

# **Privacy Management Plan**

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## **PURPOSE**

The *Privacy and Personal Information Protection Act 1998* (PIIP Act) requires that all NSW councils prepare a Privacy Management Plan (Plan) outlining their policies and practices to ensure compliance with the PIIP Act and the *Health Records and Information Privacy Act 2002* (HRIP Act).

In particular, the purpose of this plan is to inform:

- The community about how their personal information will be used, stored and accessed after it is collected by Albury City Council (AlburyCity); and
- Council Officers (see definitions) of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

AlburyCity is required to have a Plan under section 33 of the PIIP Act.

This Plan explains how AlburyCity manages personal information in line with the PIIP Act and health information under the HRIP Act.

The Plan also explains who a person can contact with questions about the personal or health information that we hold, how they can access and amend their information and what to do if they think we may have breached the PIIP Act or the HRIP Act.

This Plan gives AlburyCity officers guidance on compliance with the requirements of the PIIP Act and the HRIP Act with respect to the protection of personal information and the privacy of individuals. It sets out activities and procedures adopted by AlburyCity relating to the protection of the personal and health information that we hold.

This Plan supports AlburyCity's Privacy Management Policy.

## **SCOPE**

This Plan applies to all Council Officials. Council Officials should be aware of the general provisions of the PIIP Act and the Information Protection Principles, the HRIP Act and the Health Privacy Principles, the Public Register provisions, the Privacy Code of Practice for Local Government (Privacy Code), this Plan and any other applicable information.

## **DEFINITIONS**

**Council Officials** (also known as *Public Officials*) includes Councillors; full-time, part-time and casual staff members whether they are permanent or temporary employees; consultants; volunteers; contractors; and external members of Council committees.

### **What is Personal Information?**

**Personal Information** (as defined under s.4 of the PIIP Act) is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form. Examples of personal information include a person's name, address, information about family life, sexual preferences, financial information, or a photograph.

### What is not Personal Information?

Personal information does not include information about an individual that is contained in a publicly available publication. Personal information, once it is contained in this format, ceases to be covered by the PPIP Act or the HRIP Act.

Section 4A of the PPIP Act also specifically excludes “health information”, as defined by section 6 of the HRIP Act, from the definition of “personal information”, but includes “health information” in the PPIP Act’s consideration of public registers (see [Part B](#) of this Plan).

Where AlburyCity is requested to provide access or make a disclosure and that information has already been published, AlburyCity will rely on the provisions of the relevant Act that authorises AlburyCity to hold that information and not the PPIP Act (for example, section 8 of *the Government Information (Public Access) Act 2009* (GIPA Act)).

AlburyCity considers the following information to be publicly available:

- an advertisement containing personal information in a local, city or national newspaper;
- personal information on the Internet;
- books or magazines that are printed and distributed broadly to the general public;
- Council business papers or that part that is available to the general public; and
- personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIP Act.

AlburyCity’s decision to publish in this way must be in accordance with the PPIP Act.

### What is Health Information?

**Health Information** (as defined under s.6 of the HRIP Act) is personal information that is information or an opinion about the physical or mental health or a disability (at any time) of an individual, or an individual’s express wishes about the future provision of health services to him or her, or a health service provided (or to be provided) to an individual. Examples of health information include a blood test, immunisation history, a psychological report, or information about a medical appointment.

## REFERENCES

*Government Information (Public Access) Act 2009*  
Government Information (Public Access) Regulation 2009  
Guide to Making Privacy Management Plans (IPC, August 2012)  
*Health Records and Information Privacy Act 2002*  
Health Records and Information Privacy Regulation 2006  
*Local Government Act 1993*  
Model Privacy Management Plan for Local Government (Office of Local Government, January 2013)  
Privacy Code of Practice for Local Government  
*Privacy and Personal Information Protection Act 1998*  
*Privacy and Personal Information Protection Regulation 2009*  
Privacy Management Plans – Checklist (IPC, June 2014)  
*Public Interest Disclosures Act 1994*

## **PART A – OVERVIEW**

### **Personal Information held by AlburyCity**

AlburyCity holds personal information concerning Councillors, such as:

- personal contact information;
- complaints and disciplinary matters;
- pecuniary interest returns; and
- entitlements to fees, expenses and facilities.

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

- rates records; and
- DA applications and objections; and
- various types of health information (see [Part D](#) for detailed examples).

AlburyCity holds personal information concerning its employees, such as:

- recruitment material;
- leave and payroll data;
- personal contact information;
- performance management plans;
- disciplinary matters;
- pecuniary interest returns;
- wage and salary entitlements; and
- health information (such as medical certificates and workers compensation claims).

### **What protections exist under the PPIP and HRIP Acts?**

AlburyCity is committed to upholding the 12 Information Protection Principles (IPP's) under the PPIP Act and the 15 Health Privacy Principles (HPP's) under the HRIP Act in its handling of personal information.

These principles regulate the collection, storage, use and disclosure of personal and health information. They also give members of the public a right to request access to their personal or health information or to ask for amendments to that information to ensure it is accurate.

Even though AlburyCity does not directly provide a health service, we hold some health information, for example in relation to employees and their sick leave or worker's compensation, and therefore must comply with the Health Privacy Principles.

The only exceptions to these principles are those listed under the Privacy Code which 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 PPIP Act. This relates to modification of the provisions of *Part 6 Public Registers* of the PPIP Act (see [Part B](#) below).

The Information Protection Principles and the Health Privacy Principles are listed in [Part C](#) and [Part D](#) of this document and described in [Appendix I](#) and [Appendix II](#).

### **Unsolicited information provided to AlburyCity**

Where an individual, a group or committee, not established by AlburyCity, gives AlburyCity unsolicited personal or health information, then that information will still be treated in accordance with this Plan, the Privacy Code, the IPPs 5-12 under the PPIP Act and HPPs 5-15 under the HRIP Act which relate to storage, access, use and disclosure of information.

For the purposes of section 10 of the HRIP Act, AlburyCity is not considered to have “collected” health information if the receipt of the information by AlburyCity is unsolicited.

Section 4(5) of the PPIP Act also provides that personal information is not “collected” by AlburyCity if it is unsolicited.

### **Suppression of information available for public inspection (not held in Public Registers)**

Under section 739 of the *Local Government Act 1993* (LG Act) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person’s place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the LG Act relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, AlburyCity will err in favour of suppression.

For more information regarding disclosure of information (other than Public Registers) see the discussion of IPPs 11 and 12 in [Part C](#) of this Plan. For information regarding suppression of information on Public Registers, see [Part B](#) of this Plan.

## **PART B – PUBLIC REGISTERS**

### **What is a Public Register?**

A Public Register is defined under section 3 of the PPIP Act 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).”*

A distinction needs to be drawn between Public Registers within the meaning of Part 6 of the PPIP Act and “non-public registers”. A “non-public register” is a register but it is not a Public Register for the purposes of the PPIP Act. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to Public Registers must comply with *Part 6 Public Registers* of the PPIP Act and the Privacy Code. AlburyCity will not give personal information to a person about another person unless the personal information is contained in a Public Register. Where personal information is contained in a Public Register, then Part 6 of the PPIP Act applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the IPPs of the PPIP Act as outlined in [Appendix I](#) of this Plan and the Privacy Code where it includes personal information that is not published.

### **Application of the PPIP Act and the HRIP Act to Public Registers**

A Public Register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

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Despite the exclusion of “health information” from the definition of “personal information” under section 4A of the PPIP Act, section 56A of the PPIP Act *includes* as personal information, health information held on public registers.

Section 57 of the PPIP Act requires very stringent controls over the disclosure of personal information contained in a Public Register. It provides broadly that where AlburyCity is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57(2) provides that in order to ensure compliance with section 57(1), AlburyCity may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information.

AlburyCity also needs to consider the Privacy Code which has the effect of modifying the application of Part 6 of the PPIP Act (the Public Register provisions).

If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIP Act or as health information for the purposes of Part 6 of the PPIP Act.

### **Effect on mandatory proactive release of information under section 6 of the GIPA Act**

Section 6 of the *Government Information (Public Access) Act 2009* (GIPA Act) requires that certain government information held by AlburyCity must be made publicly available unless there is an overriding public interest against disclosure of the information. At least one of the ways in which this information is made available must be free of charge.

Section 18 of the GIPA Act requires that AlburyCity provide open access to those documents listed under Schedule 1 of the Government Information (Public Access) Regulations 2009 (GIPA Regs).

In the event of any inconsistencies that exist between the PPIP Act and the GIPA Act, section 57 of the PPIP Act will prevail over clause 1(3) of Schedule 1 of the GIPA Regs. In other words:

1. If a register is listed in Schedule 1 of the GIPA Regs, access must not be given except in accordance with section 57(1) of the PPIP Act.
2. If a register is not listed in Schedule 1 of the GIPA Regs, access must not be given except:
  - (i) if it is allowed under section 57(1) of the PPIP Act; and
  - (ii) there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

*(Note: Both 1 and 2 are amended with regard to specific public registers in the Privacy Code)*

### **Disclosure of Personal Information contained in the Public Registers**

A person seeking a disclosure concerning someone else’s information from a Public Register must satisfy AlburyCity that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

In the section ‘Purposes of Public Registers’, by way of guidance only, what might be called the “primary purpose” (or “the purpose of the register”) has been specified for each identified register. In some cases a “secondary purpose” has also been specified, by way of guidance as to what might constitute “a purpose *relating* to the purpose of the register”.

## **Purposes of Public Registers**

### ***Under the LG Act***

*Section 53 – Council’s land register* – The primary purpose is to identify all land vested in AlburyCity, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by AlburyCity. Third party access is therefore a secondary purpose.

*Section 113 - Record of approvals* – The primary purpose is to identify all approvals granted under the LGA.

*Section 450A – Register and tabling of returns (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 AlburyCity is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

*Section 602 - Record of rates and charges* - 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 Local Government Act) 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”.

Exceptions will be permitted for property owners requesting the adjoining property owner’s personal information for fencing purposes under the *Dividing Fences Act 1991*. For fencing purposes, a written request must be made to AlburyCity accompanied by the property owner’s authority (i.e. the property owner who is seeking to do or to contract the fencing work) requesting the adjoining owner’s details. In this case, AlburyCity will only provide the names and postal address of the adjoining owners.

### ***Under the Environmental Planning and Assessment Act 1979***

*Section 100 – Register of consents and certificates* – 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.

### ***Under the Protection of the Environment Operations Act 1997***

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

### ***Under the Impounding Act 1993***

*Section 30 & 31* – The primary purpose is to identify any impounding action by AlburyCity.

## **Secondary purpose of all Public Registers**

Due to the general emphasis (to be found in the *Local Government Act* and the *Government Information (Public Access) Act 2009*) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by AlburyCity 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 PPIP Act.

However, requests for access, copying or the sale of the whole or a substantial part of a public register held by AlburyCity will not necessarily fit within this purpose. AlburyCity will be guided by the Privacy Code in this respect. Where Council Officers have doubt as to the intended use of information requested from a public register, an applicant may be requested to provide a statutory declaration so that AlburyCity may satisfy itself as to the intended use of the information.

AlburyCity will make its assessment as to the minimum amount of personal information that is required to be disclosed with regard to any request. Contact the Public Information Officer for more information.

### **Other purposes**

Persons or organisations who apply to AlburyCity to access information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of AlburyCity but only in accordance with the Privacy Code concerning Public Registers.

### **Applications for access to own records on a Public Register**

A person wishing to have access to a public register to confirm their own details needs only to prove their identity to AlburyCity before having access to their own personal information.

### **Suppression of information in relation to a Public Register**

An application for suppression in relation to a Public Register will be dealt with under the PPIP Act rather than section 739 of the LG Act.

A person about whom personal information is contained (or proposed to be contained) in a Public Register, may request AlburyCity under section 58 of the PPIP Act to have the information removed from, or not placed on the register.

If AlburyCity is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, AlburyCity will suppress the information in accordance with the request unless AlburyCity is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIP Act.

When in doubt, AlburyCity will err in favour of suppression.

Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information 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 General Manager and must outline the reasons for the request. AlburyCity may require supporting documentation where appropriate.

### **Other Registers**

AlburyCity may have other registers that are not public registers. The IPPs, HPPs, this Plan, any applicable Codes and the PPIP Act apply to those registers and databases.

## **PART C – THE INFORMATION PROTECTION PRINCIPLES (IPPs)**

### **IPP 1 – Collection of Personal Information for lawful purposes**

[IPP 1 legislative requirements under the PPIP Act are found in Appendix I.](#)

#### **The Privacy Code**

The Privacy Code makes no provision to depart from the requirements of this principle.

#### **AlburyCity Policy**

AlburyCity will only collect personal information for a lawful purpose directly related to its functions and activities. The LG Act governs AlburyCity's major obligations and functions.

Section 22 of the LG Act provides other functions under other Acts. Some of those Acts are as follows:

- *Community Land Development Act 1989*
- *Companion Animals Act 1998*
- *Conveyancing Act 1919*
- *Environmental Planning and Assessment Act 1979*
- *Fire Brigades Act 1989*
- *Fluoridation of Public Water Supplies Act 1957*
- *Food Act 2003*
- *Impounding Act 1993*
- *Library Act 1939*
- *Protection of the Environment Operations Act 1997*
- *Public Health Act 2010*
- *Public Interest Disclosures Act 1994*
- *Recreation Vehicles Act 1983*
- *Roads Act 1993*
- *Rural Fires Act 1997*
- *State Emergency Service Act 1989*
- *Strata Schemes (Freehold Development) Act 1973*
- *Strata Schemes (Leasehold Development) Act 1986, and*
- *Swimming Pools Act 1992.*

The list is not exhaustive.

Additionally, the exercise by AlburyCity of its functions under the LG Act may also be modified by the provisions of other Acts. Some of those Acts follow:

- *Coastal Protection Act 1979*
- *Environmental Offences and Penalties Act 1989*
- *Government Information (Public Access) Act 2009*
- *Heritage Act 1977*
- *State Emergency and Rescue Management Act 1989*
- *Unclaimed Money Act 1995.*

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Collection of information under the *Companion Animals Act 1998* and AlburyCity's use of the Companion Animals Register should be guided by the Chief Executive of the Office of Local Government guidelines, which have been developed with the PPIP Act in mind.

The circumstances under which AlburyCity may collect information, including personal information, are varied and numerous. AlburyCity will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.

Anyone engaged by AlburyCity as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of AlburyCity by commercial agents.

### ***Role of the Public Information Officer***

Where AlburyCity requires an individual to provide their personal information, whether this be by submission of a form or a written request by which personal information is collected by AlburyCity, the individual must be provided with a copy of, or link to, the [AlburyCity Privacy Statement](#).

Where it is not appropriate to use the [AlburyCity Privacy Statement](#), in circumstances where an individual is required to provide AlburyCity with their personal information, either by way of a form utilised by AlburyCity or written requests by which personal information is collected by AlburyCity, the proposed alternative will be referred to the Public Information Officer to review prior to adoption or use in order to ensure compliance with the IPPs.

Should AlburyCity have any residual doubts, the opinion of the Information and Privacy Commission (IPC) will be sought. Any further concerns of a legal nature will be referred to AlburyCity's legal advisers.

The Public Information Officer will also provide advice as to:

- Whether the personal information is collected for a lawful purpose;
- If that lawful purpose is directly related to a function of AlburyCity;
- Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

### **IPP 2 – Collection of Personal Information directly from individual**

[IPP 2 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

AlburyCity may depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

### **AlburyCity Policy**

The compilation or referral of registers and rolls are the major means by which AlburyCity collects personal information. For example, the information AlburyCity receives from the Land Titles Office would fit within section 9(a) of the PPIP Act shown above.

Other means include forms that customers may complete and lodge with AlburyCity for development consent, companion animal registration, applications for specific inspections or certifications or

applications in respect of tree preservation orders.

In relation to petitions, AlburyCity will treat the personal information contained in petitions in accordance with the PPIP Act.

Where AlburyCity or a Councillor requests or requires information from individuals or groups, that information will be treated in accordance with the PPIP Act.

AlburyCity regards all information concerning its customers as information protected by PPIP Act. AlburyCity will therefore collect all personal information directly from its customers except as provided in section 9 of the PPIP Act or under other statutory exemptions or Codes of Practice. AlburyCity may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

Where AlburyCity anticipates that it may otherwise need to collect personal information indirectly it will first obtain the authorisation of each individual under section 9(a) of the PPIP Act.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 2 is also subject to certain exemptions under the PPIP Act. If one of those exemptions applies AlburyCity need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIP Act permits non-compliance with IPP 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) of the PPIP Act permits non-compliance with IPP 2 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) AlburyCity's complaint handling or investigative functions.

Section 25(a) of the PPIP Act permits non-compliance with IPP 2 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 2 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIP Act permits non-compliance with IPP 2 if compliance would prejudice the interests of the individual concerned.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 2.

## IPP 3 – Requirements when collecting Personal Information

[IPP 3 legislative requirements under the PPIP Act are found in Appendix I.](#)

### The Privacy Code

The Privacy Code makes provision for AlburyCity to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

### AlburyCity Policy

Where AlburyCity proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

AlburyCity will inform persons if the information is required by law or voluntarily given. AlburyCity will also inform individuals which department or section within AlburyCity holds their personal information, and of the right to access and correct that information. AlburyCity will provide the individual with the [AlburyCity Privacy Statement](#) or an alternative that has been reviewed for compliance with the IPPs by the Public Information Officer.

### Existing Statutory Exemptions under the Act

Section 23(3) permits non-compliance with IPP 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.

Section 24(4) extends the operation of section 24(1) to councils and permits non-compliance with IPP3 if AlburyCity is:

- (i) Investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) If compliance might detrimentally affect (or prevent the exercise of) AlburyCity's complaint handling and investigative functions.

Section 25(a) permits non-compliance with IPP3 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) permits non-compliance with IPP3 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) permits non-compliance with IPP3 if compliance would prejudice the interest of the individual concerned.

Section 26(2) permits non-compliance where the person expressly consents to such non-compliance.

### Disclosure of information for research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIP Act or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### **IPP 4 – Other requirements relating to collection of Personal Information**

[IPP 4 legislative requirements under the PPIP Act are found in Appendix I.](#)

#### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

#### **AlburyCity Policy**

AlburyCity will seek to ensure that no personal information is collected which is not directly relevant to its proper functions.

AlburyCity may use public place video surveillance in accordance with ‘NSW Government policy statement and guidelines for the establishment and implementation of closed circuit television (CCTV) in public places’. AlburyCity will comply with the provisions of the *Work Place Surveillance Act 2005* and any relevant AlburyCity Policy.

AlburyCity operates continuous work place surveillance by cameras with digital recording on an ongoing basis at various AlburyCity locations, including but not limited to:

- The foyers and stair wells of the AlburyCity Administration Building at 553 Kiewa St Albury
- AlburyCity Wodonga Place and Lavington depots
- Murray Art Museum Albury
- LibraryMuseum
- Lavington Library
- AlburyCity Water Filtration Plant and
- Albury Airport.

AlburyCity collects personal information through the various forms that customers may complete and lodge with AlburyCity. All forms are required to contain a link to the [AlburyCity Privacy Statement](#) (for electronic forms) or a copy of the [AlburyCity Privacy Statement](#) (for paper based forms), as a minimum. Where it is not appropriate to use the [AlburyCity Privacy Statement](#), the proposed alternative will be sent to the Public Information Officer to review prior to adoption or use to ensure compliance with the IPPs.

Should AlburyCity have any residual doubts, the opinion of the Information and Privacy Commission (IPC) will be sought. Any further concerns of a legal nature will be referred to AlburyCity’s legal advisers.

### **IPP 5 – Retention and security of Personal Information**

[IPP 5 legislative requirements under the PPIP Act are found in Appendix I.](#)

#### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

#### **AlburyCity Policy**

AlburyCity stores personal information securely, keeps it no longer than necessary, and destroys the information appropriately.

## **AlburyCity Privacy Management Plan**

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AlburyCity may comply with this principle by using any or all of the following or similar documents:

- Information Management - Blogging and Social Networking Policy,
- Information Management - Contractor IT Access Policy,
- Information Management – Secure Disposal of Data Policy,
- Information Management - Security Awareness Policy,
- Records Management Policy, Procedure and Business Rules, and
- General Records Disposal Schedule for Local Government (GA39).

### **Disclosure of Information for Research Purposes**

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIP Act or any Research Code of Practice made by the Attorney General as may be in force for the time being.

### **IPP 6 – Information held by Agencies**

[IPP 6 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

### **AlburyCity Policy**

Section 13 of the PPIP Act requires a council to take reasonable steps to enable a person to determine whether the council holds personal information about them. If AlburyCity 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. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.

IPP 6 is modified by section 20(5) of the PPIP Act. AlburyCity must consider the relevant provisions of the *Government Information (Public Access) Act 2009* (GIPA Act).

Any person can make application to AlburyCity by completing an [Informal Access to Information Request form](#) and submitting it to AlburyCity. Following investigation into the request, the applicant may be required to lodge a [Formal Access to Information Request](#).

Where AlburyCity receives an application or request by a person as to whether AlburyCity holds information about them, AlburyCity will undertake a search of its records to answer the enquiry. AlburyCity may ask the applicant to describe what dealings the applicant has had with AlburyCity in order to assist AlburyCity to conduct the search.

AlburyCity will ordinarily provide a response to applications of this kind in line with our [Customer Service Charter](#). Requests of this nature will be charged in accordance with the AlburyCity GIPA Act rates structure.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 6.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 6 is also subject to certain exemptions under the Act. If one of those exemptions apply AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIP Act permits non-compliance with IPP 6 where AlburyCity is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 6 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

### **Reporting Matters**

AlburyCity will issue a statement to be included on our webpage ([AlburyCity Website Privacy Statement](#)), concerning the nature of personal information we regularly collect, the purpose for which the personal information is used, and an individual’s right to access their own personal information.

### **IPP 7 – Access to Personal Information held by Agencies**

[IPP 7 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

### **AlburyCity Policy**

Section 14 of the PPIP Act requires a council, at the request of any person, to give access to that person to personal information held about them.

Compliance with IPP 7 does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act, unless IPP’s 11 and 12 or the Public Register provisions apply.

Where a person makes an application for access under the PPIP Act and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act. However use of the GIPA Act is to be a last resort. The applicant has the right to insist on being dealt with under the PPIP Act.

Under section 20(5) of the PPIP Act, IPP 7 is subject to any applicable conditions or limitations contained in the GIPA Act. AlburyCity must consider the relevant provisions of the GIPA Act.

Customers wishing to exercise their right to access their own personal information should apply in writing to:

Post: PO Box 343 Albury NSW 2640

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

Members of staff wishing to exercise their right to access their personal information should apply in writing and direct their inquiries to the Public Information Officer, who will deal with the application.

In order to comply with the requirement to provide the requested information “without excessive delay or expense”, AlburyCity will ordinarily provide a response to applications of this kind in line with our

## **AlburyCity Privacy Management Plan**

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[Customer Service Charter](#). Requests of this nature will be charged in accordance with the AlburyCity GIPA Act rates structure.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 8 is also subject to certain exemptions under the Act. If one of those exemptions applies, AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 7.

### **Existing exemptions under the Act**

Compliance with IPP 7 is also subject to certain exemptions under the Act, If one of those exemptions apply, AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIP Act permits non-compliance with IPP 7 where AlburyCity is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 7 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

### **IPP 8 – Alteration of Personal Information**

[IPP 8 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

### **Council Policy**

Section 15 of the PPIP Act allows a person to make an application to AlburyCity to amend personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.

AlburyCity wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by AlburyCity are welcomed.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Group Leader Human Resources in the first instance and treated in accordance with AlburyCity’s [Complaints Management Policy](#).

Any alterations to personal information that are or could be the subject of a customer complaint or grievance will be referred to the Public Information Officer, who will make a recommendation in relation to the matter.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 8.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 8 is also subject to certain exemptions under the Act. If one of those exemptions applies, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIP Act permits non-compliance with IPP 8 where AlburyCity is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 8 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

### **Procedure**

Where information is requested to be amended (either by way of correction, deletion or addition), the individual to whom the information relates must make a request. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy AlburyCity that the proposed amendment is factually correct and appropriate. AlburyCity may require further documentary evidence to support certain amendments. AlburyCity will not charge to process and application to amend a record under section 15.

### **Where an amendment is made**

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by AlburyCity. AlburyCity will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

### **State Records Act**

The State Records Act does not allow for the deletion of records. However, as a result of section 20(4) of the PPIP Act, some deletions may be allowed in accordance with IPP 8.

### **IPP 9 – Agency must check accuracy of Personal Information before use**

[IPP 9 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes no provision to depart from this principle.

### **AlburyCity Policy**

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.

### **IPP 10 – Limits on use of Personal Information**

[IPP 10 legislative requirements under the PPIP Act are found in Appendix I.](#)

#### **The Privacy Code**

The Privacy Code makes provision that AlburyCity may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- (i) where the use is in pursuance of AlburyCity's lawful and proper function/s and AlburyCity is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or
- (ii) where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

#### **Explanatory Note**

For example, with respect to exemption (i) above, the Rates Record that AlburyCity holds under section 602 of the *Local Government Act 1993* may also be used to:

- notify neighbours of a proposed development;
- evaluate a road opening; or
- evaluate a tree preservation order.

#### **AlburyCity Policy**

AlburyCity will seek to ensure that information collected for one purpose will be used for that same purpose. Where AlburyCity may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies.

#### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 10.

#### **Existing Statutory Exemptions under the Act**

Compliance with IPP 10 is also subject to certain exemptions under the Act. If one of those exemptions applies, AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(4) of the PPIP Act permits AlburyCity not to comply with IPP 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue.

*Law enforcement purposes* mean a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person. *Protection of the public revenue* means a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty.

## **AlburyCity Privacy Management Plan**

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Section 24 (4) of the PPIP Act permits non-compliance with IPP 10 if:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the Council to exercise its complaint handling functions or any of its investigative functions.

Section 25(a) of the PPIP Act permits non-compliance with IPP 10 where AlburyCity is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 10 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Officer of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

### **IPP 11 – Limits on disclosure of Personal Information**

[IPP 11 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes provision for AlburyCity to depart from this principle in the circumstances described below:

1. AlburyCity may disclose personal information to public sector agencies or public utilities on condition that:
  - (i) the agency has approached AlburyCity in writing;
  - (ii) AlburyCity is satisfied that the information is to be used by that agency for the proper and lawful function/s of that agency, and
  - (iii) AlburyCity is satisfied that the personal information is reasonably necessary for the exercise of that agency’s function/s.
2. Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
3. Where AlburyCity is requested by a potential employer, it may verify that a current or former employee works or has worked for AlburyCity, the duration of that work, and the position occupied during that time. This exception shall not permit AlburyCity to give an opinion as to that person’s suitability for a particular position with any potential employer unless AlburyCity is satisfied that the person has provided their consent for AlburyCity to provide a reference, which may include an opinion as to that person’s suitability for the position for which he/she has applied.

### **AlburyCity Policy**

AlburyCity will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected or where the AlburyCity has no reason to believe that the individual concerned would object to the disclosure.

## **AlburyCity Privacy Management Plan**

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AlburyCity may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information.

“Directly related” can mean the disclosure to another person or agency to deliver a service which supplements that of AlburyCity or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

AlburyCity may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

### **Public Registers**

Sections 18 and 57 of the PPIP Act should be read in conjunction in regard to Public Registers. Public Registers are discussed in [Part B](#) of this Plan.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 11.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 11 is also subject to certain exemptions under the Act. If one of those exemptions applies AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstance and legal advice should normally be obtained.

Section 23(5)(a) of the PPIP Act permits non-compliance with IPP 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purpose* means a breach of the criminal law and criminal law enforcement. However, AlburyCity need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(b) of the PPIP Act permits non-compliance with IPP 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However, AlburyCity need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(c) of the PPIP Act permits non-compliance with IPP 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument.

Section 23(5)(d)(i) of the PPIP Act permits non-compliance with IPP 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However, AlburyCity need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(ii) of the PPIP Act permits non-compliance with IPP 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

## **AlburyCity Privacy Management Plan**

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Section 24(4) of the PPIP Act permits non-compliance with IPP 11 if:

- (i) Investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) If the disclosure is to an investigative agency.

(Note: “investigative agency is defined at section 3 of the PPIP Act)

Section 25(a) of the PPIP Act permits non-compliance with IPP 11 where AlburyCity is lawfully authorised or required not to comply with the principle. Section 25(b) of the PPIP Act permits non-compliance with IPP 11 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(2) of the PPIP Act permits non-compliance where the person expressly consents to such non-compliance.

Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

### **Suppression**

Information held by AlburyCity may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See [Part A](#) and [Part B](#) of this Plan for more details about suppression of personal information.

### **IPP 12 – Special restrictions on disclosure of Personal Information**

[IPP 12 legislative requirements under the PPIP Act are found in Appendix I.](#)

### **The Privacy Code**

The Privacy Code makes provision for AlburyCity to depart from this principle in the circumstances described below:

For the purposes of subsection 19(2) only, where AlburyCity is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for AlburyCity, the duration of that work, and the position occupied during that time. This exception shall not permit AlburyCity to give an opinion as to that person’s suitability for a particular position with any potential employer unless council is satisfied that the person has provided their consent for AlburyCity to provide a reference, which may include an opinion as to that person’s suitability for the position for which he/she has applied.

### **AlburyCity Policy**

AlburyCity will not disclose personal information relating 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.

### **Public Registers**

Sections 19 and 57 of the PPIP Act should be read in conjunction in regard to Public Registers. Public Registers are discussed further in [Part B](#) of this Plan.

### **Investigative Functions**

Where AlburyCity is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIP Act that may affect the application of IPP 12.

### **Existing Statutory Exemptions under the Act**

Compliance with IPP 12 is also subject to certain exemptions under the Act. If one of those exemptions applies, AlburyCity need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(7) of the PPIP Act permits non-compliance with IPP 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

Section 25(a) of the PPIP Act permits non-compliance with IPP 12 where AlburyCity is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIP Act permits non-compliance with IPP 12 where non-compliance is “necessarily implied” or “reasonably contemplated” under any Act or law.

Section 26(2) of the PPIP Act permits non-compliance where the person expressly consents to such non-compliance.

Section 28(2) permits non-compliance with IPP 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an authorised person to another authorised person. “Authorised person” means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.

Section 28(3) of the PPIP Act permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (e.g. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister’s (or Premier’s) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

### **Suppression**

Information held by AlburyCity may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See [Part A](#) and [Part B](#) of this Plan for more details about suppression of personal information.

## **PART D – THE HEALTH PRIVACY PRINCIPLES**

In 2002, most references to ‘health information’ were taken out of the PPIP Act and separate legislation was enacted. The HRIP Act was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIP Act in their collection and management of health information.

Health information includes personal information that is information or an opinion about the physical or mental health or a disability 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 of human tissue; or
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIP Act. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Privacy Principles (HPPs) set down in Schedule 1 of the HRIP Act. Each of these HPPs are considered below

The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

- Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;
- Issuing of clean up orders which may include recording information about a residents health, GP professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, for example, allergies for catering purposes;
- Seniors bus outing where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children's services, for example, history of illness, allergies, asthma, diabetes, epilepsy et cetera;
- Physical exercise classes;
- Some councils run Podiatry services;
- Information may be collected through a health community program;
- Children's immunisation records; and
- Family counsellor / youth support workers records.

### **HPP 1 to 4 – Collection of Health Information**

[HPP 1 - 4 legislative requirements under the HRIP Act are found in Appendix II.](#)

#### **AlburyCity Policy**

AlburyCity will only collect health information for a lawful purpose that is directly related to AlburyCity's activities and is necessary for that purpose (HPP 1).

## **AlburyCity Privacy Management Plan**

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AlburyCity will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

AlburyCity will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for AlburyCity to do so (HPP 3).

AlburyCity will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. AlburyCity will also tell the person how he or she can see and correct the health information.

If AlburyCity collects health information about a person from someone else, AlburyCity will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 4).

### **HPP 5 – Storage of Health Information**

[HPP 5 legislative requirements under the HRIP Act are found in Appendix II.](#)

#### **AlburyCity Policy**

AlburyCity will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

### **HPP 6 to 9 – Access and accuracy of Health Information**

[HPP 6 - 9 legislative requirements under the HRIP Act are found in Appendix II.](#)

#### **AlburyCity Policy**

AlburyCity will provide details about what health information AlburyCity is holding about an individual and with information about why AlburyCity is storing that information and what rights of access the individual has (HPP 6).

AlburyCity will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

AlburyCity will allow the individual to update, correct or amend his or her health information where necessary (HPP 8).

AlburyCity will make sure that the health information is relevant and accurate before using it (HPP 9).

### **HPP 10 – Limits on use of Health Information**

[HPP 10 legislative requirements under the HRIP Act are found in Appendix II.](#)

#### **AlburyCity Policy**

AlburyCity will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, AlburyCity will obtain the individual's consent.

**HPP 11 – Limits on disclosure of Health Information**

[HPP 11 legislative requirements under the HRIP Act are found in Appendix II.](#)

**AlburyCity Policy**

AlburyCity will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

**HPP 12 – Identifiers**

[HPP 12 legislative requirements under the HRIP Act are found in Appendix II.](#)

**AlburyCity Policy**

AlburyCity will only give an identification number to health information if it is reasonably necessary for AlburyCity to carry out its functions effectively (HPP 12).

**HPP 13 – Anonymity**

[HPP 13 legislative requirements under the HRIP Act are found in Appendix II.](#)

**AlburyCity Policy**

AlburyCity will provide health services anonymously where it is lawful and practical (HPP 13).

**HPP 14 – Transborder data flows and data flow to Commonwealth Agencies**

[HPP 14 legislative requirements under the HRIP Act are found in Appendix II.](#)

**AlburyCity Policy**

AlburyCity will only transfer personal information out of New South Wales if all the requirements of HPP 14 are met.

**HPP 15 – Linkage of health records**

[HPP 15 legislative requirements under the HRIP Act are found in Appendix II.](#)

**AlburyCity Policy**

AlburyCity 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 expressly consents to the link (HPP 15).

## **PART E – IMPLEMENTATION OF THE PLAN**

### **Council Officer Training**

During induction, all employees are made aware that personal information is held in their personnel files including information on their individual work performance or competency.

Council Officers are to be acquainted with the general provisions of the PPIP Act, the HRIP Act and in particular, the 12 IPPs, the 15 HPPs, the Public Register provisions, the Privacy Code, this Plan and any other applicable Code of Practice.

### **Distribution of information to the public**

AlburyCity may prepare its own literature such as pamphlets on the PPIP Act, the HRIP Act or it may obtain and distribute copies of literature available from the NSW Information and Privacy Commission (IPC).

## **PART F – INTERNAL REVIEW**

### **How does the process of Internal Review operate?**

Under section 53 of the PPIP Act a person (the applicant) who is aggrieved by the conduct of a council in relation to their personal information is entitled to a review of that conduct. An application for internal review is to be made within **six months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to:

The General Manager  
AlburyCity  
PO Box 323  
Albury NSW 2640

The Public Officer (Group Leader Human Resources) will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitability qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgement, the applicant is entitled to seek external review.

AlburyCity must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and AlburyCity is required to consider any relevant material submitted by the Privacy Commissioner. AlburyCity must provide the Privacy Commissioner with a draft of AlburyCity's internal review report to enable the Privacy Commissioner to make a submission.

AlburyCity may provide a copy of any submission by the Privacy Commissioner, to the applicant.

AlburyCity must notify the applicant of the outcome of the review within **14 days** of its determination.

A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

A 'Privacy internal review checklist' has been prepared by the Information Commissioner and can be accessed through the [IPC website](#).

The Privacy Commissioner must be notified of a complaint, briefed on progress and notified of the outcome of an internal review under the PPIP Act or HRIP Act.

### **What happens after an Internal Review?**

If the complainant remains unsatisfied, an appeal may be made to the NSW Civil and Administrative Tribunal (NCAT) which hears the matter afresh and may impose its own decision and can make a range of orders including an award of damages for a breach of an information protection principle or a health privacy principle.

## **PART G – OTHER RELEVANT MATTERS**

### **Confidentiality**

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attached to information per se, personal or health information to the person to whom that information relates.

An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

### **Misuse of Personal or Health Information**

Section 664 of the LGA makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion from case to case.

### **Regular Review of the AlburyCity Privacy Management Plan**

When information practices are reviewed from time to time, the Privacy Management Plan will be reviewed to ensure that the Plan is up to date. A copy of this Privacy Management Plan will be provided to the Privacy Commissioner as soon as is practicable whenever the plan is amended.

### **Further Information**

For assistance in understanding the processes under the PPIP Act and HRIP Act, please contact AlburyCity's Public Information Officer or the IPC.

**PART H – RELATED ALBURYCITY POLICIES AND PROCEDURES**

**Related AlburyCity Public Policies and Procedures**

Child Protection Policy and Procedure  
Code of Conduct  
Code of Meeting Practice  
Complaints Management Policy  
Employee or Independent Contractors Policy  
Equal Employment Opportunity Policy  
Internal Reporting – Public Interest Disclosure Policy and Procedure  
Work Health Safety (WHS) Management Statement  
Public Access to Information Policy and Procedure  
Recruitment and Selection Policy and Procedure  
Risk Management Policy  
Volunteer Policy and Procedure

**Related Internal AlburyCity Policies and Procedures**

Access to Personnel and Personal Information Policy  
Attendance Records Procedure  
Entry to Private Property Policy  
Gathering Information Policy  
Employee Grievance Policy and Procedure  
Internal Investigation Policy and Procedure  
Information Release to Members of the Public Procedure  
Return to Work Policy  
Reward and Recognition Framework Policy and Procedures  
Salary Packaging Policy and Procedure  
Staff Exit Policy  
Trainee Program Policy  
Training and Development Policy and Procedure  
Workplace Surveillance Policy and Procedure

## **APPENDIX I – IPP REQUIREMENTS FROM SECTIONS 8 TO 19 OF THE PPIP ACT**

### **IPP 1 – Collection of Personal Information for lawful purposes**

Section 8 of the PPIP Act states:

- (1) *A public sector agency must not collect personal information unless:*
  - (a) *the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *A public sector agency must not collect personal information by any unlawful means.*

### **IPP 2 – Collection of Personal Information directly from individual**

Section 9 of the PPIP Act states:

*A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:*

- (a) *the individual has authorised collection of the information from someone else, or*
- (b) *in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.*

### **IPP 3 – Requirements when collecting Personal Information**

Section 10 of the PPIP Act states:

*If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:*

- (a) *the fact that the information is being collected,*
- (b) *the purposes for which the information is being collected,*
- (c) *the intended recipients of the information,*
- (d) *whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,*
- (e) *the existence of any right of access to, and correction of, the information,*
- (f) *the name and address of the agency that is collecting the information and the agency that is to hold the information.*

### **IPP 4 – Other requirements relating to collection of Personal Information**

Section 11 of the PPIP Act states:

*If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:*

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

### **IPP 5 – Retention and security of Personal Information**

Section 12 of the PPIP Act states:

*A public sector agency that holds personal information must ensure:*

- (a) *that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*

- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and*
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
- (d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.*

#### **IPP 6 – Information about Personal Information held by agencies**

Section 13 of the PPIP Act states:

*A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:*

- (a) whether the agency holds personal information; and*
- (b) whether the agency holds personal information relating to that person, and*
- (c) if the agency holds personal information relating to that person:*
  - (i) the nature of that information, and*
  - (ii) the main purposes for which the information is used, and*
  - (iii) that person's entitlement to gain access to the information.*

#### **IPP 7 – Access to Personal Information held by agencies**

Section 14 of the PPIP Act states:

*A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

#### **IPP 8 – Alteration of Personal Information**

Section 15 of the PPIP Act states:

- (1) A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:*
  - (a) is accurate, and*
  - (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.*
- (2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*
- (3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.*
- (4) This section, and any provision of a privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998.*
- (5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.*
- (6) In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.*

**IPP 9 – Agency must check accuracy of Personal Information before use**

Section 16 of the PPIP Act states:

*A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.*

**IPP 10 – Limits on use of Personal Information**

Section 17 of the PPIP Act states:

*A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:*

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or*
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or*
- (c) 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.*

**IPP 11 – Limits on disclosure of Personal Information**

Section 18 of the PPIP Act states:

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:*

- (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or*
- (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or*
- (c) the agency 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 or another person.*

- (2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*

**IPP 12 – Special restriction on disclosure of Personal Information**

Section 19 of the PPIP Act states:

- (1) A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities unless the disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person.*
- (2) A public sector agency that holds personal information must not disclose the information to any other person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*

- (a) a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction or applies to that Commonwealth agency, or*
  - (b) the disclosure is permitted under a privacy code of practice.*
- (3) For the purpose of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.*
- (4) The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales and to Commonwealth agencies.*
- (5) Subsection(2) does not apply:*
  - (a) until after the first anniversary of the commencement of this section, or*
  - (b) until a code referred to in subsection (4) is made,**whichever is the later.*

**APPENDIX II – HPP REQUIREMENTS FROM SCHEDULE 1 OF THE HRIP ACT**

**HPP 1 – 4 – Collection of Health Information**

Schedule 1 Clause 1 – 4 of the HRIP Act states:

**1 Purpose of collection of health information**

- (1) *An organisation must not collect health information unless:*
  - (a) *the information is collected for lawful purpose that is directly related to a function or activity of the organisation, and*
  - (b) *the collection of the information is reasonably necessary for that purpose.*
- (2) *An organisation must not collect health information by any unlawful means.*

**2 Information must be relevant, not excessive, accurate and not intrusive**

*An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:*

- (a) *the information collected is relevant to that purpose, is not excessive and is accurate, up to date and complete, and*
- (b) *the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.*

**3 Collection to be from individual concerned**

- (1) *An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.*
- (2) *Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.*

**4 Individual to be made aware of certain matters**

- (1) *An organisation that collects health information about an individual from the individual must, at or before the time that it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the circumstances to ensure that the individual is aware of the following:*
  - (a) *the identity of the organisation and how to contact it,*
  - (b) *the fact that the individual is able to request access to the information,*
  - (c) *the purpose for which the information is collected,*
  - (d) *the persons to whom (or the types of persons to whom) the organisation usually discloses information of that kind,*
  - (e) *any law that requires the particular information to be collected,*
  - (f) *the main consequences (if any) for the individual if all or part of the information is not provided.*
- (2) *If an organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:*
  - (a) *making the individual aware of the matters would pose a serious threat to the life or health of any individual, or*
  - (b) *the collection is made in accordance with guidelines issued under subclause (3).*
- (3) *The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).*
- (4) *An organisation is not required to comply with a requirement of this clause if:*
  - (a) *the individual to whom the information relates has expressly consented to the organisation not complying with it, or*
  - (b) *the organisation is lawfully authorised or required not to comply with it, or*

- (c) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or*
  - (d) compliance by the organisation would, in the circumstances, prejudice the interests of the individual to whom the information relates, or*
  - (e) the information concerned is collected for law enforcement purposes, or*
  - (f) the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions.*
- (5) If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances to ensure that any authorised representative of the individual is aware of those matters.*
- (6) Subclause (4)(e) does not remove any protection provided by any other law in relation to the rights of accused persons or persons suspected of having committed an offence.*
- (7) The exemption provided by subclause (4)(f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

#### **HPP 5 – Storage of Health Information**

Schedule 1 Clause 5 of the HRIP Act states:

##### **5 Retention and security**

- (1) An organisation that holds health information must ensure that:*
- (a) the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and*
  - (b) the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and*
  - (c) the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and*
  - (d) if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of the organisation is done to prevent unauthorised use or disclosure of the information.*
- Note:** Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.
- (2) An organisation is not required to comply with a requirement of this clause if:*
- (a) The organisation is lawfully authorised or required not to comply with it, or*
  - (b) Non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*
- (3) An investigative agency is not required to comply with subclause (1)(a).*

#### **HPP 6 to 9 – Access and accuracy of Health Information**

Schedule 1 Clause 6 – 9 of the HRIP Act states:

##### **6 Information about health information held by organisations**

- (1) An organisation that holds health information must take such steps as are, in the circumstances, reasonably to enable any individual to ascertain:*
- (a) whether the organisation holds health information, and*
  - (b) whether the organisation holds health information relating to that individual, and*
  - (c) if the organisation holds health information relating to that individual:*

- (i) *the nature of that information, and*
  - (ii) *the main purposes for which the information is used, and*
  - (iii) *that person's entitlement to request access to the information.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

### **7 Access to health information**

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.*

**Note:** Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

### **8 Amendment of health information**

- (1) *An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:*
  - (a) *is accurate, and*
  - (b) *having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.*
- (2) *If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the individual to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*
- (3) *If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.*

**Note:** Division 4 (Amendment of health information) of Part 4 contains provision applicable to private sector persons in connection with the matters dealt with in this clause.  
Amendment of health information held by public sector agencies may also be able to be sought under the *Privacy and Personal Information Protection Act 1998*.
- (4) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

### **9 Accuracy**

*An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.*

**HPP 10 – Limits on use of Health Information**

Schedule 1 Clause 10 of the HRIP Act states:

**10 Limits on use of health information**

(1) *an organisation that holds health information must not use the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*

(a) **Consent**

*the individual to whom the information relates has consented to the use of the information for that secondary purpose, or*

(b) **Direct relation**

*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the secondary purpose, or*

**Note:** For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) **Serious threat to health or welfare**

*the use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*

(i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*

(ii) *a serious threat to public health or public safety, or*

(c1) **Genetic information**

*the information is genetic information and the use of the information for the secondary purpose:*

(i) *is reasonably believed by the organisation to be necessary to lessen or prevent a serious threat to the life, health or safety (whether or not the threat is imminent) of a genetic relative of the individual to whom the genetic information relates, and*

(ii) *is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(d) **Management of health services**

*the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*

(i) *either:*

A. *that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*

B. *reasonable steps are taken to de-identify the information, and*

(ii) *if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*

(iii) *the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*

(e) **Training**

*the use of information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*

(i) *either:*

A. *that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation*

- to seek the consent of the individual for the use, or*
- B. reasonable steps are taken to de-identify the information, and*
- (ii) *if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) *the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (f) **Research**  
*the use of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*
- (i) *either:*
- A. that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or*
- B. reasonable steps are taken to de-identify the information, and*
- (ii) *if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
- (iii) *the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
- (g) **Find missing person**  
*the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or*
- (h) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
*the organisation:*
- (i) *has reasonable grounds to suspect that:*
- A. unlawful activity has been or may be engaged in, or*
- B. a person has or may have engaged in conduct that may be unsatisfactory professional misconduct under the Health Practitioner Regulation National Law (NSW), or*
- C. an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
- (ii) *uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*
- (i) **Law enforcement**  
*the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or*
- (j) **Investigative agencies**  
*the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or*
- (k) **Prescribed circumstances**  
*the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
- (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).*

- (3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- (4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
- (a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*
  - (b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- (5) *The exemption provided by subclause (1)(j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

### **HPP 11 – Limits on disclosure of Health Information**

Schedule 1 Clause 11 of the HRIP Act states:

#### **11 Limits on disclosure of health information**

- (1) *An organisation that holds health information must not disclose the information for a purpose (a **secondary purpose**) other than the purpose (the **primary purpose**) for which it was collected unless:*
- (a) **Consent**  
*the individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or*
  - (b) **Direct relation**  
*the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or*  
**Note:** For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.
  - (c) **Serious threat to health or welfare**  
*the disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:*
    - (i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*
    - (ii) *a serious threat to public health or public safety, or*
  - (c1) **Genetic information**  
*the information is genetic information and the disclosure of the information for the secondary purpose:*
    - (i) *is to a genetic relative of the individual to whom the genetic information relates, and*
    - (ii) *is reasonably believed by the organisation to be necessary to lessen or prevent a serious threat to the life, health or safety (whether or not the threat is imminent) of a genetic relative of the individual to whom the genetic information relates, and*
    - (iii) *is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
  - (d) **Management of health services**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:*
    - (i) *either:*

- A. *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure,*  
or
        - B. *reasonable steps are taken to de-identify the information, and*
      - (ii) *if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and*
      - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
    - (e) **Training**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:*
      - (i) *either:*
        - A. *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure,*  
or
        - B. *reasonable steps are taken to de-identify the information, and*
    - (f) **Research**  
*the disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:*
      - (i) *either:*
        - A. *that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure,*  
or
        - B. *reasonable steps are taken to de-identify the information, and*
      - (ii) *the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and*
      - (iii) *the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or*
    - (g) **Compassionate reasons**  
*the disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:*
      - (i) *the disclosure is limited to the extent reasonable for those compassionate reasons, and*
      - (ii) *the individual is incapable of giving consent to the disclosure of the information, and*
      - (iii) *the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and*
      - (iv) *if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or*
    - (h) **Find missing person**  
*the disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has*

- been reported to a police officer as a missing person, or*
- (i) **Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline**  
*the organisation:*
- (i) *has reasonable grounds to suspect that:*
- A. *unlawful activity has been or may be engaged in, or*  
B. *a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under the Health Practitioner Regulation National Law (NSW), or*  
C. *an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and*
- (ii) *discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or*
- (j) **Law enforcement**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or*
- (k) **Investigative agencies**  
*the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or*
- (l) **Prescribed circumstances**  
*the disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
- (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*  
(b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or*  
(c) *the organisation is an investigative agency disclosing information to another investigative agency.*
- (3) *The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.*
- (4) *Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:*
- (a) *to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or*  
(b) *to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.*
- (5) *If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.*
- (6) *The exemptions provided by subclauses (1)(k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.*

## **HPP 12 – Identifiers**

Schedule 1 Clause 12 of the HRIP Act states:

### **12 Identifiers**

- (1) An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.*
- (2) Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual and identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:
  - (a) the individual has consented to the adoption of the same identifier, or*
  - (b) the use or disclosure of the identifier is required or authorised by or under law.**
- (3) Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:
  - (a) the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10(1)(c)-(k) or 11((1)(c)-(l), or*
  - (b) the individual has consented to the use or disclosure, or*
  - (c) the disclosure is to the public sector agency that assigned the identifier to enable the public sector agency to identify the individual for its own purposes.**
- (4) If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:
  - (a) adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or*
  - (b) use or disclose and identifier of the individual that has been assigned by the public sector agency.**

## **HPP 13 – Anonymity**

Schedule 1 Clause 13 of the HRIP Act states:

### **13 Anonymity**

*Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.*

## **HPP 14 – Transborder data flows and data flow to Commonwealth Agencies**

Schedule 1 Clause 14 of the HRIP Act states:

### **14 Transborder data flows and data flow to Commonwealth agencies**

*An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:*

- (a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles, or*
- (b) the individual consents to the transfer, or*
- (c) the transfer is necessary for the performance of a contract concluded in the interest of the individual between the organisation and a third party, or*
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third part, or*
- (e) all of the following apply:
  - (i) the transfer is for the benefit of the individual,*
  - (ii) it is impracticable to obtain the consent of the individual to that transfer,*
  - (iii) if it were practicable to obtain such consent, the individual would be likely to give it,**

or

- (f) *the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:*
  - (i) *a serious and imminent threat to the life, health or safety of the individual or another person, or*
  - (ii) *a serious threat to public health or public safety, or*
- (g) *the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or*
- (h) *the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.*

### **HPP 15 – Linkage of health records**

Schedule 1 Clause 15 of the HRIP Act states:

#### **15 Linkage of health records**

- (1) *An organisation must not:*
  - (a) *include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or*
  - (b) *disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.*
- (2) *An organisation is not required to comply with a provision of this clause if:*
  - (a) *the organisation is lawfully authorised or required not to comply with the provision concerned, or*
  - (b) *non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or*
  - (c) *the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual is to be disclosed) is a use of the information that complies with HPP 10(1)(f) or a disclosure of the information that complies with HPP 11(1)(f).*
- (3) *In this clause:*

**health record** means an ongoing record of health care for an individual.

**health records linkage system** means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.

**APPENDIX III – LINKS TO ALBURYCITY’S PRIVACY STATEMENTS**

[AlburyCity Privacy Statement](#)

[AlburyCity Website Privacy Statement](#)