



Maritime

Information Guide

Privacy

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OPEN ACCESS

## 1. Scope

- 1.1. This information guide provides general information regarding NSW privacy legislation and NSW Maritime's responsibilities in relation to personal information.

## 2. Application

- 2.1. This information guide applies to personal information held by NSW Maritime, including the following:
  - a) the collection, storage and security of personal information held by NSW Maritime
  - b) matters relating to accessing, using, disclosing and altering personal information held by NSW Maritime

## 3. Objective

- 3.1. To provide information in relation to the obligations contained within NSW privacy legislation and NSW Maritime's responsibilities under the legislation.

## 4. Privacy Legislation

- 4.1. The *Privacy and Personal Information Protection Act 1998* (the Privacy Act) regulates the way in which NSW government agencies deal with personal information and specifies the minimum requirements in relation to the collection, storage, access, use and disclosure of personal information.
- 4.2. The Privacy Act contains 12 Information Protection Principles (IPP) which set out the privacy standards for dealing with personal information.
- 4.3. As a NSW government agency, NSW Maritime must comply with the requirements of the Privacy Act and the IPPs when dealing with personal information.
- 4.4. The Privacy Act contains exemptions which provide that, in particular circumstances NSW Maritime is not required to comply with one or more of the IPPs. A Code of Practice and a Direction of the Privacy Commissioner may also provide exemptions in particular circumstances.
- 4.5. In accordance with the Privacy Act, NSW Maritime has a Privacy Management Plan which identifies how it complies with the IPPs.

## 5. Personal Information

- 5.1. Personal information is defined in the Privacy Act as information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

- 5.2. This includes information such as name, address and contact details, as well as other information from which an individual's identity can be reasonably ascertained.
- 5.3. NSW Maritime collects personal information in the course of its operations and fulfilling its responsibilities. For example, this includes names and addresses when processing boat driving licences and when assessing development applications.

## **6. The Information Protection Principles**

- 6.1. NSW Maritime's responsibilities to deal with personal information held by the agency under the 12 IPPs are summarised in brief below, including the relevant section of the Privacy Act which contains the IPP. For more detailed information, the Privacy Act, including all of the IPPs, is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

### **Collection of personal information for lawful purposes (section 8)**

- 6.2. NSW Maritime must only collect personal information by lawful means and for a lawful purpose that is directly related to a function or activity of the agency.

### **Collection of personal information directly from individual (section 9)**

- 6.3. NSW Maritime must collect the information directly from the individual to whom the information relates unless otherwise authorised.

### **Requirements when collecting personal information (section 10)**

- 6.4. Before collecting personal information or as soon as practicable after the collection of personal information, NSW Maritime must take such steps as are reasonable to inform the individual of certain things, including—
  - a) that the information is being collected;
  - b) the purposes for which it is being collected;
  - c) the intended recipients;
  - d) whether supplying the information is required by law or is voluntary; and
  - e) the existence of any right of access to, and correction of, the information.

### **Other requirements relating to collection of personal information (section 11)**

- 6.5. NSW Maritime must take such steps as are reasonable to ensure—
  - a) the information collected is relevant to the purpose for which it is collected, 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.

### **Retention and security of personal information (section 12)**

- 6.6. NSW Maritime must ensure personal information it holds is kept for no longer than is necessary, is disposed of securely and in accordance with any requirements and is protected against loss and unauthorised access, use, modification or disclosure or other misuse.

**Information about personal information held by agencies (section 13)**

- 6.7. NSW Maritime must take such steps as are reasonable to enable any person to ascertain whether the agency holds personal information, including personal information relating to that person, the nature of that information, the main purposes for which the information is used, and that person's entitlement to gain access to the information.

**Access to personal information held by agencies (section 14)**

- 6.8. NSW Maritime must, at the request of an individual to whom personal information held by NSW Maritime relates, provide the individual with access to the information.

**Alteration of personal information (section 15)**

- 6.9. NSW Maritime must, at the request of an individual to whom personal information held by NSW Maritime relates, make appropriate amendments to or add a notation to their personal information.

**Agency must check accuracy of personal information before use (section 16)**

- 6.10. NSW Maritime must not use personal information without taking such steps as are reasonable 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.

**Limits on use of personal information (section 17)**

- 6.11. NSW Maritime must not use personal information for a purpose other than that for which it was collected unless—
- a) the individual consented to the use of the information for that other purpose; or
  - b) the other purpose 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.

**Limits on disclosure of personal information (section 18)**

- 6.12. NSW Maritime 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, except in nominated circumstances.

**Special restrictions on disclosure of personal information (section 19)**

- 6.13. NSW Maritime must not disclose sensitive personal information, such as 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.
- 6.14. NSW Maritime must not disclose personal information to any person or body in a jurisdiction outside NSW or to a Commonwealth agency unless a relevant privacy

law applies to the information in that jurisdiction or the disclosure is permitted under a privacy code of practice.

## **7. Exemptions to the requirement to comply with the IPP**

- 7.1. The Privacy Act contains exemptions which provide that NSW public sector agencies do not have to comply with one or more of the IPPs in particular circumstances. Examples include the following:
- a) Personal information used for law enforcement purposes
  - b) Personal information used for the protection of public revenue
  - c) Where non-compliance is authorised at law by another Act
- 7.2. Special exemptions may also be set by a Code of Practice or Direction of the Privacy Commissioner in particular circumstances.

## **8. Further Information**

- 8.1. The Privacy Act, which includes the IPPs, is available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).
- 8.2. Further information is also available from the website of Privacy NSW at [www.lawlink.nsw.gov.au/privacynsw](http://www.lawlink.nsw.gov.au/privacynsw).
- 8.3. If you require further information, the relevant contact officer is NSW Maritime's Principal Solicitor Contracts, Privacy, Information and Audit, Mr Paul Nash. Mr Nash can be contacted on (02) 9364 2389.

## **9. Disclaimer**

- 9.1. The information contained within this information sheet is general in nature and is not intended to constitute legal advice or to apply to the particular circumstances of any individual or entity.