

# 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**<sup>TM</sup> 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**<sup>TM</sup> network.
2. **nbn** is a wholly owned Commonwealth Government Business Enterprise established to deliver and operate the **nbn**<sup>TM</sup> network. The **nbn**<sup>TM</sup> 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**<sup>TM</sup> network, **nbn** is required to provide the Owner/Occupier with various statutory notices and information about the **nbn**<sup>TM</sup> 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**<sup>TM</sup> 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**<sup>TM</sup> 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**<sup>™</sup> 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**<sup>™</sup> 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**<sup>TM</sup> 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**<sup>TM</sup> network and will only be used for this function/s and for the purposes set out in this Code.