

Direction on the Disclosure of Personal Information by Councils to NBN Co Limited for the delivery of the National Broadband Network

As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998 (NSW)* (the PPIP Act), I Elizabeth Coombs, hereby direct pursuant to section 41 of the PPIP Act that:

Overview

1. This is a direction made under section 41(1) of the PPIP Act. It should be read in conjunction with that Act.

Interpretation

2. In this Direction, the following words have the respective meanings:

“**Council**” has the same meaning in the *Local Government Act 1993*;

“**Direction**” means this direction;

“**NBN Co**” means NBN Co Limited (ACN 136 533 741), as the company exists from time to time (even if its name is later changed);

“**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 for rating purposes.

Application

3. This Direction is to apply to each Council in New South Wales.

Background

4. NBN Co is a wholly owned Commonwealth Government Business Enterprise established to deliver the National Broadband Network (NBN). The NBN is a wholesale-only access network and Australia wide project to upgrade existing fixed line phone and internet network infrastructure.
5. In the course of delivering the NBN, Clause 17 of Schedule 3 to the *Telecommunications Act 1997 (Cth)* requires NBN Co to give written notice to land owners and occupiers of land of its intention to inspect the land, install, or maintain the NBN facilities.
6. NBN Co is required to identify whether a premises is tenanted in order to notify land owners of its intention to carry out activities in accordance with Division 2, 3 and 4 of Schedule 3 of the *Telecommunications Act 1997 (Cth)*. As Council holds data that enables NBN Co to identify whether a premises is tenanted, NBN Co seeks the

cooperation of Councils to assist in identifying the address of owners of tenanted properties within the Council area.

Public Interest

7. This Direction has been made to permit the disclosure of personal information by a Council for the purposes of NBN Co providing written notice to land owners of its intention to inspect the land, install and maintain the NBN facilities. I am satisfied that the public interest in making this Direction is greater than the public interest in requiring Councils to comply with the Information Protection Principle contained in section 18 of the PPIP Act.

Provisions

8. Despite section 18 of the PPIP Act, a Council may disclose personal information of land owners to NBN Co on condition that:
 - a) NBN Co has approached the Council in writing;
 - b) The Council is satisfied that the information is to be used by NBN Co for the proper and lawful function/s of that agency in accordance with Clause 17 of Schedule 3 to the *Telecommunications Act 1997 (Cth)*; and
 - c) The Council is satisfied that the personal information is reasonably necessary for the exercise of NBN Co's function/s with respect to the inspection of land, installation and maintenance of NBN facilities.

Duration

9. This Direction has effect for a period of 18 months from the date of this direction.

Signed by me on **7 November 2014**

Dr Elizabeth Coombs
NSW Privacy Commissioner