

Governance

Information Privacy Policy

Description of policy	Information Privacy Policy
Policy applies to	<input type="checkbox"/> All employees, Councillors, volunteers and contractors
Policy category	<input type="checkbox"/> Revised Policy
Description of revision and Version Number	Version Number: 4 - Full review
Approved by	EMT
Approval date	25 August 2021
Effective date	25 August 2021
Date of last revision	18 June 2019
Date of next review*	September 2023

*Unless replaced, this policy will still apply beyond the review date.

Related internal procedures and guidelines	<ul style="list-style-type: none">• Staff Code of Conduct• Councillor Code of Conduct
Related policies	<ul style="list-style-type: none">• Confidential Information Policy
Related legislation, standards and guidelines	<ul style="list-style-type: none">• <i>Privacy and Data Protection Act 2014</i>• <i>Health Records Act 2001</i>• <i>Freedom of Information Act 1982</i>• <i>Local Government Act 2020</i>

Version history

	Policy name	Authorised by	Authorisation date
1	Information Privacy Act (2000) – Nillumbik’s Privacy Policy and Guidelines	Council	18 September 2002
2	Privacy Policy	Council	25 March 2014
3	Information Privacy Policy	EMT Review	18 June 2019
4	Information Privacy Policy	EMT Review	25 August 2021

Contents

1	Introduction	1
1.1.	Purpose.....	1
1.2.	Scope	1
2	Definitions.....	2
3	Policy – Information Privacy.....	3
4	Information Privacy Principles	3
4.1	Principle 1 – Collection	3
4.2	Principle 2 – Use and Disclosure	4
4.3	Principle 3 – Data Quality	5
4.4	Principle 4 – Data Security	5
4.5	Principle 5 – Openness.....	5
4.6	Principle 6 – Access and Correction.....	5
4.7	Principle 7 – Unique Identifiers.....	5
4.8	Principle 8 – Anonymity	5
4.9	Principle 9 – Transborder Data Flows	6
4.10	Principle 10 – Sensitive Information.....	6
5	Policy – Health Information.....	6
6	Health Privacy Principles	6
6.1	Principle 1 – Collection	6
6.2	Principle 2 – Use and Disclosure	7
6.3	Principle 3 – Data Quality	8
6.4	Principle 4 – Data Security and Retention	8
6.5	Principle 5 – Openness.....	8
6.6	Principle 6 – Access and Correction.....	8
6.7	Principle 7 – Identifiers.....	8
6.8	Principle 8 – Anonymity	8
6.9	Principle 9 – Transborder Data Flows	8
6.10	Principle 10 – Transfer or Closure of the Practice of a Health Service Provider	9
6.11	Principle 11 – Making Information Available to another Health Service Provider.....	9
7	Name and Address Register	9
8	Direct Marketing	9
9	Online Advertising	9
10	Continuous improvement	10
11	Administration.....	10
12	Staff training and awareness	10
13	Access and Correction	10
14	Complaints.....	10
14.1	If you are dissatisfied with the response to, or handling of your complaint.....	11

THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

1 Introduction

Nillumbik Shire Council (Council) provides a wide variety of services to residents and ratepayers and also gives these residents and ratepayers a say in matters affecting their local area.

The personal, sensitive and health information collected by Council is usually related to things such as, but not limited to, building regulations and development, planning, public health, local roads and footpaths, parks and playing fields, libraries, local environmental issues, waste disposal, and many community services.

The information that Council collects is handled in accordance with the Information Privacy Principles (IPPs) incorporated within the *Privacy and Data Protection Act 2014* (PDP Act), and the Health Privacy Principles (HPPs) incorporated within the *Health Records Act 2001* (HR Act).

At Council the responsible handling of personal, sensitive and health information is a key aspect of good governance. Council is strongly committed to ensuring an individual's right to privacy and that personal, sensitive and health information is collected, handled and stored in a responsible and compliant manner.

A key requirement for Council is to balance the requirements of the *Local Government Act 2020* and the expectations of the community for transparent governance and public interest, with protecting the privacy of personal, sensitive and health information of individuals.

1.1. Purpose

This policy outlines Council's commitment to information privacy and the requirements of the 10 IPPs incorporated within the PDP Act and the 11 HPPs incorporated within the HR Act.

This policy is available on Council's website and will be made available for any person who wishes to view or obtain a copy.

1.2. Scope

This policy applies to all Council employees, Councillors, representatives, volunteers and contractors. It also applies to Council's Living and Learning Centres, Edendale Community Farm, and other Council websites such as Participate Nillumbik, Nillumbik Youth and Smarty Grants.

This policy covers all personal, sensitive and health information collected and held by Council or any contractors providing services on behalf of Council, and includes information we have collected:

- about an individual through any of Council's public access interfaces;
- from an individual, including information about an individual collected from third parties; and
- about an individual regardless of format. This includes information collected on forms, in person, in correspondence, and over the telephone.

2 Definitions

Health information

Is defined by the HR Act, and in summary means (but not limited to) information or an 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 where that information is also personal information. Health information includes other personal information that is collected to provide or in providing a health service.

Health Privacy Principles (HPP's)

Are a set of 11 principles established by the HR Act that regulate how a Council when it is a health service provider collects, holds, manages, uses, discloses or transfers health information.

Information Privacy Principles (IPP's)

Are a set of 10 principles established by the PDP Act that regulate how agencies such as a Council collects, holds, manages, uses, discloses or transfers personal and sensitive

Personal information

As defined by the PDP Act, means information or an opinion (including information or an opinion forming part of a database), whether true or not about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the HR Act applies.

Personal information typically includes but is not limited to:

- names
- addresses
- telephone numbers
- education
- occupation
- date of birth

In summary, "personal information" is information directly related to the personal affairs of an individual that enables or could enable the person to be identified.

Public register

As defined in the PDP Act, means a document held by a Council and open to inspection by members of the public (whether or not on payment of a fee) under an Act or regulation (other than the *Freedom of Information Act 1982* or the *Public Records Act 1973*) containing information that –

- a) a person or body was required or permitted to give to that public sector agency or Council under an Act or regulation; and
- b) would be personal information if the document were not a generally available publication;

Sensitive information

As defined in the IPPs "sensitive information" is information or an opinion about an individual's:

- race or ethnic origin
- political opinion
- political membership or association
- religious beliefs or affiliations
- philosophical beliefs
- membership of a professional or trade association
- membership of a trade union
- sexual preferences or practices
- criminal record

It also includes personal information as defined in this policy.

3 Policy – Information Privacy

The *Privacy and Data Protection Act 2014* prescribes 10 Information Privacy Principles that Council is required to comply with to promote and ensure the fair and responsible collection and handling of personal information.

Council manages personal and sensitive information in accordance with the 10 Information Privacy Principles.

4 Information Privacy Principles

4.1 Principle 1 – Collection

Council will only collect personal and sensitive information that is necessary for the specific function and activity for which collection is necessary.

Collection may be for example, by way of forms, service requests, website, phone or email interactions.

When Council collects personal and sensitive information it will do so by fair and lawful means and not in an unreasonably intrusive way.

Where it is practicable to do so at the time that Council collects the personal information, we will provide details of:

- why Council is collecting the information;
- how that information can be accessed by the individual it was collected from;
- the purpose for which the information is collected;
- with whom the Council shares this information;
- any relevant laws; and
- the consequences for the individual if all or part of the information is not collected.

All areas of Council that collect personal information will provide notice of the purpose of collecting the personal information, similar to the example given. The example is provided only as an illustration and may differ depending upon the purpose for collection.

Example

Nillumbik Shire Council is collecting your personal information for the purpose of *(insert text)*.

This information may/will be disclosed to *(insert text)*.

Your information is being collected in accordance with *(insert law or legislation)*.

If the requested information is not provided or only provided in part, Nillumbik Shire Council may/will be unable to *(insert consequences)*.

You may access your personal information by contacting Council's Privacy Officer 9433 3271 or email privacy@nillumbik.vic.gov.au .

In instances where Council receives unsolicited information such as a petition, it is not practicable for Council to provide these types of details prior to collection. Any unsolicited information received by Council is still managed in accordance with the requirements of the PDP Act.

If it is reasonable and practicable to do so, Council will collect personal information about you, directly from you. If Council collects personal and sensitive informational about you from someone else, it will take reasonable steps, if practicable, to make you aware of this.

4.2 Principle 2 – Use and Disclosure

Council will only use personal information within Council, or disclose it outside Council, for the purpose for which it was collected, or in accordance with the PDP Act.

For example, Council may use or disclose your personal information for a directly related purpose, where you have consented to the disclosure, where a person would reasonably expect the disclosure to occur, or where the use or disclosure is specifically authorised by law.

Council will take all necessary measures to prevent unauthorised access to or disclosure of your personal information.

Council discloses personal information to external organisations such as Council's contracted service providers who perform various services for, and on behalf of Council. Council contractors agree to be bound by the provisions of the PDPA just as the Council is bound. Additionally, Council limits the personal information provided to its contractors by only providing them with the information necessary to provide services to you on behalf of Council.

In most cases, complaints to Council and the complainant/s are considered confidential. Council may be obligated to investigate a complaint and where required instigate enforcement proceedings because of the investigation. If an investigation leads to prosecution relevant to a complaint, Council may be required to disclose details relating to the complaint including the complainant to the defendant under rules relating to discovery.

IPP 2 allows for disclosure of personal information in certain circumstances. For example if Council reasonably believes the disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health, safety or welfare; or a serious threat to public health, public safety or public welfare.

Specific Laws may authorise Council to disclose personal information where permitted to:

- debt collection agencies.
- government departments and agencies such as Vic Roads (Department of Transport), Work Cover and the Australian Taxation Office.
- law enforcement agencies, including the courts and the Victoria Police, in instances where Council is required to respond to a subpoena or provide information to assist a police investigation.

If Council does disclose personal information about someone as part of an investigation into unlawful activity or if it is necessary for, or on behalf of, a law enforcement function then Council will make a written note of that disclosure.

Questions to Council and addressing a delegated committee

Council will disclose the name of an individual who has submitted a question for response during a Council meeting. The individual's name will be read aloud, captured in the recording of the meeting and will appear in the minutes of the meeting.

Council will disclose the name of a person who is wishing to address Council's delegated committee. The chairperson will read the individual's name (and organisation where applicable). The submission will be captured in the recording, and their image may appear in the recording. The individual's name will appear in the minutes of the meeting.

Written submissions to Council

Where Council has called for written submissions, a collection notice will be given on how the submission and personal information is intended to be used and/or disclosed.

Public registers

Personal information may be made available in public registers where Council is required under legislation to make this information available. For example an election donation to a candidate must be disclosed by the candidate and this information will form part of the public Election Donation Register.

Service satisfaction

Council may use the contact information you provide to us to survey your service satisfaction level. You may opt out without any penalty. More information is contained in point 9 – Continuous improvement, of this policy.

4.3 Principle 3 – Data Quality

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

4.4 Principle 4 – Data Security

Council will take all necessary steps to protect all personal information it holds from misuse, loss, unauthorised access, modification or disclosure. This applies regardless of the format in which the information is held.

Council will take reasonable steps to lawfully and responsibly destroy or permanently de-identify personal information when it is no longer needed for the primary purpose, subject to compliance with the *Public Records Act 1973*, and any other applicable law.

4.5 Principle 5 – Openness

Council will make publicly available its policies relating to the management of personal information. Council will, on request, take reasonable steps to provide individuals with general information on the types of personal information it holds about the individual making the request, for what purpose the information is held, and how it collects, holds, uses and discloses that information.

4.6 Principle 6 – Access and Correction

Council subject to the PDP Act, must provide an individual with access to their personal or sensitive information.

As Council is subject to the *Freedom of Information Act 1982*, access to or correction of personal or sensitive information about you is managed under that legislation.

Information on how to access your personal or sensitive information is outlined in this policy.

4.7 Principle 7 – Unique Identifiers

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a drivers licence number).

Council will not assign, adopt, use, disclose or require unique identifiers from individuals unless it is necessary to enable the Council to carry out any of its functions more efficiently. Council will only use or disclose unique identifiers assigned to individuals by other organisations if the individual consents to the Council doing so, there are legal requirements for the Council to do so, or the conditions for use and disclosure set out in the PDP Act are satisfied.

4.8 Principle 8 – Anonymity

Where it is both lawful and practicable, Council will give you the option of not identifying yourself when supplying information or entering into transactions with it.

Anonymity may limit Council's ability to process a complaint or other matter. Therefore, if a person chooses not to supply personal information that is necessary for the Council to perform its functions, then Council may be unable to take further action on that matter.

4.9 Principle 9 – Transborder Data Flows

Council may transfer personal or health information about you to an individual or organisation outside Victoria only in the following instances:

- they have provided consent; or
- if disclosure is authorised by law; and
- if the recipient of the information is subject to a law, scheme or contract with principles that are substantially similar to the PDP Act.

By way of example, Council may use cloud computing services based outside Victoria. In this case Council must ensure these services comply with the Victorian IPPs prior to engaging into a service agreement.

4.10 Principle 10 – Sensitive Information

Council will not collect sensitive information about a person except where:

- you have provided your consent;
- the law requires the information to be collected;
- it is necessary to collect the sensitive information for establishing, exercising or defending a legal claim; or
- in certain prescribed circumstances where:
 - the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual; or
 - it is impracticable to obtain consent and there is no reasonable alternative to collecting the sensitive information for the purpose of research or government funded targeted welfare and educational services.

5 Policy – Health Information

The *Health Records Act 2001* prescribes 11 Health Privacy Principles that Council is required to comply with to promote and ensure the fair and responsible collection and handling of personal information.

Council manages health information in accordance with the 11 Health Privacy Principles.

6 Health Privacy Principles

6.1 Principle 1 – Collection

Council will only collect health information that is necessary for its specific functions and activities and in accordance with the provisions in HPP 1 found in the HR Act. In some instances Council is required by law to collect personal or health information.

Collection may be for example, by way of forms, service requests, website, phone or email interactions.

When Council collects health information it will do so by fair and lawful means and not in an unreasonably intrusive way. Where it is practicable to do so at the time Council collects the health information, Council will provide details of:

- why it is collecting the information;
- how that information can be accessed by the individual it was collected from;
- the purpose for which the information is collected;
- with whom the Council shares this information;
- any relevant laws; and
- the consequences for the individual if all or part of the information is not collected.

All areas of Council that collect personal information will provide notice of the purpose of collecting the personal information on the form, similar to the example given. This example is provided only as an illustration and may differ depending upon the purpose for collection.

Example

Nillumbik Shire Council is collecting your health and personal information for the purpose of (insert text).

This information may/will be disclosed to (insert text).

Your information is being collected in accordance with (insert law or legislation).

If the requested information is not provided or only provided in part, Nillumbik Shire Council may/will be unable to (insert consequences).

You may access your personal or health information by contacting Council's Privacy Officer 9433 3271 or email privacy@nillumbik.vic.gov.au.

If it is reasonable and practicable to do so, Council will collect health information about you directly from you. If Council collects personal information about you from someone else, it will take reasonable steps, if practicable, to make you aware of this.

Council will, from time to time, use this information to contact you directly for a related purpose or when permitted or required to by law.

The only time that Council will not advise someone of the above is when a serious threat to the life or health of a person may occur, or when the information was provided to Council in confidence.

Health information will be used by Council for the purpose for which it was collected, or for a directly related purpose.

The intended recipients of the information are authorised Council staff, Council contractors and Council consultants. Council may disclose your health information to law enforcement agencies, and other organisations if required by law.

6.2 Principle 2 – Use and Disclosure

Council will only use health information for the primary purpose it was collected. Council will not disclose the health information collected for a purpose other than the primary purpose unless it directly related, consent has been given, or disclosure is required, authorised or permitted by or under law.

Council will take all necessary measures to prevent unauthorised access to or disclosure of your health information.

Council may disclose health information to external organisations such as Council's contracted service providers performing services for, and on behalf of Council. Council contractors agree to be bound by the provisions of the HR Act just as Council is bound. Additionally, Council limits the health information provided to its contractors by only providing them with that necessary to provide services to you on behalf of Council.

In some circumstances Council may disclose health information about someone for a secondary purpose, if Council knows, or suspects, that the person is deceased, missing or has been involved in an accident and is therefore incapable of consenting. This disclosure may occur in situations where it is reasonable to identify the person or to identify and locate an immediate family member so that the police, a coroner or other prescribed organisation can contact them. However, this disclosure will not occur where there is an expressed wish to the contrary made by the person and recorded by Council.

If Council does disclose health information about someone as part of an investigation into unlawful activity or if it is necessary for, or on behalf of, a law enforcement function then Council will make a written note of that disclosure.

Council may use the contact information you provide to us to survey your service satisfaction level. You may opt out without any penalty. More information is contained in point 10 – Continuous improvement, of this policy.

6.3 Principle 3 – Data Quality

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

6.4 Principle 4 – Data Security and Data Retention

Council will take all necessary steps to protect all health information it holds from misuse, loss, unauthorised access, modification or disclosure. This applies regardless of the format in which the information is held.

Council will take reasonable steps to lawfully and responsibly destroy or permanently de-identify health information when it is no longer needed for primary purpose, subject to compliance with the Public Records Act 1973, and any other applicable law.

6.5 Principle 5 – Openness

Council will make publicly available its policies relating to the management of health information. Council will on request take reasonable steps to provide individuals with general information on the types of personal or health information it holds about the individual making the request, for what purpose the information is held, and how it collects, holds, uses and discloses that information.

6.6 Principle 6 – Access and Correction

As Council is subject to the *Freedom of Information Act 1982*, access or correction of health information about you is managed under that legislation.

Information on how to access your health information is outlined in this policy.

6.7 Principle 7 – Identifiers

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a drivers licence number).

Council will not assign, adopt, use, disclose or require unique identifiers from individuals unless it is necessary to enable the Council to carry out any of its functions more efficiently. Council will only use or disclose unique identifiers assigned to individuals by other organisations if the individual consents to the Council doing so, there are legal requirements for the Council to do so, or the conditions for use and disclosure set out in the HRA are satisfied.

6.8 Principle 8 – Anonymity

If it is lawful and practicable, someone must have the option of not identifying themselves when entering transactions with Council.

6.9 Principle 9 – Transborder Data Flows

Council may transfer health information about you to an individual or organisation outside Victoria only in the following instances:

- if you have provided your consent; or
- if disclosure is authorised by law; and
- if the recipient of the information is subject to a law, scheme or contract with principles that are substantially similar to the HRA.

By way of example, Council may use cloud computing services based outside Victoria. In this case Council must ensure these services comply with the Victorian HPPs prior to engaging into a service agreement.

6.10 Principle 10 – Transfer or Closure of the Practice of a Health Service Provider

If Council discontinues its health services it will publish a notice in a newspaper that circulates in the locality of the practice or business.

This notice will advise that the practice or business has been, or is about to be, sold, transferred or closed down, as the case may be. It will address how the health service provider proposes to deal with any health information it holds about people who have used the service, whether they mean to retain the information or to transfer it to the new provider.

If a Council health service provider is to be sold or transferred, or amalgamated and the provider continues to provide a health service they can elect to retain the health information. If this occurs they will continue to hold it, in accordance with these HPP's or transfer it to a competent organisation for safe storage in Victoria until that health information is destroyed in accordance with Health Privacy Principle 4, and the *Public Records Act 1973*.

6.11 Principle 11 – Making Information Available to another Health Service Provider

An individual may request Council to make their health information available to another health provider or authorise another health service provider to request that their health information be made available.

When requested, Council can provide a copy or a written summary of an individual's health information subject to the requirements of the HRA. Council will provide the copy or summary as soon as practicable subject to the payment of any statutory fee.

7 Name and Address Register

Council maintains a Name and Address Register (NAR) where the information provided during some council interactions is held. This may relate to land owners and ratepayers, permit applicants, animal registrations, service requests and infringements for example.

In most cases Council will use 'Rates' information being the information provided for the provision of a Rates notice, to communicate with residents regarding Council services and to provide statutory notifications. Information that is provided for a purpose such as a permit application, or animal registration will be used for that purpose only.

In emergency situations Council may use any information contained in the NAR to contact residents, or may provide this information to emergency services.

8 Direct Marketing

The personal information that Council collects from or about you may also be used for secondary purposes such as updating you on similar events and services that may be available through the Council.

The privacy collection notice will advise if your information may be used to update you in relation to similar events.

9 Online Advertising

Nillumbik Shire Council use Google Adwords Remarketing to advertise Nillumbik Shire Council across the Internet. Adwords remarketing will display relevant ads tailored to you based on where you go across our website by placing a cookie on your machine. This cookie does not in any way identify you or give access to your computer. As always we respect your privacy and are not collecting any identifiable information through the use of Google Adwords Remarketing. If you wish to opt-out of Google's Use of Cookies, simply update your ad settings via <https://www.google.com/settings/u/0/ads/authenticated>

10 Continuous improvement

Council is committed to continuous service improvement throughout the organisation. To measure our service levels and customer satisfaction, the personal contact information you provide (by phone, email or website) may be used to contact you and survey your experience and satisfaction level. The information you provide will not be used for marketing purposes. You may opt out of this without penalty by advising your customer service operator, or by email to nillumbik@nillumbik.vic.gov.au.

11 Administration

Council's Privacy Officer is responsible for reviewing this policy every two years, or updating this policy if required to reflect legislative changes.

This policy is due for review in September 2023.

12 Staff training and awareness

All Council employees, Councillors, representatives, volunteers and contractors will receive training to increase their awareness in relation to the treatment of personal, sensitive and health information.

The Employee Code of Conduct, and Confidential Information Policy are available to all staff, and outline the requirements for collection, use and disclosure of information obtained in the course of employment. All new staff members are required to sign and acknowledge that they understand the requirements set out in the Employee Code of Conduct.

13 Access and Correction

Individuals may apply to Council for access to and/or amendment of their personal and health information.

Enquiries about the personal and health information held by Council about you, can be directed to the Privacy Officer.

Enquiries about or applications to access or amend personal, sensitive or health information, using the provisions of the *Freedom of Information Act 1982* should be made through Council's Freedom of Information Officer.

Privacy Officer
Nillumbik Shire Council
PO Box 476
Greensborough Vic 3088; or
By email to privacy@nillumbik.vic.gov.au
Ph. 9433 3271

Freedom of Information Office
Nillumbik Shire Council
PO Box 476
Greensborough Vic 3088; or
By email to foi@nillumbik.vic.gov.au
Ph. 9433 3271

14 Complaints

All enquiries relating to Privacy and your personal and health information can be in the first instance directed to the Privacy Officer.

A formal complaint is required to be in writing and addressed to the Privacy Officer, and should contain your details including how we can contact you, the nature of the complaint, and as much information as possible.

If you require assistance with submitting a written complaint, please contact the Privacy Officer to discuss.

Privacy Officer
Nillumbik Shire Council
PO Box 476
Greensborough Vic 3088; or
By email to privacy@nillumbik.vic.gov.au
Ph. 9433 3271

Further information can be found in Council's Complaint Handling Policy.

14.1 If you are dissatisfied with the response to, or handling of your complaint

Personal Information

If a complainant is dissatisfied with the response to or handling of a complaint regarding their personal or sensitive information, they may contact the Victorian Information Commissioner enquiries@ovic.vic.gov.au or by phone 1300 006 842.

The Commissioner may decline to hear a complaint if the issue has not been first raised with Council.

More information can be found on the Office of the Victorian Information Commissioner's [website](#).

Health Information

If a complainant is dissatisfied with the response to or handling of a complaint regarding their health information, they may contact the Health Commissioner by phone 1300 582 113.

The Commissioner may decline to hear a complaint if the issue has not been first raised with Council.

More information can be found on the Health Commissioner's [website](#).