PRIVACY POLICY

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RESPONSIBLE OFFICER:	Manager Governance and Risk
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POLICY STATEMENT

Hepburn Shire Council (Council) is strongly committed to ensuring that personal and health information received by Council is collected and handled in a responsible manner.

Council demonstrates its commitment through implementing the Information Privacy Principles ("IPPs") in the *Privacy and Data Protection Act 2014 (Vic)* and the Health Privacy Principles ("HPPs") in the *Health Records Act 2001 (Vic*) (jointly the "Privacy Principles").

In fulfilling the objectives of the Privacy Principles, Council is mindful of the need to balance the public interest in the free flow of information with the public interest in protecting the privacy of personal and health information.

PURPOSE

To meet the IPPs and HPPs in relation to managing and handling personal and health information within Council.

SCOPE

This policy applies to all employees, councillors, committee members and contractors of Council.

This policy applies to all operations of Council,including personal information sourced by Council from third parties. This policy explains:

- how Council use, store and discloses personal information and health information;
- how individuals can gain access to their personal information and request correction of inaccuracies; and
- the process for individual to report alleged breaches of Councils responsibilities under Privacy Principles

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DEFINITIONS

Personal Information	Means information or an opinion about an individual who can be identified from the information, or whose identity can reasonably be ascertained from the information. The information can be recorded in any form and does not need to be true. This includes information Council has collected in any format including correspondence, in person, over the phone, and via our various websites, or information or an opinion that forms part of a database. However, where the information is health information, it need not be recorded and, where the individual has been deceased for more than 30 years, the information is no longer considered to be personal information. Examples of personal information: Names; addresses; contact details; work addresses; signatures; attendances at meetings; and opinions (particularly where those opinions would identify the person). Personal information on a public register, complaints records, records of telephone calls, building plans, in meeting minutes and many, many other types of records held by Council.
Health Information	Includes information or an opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual where that information is also personal information. Health information includes other personal information that is collected to provide or in providing a health service. Examples of health information: The assessment notes of a maternal child health nurse , records held by Council of attendees at immunisation sessions; requests for home support to be provided to a person living in the municipality made by family members outside the municipality. Health service - means an activity that is intended or claimed to assess, maintain or improve the individual's health, to diagnose the individual's illness, injury or disability or to treat the individual's illness, injury or disability.
IPPs – Information	Set of principles established by the *Privacy and Data Protection Act 2014* that regulate how organisations such as Council collects, holds, manages, uses, discloses or transfers personal information.

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Privacy Principles	
HPPs – Health Privacy Principles	Set of principles established by the *Health Records Act 2001* that regulate how Council collects, holds, manages, uses, discloses or transfers health service provider information.
Sensitive Information	Council may also hold sensitive information in order to provide education, welfare and other services. Sensitive information is personal information that is information or an opinion about an individual's: • race or ethnic origin • political opinions • membership of a political association • religious beliefs or affiliations • philosophical beliefs • membership of a professional trade association • membership of a trade union • sexual preferences or practice • criminal record.
Public Registers	Documents that are held by Council and: • are open to inspection by members of the public; • contain information that a person or body was required or permitted by legislation to give Council under an Act or regulation; and • contain information that would be personal information if the document was not a generally available publication.

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POLICY

It is the policy of the Hepburn Shire Council that personal information is managed in accordance with the 10 Information Privacy Principles (IPPs) and the 11 Health Privacy Principles (HPPs).

The 10 IPPs contained in the *Privacy and Data Protection Act 2014 (Vic)* are listed below:	The 11 Health Privacy Principles (HPPs in the *Health Records Act 2001 (Vic)* are listed below:
Principle 1 - Collection	Principle 1 - Collection
Principle 2 - Use and Disclosure	Principle 2 - Use and Disclosure
Principle 3 - Data Quality	Principle 3 - Data Quality
Principle 4 - Data Security	Principle 4 - Data Security and Data Retention
Principle 5 - Openness	Principle 5 - Openness
Principle 6 - Access and Correction	Principle 6 - Access and Correction
Principle 7 - Unique Identifiers	Principle 7 - Identifiers
Principle 8 - Anonymity	Principle 8 - Anonymity
Principle 9 - Transborder Data Flows	Principle 9 - Transborder Data Flows
Principle 10 - Sensitive Information	Principle 10 - Transfer or closure of the practice of a health service provider
	Principle 11—Making information available to another health service provider

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PRINCIPLE 1 – Collection of Personal or Health Information

When collecting personal or health information from an individual, Council will take reasonable steps to advise that individual of what information is being sought, as far as practicable what the intended purpose or use is, whom will have access to the information and how they can contact Council.

Council will only collect personal or health information that is necessary for its specific and legitimate functions and activities. In some instances, Council is required by law to collect personal or health information.

Types of collected information

The personal information collected by Council typically includes, but is not limited to, the following types of information:

- name
- address (postal and e-mail)
- telephone number (work, home and mobile)
- signature
- date of birth
- credit card and bank account number
- motor vehicle registration number
- type of disability
- allergy
- chronic health condition (e.g. asthma, diabetes)
- licence number
- phone or video footage

How private information is collected

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

- why it is collecting the information

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

The information you provide may be used for purposes including but not limited to the following:

- To contact you where it is necessary in order to provide services requested by you, such as obtaining a resident parking permit via our public interfaces.
- As part of our commitment to customer service, Council may periodically invite you to provide feedback about your experience via a survey (any survey is voluntary, and you do not have to participate.)
- To contact you where it is necessary to resolve issues relating to Council services or functions which you have brought to our attention. For instance, contacting you in response to your report of a fallen tree branch.
- To contact you prior to a Council or Committee meeting to confirm your attendance and/or advise you of any changes to the meeting details where you have made a submission for consideration.
- To supply you with material concerning Council initiatives and programs where you have supplied personal information to Council for this purpose. For instance, where you have opted to be included on a mailing list for a Council publication via our public interfaces.
- To be able to respond to medical emergencies to appropriately.

Council will not include you on such mailing lists unless you have given consent.

- To facilitate the collection of Council fees and charges. For instance, Council will use your name and address details to forward rate notices.
- To enable payment for Council provided goods and services. Council collect your credit card and bank account details when you make payment for good and services.
- To enable Council to undertake its law enforcement functions. For instance, Council collects information about you from various Road Traffic Authorities to process Parking Infringement Notices. Council will only collect information about you from third parties where it is authorised to do so.

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- To protect Council assets, staff and community members. For instance, Council collects images via closed circuit television cameras which are located in public areas, including but not limited to; Council's depot, transfer station and museums. Footage and photographs of incidents are made available only to authorised law enforcement officers or council officers who have a legitimate reason and meet the criteria of the protocols and agree to comply with the requirements for handling, use and return of footage and photographs.

As part of our commitment to customer service, Council may periodically invite you to provide feedback about your experience via a survey. Any survey is voluntary, and you do not have to participate.

- To contact you where it is necessary to resolve issues relating to the Hepburn Shire Council services or functions which you have brought to our attention. For instance, contacting you in response to your report of a fallen tree branch.
- To contact you prior to a Council or Committee meeting to confirm your attendance and/or advise you of any changes to the meeting details where you have made a submission for consideration.
- To supply you with material concerning Council initiatives and programs where you have supplied personal information to Council for this purpose. For instance, where you have opted to be included on a mailing list for a Council publication via our public interfaces. Council will not include you on such mailing lists unless you have given consent.
- To facilitate the collection of Council fees and charges. For instance, Council will use your name and address details to forward rate notices.
- To enable payment for Council provided goods and services. Council collect your credit card and bank account details when you make payment for good and services.
- To enable Council to undertake its law enforcement functions. For instance, Council collects information about you from various Road Traffic Authorities to process Parking Infringement Notices. Council will only collect information about you from third parties where it is authorised to do so.

By way of example, when Council receives unsolicited information such as a complaint, petition or submission, it is not practicable for Council to provide these types of details.

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

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Council will, from time to time, use this information to contact you directly on a range of issues in the performance of its functions and the exercise of its powers under various Acts and Regulations and Local Laws, to also issue accounts and for permitted purposes.

Collection Notice /Privacy Statement

All areas of Council that collect personal or health information will prepare a Collection Notice to state how the information is intended to be used, shared and disclosed. This notice could be provided in a form similar to below:

> *Hepburn Shire Council is committed to protecting your privacy. The personal information requested on this [insert form, survey or questionnaire] is being collected by Hepburn Shire Council for the purpose of [insert purpose] or any other directly related purpose. The personal information will also be disclosed to [insert names of any other entities Hepburn Shire Council will be disclosing the personal information to] for the purpose of [insert how those entities will be using the personal information]. It will not be disclosed to any other external party without your consent, unless required or authorised by law. If you would prefer that the personal information is not collected, [insert details of what will happen – can they still participate in the process, can they be anonymous etc]. If you wish to alter any of the personal information you have supplied to Hepburn Shire Council, please contact Council via telephone [insert number for your work area] or email [insert email address for your work area].*
>
> *More information is available on Council's website or from Council's Privacy Officer (Manager Risk and Governance). Individuals may view Council's Privacy Policy on Council's website or obtain a copy from any Council office."*

There are some specific requirements that Council must meet when it is collecting health information. For example, Council will only collect health information where it has obtained consent, or the law provides for the collection or another exception applies (for instance for a law enforcement functions).

There are also some specific requirements where health information is given to Council when it is providing health services. In some situations, a person giving health information about another individual, for example a family member, may request Council to keep the information confidential. In such a situation, Council will:

- confirm with the person giving the information that it is to remain confidential;
- record it only if required to give health services;

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- take reasonable steps to ensure the health information is accurate and not misleading; and
- take reasonable steps to record that the information is given in confidence and is to remain confidential.

PRINCIPLE 2 – Use and Disclosure of Personal or Health Information

Council will only use personal or health information within Council, or disclose it outside Council, for the purpose for which it was collected or in accordance with the *Privacy and Data Protection 2014* and the *Health Records Act 2001.* For example, Council may use or disclose your personal or health information where you have consented to the disclosure, where a person would reasonably expect the disclosure to occur, or where the use or disclosure is specifically authorised by law.

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

Council discloses personal or health information to external organisations such as Council's contracted service providers who perform various services for and on behalf of Council. Council contractors agree to be bound by the provisions of the *Privacy and Data Protection 2014* and the *Health Records Act 2001* just as Council is bound. Additionally, Council limits the personal or health information provided to its contractors by only providing them with that necessary to provide services to you on behalf of Council.

The law may authorise Council to disclose personal or health information to:

- debt collection agencies
- government agencies
- law enforcement agencies, including the courts and the Victoria Police, in instances where Council is required to respond to a subpoena or provide information to assist a police investigation.

Some examples of where personal or health information may be disclosed by Council are listed below:

> Personal information in applications for employment with Council will be supplied to agencies such as the Victoria Police, where required by law (for instance, under the *Working with Children Act 2005*) as part of a background check. Background checks will only be carried out on applications for selected positions prior to employment with Council. Such checks will only be carried out with your written authorisation and the results will not be disclosed to third parties unless authorised by law.

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Personal information provided by you as part of a public submission to a Council or committee meeting may be included with the published agenda papers and minutes of the meeting. The published agenda papers and minutes are displayed online and available in hardcopy format.

Personal information may also be contained in Council's Public Registers that are required or permitted by law to be made available for inspection in particular circumstances.

Personal or health information may be disclosed in certain circumstances, such as where it is necessary for Council to establish or defend a legal claim or where there is a serious and imminent threat to an individual's health safety or welfare, or a serious threat to public health, public safety or public welfare. Where the information is health information there are additional disclosure requirements.

PRINCIPLE 3 – Data Quality

Council will take reasonable steps to make sure that the personal or health information it collects, uses or discloses, is accurate, complete and up-to-date. In addition, where the information is health information, Council will take steps that are reasonable in the circumstances and, having regard to the purpose for which the health information is to be used, to ensure that it is relevant to Council's functions and activities.

PRINCIPLE 4 – Data Security and Data Retention

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

Council will take reasonable steps to lawfully and responsibly destroy or permanently de-identify personal or health information when it is no longer needed for any purpose, subject to compliance with the *Public Records Act 1973 (Vic)*, the *Health Records Act 2001* and any other applicable law.

PRINCIPLE 5 – Openness

Council will make publicly available its policies relating to the management of personal or health information. Council will on request, take reasonable steps to provide individuals with general information on the types of personal or health information it holds about the individual making

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the request, for what purpose the information is held, and how it collects, holds, uses and discloses that information.

You may also download Council's policy from Council's web site at: https://www.hepburn.vic.gov.au/council-policies/

PRINCIPLE 6 – Access and Correction

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

Should you wish to access or amend your personal or health information, please contact Council's Freedom of Information Officer email: shire@hepburn.vic.gov.au or telephone 5348 2306.

PRINCIPLE 7 – Unique Identifiers

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

Council will not assign, adopt, use, disclose or require unique identifiers from individuals unless it is necessary to enable Council to carry out any of its functions more efficiently. Council will only use or disclose unique identifiers assigned to individuals by other organisations if the individual consents to Council doing so, or there are legal requirements for Council to do so, or the conditions for use and disclosure set out in the *Privacy and Data Protection Act 2014* or *Health Records Act 2001* are satisfied.

PRINCIPLE 8 - Anonymity

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

Anonymity may limit Council's ability to process a complaint or other matter. Therefore, if you choose not to supply personal or health information that is necessary for Council to perform its functions, then Council reserves the right to take no further action on that matter.

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PRINCIPLE 9 – Transborder Data Flows

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

- if you have provided your consent; or
- if disclosure is authorised by law; or
- if the recipient of the information is subject to a law, scheme or contract with principles that are substantially similar to the *Privacy and Data Protection Act 2014 (Vic)*; or
- where the information is health information, the specific provisions of the HPPs are met.

By way of example, Council may use cloud computing services based outside Victoria, in which case Council must ensure comply with the Victorian IPPs and HPPs in engaging with those services.

INFORMATION PRIVACY PRINCIPLE 10 – Sensitive Information

Council will not collect sensitive information about you except where:

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

HEALTH PRIVACY PRINCIPLES 10 AND 11 – Health Service Provider Changes

In the event that a health service offered by Council is discontinued the health information held by Council will be managed in accordance with the *Health Records Act 2001.* For example, the health information may continue to be held by Council or it may be transferred to a competent organisation for safe storage until such time as it can be destroyed in accordance with the principle on data security.

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Where an individual requests Council to make health information available to other health providers, this will be done in accordance with the *Health Records Act 2001*. Council reserves its right to charge a fee for this service in accordance with the *Health Records Regulations 2012.*

EXEMPTIONS TO THE LEGISLATION

The *Privacy and Data Protection Act 2014* does not apply to:

- Publicly available information including: a publication that is generally available, information kept within a library, art gallery or museum, a public record under the *Public Records Act 1973,* archives within the *Copyright Act 1968*
- Information kept on Public Registers, e.g. Building Permit Register, Domestic Animals Register, Register of Pecuniary Interests and Prescribed Matters Register
- Certain information may be given to Law Enforcement Agencies if it is believed necessary for the purposes of law enforcement functions or activities
- Personal information relating to deceased persons.

Within Council, *The Health Records Act 2001* does not apply to:

- All points listed above except for the final point. The *Health Records Act 2001* does not apply to deceased persons 30 years after their death.
- Health information can be accessed through the *Freedom of Information Act 1982*

HOW TO MAKE A COMPLAINT OR ENQUIRY CONCERNING PRIVACY

The *Privacy and Data Protection Act 2014* gives you the right to complain about a breach of your privacy by Council.

Please note:

- your complaint must relate to a breach of one or more of the ten Information Privacy Principles
- your complaint should be made within 15 days of you being made aware of the breach (although it may still be considered if there are reasons you were not able to complain within the specified timeframe)
- complaints can only be about personal information that is recorded in some form.

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Complaints must:

- be made by the person whose privacy has allegedly been breached, or a person they have authorised to act on their behalf
- be in writing and accompanied by a suitable form of identification (such as a copy of your driver's licence).
- provide a brief description of the incident: for example, the date of the incident, what personal information was involved and what form it was in (if known), for example paper records, electronic database.

Your complaint will be acknowledged within five business days and will be investigated as soon as practicable. Outcome of complaints will be formally communicated back to the complainant within 30 working days of receipt of the complaint. Where the investigation will exceed 30 working days, Council will inform the complainant of the need for additional time to complete the investigation, within the 30 working day period.

Please submit your complaint to:

Manager Governance and Risk

Hepburn Shire Council

Phone: 5348 2306

Email: shire@hepburn.vic.gov.au

or Postal address: PO Box 21, Daylesford, VIC 3460

Alternatively, a Privacy complaint can be made to the Office of the Victorian Information Commissioner (OVIC) about Council's handling of personal information, or the Health Complaints Commissioner about Council's handling of health information. Commissioners may decline to hear complaints not made to Council first.

Where a complainant is not satisfied with the decision of Council's Privacy Officer you may apply to OVIC or the Health Complaints Commissioner using the appropriate forms downloaded forms their websites.

Officer of the Victorian Information Commissioner (OVIC)
Form available from https://ovic.vic.gov.au/resource/priva cy-complaint-form/
Telephone: 1300 006 842
Email: privacy@ovic.vic.gov.au
or post to: PO BOX 24014, Melbourne VIC 3001

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Health Complaints Commissioner
Online form available from https://hcc.vic.gov.au/health-records/reporting-privacy-breaches-involving-health-information

Telephone: 1300 582 113
Email: hcc@hcc.vic.gov.au
or post to: Level 26, *570* Bourke Street, Melbourne VIC 3000

TRAINING AND AWARENESS

All Councillors, committee members and Council employees receive training to enhance their awareness about their obligations regarding the collection and management of personal information in Council working environment. All new Councillors, committee members and staff are required to complete an induction program when they commence their term or employment with Hepburn Shire Council. As part of the induction they must:

- agree to abide by the Code of Conduct
- agree to abide by Council's Privacy Policy.

A copy of this Privacy Policy is available to all staff via Council's intranet. It is also available on Council's external website.

RELATED DOCUMENTS

Council policies:

- Complaints Policy
- Staff and Councillor Code of Conducts

Legislation:

- *Copyright Act 1968*
- *Equal Opportunity Act 2010*
- *Freedom of Information Act 1982*
- *Health Records Act 2001*
- *Privacy and Data Protection Act 2014*
- *Public Records Act 1973*
- *Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Working with Children Act 2005 (Vic)*

RESPONSIBILITIES

It is the responsibility of the Governance and Risk Department to review and make any necessary amendments to this Policy annually or otherwise in accordance with any changes in the legislation.

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This policy will be reviewed every four years or as necessary.

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