


Privacy Management Plan

Barangaroo Delivery Authority

Execution

Approved by:	Chief Executive Officer
Signature:	
Date of Approval:	September 2010

1	PRIVACY MANAGEMENT PLAN.....	3
2	THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998.....	4
3	INFORMATION TO WHICH THE ACT APPLIES - PERSONAL INFORMATION.....	4
4	THE INFORMATION PROTECTION PRINCIPLES (IPPS) AND THEIR IMPACT ON BARANGAROO DELIVERY AUTHORITY OPERATIONS.....	6
4.1	GENERAL	6
4.2	COLLECTION OF PERSONAL INFORMATION	6
4.3	RETENTION AND SECURITY OF PERSONAL INFORMATION	9
4.4	DISCLOSURE OF PERSONAL INFORMATION TO THE SUBJECT OF THE INFORMATION	10
4.5	USE OF PERSONAL INFORMATION	12
4.6	DISCLOSURE OF PERSONAL INFORMATION TO THIRD PARTIES	14
5	PRIVACY NSW: OFFICE OF THE PRIVACY COMMISSIONER, "INVESTIGATIONS CODE".....	15
6	RESTRICTIONS ON ACCESS TO PUBLIC REGISTERS.....	15
7	OFFENCE PROVISIONS OF THE ACT	15
8	INTERNAL REVIEW OF CONDUCT	16
9	REVIEW OF CONDUCT BY PRIVACY COMMISSIONER	18
10	TRAINING AND EDUCATION OF BARANGAROO DELIVERY AUTHORITY STAFF ABOUT PRIVACY OBLIGATIONS.....	18
11	REVIEWING AND REPORTING ON PLAN.....	19

1 PRIVACY MANAGEMENT PLAN

- 1.1. The Privacy and Personal Information Protection Act 1998 ("the Act") requires the Barangaroo Delivery Authority to implement a privacy management plan, which must include provisions relating to:
- the devising of policies and practices to ensure compliance by the agency with the requirements of the Act;
 - the dissemination of those policies and practices to Authority staff;
 - procedures for internal review under Part 5 of the Act;
 - such other matters as are considered relevant by the Authority in relation to privacy and the protection of personal information held by the Authority.
- 1.2. This document constitutes the Barangaroo Delivery Authority's Privacy Management Plan, as updated from time to time.
- 1.3. The Chief Executive has appointed the General Counsel, as the Authority's Privacy Officer to maintain the privacy management plan and to carry out such other functions as are provided for in the plan.
- 1.4. The following summary is provided to assist Authority staff to gain an initial overview of the obligations. Those members of staff who find themselves dealing with "personal information" should be sure they have studied the whole policy

SUMMARY

Collection

1. **Lawful** – only collect personal information for a lawful purpose. Only collect the information if it is directly related to the agency's activities and necessary for that purpose.
2. **Direct** – only collect information directly from the person concerned, unless they have given consent otherwise. Parents and guardians can give consent for minors.
3. **Open** – inform the person as to what information is being collected, why it is being collected and who will be storing and using it. Agencies must also inform the person how they can see and correct this information.
4. **Relevant** – ensure that the information is relevant, accurate, not excessive and up-to-date. Ensure that the collection does not unreasonably intrude into the personal affairs of the individual.

Storage

5. **Secure** – ensure that personal information is stored securely, not kept any longer than necessary, and disposed of appropriately. Information should be protected from unauthorised access, use or disclosure.

Access

6. **Transparent** – explain to the individual what personal information about them is being stored, why it is being used and any rights they have to access it.
7. **Accessible** – allow people to access their personal information without unreasonable delay or expense.
8. **Correct** - allow people to update, correct or amend their personal information where necessary.

Use

9. **Accurate** – ensure that the personal information is relevant and accurate before using it.

10. **Limited** – only use personal information for the purpose for which it was collected, for a directly related purpose, or for a purpose to which the individual has given consent. Personal information can be used without consent in order to deal with a serious and imminent threat to any person's health or safety.

Disclosure

11. **Restricted** – only disclose personal information if the person has given their consent or if they were informed at the time of collection that it would be disclosed in this way. You can only disclose the information for a related purpose if you believe the person concerned is not likely to object. Personal information can be disclosed without consent in order to deal with a serious and imminent threat to any person's health or safety.

12. **Safeguarded** – do not disclose sensitive personal information, for example, information about a person's ethnic or racial origin, political opinions, religious or philosophical beliefs, health or sexual activities or trade union membership. You can only disclose sensitive information without consent in order to deal with a serious and imminent threat to any person's health or safety.

Source Privacy NSW Fact Sheet No 2.

2 THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998

2.1 The Act establishes a regime for public sector agency handling of personal information. The Barangaroo Delivery Authority has obligations to ensure it deals with personal information in accordance with the Act. The key provisions of the Act are the Information Protection Principles ("IPPs"), which create obligations and restrictions relating to the collection, retention, use and disclosure of personal information.

2.2 It is important for all Barangaroo Delivery Authority staff to familiarise themselves with the impact of the Act on Authority's operations, as staff who breach the Act may be held accountable for their actions and, in some cases, be subject to substantial fines or imprisonment (see Chapters 7-9).

3 INFORMATION TO WHICH THE ACT APPLIES - PERSONAL INFORMATION

3.1 The IPPs apply to "personal information", which is defined in section 4 of the 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."

This could include

- Written records about the person

- A photograph or image of the person
- 3.2 If information does not apply to such an individual, then Authority staff need not consider the Act.
- 3.3 Section 4(3) of the Act defines various types of information which are not "personal information" for the purposes of the Act, even though they identify an individual.

The following is not personal information:

- information about an individual who has been dead for more than 30 years,
- information about an individual that is contained in a publicly available publication,
- information about a witness who is included in a witness protection program under the Witness Protection Act 1995 or who is subject to other witness protection arrangements made under an Act,
- information about an individual arising out of a warrant issued under the Telecommunications (Interception) Act 1979 (Cth),
- information about an individual that is contained in a protected disclosure within the meaning of the Protected Disclosures Act 1994, or that has been collected in the course of an investigation arising out of a protected disclosure,
- information about an individual arising out of, or in connection with, an authorised operation within the meaning of the Law Enforcement (Controlled Operations) Act 1997,
- information about an individual arising out of a Royal Commission or Special Commission of Inquiry,
- information about an individual arising out of a complaint made under Part 8A of the Police Service Act 1990,
- information about an individual that is contained in a document of a kind referred to in clause 1 or 2 of Schedule 1 (restricted documents) to the Freedom of Information Act 1989 (i.e. Cabinet documents or Executive Council documents),
- information or an opinion about an individual's suitability for appointment or employment as a public sector official,
- information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of this subsection.

4 THE INFORMATION PROTECTION PRINCIPLES (IPPS) AND THEIR IMPACT ON BARANGAROO DELIVERY AUTHORITY OPERATIONS

4.1 General

4.1.1 The IPPs at:

- sections 8-11 (IPP 1- 4) of the Act impact on the Authority's collection of personal information;
- section 12 (IPP 5) of the Act impacts on the Authority's security systems for handling personal information;
- sections 13-15 (IPP 6- 8) impact on the Authority's disclosure of personal information to the subject of that information;
- sections 16-17 (IPP 9- 10) impact on the Authority's use of personal information;
- sections 18-19 (IPP 11- 12) impact on the Authority's disclosure of personal information.

4.1.2 If the IPPs allow certain conduct that the Authority is otherwise prohibited from doing, then the IPPs do not override that prohibition.

4.1.3 A Guide to the Information Principles is available on the Privacy Commission's website at <http://www.lawlink.nsw.gov.au/>

4.1.4 The application of each IPP to Barangaroo Delivery Authority operations (as modified by the exceptions in the Act, privacy codes, or directions of the Privacy Commissioner) is addressed in turn.

4.2 Collection of personal information

4.2.1 The Barangaroo Delivery Authority is not taken to have collected personal information if the information received is unsolicited. Therefore, the following four IPPs do not apply if Authority staff receive personal information without asking for it.

IPP 1: Section 8 - Collection of personal information for lawful purposes

4.2.2 A public sector agency must not collect personal information

- a. unless the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and
- b. the collection of the information is reasonably necessary for that purpose.

4.2.3 A public sector agency must not collect personal information by any unlawful means.

4.2.4 Barangaroo Delivery Authority staff must not breach any law in collecting personal information. Barangaroo Delivery Authority staff should exercise particular caution in seeking criminal record information (eg for employment purposes). If staff seek this class of information, they should consider the Criminal Records Act 1991, particularly the spent conviction provisions.

- 4.2.5 Section 8 does not interfere with Barangaroo Delivery Authority staff collecting personal information, as long as the collection is for the purposes of the Authority's functions under the Barangaroo Delivery Authority

IPP 2: Section 9 - Collection of personal information directly from individual

- 4.2.6 A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:
- a. the individual has authorised collection of the information from someone else, or
 - b. in the case of information relating to a person who is under the age of 16 years - the information has been provided by a parent or guardian of the person.
- 4.2.7 It is not possible or appropriate to collect personal information directly from the individual in many cases. This is recognised by the Act, which provides a range of exemptions to section 9.
- 4.2.8 Barangaroo Delivery Authority staff need not comply with section 9 where non-compliance is lawfully authorised or required, or is otherwise permitted, or is necessarily implied or reasonably contemplated, under an Act or any other law (s25 of the Act). If Authority staff are uncertain whether non-compliance is authorised on this ground, they should seek the advice of the Privacy Officer.
- 4.2.9 Where another public sector agency may lawfully disclose personal information to the Authority, then the Authority may lawfully collect such information. This is because the collection of such information has been clearly contemplated, either under the Act or other legislation. Section 25 therefore exempts compliance with section 9.
- 4.2.10 Barangaroo Delivery Authority staff need not comply with section 9 if the collection of personal information:
- occurred prior to the commencement of the Privacy and Personal Protection Information Act 1998 on 1 July 2000;
 - is from another of the Minister's Portfolio agency for the purpose of informing the Minister about matters relevant to the administration of the Minister's Portfolio (s28(3)(a));
 - is provided from any public sector agency, for the purpose of informing the Premier about any matter (s28(3)(b));
 - is in connection with proceedings, whether or not actually commenced, before any court or tribunal (s 23(2));
 - is lawfully authorised or required, or is otherwise permitted, or is necessarily implied or reasonably contemplated, under an Act or any other law (s25);

- would prejudice the interests of the individual to whom the information relates (s26(1)).

IPP 3: Section 10 - Requirements when collecting personal information

- 4.2.11 If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:
- a. the fact that the information is being collected,
 - b. the purposes for which the information is being collected,
 - c. the intended recipients of the information,
 - d. whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
 - e. the existence of any right of access to, and correction of, the information,
 - f. the name and address of the agency that is collecting the information and the agency that is to hold the information.
- 4.2.12 Barangaroo Delivery Authority staff need not comply with section 10 if:
- they do not collect information from an individual in accordance with section 9;
 - the individual consents (s26(2));
 - non-compliance is lawfully authorised or required, or is otherwise permitted, or is necessarily implied or reasonably contemplated, under an Act or any other law (s25);
 - compliance would prejudice the interests of the individual to whom the information relates (s26(1)).

IPP 4: Section 11 - Other requirements relating to collection of personal information

- 4.2.13 If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:
- the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and
 - the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

- 4.2.14 Section 11 only applies to personal information that must be collected from an individual in accordance with section 9. If Barangaroo Delivery Authority staff collected the information from a person other than the individual to whom the information relates, in accordance with the exemptions under section 9, they need not consider section 11.
- 4.2.15 The steps that are reasonable will vary from case to case. In determining what steps are reasonable, Barangaroo Delivery Authority staff should consider:
- the purpose for which the information was collected;
 - the sensitivity of the information;
 - how many people will have access to the information;
 - the importance of accuracy to the proposed use;
 - the potential effects to the individual concerned if the information is inaccurate, out of date, or irrelevant;
 - opportunities for subsequently correcting the information.
- 4.2.16 If Barangaroo Delivery Authority staff are uncertain what to do in any given instance, they should consult the Authority's Privacy Officer.

4.3 Retention and security of personal information

IPP 5: Section 12 - Retention and security of personal information

- 4.3.1 A public sector agency that holds personal information must ensure:
- that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
 - that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
 - that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
 - that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.
- 4.3.2 The Barangaroo Delivery Authority's policies and practices in respect of the retention and disposal of state records are, and will continue to be, in accordance with the State Records Act 1998.

- 4.3.3 Sydney Harbour Foreshore Authority (SHFA) provides a range of services to the Authority. Accordingly SHFA is required to prepare a privacy management plan setting out how that authority will comply with the requirements of the Act. SHFA will be required to comply with the privacy management plan when providing personnel and records management services to the Barangaroo Delivery Authority.
- 4.3.4 The Barangaroo Delivery Authority will also take the following steps to ensure the security of personal information in its possession:
- contracts with external service providers who may have access to personal information held by the Barangaroo Delivery Authority will contain clauses requiring confidentiality, preventing the personal information being used for any other purpose, requiring the return or safe destruction of any personal information that is provided to, and held by, the contractor;
 - personal information held at the Barangaroo Delivery Authority will be stored securely in an area not accessible to members of the general public;
 - personal information temporarily removed from the Authority by a member of staff must be kept with that staff member or placed in secure premises;
 - personal information that is lawfully disposed of by the Authority is to be shredded or placed in shredder bins;
 - access to Barangaroo Delivery Authority computers will be effected by way of a secure password and computers will be turned off before staff go home;
 - access to any databases which might be kept within the Barangaroo Delivery Authority will only be effected by a secure password, and a record of persons approved to access the database and an audit trail of access will be maintained; and
 - Barangaroo Delivery Authority computers will only be linked to other computers through the NSW Government intranet, which contains extensive security safeguards.

4.4 Disclosure of personal information to the subject of the information

IPP 6: Section 13 - Information about personal information held by agencies

- 4.4.1 A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:
- a. whether the agency holds personal information, and

- b. whether the agency holds personal information relating to that person, and

if the agency holds personal information relating to that person:

- i. the nature of that information, and
- ii. the main purposes for which the information issued, and
- iii. that person's entitlement to gain access to the information.

IPP 7: Section 14 – Access to personal information held by agencies

- 4.4.2 A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

IPP 8: Section 15 – Alteration of personal information

- 4.4.3 A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:
 - a. is accurate, and
 - b. having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.
- 4.4.4 If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
- 4.4.5 If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.
- 4.4.6 Under these information protection principles, any person may apply to the Barangaroo Delivery Authority to ascertain whether the Authority holds personal information relating to that individual. Applications should be made in writing and directed to the Privacy Officer, Level 3, Foreshore House, 66 Harrington St The Rocks Sydney, NSW, 2000.
- 4.4.7 The Privacy Officer will refer the written application to the relevant Executive responsible for locating the personal information, liaising with the applicant and taking appropriate steps to comply with Information Protection Principles 6, 7 and 8.
- 4.4.8 It should be noted that section 5 of the Act provides nothing in the Act affects the operation of the Freedom of Information Act 1989

("FOI Act"). In particular the Act does not operate to modify any exemption under the FOI Act or to lessen any obligation under the FOI Act.

- 4.4.9 Section 20 of the Act provides, without limiting the generality of section 5, the provisions of the FOI Act that impose conditions or limitations with respect to any matter referred to in sections 13-15 of the Act continue to apply.
- 4.4.10 Accordingly, the FOI exemptions will need to be considered when deciding whether to provide access to personal information. The Barangaroo Delivery Authority's FOI officer should be consulted in relation to the applicability of such exemptions. The relevant executive will be responsible for preparing any necessary submissions for consideration by the Chief Executive. The Chief Executive will be responsible for making any decision regarding the provision of access to personal information, or the making of any amendments to such information.
- 4.4.11 It is sufficient compliance with these IPPs for the Authority to amend information in accordance with Part 4, Division 1, of the FOI Act 1989. Where the Barangaroo Delivery Authority becomes aware that it holds incorrect personal information, it may delete that information, notwithstanding any contrary provisions in the State Records Act 1998.

4.5 Use of personal information

IPP 9: Section 16 – Agency must check accuracy of personal information before use

- 4.5.1 A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances 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. Before using personal information, Authority staff should take reasonable steps to ensure the information is relevant, accurate, up to date, complete and not misleading.
- 4.5.2 The steps that are reasonable will vary from case to case. In determining what steps are reasonable, staff should consider:
- the purpose for which the information was collected;
 - the sensitivity of the information;
 - how many people will have access to the information (generally Authority information will be made available to the Minister and/or a small number of other persons);
 - the importance of accuracy or relevance to the proposed use;
 - the potential effects on the individual concerned if the information is inaccurate, out of date, or irrelevant;
 - the difficulty in checking the information; and

- the cost of checking the information.

4.5.3 If Barangaroo Delivery Authority staff require advice on what steps are reasonable, they should consult the Authority's Privacy Officer.

IPP 10: Section 17 – Limits on use of personal information

4.5.4 A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- the individual to whom the information relates has consented to the use of the information for that other purpose, or
- the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- 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 of the individual to whom the information relates or of another person.

4.5.5 The Barangaroo Delivery Authority generally uses personal information for the purpose of providing advice or support to the Minister and the Board, preparing correspondence for the Minister, and the Chairman of the Board, or coordinating the activities of the Authority and possibly other portfolio agencies. The Barangaroo Delivery Authority regards the above purposes as being directly related to each other, as they are all necessary to provide effective support to the Minister and the Board.

4.5.6 If there are circumstances where the information was collected for some other purpose, then the use of that information for some unrelated purpose is only permitted:

- with the consent of the subject of the information (written consent should be obtained and kept);
- where necessary to prevent or lessen a serious and imminent threat to the life or health of any person;
- where reasonably necessary for the protection of the public revenue (s23(4));
- where investigating or otherwise handling a complaint or other matter that could be referred or made to, or could be referred from or made by, an investigative agency (s24(4));
- non-compliance is lawfully authorised or required, or is otherwise permitted, or is necessarily implied or reasonably contemplated, under an Act or any other law (s25);
- for the purpose of informing the Premier of a matter either within the Premier's administration or another public sector administration (s28(3)).

4.6 Disclosure of personal information to third parties

IPP 11: Section 18 - Limits on disclosure of personal information

- 4.6.1 A public sector agency that holds personal information 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, unless:
- a. the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
 - b. the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
 - c. the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- 4.6.2 If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.
- See section 19 for sensitive disclosures with tighter restrictions than section 18.

IPP 12: Section 19 – Special restrictions on disclosure of personal information

- 4.6.3 A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
- 4.6.4 A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales unless:
- a. a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction, or
 - b. the disclosure is permitted under a privacy code of practice.
- 4.6.5 If Barangaroo staff are confronted with a need to consider disclosing any personal information to a person or body outside NSW the Privacy Officer should be consulted.

5 PRIVACY NSW: OFFICE OF THE PRIVACY COMMISSIONER, "INVESTIGATIONS CODE"

- 5.1 This Code recognises that all public sector agencies have a mixture of implicit and explicit powers to conduct investigations in respect of their affairs. While investigative functions that are clearly set out in legislation are exempted by the principles by section 25 of the Act, many investigations by public sector agencies rely upon implied powers or occur pursuant to administrative as opposed to legislative arrangements. Examples of these include investigations of complaints, breaches of discipline and audit matters. This Code therefore covers the collection, storage, use and disclosure of personal information during those investigative functions lawfully undertaken by the Authority.
- 5.2 The Privacy Commissioner, with the approval of the Attorney General, may make a written direction that the Barangaroo Delivery Authority is not required to comply with an IPP or privacy code, or that the application of an IPP/code is modified in respect of the Department. No direction currently exist.

6 RESTRICTIONS ON ACCESS TO PUBLIC REGISTERS

- 6.1 A public register is a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).
- 6.2 Part 6 of the Act prevents Barangaroo Delivery Authority staff from accessing personal information held on public registers, unless the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.
- 6.3 If Barangaroo Delivery Authority staff need to access public register information from an agency responsible for maintaining a register, they should consult with the Authority's Privacy Officer.

7 OFFENCE PROVISIONS OF THE ACT

- 7.1 Section 62(1) of the Act establishes an offence for Authority staff (including former Authority staff) who, otherwise than in connection with the lawful exercise of their official functions, intentionally disclose or use personal information about another person to which they have had access in the exercise of their official functions.
- 7.2 Section 62(2) of the Act establishes an offence for a person to induce or attempt to induce the staff of the Barangaroo Delivery Authority or any other public sector agency (by way of a bribe or other similar corrupt conduct) to disclose personal information about another person to which they have had access in the exercise of their official functions.

- 7.3 Section 63(1) of the Act establishes an offence for a person to offer to supply, or to claim they are able to supply, personal information they know, or ought reasonably know, has been or is proposed to be disclosed in contravention of section 62 of the Act.
- 7.4 Offences under section 63 carry penalties of up to \$11,000 and/or two years imprisonment. The court may also order the confiscation of any money or benefit obtained in connection with the above offences.

8 INTERNAL REVIEW OF CONDUCT

- 8.1 Part 5 of the Act establishes procedures for a person to apply for a review of Barangaroo Delivery Authority conduct that they believe breaches an IPP or a privacy code.

Applications for review must:

- be in writing;
- be addressed to the Privacy Officer, Barangaroo Delivery Authority of 66 Harrington Street, The Rocks, Sydney, 2000
- be lodged within 6 months (or later, if the Privacy Officer considers appropriate) of the time the applicant became aware of the Barangaroo Delivery Authority's conduct the subject of the complaint.

- 8.2 The Privacy Officer will assist applicants by:

- providing them with a copy of the Barangaroo Delivery Authority's privacy management plan, upon request; and
- explaining the internal review process.

- 8.3 The Privacy Officer will undertake the review, unless:

- the Privacy Officer was substantially involved in any matter relating to the conduct that is the subject of the application, in which case the review will be undertaken by the Chief Executive of the Barangaroo Delivery Authority or the nominee of the Chief Executive;
- the Chief Executive was substantially involved in any matter relating to the conduct that is the subject of the application, in which case the Barangaroo Delivery Authority will request that the Privacy Commissioner take over the review (see para 8.5).

- 8.4 The Privacy Officer must, as soon as practicable after receiving an application for review, notify the Privacy Commissioner in writing of the application, and must thereafter keep the Privacy Commissioner informed of progress of the review.

- 8.5 The Privacy Officer may request that the Privacy Commissioner take over the review, or report to the agency on the application. The Privacy Commissioner may charge a fee for these services.

- 8.6 The Privacy Officer, in conducting the review, must consider any relevant material submitted by the applicant and Privacy Commissioner. The review must be completed as soon as practicable. If the review is not completed within 60 days of receipt of the application, the applicant may apply to the Administrative Decisions Tribunal (ADT) for review.
- 8.7 Following the completion of the review, the Privacy Officer may determine if the Barangaroo Delivery Authority should:
- take no further action;
 - make a written apology to the applicant;
 - take remedial action (eg: compensation);
 - provide undertakings that the conduct will not occur again;
 - implement administrative measures to ensure the conduct will not occur again; or
 - undertake other appropriate action (eg: correct incorrect personal information held by the Authority).
- 8.8 The Privacy Officer, within 14 days of finalising the review, must notify the applicant and Privacy Commissioner of:
- the findings of the review, and the reasons for those findings;
 - the action to be taken by the Authority, and the reasons for taking that action; and
 - the right of the applicant to apply to the ADT to review (a) and (b) immediately above, if he or she is not satisfied with those matters.
- 8.9 The ADT, in determining an application for review, may make orders in accordance with section 55 of the Act. If the Chief Executive of the Barangaroo Delivery Authority or the applicant are not satisfied with the decision or order of the ADT, they may appeal to the Appeal Panel of the ADT under Part 1 of Chapter 7 of the Administrative Decisions Tribunal Act 1997.
- 8.10 The Privacy Officer is to record all relevant details of applications and application outcomes, and is to make such information available to the Privacy Commissioner upon request.

9 REVIEW OF CONDUCT BY PRIVACY COMMISSIONER

- 9.1 Complaints about Barangaroo Delivery Authority's conduct may also be made to the Privacy Commissioner. The Commissioner may decide to deal with the complaint or to take no further action. The Commissioner must inform the complainant of internal review processes and may refer a complaint to the Authority's Privacy Officer for consideration, after discussing the appropriateness of referral with the complainant and the Privacy Officer.
- 9.2 The Privacy Commissioner may also decide to investigate the complaint. Barangaroo Delivery Authority staff are to offer the Commissioner all possible assistance in any such investigation.
- 9.3 The Privacy Commissioner must endeavour to resolve any such complaint by conciliation and may make a written direction that Barangaroo Delivery Authority staff and the complainant are to appear before the Commissioner in conciliation proceedings. If the Barangaroo Delivery Authority fails to comply with the notice, then it is liable to a fine of up to \$5,500.
- 9.4 If Barangaroo Delivery Authority staff are called to appear in conciliation proceedings, another person may only represent them if the Privacy Commissioner consents to such an arrangement.
- 9.5 The Privacy Commissioner may make a written report on the complaint and provide the report to any person or body that appears to be materially involved in matters concerning the complaint.

10 TRAINING AND EDUCATION OF BARANGAROO DELIVERY AUTHORITY STAFF ABOUT PRIVACY OBLIGATIONS

- 10.1 The Privacy Officer shall be responsible for the ongoing training and education of Barangaroo Delivery Authority staff (including any third party service providers or consultants) about their obligations under the Act, by:
- ensuring the privacy management plan remains up to date;
 - making a copy of the plan available to all current and incoming staff;
 - informing staff of any changes to the plan;
 - ensuring relevant privacy documents are consolidated and made available through the Barangaroo Delivery Authority's intranet;
 - conducting staff training sessions on privacy matters as required; and
 - being available to answer any questions staff may have about their privacy obligations.
- 10.2 Where Barangaroo Delivery Authority staff feel uncertain as to whether certain conduct may breach the Act, they should raise this matter with the Privacy Officer.

11 REVIEWING AND REPORTING ON PLAN

11.1 The Barangaroo Delivery Authority's Privacy Officer is to review the plan whenever:

- the Barangaroo Delivery Authority wishes to introduce a new procedure for the collection, retention, use and disclosure of personal information; or
- a privacy code or a direction of the Privacy Commissioner, or the expiry of such a code or direction, modifies the application of the IPPs to the operations of the Authority

11.2 The Privacy Officer, in accordance with section 33(3) of the Act, is to ensure that the Barangaroo Delivery Authority's Annual Report includes:

- a statement of the action taken by the Authority in complying with the requirements of the Act; and
- statistical details of any review conducted by or on behalf of the Authority under Part 5 of the Act.

11.3 The Chief Executive, on the advice of the Privacy Officer, may amend this plan as necessary. A copy of the amended plan should be circulated to all Authority staff and the Privacy Commissioner as soon as possible after amendment.