

SUTHERLANDSHIRE

PRIVACY MANAGEMENT PLAN

April 2020

PREPARED BY:

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1. INTRODUCTION

Sutherland Shire Council (SSC) collects, stores, and uses a broad range of information for facilitating its business. A significant part of that information is personal and health information. It is important that the community and council officials understand how we manage personal information.

It is a requirement of Council to prepare and implement a Privacy Management Plan (*Section 33 of the Privacy and Personal Information Protection Act 1998*). This Plan explains how council will manage personal information in line with the Privacy and Personal Information Act 1998 (NSW) (PIPP Act) and health information in accordance with the Health Records and Information Privacy Act 2002 (NSW) (HRIP Act).

2. MANAGING PERSONAL AND HEALTH INFORMATION

What is Personal Information?

Personal information is any information or opinions about a person where the person's identify is apparent or can be reasonably ascertained. (*reference Section 4 of the PPIP Act*)

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.

What is Health Information?

Health information is a more specific type of personal information and can include information about a person's physical or mental health such as 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. (*reference section 6 of the HRIP Act*)

How Personal and Health Information is collected

Council collects personal information to enable it to conduct its functions. We assess 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
- Staff
- Medical practitioners
- Council staff
- Businesses
- Non-government organisations
- Councillors
- Contractors
- Council volunteers

Contractors acting on the Council's behalf may also collect personal information. Where appropriate, clauses will be included in contract documentation requiring contractors to comply with relevant privacy obligations.

Council collects personal information in a number of different ways. These may include:

- Registers and rolls
- Forms
- Website
- Financial Transactions
- Contracts
- CCTV footage
- Submissions
- Correspondence

Further information relating to **Public Registers** can be found in section 4.

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

- levying and collecting rates;
- proving services, for example, child care, libraries and waste collection;
- assessing development and major project applications;
- recording, investigating, and managing complaints and allegations;
- site inspections and audits;
- incident management;
- enforcing regulation and legislation; or
- providing payroll and human resource services to council staff

3. PRIVACY PRINCIPLES

[Information Protection Principles \(IPPs\)](#) and [Health Privacy Principles \(HPPs\)](#) are legal obligations, which Council must abide by. Please refer to the [Information and Privacy Commission NSW](#) website for further information.

Sutherland Shire Council may depart from these principles when using the [Privacy Code of Practice for Local Government](#), therefore this plan should be read in conjunction with that code.

The following Principles demonstrate how Council will manage your personal and health information.

COLLECTION	PRINCIPLE
<p>Council will only collect personal and health information for a lawful purpose that directly relates to the proper functions and activities of Council.</p> <p>The Local Government Act 1993 (NSW) (LGA) governs Council's major obligations and functions. Chapter 5 provides details relating to the functions of Council governed under the LGA and other legislation.</p>	<p>LAWFUL</p> <p><i>(reference IPP 1 and HPP 1)</i></p>
<p>Council will collect personal information directly from the person to whom the information relates unless the person has authorised collection of the information from someone else or the person is under the age of 16 years.</p> <p>Council may collect personal information when a person visits Council website. The Privacy Statement on Council's website provides further information on the type of information that is collected.</p> <p>Council may also collect personal information via third party websites that provide services on behalf of Council. Council enters into agreements with these service providers and ensures privacy obligations are met.</p> <p>Health information will be collected directly from the individual that the information concerns, unless it is unreasonable or impracticable to do so. For further information please see Handbook to Health Privacy</p>	<p>DIRECT</p> <p><i>(reference IPP 2 and HPP 3)</i></p>
<p>Whenever personal and health information is collected, Council will tell you why your information is being collected, how it will be used, who will have access and how it will be stored. We will also tell you how you can access and amend your personal information.</p>	<p>OPEN</p> <p><i>(reference IPP 3 and HPP 4)</i></p>

<p>We will include this information on our forms and website via a Privacy Statement.</p>	
<p>Council will only collect personal and health information that is directly relevant to its functions and activities. We will ensure that this information is accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of an individual. We will do this on a case-by-case basis by reviewing what information is necessary to undertake the relevant function including whether this information is required by law.</p>	<p>RELEVANT</p> <p><i>(reference IPP 4 and HPP 2)</i></p>
<p>STORAGE</p>	
<p>Council will ensure personal and health information is secure and we will only keep it for as long as appropriate. We will secure your information by:</p> <ul style="list-style-type: none"> • monitoring network traffic using industry standard practice, processes, procedures and tools; • undertake penetration testing annually; • complying with State Records Act in relation to safe custody, preservation, accuracy, maintenance and disposal of state records; and • ensuring staff compliance with the Computer Resource Usage Policy. <p>In the event of a data breach, Council will:</p> <ul style="list-style-type: none"> • follow the guidance issued by the Information & Privacy Commission NSW (IPC) relating to the Voluntary Reporting Scheme; and • if the breach relates to Tax File Number information, following the protocols of the Office of the Australian Information Commissioner (OAIC) relating to Notifiable Data Breaches. 	<p>SECURE</p> <p><i>(reference IPP 5 and HPP 5)</i></p>
<p>ACCESS AND ACCURACY</p>	
<p>Council will take reasonable steps to enable a person to determine whether we hold personal and health information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's entitlement to access.</p> <p>In this regard, Council will consider any conditions or limitations contained in the Government Information (Public Access) Act 2009 (NSW)</p>	<p>TRANSPARENT</p> <p><i>(reference IPP 6 and HPP 6)</i></p>
<p>Council will ensure that individuals are provided access to personal and health information held by Council without unreasonable delay or expense. Requests for access should be made in writing and addressed to the</p>	<p>ACCESSIBLE</p>

<p>Chief Executive Officer. The Access to Personal Information form can be found on the Privacy Management Plan webpage.</p> <p>The right to access personal information does not extend to information held about other people. Applications will need to be made under the Government Information (Public Access) Act 2009 (NSW) if:</p> <ul style="list-style-type: none"> • an individual's personal information is in documents which also have information about other people • access is sought for information about someone else <p>If an Employee seeks access to personal information held about them, they should make this request to the Manager People & Culture.</p>	<p><i>(reference IPP 5 and HPP 5)</i></p>
<p>Council will allow the amendment of personal and health information to ensure that all information is current, accurate, complete and relevant for the purpose for which it was collected.</p> <p>Any request for change will require appropriate supporting documentation. The type of documentation required will depend on the type of change being made which may include a statutory declaration.</p> <p>This supporting documentation must accompany the appropriate application form, which can be found on the Privacy Management Plan webpage.</p>	<p>CORRECT</p> <p><i>(reference IPP 8 and HPP 8)</i></p>
<p>Council will ensure that health information is relevant and accurate before using it.</p> <p>We will do this by ensuring that prior to the lawful use of health information, that this is the most up-to-date information held. We will also ensure that obligations under HPP 2 (Relevant) and HPP 8 (Correct) have been met.</p>	<p>ACCURATE</p> <p><i>(reference HPP 9)</i></p>
<p>USE</p>	
<p>Council will take reasonable steps to ensure that personal and health information is relevant, accurate, up-to-date and complete before using it.</p> <p>These steps will depend on the age of information, its likelihood for change and the particular function for which the information was collected.</p>	<p>ACCURATE</p> <p><i>(reference IPP 9)</i></p>
<p>Council will only use personal and health information for purposes for which it was collected unless:</p>	<p>LIMITED</p>

<ul style="list-style-type: none"> • Consent has been given by the individual whom the information relates to; • The other purpose is directly related to the purpose for which it was collected; • Use of the information is necessary to prevent or lessen a serious threat and imminent threat to the life or health of the individual or another person; and • The other purpose is in pursuance of the lawful and proper functions of Council as mandated by the Privacy Code of Practice for Local Government. <p>Council will only use health information for the purposes which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent.</p>	<p><i>(reference IPP 10 and HPP 10)</i></p>
<p>DISCLOSURE</p>	
<p>Council will not disclose personal information to any other person (other than the individual to whom the information relates) or other body (including a public sector agency), unless:</p> <ul style="list-style-type: none"> • an individual provides consent; • an individual would be reasonable likely to have been aware that that kind of information is disclosed to another 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; and • Council is authorised to disclose personal information for other purposes as mandated by the Privacy Code of Practice for Local Government. 	<p style="text-align: center;">RESTRICTED</p> <p><i>(reference IPP 11)</i></p>
<p>Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophic 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.</p>	<p style="text-align: center;">SAFEGUARDED</p> <p><i>(reference IPP 12)</i></p>
<p>Council will only disclose health information under the following circumstances:</p> <ul style="list-style-type: none"> • with the consent of the individual to whom the information relates; • for the purpose for which the health information was collected or a directly related purpose that the individual to whom in relates would expect; and/or • if an exemption applies 	<p style="text-align: center;">LIMITED</p> <p><i>(reference HPP 11)</i></p>

IDENTIFIERS AND ANONYMITY	
Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively	NOT IDENTIFIED <i>(reference HPP 12)</i>
Council will provide health services anonymously where it is lawful and practical	ANONYMOUS <i>(reference HPP 13)</i>
TRANSFERRALS AND LINKAGE	
Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principled 14 are met.	CONTROLLED <i>(reference HPP 14)</i>
Council does not currently use a health records linkage system. Council will obtain consent from individuals if this is introduced in the future.	AUTHORISED <i>(reference HPP 15)</i>

4. 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.

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
- Register of disclosures of interests
- Record of building certificates
- Record of impounding
- Rates Record
- Records of Approvals
- Register of development consents
- Public register of licenses

Note: this list is purely indicative. Council may, by virtue of its own practice, hold other public registers, to which the PPIP Act applies.

Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is attached in Appendix 1.

Other registers

Council may have other registers that are not public registers. The Information Protection Principles, this Plan, any applicable Codes and the PPIP Act apply to those registers or databases.

5. 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 should contact the Customer Service Centre to obtain a copy of the relevant form or alternatively visit Council's [website](#) to access these forms.

6. HOW TO SUPPRESS PERSONAL INFORMATION IN A PUBLIC REGISTER

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council 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.

Any information that is removed from, or not placed on, that aspect of the public register may still be used for 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. A statutory declaration should accompany the application and council may require supporting documentation where appropriate.

7. COMPLAINTS AND REVIEW RIGHT

Individuals who believe their privacy has been violated or who are aggrieved by the conduct of an agency, can make a complaint directly to the NSW Privacy Commissioner or lodge an application for an internal review to the agency involved.

7.1 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.

7.2 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.

The application is to be in writing and addressed to Council's Privacy Contact Officer. Once your application is received, Council will:

- appoint a suitably qualified reviewing officer. This officer will be different from the officer who was/is dealing with the matter relating to the complaint;
- acknowledge receipt of your application;
- send a progress letter 4 weeks after the acknowledgement letter;
- complete review within 60 days; and
- advise complainant of outcome of review within 14 days of determination.

7.3 PRIVACY COMMISSIONERS ROLE IN INTERNAL REVIEWS

Council will notify the NSW Privacy Commissioner when a request for an internal review is received. The Privacy Commissioner is entitled to make submissions to the Council regarding internal reviews.

Council will provide the Privacy Commissioner with a draft copy of the preliminary determination for their comment and response before sending the determination to the complainant.

A summary of the findings of the review will be sent to the Privacy Commissioner within 14 days of its completion.

7.4 EXTERNAL REVIEW BY THE NSW CIVIL AND ADMINISTRATIVE DECISIONS TRIBUNAL

An applicant may seek an external review by the NSW Civil and Administrative Tribunal (NCAT).

To seek an external review, an application must be made to the ADT within **28 days** from the date of the internal review determination. NCAT will assess whether or not the agency complied with its privacy obligations.

8. PROMOTING PRIVACY

8.1 STAFF AWARENESS

Council will ensure staff are aware of and understand this Plan and how it applies to the work they do by:

- publishing the Privacy Management Plan and related documents on Council's website and internal intranet;
- including the Plan in staff inductions; and
- providing customised learning and education to staff

8.2 PUBLIC AWARENESS

Council will promote public awareness of the Privacy Management Plan by:

- publishing the [Plan](#) on Council's website;
- providing hard copies of the Plan free of charge on request; and
- informing people about the Plan when responding to enquiries about personal and health information.

9. POLICIES AND OTHER LEGISLATION

Council is required to have regard for a range of policies and legislation that affect the processing and management of personal information which are related to this plan.

The Council may be required to provide information to external agencies under the following legislation:

- Ombudsman Act 1974 (NSW)
- Independent Commission Against Corruption Act 1988 (NSW)
- Crimes Act 1900 (NSW)

Further information relating to these can be found in Appendix 2.

10. EXEMPTIONS AND CODES OF PRACTICE

10.1. EXEMPTIONS

There are a number of exemptions from compliance with the PPIPA and HRIPA that apply directly to Council. These relate to situations where:

- Information is collected in connect with proceedings before any Court or Tribunal;
- Information is collected for law enforcement purposes;
- Information is used for a purpose reasonably necessary for law enforcement purposes or to protect the public revenue;
- Council is authorised or required by a subpoena of search warrant or other statutory instrument;
- Compliance would prejudice the interests of the individual to whom the information relates;
- Council is permitted by a law or Act not to comply
The individual to whom the information relates has given express consent to Council not to comply

10.2. PRIVACY CODES OF PRACTICE

Privacy Codes of Practice are legal instruments that allow a public sector agency to make changes to how information is managed under information protection principles.

The following Codes of Practice will be used by Council when managing personal and health information:

- Privacy Code of Practice for Local Government (2000); and
- Health Records and Information Privacy Code of Practice (2005).

The Privacy Code of Practice for Local Government has been developed to enable Local Government to fulfil its statutory duties and functions under the Local Government Act 1993 in a manner that seeks to comply with the PPIPA.

11. ACCOUNTABILITIES

All staff, Councillors and contractors have a duty to act in accordance with this plan.

11.1 OFFENCES

It is a criminal offence, punishable by up to two years imprisonment, for the intentional use or disclosure of personal information about another person, which an employee, Councillor or contractor had access to in the exercise of his or her official functions, except as necessary for the lawful exercise of his or her official functions.

Part 8 of the PPIPA and part 8 of the HRIPA provide further details about offences in respect of personal and health information.

12. REVIEW OF PLAN

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.

13. CONTACT DETAILS

You may obtain further information by completing [this form](#) or:

Telephone: 02 9710 0333

Fax: 02 9710 265

Email: ssc@ssc.nsw.gov.au

Street address

4-20 Eton Street,
Sutherland NSW 2232

Postal address

Locked Bag 17
Sutherland NSW 1499

OR

NSW Privacy Commissioner
GPO Box 7011
SYDNEY NSW 2001
Phone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au

OR

NSW Civil & Administrative Tribunal
PO Box K1026
HAYMARKET NSW 1240
Phone: 1300 006 228

14. APPENDICES

APPENDIX 1

Purposes of public registers under the Local Government Act

- **Section 53 - Land Register** – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.
- **Section 113 - Records of Approvals** – The primary purpose is to identify all approvals granted under the LGA.
- **Section 450A - Register of Pecuniary Interests** – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which the council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.
- **Section 602 - Rates Record** - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is “a purpose relating to the purpose of the register”.

Purposes of public registers under the Environmental Planning and Assessment Act

- **Section 100 – Register of consents and approvals** – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.
- **Section 149G – Record of building certificates** – The primary purpose is to identify all building certificates.

Purposes of public registers under the Protection of the Environment (Operations) Act

- **Section 308 – Public register of licences held** – The primary purpose is to identify all licences granted under the Act.

Purposes of the public register under the Impounding Act

- **Section 30 & 31 – Record of impounding** – The primary purpose is to identify any impounding action by Council.

Secondary purpose of all Public Registers

Council aims to be open and accountable and it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore, disclosure of specific records from public registers would normally be considered to be allowable under section 57 of the PPIPA.

Requests for access, copying or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council will be guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the minimum amount of personal information that is required to be disclosed with regard to any request.

APPENDIX 2

Policies and other legislation

Policies and legislation affecting the processing of information and related to this plan include:

Policies

- Access to Information Policy
- Workplace Surveillance Policy (Overt Surveillance)
- Computer Resource Usage Policy

Legislation

- Government Information (Public Access) Act 2009 (NSW)
- Government Information (Public Access) Regulation 2009 (NSW)
- Local Government Act 1993 (NSW)
- Companion Animals Act 1998 (NSW)
- Children (Education and Care Services National Law Application) Act 2010 (NSW)
- Education and Care Services National Regulations (NSW)
- Environmental Planning & Assessment Act 1979 (NSW)
- Public Interest Disclosures Act 1994 (NSW)
- State Records Act 1998 (NSW)
- State Records Regulation 2010 (NSW)
- Privacy Act 1998 (Cth)

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