Privacy Code of Practice for the Disclosure of Personal Information by NSW Councils to nbn co limited for the delivery and ongoing operation of the nbn™ network

Overview

1. This Code is made under Part 3 Division 1 of the Privacy and Personal Information Protection Act 1998 (NSW) (the PPIP Act) to permit each Council in New South Wales to disclose personal information to nbn in order to facilitate nbn’s efforts to provide written notice to the Owner/Occupier concerning nbn’s intention to inspect land, install, or maintain the nbn™ network.

2. nbn is a wholly owned Commonwealth Government Business Enterprise established to deliver and operate the nbn™ network. The nbn™ network is a wholesale-only access network and Australia wide project to upgrade existing fixed line phone and internet network infrastructure.

3. In the course of delivering or operating the nbn™ network, nbn is required to provide the Owner/Occupier with various statutory notices and information about the nbn™ network, including but not limited to notices contemplated under:

   a) Clause 17 of Schedule 3 to the Telecommunications Act 1997 (Cth) which requires nbn to give written notice to the Owner/Occupier of its intention to inspect the land, install, or maintain the nbn™ network;

   b) Clause 18 of Schedule 3 to the Telecommunications Act 1997 (Cth) which requires nbn to give written notice to the Owner/Occupier of private land before cutting down or lopping a tree or clearing or removing undergrowth or vegetation.

   (each, a Schedule 3 Notice).

Purpose for disclosure

4. The personal information will be used or disclosed for the sole and lawful purposes of enabling nbn and nbn’s contractors:

   a) To provide the Owner/Occupier with Schedule 3 Notices, as required by the Telecommunications Act 1997 (Cth) and to facilitate nbn obtaining any other approvals, consents or permits or giving any other notices in connection with delivering or operating the nbn™ network as required by law; and

   b) To verify that the Owner/Occupier have received Schedule 3 and other relevant notices and information, as required under the Telecommunications Act 1997 (Cth) and other legislation, regulations, legislative instruments or as otherwise required by law; and
c) To provide the Owner/Occupier with information on other matters associated with the rollout and ongoing operation of the nbn™ network, including but not limited to, upcoming forums and other public consultation reasons not covered under Divisions 2, 3 and 4 of Schedule 3 of the Telecommunications Act 1997 (Cth), and

d) To generate mail distribution lists in connection with the above.

5. nbn is required to identify whether a premises is tenanted in order to notify non-occupying owners of land of its intention to carry out activities in accordance with Division 2, 3 and 4 of Schedule 3 to the Telecommunications Act 1997 (Cth). As each Council holds data that enables nbn to identify whether a premises is tenanted, nbn seeks the cooperation of Councils to assist in identifying the address of non-occupying owners of land within the Council area.

6. nbn collects and retains the personal information disclosed by each Council in a secure electronic records system, with access limited to relevant nbn employees and contractors. nbn compares the personal information disclosed by each Council with all addresses in the Council area, so as to identify the addresses of non-occupying owners of land.

Interpretation

7. This Code should be read in conjunction with the PPIP Act. Terms in this Code have the meaning attributed to them in sections 3 and 4 of the PPIP Act unless otherwise specified in this Code.

8. For the purposes of this Code:

"Council" has the same meaning in the Local Government Act 1993 (NSW) as that term may be amended from time to time;

"nbn" means nbn co limited (ACN 136 533 741), its successor entities or as the company exists from time to time;

"nbn's contractor" means an organisation or individual that is engaged by the nbn under contractual arrangement to fulfil the obligations of the nbn.

"personal information" has the same meaning as in section 4 of the PPIP Act, except that it is limited to the address of a land owner collected by a Council, and

"tenanted" means a premise occupied by a person other than the owner of that land.

"operation" of the nbn™ network includes network maintenance, upgrades and extensions.

"Owner/Occupier" includes each of the following:

a) the owner and occupier of land; and
b) the occupier of land, including but not limited to, the tenant on that land; and
c) the non-occupying owner of land.

Application

9. This Code applies to each Council in New South Wales.
Health Information

10. This Code does not apply to health information as defined in section 6 of the Health Records and Information Privacy Act 2002 (NSW).

Review

11. This Code will be reviewed 3 (three) years from the date of gazettal of this Code to ensure it remains relevant and current to the functions and responsibilities of Councils in New South Wales and nbn. It may be reviewed earlier if required on request of the Privacy Commissioner.

Provisions

12. Despite section 18 of the PPIP Act, a Council may disclose personal information to:

a) nbn on condition that:

i. nbn has approached the Council in writing;

ii. The Council is satisfied that the information is to be used by nbn for its proper and lawful function/s in accordance with clauses 17 and 18 of Schedule 3 to the Telecommunications Act 1997 (Cth) and for the purposes set out in this Code; and

iii. The Council is satisfied that the personal information is reasonably necessary for the exercise of nbn’s function/s with respect to the delivery and ongoing operation of the nbn™ network.

b) nbn’s contractors on condition that:

i. nbn’s contractor has approached the Council in writing; and

ii. nbn’s contractor has provided the Council with written confirmation from nbn that it is acting as nbn’s contractor; and

iii. The Council is satisfied that the information is to be used by nbn’s contractor for the nbn’s proper and lawful function/s in accordance with clauses 17 and 18 of Schedule 3 to the Telecommunications Act 1997 (Cth) and for the purposes set out in this Code; and

iv. The Council is satisfied that the personal information to be provided to nbn’s contractor is reasonably necessary for the exercise of nbn’s functions with respect to the delivery and ongoing operation of the nbn™ network and will only be used for this function/s and for the purposes set out in this Code.