the amendment sought can be attached to the file.

If health information is amended, where practicable recipients of the information will be notified of the amendments made.

Exemptions

Council is not required to comply with this principle if it is permitted by any other law or Act.

4.9 Accuracy (HPP 9)

Council will not use health information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

4.10 Use (HPP 10) and Disclosure (HPP11)

Council will only use or disclose health information for the purpose for which it was collected or a directly related purpose unless:

- Council has the consent of the individual or their authorised representative
- it is necessary to lessen or prevent a serious and imminent threat to the life, health or safety of the individual or another person, or a serious threat to public health and safety
- Is de-identified and not made publicly available in a publication, and
 - it is necessary for the funding, management, planning or evaluation of health services, or
 - it is necessary for the training of employees, or
 - it is necessary for research, or the compilation or analysis of statistics, in the public interest
- It is necessary for law enforcement, complaint handling or investigations
- It is necessary for suspected unlawful activity, unsatisfactory professional conduct or breach of discipline under the Health Practitioner Regulation National Law (NSW).

Exemptions

Council is investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency.

Council is not required to comply with this principle where disclosure:

- is permitted by any other law or Act.
- is to an immediate family member for compassionate reasons and the individual is incapable of giving consent and it is not contrary to any expressed wish of the individual (current and not withdrawn)
- is to a law enforcement agency for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person
- is made to the Office of Local Government.

Note: If information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a directly related purpose.

4.11 Identifiers (HPP 12)

Council does not assign health care identifiers to individuals. Council will collect and use healthcare identifiers such as those assigned by Medicare, Private Health Funds, Centrelink, Veterans Affairs and My Health Care, if it is reasonably necessary to carry out its functions in the provision of healthcare to a healthcare recipient.

Council may disclose healthcare identifiers to other healthcare providers to assist in communicating and managing health information. The healthcare identifier may also be disclosed to other entities to assist in the operation of the My Health Record system.

4.12 Anonymity (HPP 13)

Wherever it is lawful and practicable, Council will allow individuals to not identify themselves and remain anonymous when entering into transactions with or receiving health services from Council.

4.13 Transborder data flows and data flow to Commonwealth agencies (HPP 14)

Council will not transfer health information out of NSW without the individuals consent unless:

- Council is unable to obtain consent, it is of benefit to the individual and that they would likely give it
- it is necessary for a contract with a third party
- to help prevent a serious and imminent threat to life, health or safety of individuals or a serious threat to public health or safety
- it is permitted by any other law or Act
- the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information similar to the Health Privacy Principles, and Council is satisfied that it will not be held, used or disclosed inconsistently with the Health Privacy Principles.

4.14 Linkage of health records (HPP 15)

Where Council includes health information about an individual in a health records linkage system Council would make sure that the individual to whom the health information relates has provided their consent.

Exemptions

Council is not required to comply with this principle if the information is de-identified or if it is permitted by any other law or Act.

5.0 Complaints and Internal Review Applications

5.1 Internal Review Procedure

A person who is aggrieved by the conduct of Council in relation to a contravention of an information protection principle (IPP), privacy code of practice or the disclosure by Council of personal information kept in a public register can request a review of that conduct.

A complainant need not have used the phrase 'Internal Review' for a privacy complaint to be considered and dealt with as an Internal Review application under PPIPA ¹.

¹ *Y v DET, the Administrative Decisions Tribunal*

An application for internal review must be in writing, addressed to Council, contain a return address and be lodged within **6 months** of when the person first became aware of the conduct. Council will decide whether or not to accept a late application by considering the circumstances and the reason/s why it was late.

The will be dealt with by a suitably qualified officer that was not substantially involved in any matter relating to the conduct. In dealing with the complaint/internal review, the reviewing officer will consider any relevant material submitted by the applicant and the NSW Privacy Commissioner.

Council must notify the Privacy Commissioner of an application for review as soon as practicable after receiving it. Council must also keep the Privacy Commissioner informed of the progress, findings and proposed action to be taken by Council in relation to the matter.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of lodgement, the applicant has 28 days to seek an external review by the NSW Civil and Administrative Tribunal (NCAT). Council must notify the applicant of the outcome of the review within **14 days** of its completion.

5.2 External Review by NCAT

If the internal review applicant is not satisfied with the findings or action taken in relation to an internal review application they may apply to the NSW Civil and Administrative Tribunal (NCAT) for a review of the conduct that was the subject of the internal review application.

An application for external review can only be made after an internal review has been completed and must be made within 28 days from the date the applicant was notified of the results of the internal review.

Implementation of the Privacy Management Plan

6.1 Responsibilities of Privacy Contact Officer

Council's Privacy Contact Officer is responsible for providing advice to staff on privacy related issues to ensure Council complies with this PMP including the following:

- forms where personal information is collected by Council, including any online platforms Council uses, contain a privacy statement which meets the requirements of IPP3 & HPP4
- work with Project Managers/Coordinators in conducting a Privacy Impact Assessment for any new or existing projects that involve the collection of personal information to ensure that the project complies with this PMP
- maintain a Register of Privacy Breaches outlining the nature of the breach, outcomes of investigations and actions taken to minimise further breaches
- report privacy breaches to Council's executive leadership team
- participate in privacy awareness campaigns such as Privacy Awareness Week.

6.2 Responsibilities of staff

Staff of Council must seek the advice of Council's Privacy Contact Officer:

- when designing a new form that collects personal or health information (including online platforms)
- in the design phase of a new project that involves the collection of personal or health information
- when a privacy breach has occurred or could potentially occur.

Staff should also use fast screen savers, face computers away from the public and lock the computer screen when leaving their desk.

6.3 Responsibilities of managers

To show a commitment to the protection of the privacy of individuals through:

- raising awareness and encouraging staff to think about privacy when undertaking their work
- inviting Council's Privacy Contact Officer to team meetings to present or discuss privacy matters with staff in relation to their area
- encouraging good privacy practices in policies, procedures, processes and systems
- regularly review privacy breach data and implement improvements.

6.4 Training and education

Council's Privacy Contact Officer will provide education, training and advice to Council officials to ensure that they are aware of their responsibilities in relation to the collection, storage, use and disclosure of personal and health information.

Council will promote good privacy practice and provide awareness of its privacy obligations by:

- providing information to new staff at inductions in relation to their role in protecting the privacy of individuals as well as where to locate this PMP and who to contact for advice on privacy related matters
- providing privacy awareness training for all staff every 2-3 years
- participating in privacy awareness initiatives and such as the annual Privacy Awareness Week (PAW)
- making a copy of this PMP available on Council's Website
- making a copy of this PMP available to Council staff on Council's Intranet and providing hard copies in areas where staff do not have access to computers/devices
- providing a copy of this PMP to Council's contractors, delegates, volunteers or any other person acting for or on behalf of Council

6.5 Further information

Assistance and further information can be obtained from Council's Privacy Contact Officer or the NSW Information and Privacy Commission.

Kiama Municipal Council

Post: Kiama Municipal Council PO Box 75 KIAMA NSW 2533	Email: Council@kiama.nsw.gov.au	In person: Council's Administration Building 11 Manning Street, KIAMA (8:45am to 4:15pm Mon-Fri)
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NSW Information and Privacy Commission (IPC)

Email | ipcinfo@ipc.nsw.gov.au

Phone | 1800 472 679

Fax | 02 6446 9518

Address | Level 15, Mckell Building, 2-24 Rawson Place, Haymarket NSW 2000

Postal | GPO box 7011, Sydney NSW 2001

7.0 Policy review


A review of this Plan was undertaken in September 2021 and endorsed by Council on 21 September 2021 to be placed on public exhibition for 28 days, following which if no relevant submissions or substantial changes were proposed the Plan would be adopted without further reports to Council. The public exhibition period finished at 4pm on 1 November 2021 and no submissions were received.

This protocol will next be reviewed in September 2023 however the Privacy Management Plan may also be changed as a result of legislative or process driven requirements. Any amendment to the Plan must be by way of Council resolution.

8.0 Document control

Date reviewed	Date adopted	Amendment
9 September 2021	2 November 2021	Full review, amended to reflect current legislation and guidelines issued by the NSW Privacy Commissioner
16 June 2020	19 August 2014	Administrative updates.

9.0 Signature

Name: Jane Stroud Chief Executive Officer	Date: 2 November 2021
Signature: 	

Appendix 1: Privacy Notification Forms – (s10)

Short version example

PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE

The personal details requested on this form is being collected by Kiama Municipal Council (KMC) *state the purpose or relevant Law/Act* and will only be used *state the use*. KMC is the agency that holds the information and access is restricted to *state who ie KMC Officers*. While the supply of information is *voluntary or required by law or an Act (name it here)*, we may not be able to *outline consequences if it is not provided*. You have a right to apply for access to or for correction of your personal information. For further information, please see KMC's Privacy Management Plan available on Council's website or contact us on 02 4232 0444 or email council@kiama.nsw.gov.au



Collection and Use of Your Information

Purpose of collection

Kiama Municipal Council collects and uses your personal information *state the purpose and use.*

Intended recipients

The intended recipient of the information is *state the recipients ie specific officers within Council, services providers, business unit, contractor etc.*

Supply

While the supply of information is *voluntary or required by law or an Act (name it here)*, we may not be able to *outline consequences if it is not provided.*

Access/Correction

You may apply to access your personal information and you may apply to have it corrected.

Storage

Kiama Council is the agency that collects and holds the information.

More information

For further information, please see KMC's Privacy Management Plan available on Council's website or contact the Privacy Contact Officer on 02 4232 0444.

Post: Kiama Municipal Council PO Box 75 KIAMA NSW 2533	Email: Council@kiama.nsw.gov.au	In person: Council's Administration Building 11 Manning Street, KIAMA (8:45am to 4:15pm Mon-Fri)
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How to contact Council

Post

Chief Executive Officer
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

Telephone

+61 (02) 4232 0444

Facsimile

+61 (02) 4232 0555

Online

Email: council@kiama.nsw.gov.au
Website: www.kiama.nsw.gov.au

Office hours

Our Administration Building located at
11 Manning Street Kiama is open 8.45 am to 4.15 pm
Monday to Friday (excluding public holidays)