

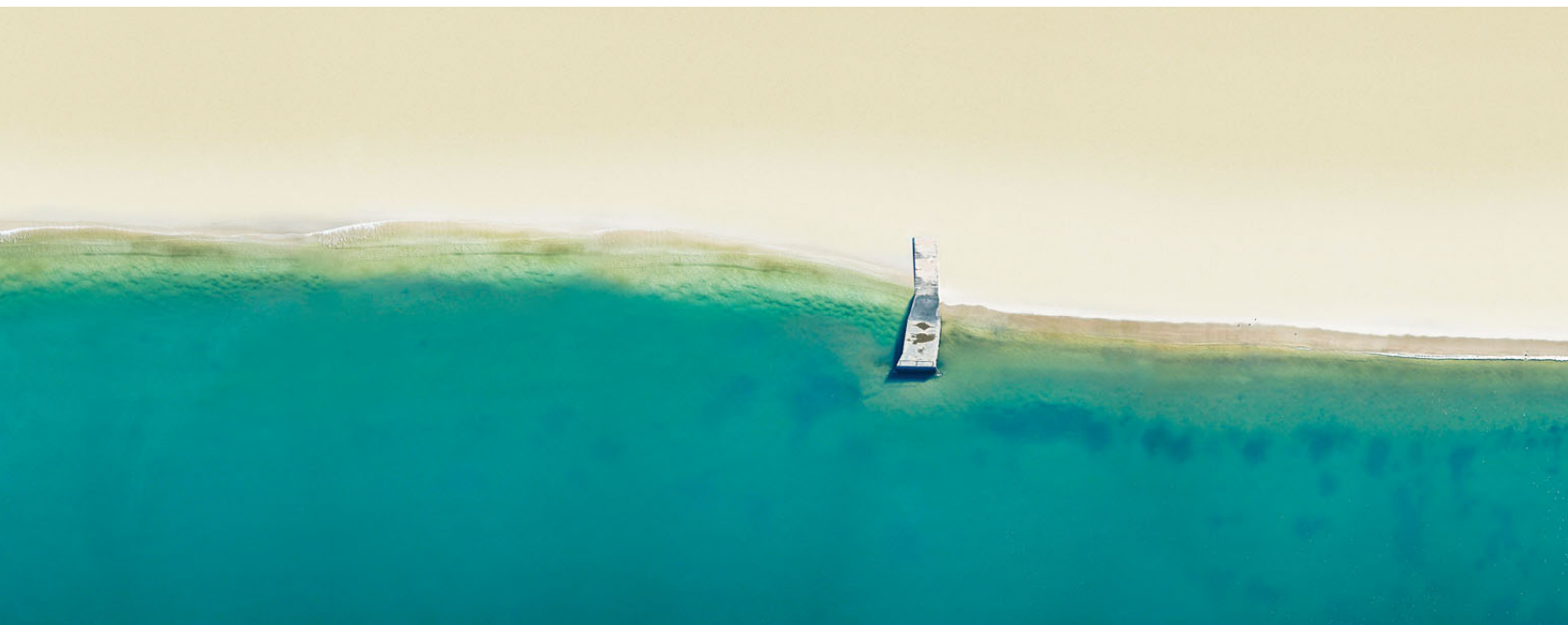


Bayside Council

Serving Our Community

Privacy Management Plan

22 November 2023



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Privacy Management Plan

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1 Introduction

1.1 Background

This Privacy Management Plan (Plan) explains how Bayside Council (Council) will manage personal and health information.

1.2 Policy statement

This Plan explains how the Council will manage personal information in line with the Privacy and Personal Information Protection Act 1998 (NSW) (PIIP Act) and health information in accordance with the Health Records and Information Privacy Act 2002 (NSW) (HRIP Act).

Council is required to have a Plan under s33 of the PIIP Act. This Plan also explains how to contact Council about the personal and health information it holds, how information can be accessed and amended and how privacy complaints are handled.

1.3 Scope of Policy

Section 33(2) of the PIIP Act sets out the requirements of this Plan.

This Plan must include:

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

Any reference to staff in this document also includes reference to contractors.

2 Our Responsibilities

Bayside Council has responsibilities under the Local Government Act and other Commonwealth and NSW laws including the Environmental Planning and Assessment Act, the Public Health Act and the Companion Animals Act.

Councils exist to:

- provide a representative, informed and responsible decision-making body
- develop the local community and its resources in a socially just and environmentally responsible way
- ensure that local public services and facilities respond effectively to community needs
- more detailed information is available on Council's website.

2.1 Bayside Council's Functions under the Local Government Act

Council's charter requires it to:

- provide for development in the local area
- provide for local services and facilities that benefit ratepayers, residents and visitors
- promote and to provide and plan for the needs of children
- protect health and provide for the welfare, wellbeing and interests of the local community
- represent and promote the interests of ratepayers and residents
- establish and support organisations and programs targeting the local community
- protect the environment and improve local amenity
- attract and provide infrastructure for commerce, tourism and industry
- engage in long-term strategic planning on behalf of the local community.

3 How Council manages personal and health information

3.1 About personal information

Personal information is defined in section 4 of the PPIP Act as any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained.

There are some kinds of information that are not personal information. This includes information about someone who has been dead for more than 30 years, information about someone that is contained in a publicly available publication, or information or an opinion about a person's suitability for employment as a public sector official.

3.2 About health information

Health information is a more specific type of personal information and is defined in section 6 of the HRIP Act. Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, and information about a person's medical appointments.

It can also include some personal information that is collected to provide a health service, such as a name and telephone number. In this section, a reference to personal information is also a reference to health information.

4 How Council collects personal information

Council collects personal information to enable it to conduct its functions. Council assesses the level of personal information that is appropriate to be collected on a case-by-case basis.

Personal information may be collected from:

- members of the public

- NSW public sector agencies
- businesses
- non-government organisations.

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

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

- levying and collecting rates
- providing services, for example, child care, libraries and waste collection
- consultation with the community, businesses and other stakeholders
- assessing development and major project applications
- recording, investigating, and managing complaints and allegations
- site inspections and audits
- incident management
- enforcing regulations and legislation
- issuing approvals, consents, licences and permits
- providing funding grants.

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

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

Personal information may be collected electronically, in writing, over the telephone and in person. Individuals may provide Council with personal information when they make enquiries and when Council delivers services to them.

This can include names, contact details, opinions, health conditions, family relationships, housing or tenancy information, work and education details. Individuals may also provide Council with personal information about other people.

4.1 Privacy Protection Notice under Section 10 of the Privacy and Personal Information Protection Act 1998 (PPIPA)

When Council collects personal information from an individual, such as their name, address, telephone number or email address, Council must make the individual aware of:

- the purposes for which the information is being collected
- the intended recipients of the information
- whether the supply of the information is required by law or is voluntary
- any consequences for the individual if the information (or any part of it) is not provided
- ways the individual can access and correct the information

- the name and address of the unit that is collecting the information and the unit that is to hold the information.

To ensure Council complies with the PPIPA a Privacy Statement is included on all forms, letters and documents that collect personal information from individuals. Council's Privacy Statement appears below:

Privacy Statement: The personal information provided on this form (including your name and address) will be handled in accordance with the *Privacy and Personal Information Protection Act 1988* and may be available to the public under various legislation. Refer also to the Privacy Statement on Council's website.

When Council gathers personal information via the telephone or other electronic means, such as a website, this information will also be provided to them.

4.2 Storage, access and accuracy of personal information

Personal information is stored electronically and in physical files. The following applies to information Council holds:

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

Electronic information is stored on secure information systems. Networks will be secure and require individual logins. New systems are assessed for compliance with the PPIP Act and HRIP Act.

4.3 Use and disclosure of personal information

Staff will use the personal information collected to:

- deliver services
- conduct research
- provide advice
- continually improve services.

5 Public registers

The PPIP Act governs how Council should manage personal information contained in public registers. Under the PPIP Act a public register is a register of personal information that is required by law to be made, or is made, publicly available or open to public inspection.

Enquiries about public registers can be made via Council's website.

Part 6 of the PPIP Act prevents Council staff from accessing personal information held on public registers, unless the information is to be used for a purpose relating to the purpose of the register.

Council's public registers include:

- Land register (LG Act s53)
- Register of Approvals (LG Act s113)
- Register of Political Donations Declarations (LG Act 328A)
- Planning Decision Register (LG Act 375A)
- Register of Disclosures of Interests by Councillors & Designated Persons (LG Act s440 and GIPA Act s6)
- Rates Record (LG Act s602)
- Planning Decision Register (EP&A Act s100)
- Register of Political Donations and Gifts (EP&A Act s147)
- Record of building certificates (EP&A Act s149a)
- Contributions Register (EP&A Reg cl34)
- Public record of licences (POEO Act s308)
- Record of impounding (Impounding Act s30-31)

5.1 Suppression of personal information

Any person whose personal information is recorded in a public register has the right to request that their personal details be suppressed. Council will comply with the request if it is satisfied the person's safety or wellbeing would be affected by not suppressing the information.

Applications to suppress personal details from a public register should be made in writing to the General Manager.

Council also has obligations under GIPA Act to make open access information publicly available (including on its website) unless there is an overriding public interest against disclosure of the information. Council must facilitate public access to open access information contained in a record by deleting matter (e.g. personal information) from a copy of the record to be made publicly available if inclusion of the matter would otherwise result in there being an overriding public interest against disclosure of the record and it is practicable to delete the matter.

6 How to access and amend personal and health information

The PPIP Act and the HRIP Act give people the right to access and amend their own information. Members of the public wishing to access or amend personal and health information Council holds about them should contact Council's Customer Service Centre.

Council does not charge a fee to access and amend personal and health information.

6.1 Limits on accessing or amending information

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

- under section 26 of the PPIP Act, a person can give Council consent to disclose their personal information to someone that would not normally have access to it

- under sections 7 and 8 of the HRIP Act, an “authorised person” can act on behalf of someone else
- Council may be authorised to disclose health information, such as in the event of a serious and imminent threat to the life, health and safety of the individual, to find a missing person or for compassionate reasons.

7 Data Breaches

7.1 What is a data breach?

A data breach occurs when there is a failure that has caused or has the potential to cause unauthorised access to Council’s physical or electronic information or data, such as:

- Accidental loss or theft of information or equipment on which such information is stored;
- Unauthorised use, access to or modification of data or information systems to gain unauthorised access or make unauthorised changes to data or information;
- Accidental or unauthorised disclosure of personal information (e.g., email containing personal information sent to the incorrect recipient);
- Personal information published or posted on Council’s website without consent;
- Access to data by an authorised user for unauthorised reasons (e.g., an employee looking up information in a system for personal reasons in breach of the Code of Conduct);
- Accidental disclosure of user login details through phishing;
- Malware infection; or
- Disruption to or denial of IT services

7.2 Managing a data breach

Council’s separate Data Breach Policy sets out Council’s procedures for managing a data breach, including the assessment and notification requirements for the Mandatory Notification of Data Breach Scheme under PIPPA.

8 Review rights and complaints

8.1 Internal review

Individuals have the right to seek an internal review under Part 5 of the PPIP Act if they think that Council has breached the PPIP Act or HRIP Act relating to their own personal and health information.

Individuals cannot seek an internal review for a breach of someone else’s privacy, unless they are authorised representatives of the other person.

8.2 Internal review process

Applications for an internal review must be made within six months from the date when the applicant first became aware of the breach.

Applications must be made in writing and addressed to Council’s Public Officer.

The Public Officer will conduct the internal review unless the internal review is about the conduct of the Public Officer.

In this case the General Manager will appoint another person to conduct the internal review.

Council will:

- acknowledge receipt of an internal review within 5 working days
- complete an internal review within 60 calendar days

Council's Public Officer will inform the applicant of the progress of the internal review and will respond in writing within 14 calendar days of determining the internal review.

If an applicant is not notified of the outcome of an internal review within 60 days, the applicant may seek an external review.

8.3 The Privacy Commissioner's role in internal reviews

Council will notify the Privacy Commissioner of internal reviews. The Privacy Commissioner is entitled to make submissions to Council regarding internal reviews.

8.4 External review by the Administrative Decisions Tribunal

An applicant may seek an external review by the Administrative Decisions Tribunal (ADT).

To seek an external review, an application must be made to the ADT within 28 days from the date of the internal review determination.

8.5 Other ways to resolve privacy concerns

Council encourages the informal resolution of privacy issues before undertaking the review process. Issues can be raised informally with Council by telephone - request to speak to the Public Officer.

9 Promoting privacy

Council reinforces compliance with the PPIP Act and HRIP Act and will:

- endorse this Plan and making it publicly available
- provide a copy of this Plan to relevant oversight bodies such as the Audit Risk & Improvement Committee
- report on internal reviews to the Office of the Information and Privacy Commission
- identify privacy issues when implementing new systems, services and processes.

9.1 Staff awareness

Council will ensure that its staff are aware of and understand this Plan and how it applies to the work they do. Council will promote awareness of privacy obligations among staff by:

- publishing Council's Privacy Management Plan and privacy-related policies on Council's intranet and website
- publishing information about privacy on Council's intranet
- communicating regularly with staff about privacy
- ensuring Council policies comply with privacy legislation
- including information about the Privacy Management Plan in induction packs
- offering training and advice to staff.

9.2 Public awareness

This Plan provides information to members of the public about how Council manages personal and health information.

The Plan is publicly available as open access information under the Government Information and Public Access Act (GIPA Act). Council will promote public awareness of Council's Privacy Management Plan by:

- publishing the Plan on Council's website
- providing hard copies of the Plan free of charge upon request
- translating the Plan into other languages and alternative formats upon request
- informing people about the Plan when responding to enquiries about personal and health information.

10 Privacy and other legislation

This section contains a general summary of how Council must manage personal and health information under the Privacy and Personal Information Protection Act 1998 (PPIP Act), the Health Records and Information Privacy Act 2002 (HRIP Act) and other relevant laws.

10.1 The Privacy and Personal Information Protection Act

The Privacy and Personal Information Protection Act sets out how Council must manage personal information.

About personal information

Personal information is defined in section 4 of the PPIP Act as any information or opinions about a person where that person's identity is apparent or can be reasonably ascertained.

What is not personal information

There are some kinds of information that are not personal information, these include:

- information about someone who has been dead for more than 30 years
- information about someone that is contained in a publicly available publication
- information or an opinion about a person's suitability for employment as a public sector official.

Information protection principles (IPPs) Part 2, Division 1 of the PPIP Act contains 12 IPPs Council must comply with.

These are:

Collection

Council will:

- collect personal information only for a lawful purpose that is directly related to Council's functions and activities
- collect personal information directly from the person concerned
- inform people why their personal information is being collected, what it will be used for, and to whom it will be disclosed. Also, how the personal information can be accessed and amended and any possible consequences of not providing personal information
- ensure that personal information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs.

Storage

- Council will store personal information securely, keeps it no longer than necessary and destroys it appropriately. Personal information will be protected from unauthorised access, use or disclosure.

Access and accuracy

Council will:

- be transparent about the personal information it holds, why it is used and about the right to access and amend it
- allow people to access their own personal information without unreasonable delay or expense
- allow people to update, correct or amend their personal information where it is necessary
- endeavour to ensure that personal information is relevant and accurate before using it.

Use

- Council will only use personal information for the purpose it was collected for unless it has consent for its use for another purpose.

Disclosure

Council:

- will not disclose personal information without consent, unless disclosure is permitted under the PPIPA or other legislation;
- will not disclose sensitive personal information without consent, eg ethnicity or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership.

Offences

Offences can be found in s62-68 of the PPIP Act. It is an offence for Council to:

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

10.2 The Health Records and Information Privacy Act

The HRIP Act sets out how Council must manage health information. About health information Health information is a more specific type of personal information and is defined in section 6 of the HRIP Act.

Health information can include information about a person's physical or mental health such as a psychological report, blood test or an x-ray, and information about a person's medical appointments.

It can also include some personal information that is collected to provide a health service, such as a name and telephone number. Health privacy principles (HPPs) Schedule 1 of the HRIP Act contains 15 HPPs that Council must comply with.

These are:

Collection

Council will:

- collect health information only for a lawful purpose that is directly related to Council's functions and activities
- ensure that health information is relevant, accurate, is not excessive and does not unreasonably intrude into people's personal affairs
- collect health information directly from the person concerned
- inform people why their health information is being collected, what it will be used for, and to whom it will be disclosed. Also how it can be accessed and amended and any possible consequences not providing health information.

Storage

Council will:

- store health information securely, keep it no longer than necessary and destroy it appropriately. Health information will be protected from unauthorised access, use or disclosure.

Access and accuracy

Council will:

- be transparent about the health information it holds, why it is used and about the right to access and amend it
- allow people to access their own health information without unreasonable delay or expense
- allow people to update, correct or amend their health information where necessary
- ensure that health information is relevant and accurate before using it.

Use

- Council will only use health information for the purpose it was collected for unless it has consent for its use for another purpose.

Disclosure

- Council will not disclose personal information without consent, unless disclosure is permitted under the HRIPA or other legislation; Identifiers and anonymity
- may use unique identifiers for health information
- allow people to remain anonymous where it is lawful and practicable.

Transfers and linkage

Council:

- does not usually transfer health information outside of NSW
- does not currently use a health records linkage system.

Offences

Offences can be found in s68-70 of the HRIP Act. It is an offence for Council to:

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

10.3 Other relevant laws

This section contains information about other relevant legislation.

10.3.1 Government Information (Public Access) Act 2009 (GIPA Act) and Government Information (Public Access) Regulation 2009

Under this Act and Regulation people can apply for access to information held by Council. This information may include personal or health information.

10.3.2 Independent Commission Against Corruption Act 1988

Under this Act Council must provide information to the Independent Commission Against Corruption about allegations of fraud and corruption that may contain personal information.

10.3.3 Public Interest Disclosures Act 1994 (PID Act)

Under the PID Act people working for a NSW public sector agency can make a public interest disclosure to Council. The PID Act requires that information that might identify or tend to identify a person who has made a public interest disclosure should be protected.

10.3.4 State Records Act 1998 and State Records Regulation 2010

This Act and Regulation authorise the State Records Authority to establish policies, standards and codes to ensure that NSW public sector agencies manage their records appropriately.

10.3.5 Referrals to external agencies under other relevant legislation

Under the Ombudsman Act, the Independent Commission Against Corruption Act, and the Crimes Act Council can provide information to the:

- NSW Ombudsman

- Independent Commission Against Corruption
- NSW Police.

11 Exemptions, directions and codes of practice

Exemptions to the Information Protection Principles (IPPs) Part 2, Division 3 of the PPIP Act contains exemptions that may permit Council not to comply with IPPs in certain situations.

These include the following:

- Council is not required to comply with IPPs 2-3, 6-8, or 10-12 if lawfully authorised or required not to do so.
- Council is not required to comply with IPP 2 if the information concerned is collected in relation to court or tribunal proceedings. Exemptions to the Health Privacy Principles (HPPs) Exemptions are located mainly in Schedule 1 to the HRIP Act, and may permit Council not to comply with HPPs in certain situations. For example, Council is not required to comply with HPPs 4-8, and 10 if lawfully authorised or required not to do so.

11.1 Privacy Code of Practice for Local Government

Under the Privacy Code of Practice for Local Government where it is reasonably necessary, Council may indirectly collect and use personal information to confer an award, prize, or similar form of personal recognition on the person about whom the information relates.

The Privacy Code of Practice for Local Government also permits Council to use personal information for a purpose other than the purpose for which it was collected where the use is in pursuance of Council's lawful and proper functions and the personal information is reasonably necessary for the exercise of those functions. In general, Council does not use personal information for a purpose other than which it was collected without the consent of the individual.

11.2 Public interest directions

Under section 41 of the PPIP Act, the Privacy Commissioner has made Public Interest Directions to waive or modify the requirement for a public sector agency to comply with an IPP.

The following public interest directions may permit Council:

- to be exempt from IPPs 2-3, 6-8, 10-12 in relation to the conduct of investigations
- to be exempt from the IPPs when transferring enquiries to another NSW public sector agency
- to disclose personal information collected for research purposes.

12 Contact details

Further information about Council's Privacy Management Plan, or the personal and health information Council holds can be obtained by:

Bayside Council:

Telephone: 1300 581 299
Email: governance@bayside.nsw.gov.au
Address 444-446 Princes Highway Rockdale
Postal address Bayside Council PO Box 21 Rockdale NSW 2216

The Office of the Information and Privacy Commissioner:
Telephone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au

The NSW Administrative Decisions Tribunal:
Telephone: 02 9377 5711
Address: Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney NSW 2000

13 Policy implementation

13.1 Policy responsibilities

General Manager

The General Manager is responsible for this Privacy Management Plan overall and the provision of appropriate resources and procedures to enable its implementation.

Privacy Contact Officer

The Privacy Contact Officer is Council's Public Officer.

The Privacy Contact Officer is responsible for the promulgation, implementation and maintenance of this Plan and coordination of privacy management issues within Council generally. In particular the Officer:

- receives advice and updated information from the Office of the Privacy Commissioner NSW about the implementation of the PPIP Act and the HRIP Act
- acts as a main liaison with Office of the Privacy Commissioner NSW for all matters related to privacy and personal information
- acts as a focal point within Council for all matters related to privacy and personal information, including related induction of and awareness for Council officials
- acts as a first point of contact for members of the public for all matters related to privacy and personal information.

Council officials

Councillors, employees, committee members and other officials are to be aware of the requirements of this Plan. Council officials are not to divulge personal information, and Council information generally, unless permitted by this Plan or Council's Access to Information Policy and associated guidelines. Certain requests, as detailed in this Plan, are to be referred to a particular officer to be dealt with.

13.2 Procedures

The General Manager may approve Procedures, which outline administrative arrangements, to support the Privacy Management Plan. Such procedures would include:

- Forms
- Statements
- Detailed responsibilities.

14 Document control

14.1 Review

This Plan will be reviewed every 12 months. It will be reviewed earlier if any legislative or administrative changes affect the management of personal and health information by the Council. Non-significant and/or editorial amendments can be approved by the General Manager.

14.2 Related documents

This document should be read in relation to:

- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- Privacy Code of Practice for Local Government
- Local Government Act 1993
- Government Information (Public Access) Act 2009
- Model Privacy Management Plan for Local Government Jan 2013
- Council's Code of Conduct
- Council's Records Management Policy
- Council's Access to Information Policy

14.3 Version history

Version	Release Date	Author	Reason for Change
1.0	09/11/2016	Liz Rog	New document
2.0	22/11/2023 (Council)	Coordinator Governance	Review and update in light of new Data Breach Policy.