



PRIVACY AND DATA PROTECTION POLICY

This policy and any subsequent amendments are issued pursuant to the Mallee Catchment Management Authority Board Charter of Corporate Governance.

Metadata

Document Reference Number	046 OPOL
Approved by	Operational Management Committee
BRN	N/A
Owner / Custodian	Chief Finance Officer
Date of First Issue	September 2015
Current Version	4
Last Updated	October 2019
Replaces	3
Review Date	September 2021
Review Trigger	<i>Privacy and Data Protection Act 2014</i>
Search Items	Privacy, data protection

1. Purpose

The aim of this policy is to provide both employees and the public with a clear statement outlining how personal information is managed by Mallee Catchment Management Authority (CMA). It details the standards for collection, maintenance and release of personal information of individuals involved with the Mallee CMA.

2. Privacy Statement

Mallee CMA values and protects the personal information it collects in the course of undertaking its responsibilities. All personal information the Mallee CMA collects is handled in accordance with the *Privacy and Data Protection Act 2014* (Vic) and the *Privacy Act 1988* (Cth).

In the course of conducting its normal business activities, Mallee CMA collects, records, maintains and uses personal information. Mallee CMA understands and accepts the associated responsibility of trust and is committed to upholding the Victorian Public Sector Information Privacy Principles (IPPs) covering the collection, use, storage and disclosure of personal information.

3. Roles and Responsibilities

Who	Activity
Mallee CMA	<p>At or before the time (or, if not practicable, as soon as practicable after) Mallee CMA collects personal information from the individual, Mallee CMA will take reasonable steps to ensure that the individual is aware of:</p> <ul style="list-style-type: none">• The identity of Mallee CMA and contact details;• Why the information is required and what the intended use of the information is;• What law, if any, allows them to ask for the information;• Who else, if any, will have access to the information;• What will happen if the information is not provided; and• How the information can be viewed by the individual and corrected if it is wrong or needs updating. <p>Personal information will be collected by lawful and fair means. Mallee CMA will not collect unnecessary personal information or collect medical information without prior consent.</p> <p>Mallee CMA will protect personal information from misuse, loss, unauthorised access, modification or disclosure.</p> <p>Other than as permitted by law, Mallee CMA will not disclose or use personal information for any purpose other than that for which the information is collected.</p>
Individual	<p>Provide accurate personal information; and</p> <p>Update personal information as required.</p>

4. Business Rules

Activity	Rules
Collection	<p>Mallee CMA will not collect personal information unless the information is necessary for one or more of its functions or activities.</p> <p>Mallee CMA will collect personal information only by lawful and fair means and not in an unreasonably intrusive way.</p> <p>In the event that monitoring cameras are deployed on public land signage will be erected at entry points to the location and land managers will be notified.</p> <p>If it is reasonable and practicable to do so, Mallee CMA will collect personal information about an individual only from that individual.</p> <p>If Mallee CMA collects personal information about an individual from a third party, it will take reasonable steps to ensure that the individual is, or has been made, aware of the above matters except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.</p>
Use and Disclosure	<p>Mallee CMA will not use or disclose personal information about an individual for a purpose (known as the secondary purpose) other than the primary purpose of collection unless:</p> <ol style="list-style-type: none"> a. Both of the following apply: <ul style="list-style-type: none"> • the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, is directly related to the primary purpose of collection; and • the individual would reasonably expect Mallee CMA to use or disclose the information for the secondary purpose; or b. The individual has consented to the use or disclosure; or c. If the information is not sensitive information and the use of the information is for the secondary purpose of direct marketing, then: <ul style="list-style-type: none"> • it is impracticable for Mallee CMA to seek the individual's consent before that particular use; and • Mallee CMA does not charge the individual for requesting not to receive direct marketing communications; and • the individual has not made a request to Mallee CMA not to receive direct marketing communications; and • in each direct marketing communication with the individual, Mallee CMA draws to the individual's attention, or prominently displays a notice, that they may express a wish not to receive any further direct marketing communications; and • each written direct marketing communication by Mallee CMA with the individual (up to and including the communication that involves the use) sets out Mallee CMA's business address and telephone number and, if the communication with the individual is made by fax, email or other electronic means, a number or address at which Mallee CMA can be directly contacted electronically; or d. If the information is health information and the use or disclosure is necessary for research, or the compilation or analysis of statistics, relevant to public health or public safety, then: <ul style="list-style-type: none"> • it is impracticable for Mallee CMA to seek the individual's consent before the use or disclosure; and

	<ul style="list-style-type: none"> • in the case of disclosure, Mallee CMA reasonably believes that the recipient of the health information will not disclose the health information, or personal information derived from the health information; or <p>e. Mallee CMA reasonably believes that the use or disclosure is necessary to lessen or prevent:</p> <ul style="list-style-type: none"> • a serious and imminent threat to an individual's life, health or safety; or • a serious threat to public health or public safety; or • Mallee CMA has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or <p>f. use or disclosure is required or authorised by or under law; or</p> <p>g. Mallee CMA reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:</p> <ul style="list-style-type: none"> • prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; • enforcement of laws relating to the confiscation of the proceeds of crime; • protection of public revenue; • prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; and / or • preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal. <p>If Mallee CMA uses or discloses personal information it will make a written note of the use or disclosure.</p> <p>Information collected from other sources will be treated by Mallee CMA as if it were collected by itself.</p>
Data Quality	Mallee CMA will take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.
Data Security	<p>Mallee CMA will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.</p> <p>Mallee CMA will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under this policy.</p>
Openness	<p>Mallee CMA is committed to openness and transparency and will make this policy available to anyone who asks to see it.</p> <p>On request by a person, Mallee CMA will take reasonable steps to advise the person, generally, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.</p>
Access and Correction	Where providing access would reveal evaluative information generated within Mallee CMA, in connection with a commercially sensitive decision-making process, Mallee CMA may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.

If Mallee CMA is not required to provide the individual with access to the information because of the commercially sensitive decision making process, Mallee CMA must, if reasonable, consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.

Individuals will be granted access to any information held about the individual, on their request, within 45 days of receiving the request, except to the extent that:

- a. In the case of personal information other than health information, providing access would pose a serious and imminent threat to the life or health of any individual; or
- b. In the case of health information, providing access would pose a serious threat to the life or health of any individual; or
- c. Providing access would have an unreasonable impact on the privacy of other individuals; or
- d. The request for access is frivolous or vexatious; or
- e. The information relates to existing or anticipated legal proceedings between the Mallee CMA and the individual, and the information would not be accessible by the process of discovery in those proceedings; or
- f. Providing access would reveal the intentions of the Mallee CMA in relation to negotiations with the individual in such a way as to prejudice the negotiations; or
- g. Providing access would be unlawful; or
- h. Denying access is required or authorised by or under law; or
- i. Providing access would be likely to prejudice an investigation of possible unlawful activity; or
- j. Providing access would likely be to prejudice:
 - The prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of law imposing a penalty or sanction or breaches of a prescribed law; or
 - An investigation of possible unlawful activity; or
 - The enforcement of laws relating to the confiscation of the proceeds of crime; or
 - The protection of the public revenue; or
 - The prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - The preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders, by or on behalf of an enforcement body; or
 - An enforcement body performing a lawful security function asks the Mallee CMA not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

If Mallee CMA charges for providing access to personal information, those charges:

- will not be excessive; and
- will not apply to lodging a request for access.

If Mallee CMA holds personal information about an individual and the individual is able to establish that the information is not accurate, complete and up-to-date, the Mallee CMA will take reasonable steps to correct the information so that it is accurate, complete and up-to-date.

If the individual and Mallee CMA disagree about whether the information is accurate, complete and up-to-date, and the individual asks Mallee CMA to associate with the

	<p>information a statement claiming that the information is not accurate, complete or up-to-date, Mallee CMA will do so within seven days.</p> <p>Mallee CMA will provide reasons for denial of access or a refusal to amend personal information.</p>
Unique Identifiers	<p>Mallee CMA will not adopt as its own identifier of an individual, an identifier of the individual, which has been assigned by:</p> <ol style="list-style-type: none"> a. an agency; or b. an agent of an agency acting in its capacity as agent; or c. a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract. <p>Mallee CMA will not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider unless:</p> <ol style="list-style-type: none"> a. the use or disclosure is necessary for the Mallee CMA to fulfil its obligations to the agency; or b. believes that disclosure is reasonably necessary under Use and Disclosure terms above.
Anonymity	<p>Wherever it is lawful and practicable, individuals have the option of not identifying themselves when entering into transactions with the Mallee CMA.</p>
Trans-border Data Flows	<p>Mallee CMA may transfer personal information about an individual to someone (other than Mallee CMA or the individual) who is in a foreign country only if:</p> <ol style="list-style-type: none"> a. Mallee CMA reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to the Australian Privacy Principles; or b. the individual consents to the transfer; or c. transfer is necessary for the performance of a contract between the individual and the Mallee CMA, or for the implementation of pre-contractual measures taken in response to the individual's request; or d. transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the Mallee CMA and a third party; or e. all of the following apply: <ol style="list-style-type: none"> i. the transfer is for the benefit of the individual; ii. it is impracticable to obtain the consent of the individual to that transfer; iii. if it were practicable to obtain such consent, the individual would be likely to give it; or f. Mallee CMA has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Australian Privacy Principles.
Sensitive Information	<p>Mallee CMA will not collect sensitive information about an individual unless:</p> <ol style="list-style-type: none"> a. individual has consented; or b. collection is required by law; or

	<ul style="list-style-type: none"> c. collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns: <ul style="list-style-type: none"> i. is physically or legally incapable of giving consent to the collection; or ii. physically cannot communicate consent to the collection; or d. collection is necessary for the establishment, exercise or defence of a legal or equitable claim. <p>Mallee CMA may collect health information about an individual if:</p> <ul style="list-style-type: none"> a. information is necessary to provide a health service to the individual; and b. information is collected: <ul style="list-style-type: none"> i. as required by law (other than this Act); or ii. in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the Mallee CMA c. collection is necessary for any of the following purposes: <ul style="list-style-type: none"> i. research relevant to public health or public safety; ii. the compilation or analysis of statistics relevant to public health or public safety; iii. the management, funding or monitoring of a health service; and d. that purpose cannot be served by the collection of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained; and e. it is impracticable for the Mallee CMA to seek the individual's consent to the collection; and f. information is collected: <ul style="list-style-type: none"> i. as required by law (other than this Act); or ii. in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind Mallee CMA; or <p>If Mallee CMA collects health information about an individual in accordance with this policy, Mallee CMA will take reasonable steps to permanently de-identify the information before Mallee CMA discloses it.</p>
--	--

5. Definitions

Term	Meaning
Personal information	Information or an opinion (including information or an opinion forming part of a database) that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can be reasonably ascertained from the information or opinion". Personal information is not restricted to a name and includes the use of descriptors that would enable a person to be identified, such as nicknames and personal, gender or physical characteristics.
Unique identifiers	A number assigned by an organisation to an individual to identify uniquely the individual for the purposes of the organisation's operations. However, an individual's name or Australian Business Number (ABN) is not an identifier.

Sensitive Information	Information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, professional or trade association memberships, union membership, sexual preferences or practices, or criminal records.
-----------------------	---

6. Accessing personal information and/or making a complaint

To apply to access personal information about you held by Mallee CMA, or if an individual feels aggrieved by Mallee CMA's handling of their personal, sensitive or health information, he/she may make a complaint by contacting Mallee CMA's Freedom of Information (FOI) Officer.

Application for Access to Personal Information and Privacy Complaint Forms are available from the Mallee CMA FOI Officer as detailed below.

Send completed applications to:

Chief Finance Officer
Mallee Catchment Management Authority
PO Box 5017
Mildura VIC 3502

Email: foi@malleecma.com.au

Telephone: (03) 5051 4377

Fax: (03) 5051 4379

7. Related Documents

Internal

046-191-FORM - [Privacy Complaint Form](#)

046-086-FORM - [Application for Access to Personal Information](#)

External

Privacy and Data Protection Act 2014

Privacy Act 1988 (Cth)

Health Records Act 2001

Surveillance Devices Act 1999

Public Records Act 1973

Freedom of Information Act 1982

Charter of Human Rights and Responsibilities Act 2006.