



**DATE ADOPTED: 28 June 2016**  
**VERSION: 4.0**

<b>POLICY OBJECTIVES.....</b>	<b>3</b>
<b>POLICY SCOPE.....</b>	<b>3</b>
<b>POLICY STATEMENT .....</b>	<b>3</b>
1. Personal and health information .....	3
1.1. What is personal information? .....	3
1.2. What is not personal information?.....	3
1.3. What is health information? .....	4
1.4. Examples of personal and health information .....	4
2. Information Protection Principles (IPP) & Health Privacy Principles (HPP).....	5
2.1 IPP 1 & HPP 1 – Lawful collection .....	5
2.2 IPP 2 & HPP3 – Direct collection .....	5
2.3 IPP 3 & HPP 4 – Requirements when collecting information .....	5
2.4 IPP 4 & HPP 2 – Other requirements for collection .....	5
2.5 IPP 5 & HPP 5 – Retention & security .....	6
2.6 IPP 6 & HPP 6 – Information held by agencies .....	6
2.7 IPP 7 & HPP 7 – Access to own information.....	6
2.8 IPP 8 & HPP 8 – Alteration of information .....	6
2.9 IPP 9 & HPP 9 – Accuracy of information.....	7
2.10 IPP 10 & HPP 10 – Limits on use of information .....	7
2.11 IPP 11 and HPP 11 – Limits on disclosure of information .....	7
2.12 IPP 12 – Special restrictions on disclosure of personal information.....	8
2.13 Further Health Information Privacy Principles.....	8
2.14 HPP 12 – Identifiers.....	8
2.15 HPP 13 - Anonymity .....	8
2.16 HPP 14 – Transborder data flow.....	8
2.17 HPP 15 – Linkage of health records.....	8
3. Exemptions.....	8

4. Public registers .....	9
4.1 Disclosure of personal information contained in public registers.....	9
4.2 Application to access records on a public register.....	9
4.3 Suppression of personal information in a public register .....	9
5. Complaints and internal review.....	9
5.1 Individuals right to internal review .....	9
5.2 Internal review process.....	9
5.3 External review.....	10
5.4 Role of the Privacy Commissioner .....	10
6. Offences.....	10
7. Training and education .....	11
8. Further information .....	11
<b>POLICY DEFINITIONS .....</b>	<b>12</b>
<b>POLICY ADMINISTRATION .....</b>	<b>13</b>
<b>POLICY HISTORY.....</b>	<b>13</b>



## POLICY OBJECTIVES

The objective of this plan is to:

- Establish practices and procedures to protect the privacy rights of individuals with respect to all forms of personal information held by Maitland City Council.
- Specify how Maitland City Council handles the personal and health information it collects, stores, accesses, uses and discloses in the course of its business activities.
- Ensure Maitland City Council complies with the principles and requirements of both the Privacy & Personal Information Protection Act 1998 (PPIPA) and Health Records and Information Privacy Act 2002 (HRIPA).

## POLICY SCOPE

This plan applies to all personal and health information collected, stored, accessed, disclosed, updated, used, retained and disposed of by Maitland City Council.

This Privacy Management Plan applies to the General Manager and all Councillors, employees, volunteers, consultants, contractors and committees of Maitland City Council.

## POLICY STATEMENT

Maitland City Council is committed to the Principles of both the Privacy and Personal Information Protection Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW).

Section 33 of the Privacy and Personal Information Protection Act 1998 requires all NSW Government agencies to prepare a privacy management plan setting out how the agency complies with the requirements of the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002.

This plan addresses particular matters that affect personal information collected and held by Maitland City Council and provides Council staff with guidance on the requirements of both Acts and sets out practices and procedures which have been adopted to minimise the risk of inappropriately releasing personal information and non-compliance whilst still enabling Council to conduct its functions.

### 1. Personal and health information

#### 1.1. What is personal information?

The Privacy and Personal Information Protection Act 1998 defines personal information as:

*'Information or 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 could reasonably be ascertained from the information or opinion.'*

#### 1.2. What is not personal information?

Personal information does not include:

- Information contained in a publicly available publication. This includes advertisements, books and magazines, council business papers and electoral rolls.
- Information about an individual who has been deceased for more than 30 years.
- Information about an individual that is contained in a public interest disclosure or collected in the course of an investigation arising out of a public interest disclosure within the meaning of the *Public Interest Disclosures Act 1994 (NSW)*.



### 1.3. What is health information?

Health information includes personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual. Health information also includes personal information that is information or an opinion about:

- A health service provided, or to be provided, to an individual
- An individual's express wishes about the future provision of health services to him or her
- Other personal information collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances
- Genetic information that is or could be predictive of the health of an individual or their relatives or descendants

### 1.4. Examples of personal and health information

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

- Names and home addresses of individuals
- Property ownership details and information regarding concessions
- Personal information relevant to the processing of development applications
- Information concerning contact with Council regarding provision of services including the completion of application forms and lodging of customer service requests.
- Bank account details of debtors and creditors to Council
- Children and young people attending Council events (such as vaccination programs)

Council holds personal information concerning Councillors such as:

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

Council holds personal and health information concerning its employees such as:

- Information acquired in the course of recruitment and selection
- Leave and payroll data
- Personal contact information
- Performance management plans
- Disciplinary matters
- Pecuniary interest returns
- Wage and salary entitlements and payments including bank account details
- Workers compensation claims, medical certificates and injury documentation

Council holds personal and health information concerning its volunteers such as:

- Personal contact information
- Training and qualifications e.g. Responsible Service of Alcohol for events
- Working with children checks
- Type of volunteer
- Emergency contact details
- Volunteer application forms



## **2. Information Protection Principles (IPP) & Health Privacy Principles (HPP)**

### **2.1 IPP 1 & HPP 1 – Lawful collection**

Council will not collect personal or health information by any unlawful means. Council will only collect personal or health information reasonably necessary for a lawful purpose directly related to a function or activity of the Council. The Local Government Act 1993 (NSW) and other relevant Acts govern the functions and activities carried out by Council.

Council will collect and deliver personal information to and from government departments involved in the normal functions of Council's operations.

Council will collect information:

- Verbally (e.g. face to face in meetings, over the counter or on the phone)
- Via forms completed by individuals
- By correspondence both electronically or in physical form
- From Government and non-government agencies

### **2.2 IPP 2 & HPP3 – Direct collection**

When collecting information Council will collect information only from the individual to whom the information relates, unless the individual has authorised collection from someone else or the information has been provided by a parent or guardian of a person under the age of 16 years or is incapacitated by disability or age.

### **2.3 IPP 3 & HPP 4 – Requirements when collecting information**

When collecting information from an individual Council will take reasonable steps to ensure the individual is notified of:

- The fact that information is being collected
- The purpose for which the information is collected
- The intended recipients of the information
- Whether the supply of information is required by law or is voluntary, and the consequences for the individual if the information (or any part of it) is not provided
- The existence of any right of access to and correction of the information
- Council's name and address where the information will be stored

A privacy protection notice will be included on all forms where Council is collecting personal or health information.

### **2.4 IPP 4 & HPP 2 – Other requirements for collection**

Council will take reasonable steps to ensure that:

- Information collected is relevant to a purpose, is not excessive, and is accurate, up to date and complete
- The collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates

## 2.5 IPP 5 & HPP 5 – Retention & security

Council will ensure:

- That information is used for a lawful purpose and is kept for no longer than required
- That the information will be disposed of securely and in accordance with the *State Records Act 1998 (NSW)*
- That the information is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse
- If it is necessary to release the information to a person in connection with the provision of a service of Council, everything reasonable is done to prevent unauthorised use or disclosure of the information and the owner of the information is consulted and informed of any such release in accordance with the abovementioned Acts.

The disposal of Council records is carried out in accordance with the *State Records Act 1998 (NSW)*, the NSW General Disposal Authority for Local Government (GA39) and Council's Records Management Policy.

## 2.6 IPP 6 & HPP 6 – Information held by agencies

Council will take all reasonable steps to enable a person to determine whether Council holds personal or health information about them and upon such request Council will advise the person of the:

- Nature of that information
- The main purpose for which the information is held
- The persons entitlement to access that information

*Note: Broad categories of personal and health information held by the Council are referred to in section 1.4 of this plan.*

## 2.7 IPP 7 & HPP 7 – Access to own information

To determine if Council holds personal or health information about them a person may complete an *'Application for Access to Personal Information'* form.

Upon receipt of the completed application form Council will provide, without excessive delay and expense, details of the personal and/or health information it holds that relate to that individual.

The application will be processed within 20 working days.

## 2.8 IPP 8 & HPP 8 – Alteration of information

Any person who is concerned with the inaccuracy or unacceptable use of their personal or health information kept by Council may request for amendments to be made to that information.

Requests to alter personal or health information must be made using the *'Application for Alteration to Personal Information'* form. This request should be accompanied by appropriate evidence to support the making of an amendment that is sufficient to satisfy the Council that the amendment is factually correct and appropriate.

Council has an obligation to take steps to amend (whether by way of corrections, deletions or additions) personal and health information where appropriate to ensure the personal and health information is accurate and having regard to the purpose for which it was collected.

If Council decides that it will not amend the information it must, if requested by the individual concerned, take such steps as are reasonable to add the additional information enabling it to be read with the existing information and notify the individual concerned.

The individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of the information notified of the amendments made by Council.



Incorrect records will be physically altered; whether computerised or in hard copy format. The General Manager will approve the required changes where applicable.

## **2.9 IPP 9 & HPP 9 – Accuracy of information**

Prior to use or disclosure Council will take reasonable steps to ensure that personal and health information is relevant, accurate, up to date, complete and not misleading. In doing so, Council will have regard to the purpose for which the information was collected and its proposed use.

## **2.10 IPP 10 & HPP 10 – Limits on use of information**

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

- The individual to whom the information relates has consented to the use of the information for that other purpose
- The other purpose for which the information is used is directly related to the purpose for which it was collected
- 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

Some information collected by Council may be used for a variety of purposes. For example, the names and addresses of individual owners of property kept as part of Council's rates records may be used to notify adjoining owners of proposed developments, to identify companion animal ownership, evaluate land dedications and laneway status and to notify residents and ratepayers of Council services and activities. Individuals will not be notified for the use of personal information by Council staff to perform Council functions.

Personnel, health and recruiting records will only be released to the individual to whom the information relates as well as appropriate staff performing Council functions for which the information is held. Personnel information may only be released on the written authority of the individual staff member concerned.

## **2.11 IPP 11 and HPP 11 – Limits on disclosure of information**

Council will not disclose personal information unless:

- The disclosure is directly related to the purpose for which it was collected and there is no reason to believe the individual concerned would object to the disclosure
- The individual has been made aware that this kind of information is usually released
- Disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person

Members of the public can apply to access personal information held by Council that is not their own personal information under the *Government Information (Public Access) (GIPA) Act 2009 (NSW)*. For further information please refer to Council's Right to Information Policy and Guidelines.

Council will only disclose health information in the following circumstances:

- 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 it relates would expect
- If an exemption applies

## 2.12 IPP 12 – Special restrictions on disclosure of personal information

Council will take reasonable care not to disclose personal information that:

- Relates to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person
- Relates to an enquiry from anyone outside the State of NSW or to a Commonwealth agency unless:
  - A relevant privacy law applies to personal information in force in that jurisdiction
  - The disclosure is permitted under a privacy code of practice (a law determined by the Privacy Commissioner and published in the Government Gazette)

## 2.13 Further Health Information Privacy Principles

To the extent that Council collects personal health information in respect of an individual, Council will adhere to the 15 Health Privacy Principles as detailed in Schedule 1 of the Health Records and Information Privacy Act 2002. The following lists the additional health privacy principles which do not directly correlate with an information protection principle.

### 2.14 HPP 12 – Identifiers

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively.

### 2.15 HPP 13 - Anonymity

Where it is lawful and practical Council will give individuals the opportunity to remain anonymous when receiving health services in conjunction with Council.

### 2.16 HPP 14 – Transborder data flow

Council will only transfer health information outside of NSW if the requirements of health protection principle 14 are met.

### 2.17 HPP 15 – Linkage of health records

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates gives their express consent to the link.

## 3. Exemptions

Division 3 of the Privacy and Personal Information Protection Act 1998 NSW contain specific exemptions from compliance with the above mentioned principles in certain circumstances. These exemptions include:

- Section 23 – exemptions relating to law enforcement
- Section 24 – exemptions relating to investigative agencies
- Section 25 – exemptions when non-compliance is lawfully authorised or required
- Section 26 – exemptions where non-compliance would benefit the individual – including when compliance would cause prejudice and consent to non-compliance
- Section 27 – exemptions relating to information exchanges between public sector agencies

Further to the above statutory exemptions, the Privacy Code of Practice for Local Government also makes provisions for non-compliance with the principles in certain circumstances. For example, allowing the indirect collection of information which is reasonably necessary when an award, prize, benefit or similar form of recognition is intended to be conferred upon the person to whom the information relates.





## 4. Public registers

Council is required under various Acts to maintain a number of public registers and to make them available for public inspection. A public register is defined as being 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). Council is required to ensure that any access to personal information in a register is consistent with the purpose for which the register exists.

A detailed list of registers and access provisions can be found in Council's *'Right to Information Guidelines'*, available on Council's website.

### 4.1 Disclosure of personal information contained in public registers

Council will not disclose personal information kept in a public register unless the information is to be used for the purpose of the register or an Act under which the register is kept.

### 4.2 Application to access records on a public register

To access information from a public register a person may complete an *'Application for Access to Personal Information Form'*.

Upon receipt of the completed application form, Council will provide without excessive delay and expense details of the personal information it holds that relate to that individual. The application will be processed within 20 working days.

### 4.3 Suppression of personal information in a public register

In certain circumstances a person may request the suppression of their personal information held in a public register in accordance with Section 58 of the *Privacy and Personal Information Protection Act 1998* (PPIPA).

An application for suppression should be made in writing and addressed to Council's Privacy Contact Officer stating the reasons for the request. The Council may require additional supporting documentation where appropriate.

## 5. Complaints and internal review

### 5.1 Individuals right to internal review

A person may request an internal review if they are aggrieved by the conduct of Council in the following circumstances:

- Perceived contravention of a privacy or health principle that applies to Council
- Perceived contravention of a code of practice that applies to Council
- Disclosure of personal information kept on a public register

### 5.2 Internal review process

A request for internal review must be made in writing and addressed to:

The General Manager  
Maitland City Council  
PO Box 220  
Maitland NSW 2320

On receipt of the application for review a copy will be forwarded to the Privacy Commissioner. The Privacy Commissioner will be informed of progress and the outcome of the review.

The application for internal review must be lodged within six (6) months from the time the applicant first became aware of the conduct which is the subject of the application.



At all times the content of the application will be kept confidential.

The review will be completed as soon as practical within sixty (60) days from the receipt of the Application for Review.

Following completion of the review Council will do one or more of the following:

- Take no further action on the matter
- Make a formal apology to the applicant
- Take appropriate remedial action
- Provide undertakings that the conduct will not occur again
- Implement administrative measures to ensure that the conduct will not occur again

As soon as practicable within fourteen (14) days of the completion of the review Council will notify the applicant in writing of:

- The findings and reasons for those findings
- Any proposed actions to be taken
- The right of the applicant to have those findings and the Council's proposed action reviewed by the NSW Civil & Administrative Tribunal – Administrative and Equal Opportunity Division.

### **5.3 External review**

A person who is not satisfied with the outcome of an internal review may apply to the tribunal for review of the conduct that was the subject of the internal review application. On reviewing the conduct of the agency the tribunal may decide not to take any action or may make an order against the agency.

### **5.4 Role of the Privacy Commissioner**

The Privacy Commissioner's functions include:

- Promoting the adoption and monitoring the compliance with the privacy and health principles
- Preparing guidelines in respect of privacy matters
- Providing advice and conducting research on the protection of personal information and the privacy of individuals
- Receiving and investigating complaints about privacy related matters – complaints can be lodged directly with the Information and Privacy Commission instead of to Council.

## **6. Offences**

Part 8 of the Privacy and Personal Information Protection Act 1998 NSW and the Health Records and Information Privacy Act 2002 NSW contain offences for certain conduct of public sector officials and other persons. For example, there are offences relating to corrupt disclosure and use of personal and health information by public sector officials and inappropriately offering to supply personal or health information that has been disclosed unlawfully.

Council will provide training to all staff to ensure they understand their responsibilities in relation to privacy. Contravention of the requirements of the Acts and this Privacy Management Plan will be investigated and staff may be subject to disciplinary action.



## 7. Training and education

The Privacy Management Plan will be made available to staff and the community through the Council website and Council's corporate information system. The Council's Privacy Contact Officer will be available to provide advice to staff on privacy matters when required.

Appropriate training and/or briefings will be provided on a periodic basis to staff and councillors on privacy matters. All new staff will be briefed on issues surrounding privacy during their induction.

The Privacy Management Plan will be reviewed on a regular basis and will be amended as required.

## 8. Further information

For assistance in understanding the process associated with the *Privacy and Information Protection Act 1998 (NSW)* and the *Health Records and Information Privacy Act 2002 (NSW)*, the following organisations can be contacted:

### Maitland City Council

Privacy Contact Officer

PO Box 220

Maitland NSW 2320

Phone: (02) 4934 9700

Fax: (02) 4933 3209

Email: [info@maitland.nsw.gov.au](mailto:info@maitland.nsw.gov.au)

Website: [www.maitland.nsw.gov.au](http://www.maitland.nsw.gov.au)

### Information and Privacy Commission NSW

GPO Box 7011

Sydney NSW 2001

Phone: 1800 472 679

Fax: (02) 8114 3755

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Website: [www.ipc.nsw.gov.au/](http://www.ipc.nsw.gov.au/)

### NSW Civil & Administrative Tribunal – Administrative and Equal Opportunity Division

Level 10 John Maddison Tower

86-90 Goulburn Street

Sydney NSW 2000

Phone: 1300 006 228 (Select option 3)

Website: <http://www.ncat.nsw.gov.au/>

## **POLICY DEFINITIONS**

HPP: Health Privacy Principle

HRIPA: Health Records and Information Privacy Act 2002 (NSW)

IPP: Information Protection Principle

Investigative Agency: Is defined by Section 3 of the Privacy and Personal Information Protection Act 1998 NSW and includes the Ombudsman's Office an, the Independent Commission Against Corruption.

PPIPA: Privacy and Personal Information Protection Act 1998 (NSW)

Public Register A public register is defined in section 3 of the PPIPA as 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).



## POLICY ADMINISTRATION

BUSINESS GROUP:	Administration and Governance
RESPONSIBLE OFFICER:	Group Manager Administration and Governance
COUNCIL REFERENCE:	Ordinary Council Meeting 28 June 2016 – Item 11.7
POLICY REVIEW DATE:	Three (3) years from date of adoption
FILE NUMBER:	35/62
RELEVANT LEGISLATION	<ul style="list-style-type: none"> <li>• Government Information (Public Access) Act 2009 (NSW)</li> <li>• Government Information (Public Access) Regulation 2009 (NSW)</li> <li>• Health Records &amp; Information Privacy Act 2002 (NSW)</li> <li>• Health Records &amp; Information Privacy Regulation 2005 (NSW)</li> <li>• Local Government Act 1993 (NSW)</li> <li>• Local Government (General) Regulation 2005 (NSW)</li> <li>• Privacy Act 1988 (Cth)</li> <li>• Privacy Code of Practice for Local Government</li> <li>• Privacy &amp; Personal Information Protection Act 1998 (NSW)</li> <li>• Privacy &amp; Personal Information Protection Regulation 2014 (NSW)</li> </ul>
RELATED POLICIES / PROCEDURES / PROTOCOLS	<ul style="list-style-type: none"> <li>• Agency Information Guide</li> <li>• Code of Conduct</li> <li>• Records Management Policy</li> <li>• Right to Information Policy</li> <li>• Right to Information Guidelines</li> </ul>

## POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	June 2000	New policy adopted
2.0	25 February 2006	Updates to include requirements under Health Records & Information Privacy Act 2002.
3.0	26 February 2013	Policy updated to align with Information & Privacy Commissioner Guidelines.
4.0	28 June 2016	Policy updated to align with the Office of Local Government's Model Privacy Management Plan for Local Government