



PRIVACY AND DATA PROTECTION POLICY

COUNCIL POLICY	
Document ID	11581
Effective Date:	21 June 2016
Last Review:	May/June 2016
Current Review:	December 2017
Adopted by Council:	20 February 2018
Next Review Date:	Annually
Responsible Officer/s:	Director, Corporate and Community Manager Governance and Regulatory Services

1 Purpose

The purpose of this policy is to outline how Strathbogrie Shire Council demonstrates its commitment to protecting people's right to privacy and ensuring the responsible handling of personal information.

2 Scope

These procedures support the implementation of requirements under the Privacy and Data Protection Act (PDP Act) for Council to ensure that all requests and decisions related to Privacy and Data Protection are undertaken in a consistent, fair and transparent manner.

3 Application

This policy applies to all Council employees, Councillors and contractors, specifically those persons responsible for receiving, managing and using personal and health information of individuals in carrying out Council business.

4 Definitions

Health information	Information or opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual, but does not include information about an individual who has been deceased for more than 30 years.
HPPs	Health Privacy Principles. A set of principles that are similar to the IPPs but specifically refer to the handling of health information.
IPPs	Information Privacy Principles. A set of principles that regulate the handling of personal information.
Personal information	Information or opinion, whether true or not and whether recorded in material form or not, about a living individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.
Sensitive Information	Information or opinion about an individual's ethnic origins, religious beliefs, political opinions or association, philosophical beliefs, membership or professional association or trade union, sexual preferences or practices and criminal record.

5 Policy

Council is committed to complying with its obligations under the *Privacy and Data Protection Act 2014* (Victoria) (PDP Act), the *Health Records Act 2001* and federal privacy legislation. In particular, Council will comply with the Information Privacy Principles (IPPs) contained in the PDP Act.

6 Procedure

The PDP Act came into effect on 17 September 2014 and provides for the responsible collection and handling of personal information and establishment of a protective data security regime in the Victorian public sector.

The PDP Act replaced the Information Privacy Act 2000 and the Commissioner for Law Enforcement Data Security Act 2005. It merges the previous roles of the Privacy Commissioner and the Commissioner for Law Enforcement Data Security to create a single Commissioner for Privacy and Data Protection.

While personal information is usually handled by Council staff, Council may outsource some of its functions to third parties. This may require the contractor to collect, use or disclose certain personal information (e.g. waste collection). It is Council's intention to require contractors to comply with the Act in all respects.

Types of information held by Council include:

6.1 Personal Information

Whilst providing services to the community, Council holds certain personal information that is necessary for its functions. For example:

- name, address, property, bank account and other financial details of ratepayers for undertaking its rating and valuation services, town planning and building statutory functions and other property related services and enforcement activities.
- name, address and contact details of individuals who contact the Council with respect to requests or complaints related to Council services.

6.2 Sensitive Information

Council holds sensitive information that is necessary for its functions. For example:

- individuals receiving Council services related to maternal and child health, youth, aged and disability services, and counselling programs.
- personal information of employees, volunteers and contract service providers, relevant to their employment or contract with the Council.
- information pertaining to criminal records.

6.3 Health Information

Council may hold health information that is necessary for its functions. For example:

- information or opinion about the physical, mental, psychological health of an individual.
- disability of an individual or a health service provided or to be provided to an individual, but does not include information about an individual who has been deceased for more than 30 years.
- information about the immunisation status of school-based individuals.

6.4 Information Privacy Principles (IPPs)

IPP 1 - Collection

Council will collect personal information lawfully and fairly and only collect personal information that is necessary for its functions and activities, including:

- direct from the individual via an application form or correspondence, or in response to a request from Council.
- from third parties, such as contracted service providers, health service providers or the individuals authorised representatives or legal advisers
- from publicly available sources of information
- when legally required to do so.

As far as it is practicable to do so, Council will collect personal information about an individual direct from that individual. It will also inform the individual of the purpose(s) for which the information is collected, whom it will be disclosed to and how he/she is able to gain access to the information.

Council will not collect sensitive or health related information unless:

- the individual has consented
- it is required by law

- it is necessary to prevent or lessen a serious and imminent threat to the life, health or safety of an individual or the public
- it is necessary for the establishment, exercise or defence of a legal claim
- it is necessary for research, compilation and analysis of statistics relevant to government funded community programs.

Council will take reasonable steps to maintain the confidentiality of any personal information provided in confidence about an individual, by another person or a health service provider, in relation to the provision of care or health services to the individual.

Upon collection Council will inform the individual:

- why the information is being collected,
- to whom the information will may be disclosed and why,
- any law that requires Council to collect the information,
- the consequences for the individual if all or part of the information is not collected, and
- the fact that he/she is able to gain access to the information.

If Council collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is made aware of this.

Council will only collect personal information about a child under the age of 18 with the written consent of the child's parent or guardian.

However, in certain circumstances Council may exercise discretion in obtaining parental/guardian consent for the collection of young person's information where parental/guardian involvement may hinder the delivery of services to a young person. If a young person under the age of 18 years is living independently of their parents/guardian, permission to collect personal information may be provided.

IPP 2 Use and Disclosure

Council will only use personal information for the primary purpose for which it was collected (for example, levying rates, billing, collection of debts, property valuation, town planning and building approvals, provision of family and counselling services, community services and waste management services, enforcement activities and asset management) and any related purpose the individual would reasonably expect the Council to use or disclose the information to, or where the individual has consented to the use or disclosure.

The information may be disclosed:

- to Council's contracted service providers who manage the services provided by Council, including, waste collection, meal preparation for aged and disability services, environmental health inspections and infrastructure maintenance. Council will also require these service providers to maintain the confidentiality of the information and comply with the Information Privacy Principles in all respects.
- to statutory bodies (e.g. VicRoads, Goulburn Murray-Water) for the purposes of targeted consultation processes on major projects that could affect residents.
- to individuals for the purpose of serving a notice to fence as required by the *Fences Act*.
- to the Victorian and Australian Electoral Commissions for the compilation of voter rolls
- to statutory bodies (e.g. Centrelink, Child Support) for purposes required by relevant legislation.
- to Victoria Police, Australian Federal Police, fire department(s) or State Emergency Service or other appropriate agencies for emergency or law enforcement purposes only.
- where appropriate under another Act, including *Freedom of Information Act 1982*.
- in public registers that need to be maintained in accordance with other Acts, as a release of information relevant for the purpose for which the registers exist.

- to an individual's authorised representatives, health service providers or legal advisers.
- to Council's professional advisers, including accountants, auditors and lawyers.
- to organisations assisting the Council to perform statistical analysis for improving the services being delivered to the community. However, where practicable and reasonable, steps will be taken to de-identify the information.
- to an immediate family member of the individual, for emergency reasons, or if it is necessary to provide the appropriate care or health service to the individual.
- to any recipient outside Victoria, only if they are governed by substantially similar privacy principles or the individual has consented to the transfer or would be likely to give it, if it was practicable to obtain that consent.
- when legally compelled to do so (e.g. under direction of a court order).

IPP 3 Data Quality

Council must take reasonable steps to make sure that the personal information it collects uses or discloses is accurate, complete and up-to-date.

IPP 4 Security

Council will endeavour to maintain a secure system for storing personal information and will utilise appropriate technologies, security methods, operational policies and procedures to protect the information from unauthorised access, improper use, alteration, unlawful or accidental destruction and accidental loss.

Council will dispose of personal information where it is no longer necessary to fulfil the purposes for which the information was collected or as required by law. Retention of information will be considered in accordance with the *Health Records Act 2001* and the *Public Records Act 1973*.

IPP 5 Openness

Council must make publicly available its policies relating to the management of personal information.

IPP 6 Access and Correction

Council will provide individuals with access to their personal information on written request to the Privacy and Data Protection Officer, except in specific circumstances as outlined within the *Privacy and Data Protection Act 2014* and the *Freedom of Information Act 1982*.

If an individual is able to establish that the personal information is inaccurate, incomplete or out-of-date, the Council will take reasonable steps to correct the information.

If access or correction of the personal information needs to be denied, as required by law or relates to legal proceedings, or the release would pose a serious threat to the life or health of any person, or is classified as confidential information, the Council will give the individual the reasons for that decision as soon as practicable.

In the event that Council and an individual disagree about the veracity of the personal information held by Council, Council will take reasonable steps to record a statement relating to the disputed information, if requested by the individual.

Requests for Information by Third Parties

The *Privacy and Data Protection Act 2014* (Victoria) allows for the application of Information Privacy Principles (IPPs) to guide Council in considering disclosure of personal contact details with respect to ratepayer information

Under the IPPs, Council may disclose personal information for such a purpose as it is related to the facilitation of a statutory process and also that a ratepayer might reasonably expect disclosure to be made in this instance.

With respect to IPP 4 (data security), Council is required to take reasonable steps to protect such personal information from misuse. In this context, such requests must confirm the name and contact details of the organisation making the request.

A written assurance by the requesting body is required that the contact details will be used solely for the purpose of printing and mailing ratepayer letters and notifications as part of the reason for request, and that it will not be retained, copied or disseminated for unrelated purposes. The written assurance must also confirm that Council has informed name of company/person making request about the relevant IPPs.

A copy of the standard Council request to organisations is attached to this Policy, together with the Assurance letter to be completed by the requesting organisation.

IPP 7 Unique Identifiers

Council will only assign a unique identifier (i.e. a unique reference number) to identify a person if the assignment is reasonably necessary to carry out its functions effectively.

IPP 8 Anonymity

Where lawful and practicable, individuals may exercise the option of not identifying themselves when supplying information or entering into transactions with the Council.

IPP 9 Trans Border Data Flows

Council must only transfer personal information outside of Victoria if that data transfer conforms to the reasons and conditions outlined in the Acts.

IPP 10 Sensitive Information

Council will not collect sensitive information about you except in circumstances prescribed in the *Privacy and Data Protection Act 2014* (Victoria) or in circumstances where the information is both ethically pertinent and necessary to one of its functions.

7 Privacy Complaints

An individual may lodge a complaint with the Council's Privacy and Data Protection Officer regarding the handling of personal information. Council will commence an investigation into the complaint as soon as possible (but no later than 5 business days from receiving the complaint) and provide a written response. Such responses may be interim in nature to allow a full investigation to be carried out. .

Alternatively, individuals may lodge a complaint relating to personal information with the Office of the Victorian Privacy Commissioner, about a Council act or practice that may be an interference with their privacy. However, the Commissioner may decline to deal with the complaint, if the complainant has not first complained to the Council.

8 Public Interest Disclosures

This is a written determination provided by the Commissioner which allows for departure from compliance with the IPPs (except IPP-4 data security and IPP-6 access and correction). The Commissioner must be satisfied that the public interest in the departure from privacy provisions *substantially outweighs the public interest* in complying.

Council may apply in writing for a determination that –

- An act or practice of an organisation is in contravention of an IPP or approved code of practice
- The public interest in engaging in the act or practice *substantially outweighs the public interest* in complying with the IPP or code of practice.

9 Appointment of a Privacy and Data Protection Officer

Council's Coordinator Community Relations is Council's Privacy and Data Protection Officer, responsible for overseeing the implementation and monitoring performance of the *Privacy and Data Protection Act 2014* (Victoria), *Health Records Act 2001* and Council's Privacy and Data Protection Policy. The Privacy and Data Protection Officer is also responsible for the handling of enquiries, complaints and breaches relating to the management of personal or health information.

10 Further Information

Copies of this policy are available from Council's Euroa office and on Council's website www.strathbogje.vic.gov.au.

Further information with respect to Council's Privacy and Data Protection Policy and its handling of personal information can be obtained from Council's Privacy and Data Protection Officer on (03) 5795 0000.

11 Records

Record	Retention/Disposal Responsibility	Retention Period	Location
Reconciliation Statement	Coordinator Records Management	7 years	109A Binney Street Euroa, VIC 3666

12 Attachments

Attachment A – Template form relating to disclosure of personal contact details of ratepayers.

Attachment B – Template letter to be sent by Council outlining obligations under Information Privacy Principles for requests to access information on ratepayer database.

13 References

Privacy and Data Protection Act 2014 (Victoria)
Privacy Act 1998 (Australia)
Freedom of Information Act 1982
Health Records Act 2001
Public Records Act 1973
Fences Act 1968
Information Privacy Principles (Australian Government – Office of the Australian Information Commissioner)
Local Government Act 1989 (Victoria).
Strathbogje Shire Records Management Policy

14 Charter of Human Rights and Responsibilities Act 2006 and the Equal Opportunity Act 2010

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedom of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality and dignity.

ATTACHMENT A

(TO BE PLACED ON ORGANISATION'S LETTERHEAD)

I,.....of
.....

have read and understood Strathbogie Shire Council's Privacy and Data Protection Policy relating to the disclosure of personal contact details with respect to ratepayer information.

I confirm that the disclosed information has been requested for the purposes of:

(Please record purpose of request)

Once signed, this document forms the written assurance required that the contact details will be used solely for the purpose outlined above and will not be retained, copied or disseminated for any other purposes. The information will be destroyed when it has been used for the purpose for which it was obtained.

Signed.....

Name.....

Title.....

Company:.....

Date

ATTACHMENT B

(TO BE PLACED ON COUNCIL LETTERHEAD)

Enquiries: Privacy Officer
Telephone: (03) 5795 0000
Our Ref:

Date

Address

Dear

PROVISION OF DETAILS FROM RATEPAYER DATABASE

The Privacy and Data Protection Act 2014 (Victoria) allows for the application of Information Privacy Principles (IPPs) to guide Council in considering disclosure of personal contact details with respect to ratepayer's information.

It is understood that the contact information has been requested for the purposes of *insert reason for request*.

Under the IPPs, Council may disclose personal information for such a purpose(s) as it is related to the facilitation of a statutory process and also that a ratepayer might reasonably expect disclosure to be made in this instance.

With respect to IPP 4 (data security), Council is required to take reasonable steps to protect such personal information from misuse. In this context, such requests must confirm the name and contact details of the organisation making the request. It is acknowledged that *name of person or company* has already provided adequate information in this respect as part of the request.

A written assurance is required that the contact details will be used solely for the purpose of printing and mailing ratepayer letters and notifications as part of the *reason for request* and will not be retained, copied or disseminated for unrelated purposes.

The written assurance also confirms that Council has informed *name of company/person making request* about the relevant IPPs.

I would be grateful if you could sign the attached assurance, on *company name* letterhead, and return it to Council at your earliest convenience. A copy of the ratepayer information will then be forwarded to you for the purposes you have stated.

Yours sincerely

Council Privacy and Data Protection Officer