

## PRIVACY POLICY – MANAGING AGENTS

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### Background

This statement applies to Lesley Montano Pty Limited trading as Montano Strata Management and its agents in relation to its activities, that can be broadly described as a managing agent of strata schemes and similar legal entities.

The Privacy Act 1988 (Cth) (**Privacy Act**) and the Privacy Regulations 2013 (**Privacy Regulations**) requires Lesley Montano Pty Limited trading as Montano Strata Management (**MSM**) to comply with 13 Australian Privacy Principles (**APPs**) (subject to other provisions of that Act) in how we handle personal information. The APPs regulate the way personal information is handled throughout its life cycle, from collection to use and disclosure, storage, accessibility and disposal (where applicable).

Personal information is defined as any information or an opinion, in any form and whether true or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

### Montano Strata Management Privacy Policy

MSM offers a variety of services primarily in strata titles property matters throughout Sydney. In addition, MSM are licensed under the Property Stock and Business Agents Act and carry out various functions as strata managers and/or managing agents of Owners Corporations and home unit companies.

MSM is bound by and supports the APPs in the Privacy Act and is committed to protecting the privacy of your personal information. This Privacy Policy explains how MSM manages the personal information that we collect, use and disclose and how to contact us if you have any further queries about our management of your personal information. This Privacy Policy does not cover personal information collected or held by MSM about its employees.

Aside from the contents of this statement, MSM is also governed by several statutory and non-statutory policies as part of the “Strata Management industry”, and our corporate privacy principles.

### Statutory and non-statutory requirements

MSM is also governed by:

- The Strata Schemes Management Act 1996;
- The Property, Stock and Business Agents Act 2002; MSM is a member of Strata Community Australia (NSW).

## 1. Collection of Personal Information

MSM collects personal information in a number of ways, including:

- directly from you; or
- from publicly available sources of information; or
- from our own records; or
- from meetings convened by the Owners Corporation of a Strata Scheme; or
- lawful means and not in an unreasonable intrusive manner; or
- when legally required to do so; or
- from third parties.

## 2. What Information is Collected by MSM

Chapter 3, Part 5 of the *Strata Schemes Management Act (1996)* requires MSM to keep certain records. This information must be recorded in the Strata Roll. The records required by the *Strata Schemes Management Act (1996)* include the owner's name and Australian address. It can include additional information under the Act. Where there is a mortgage interest the exact nature of the person's interest in the lot must be disclosed. Additionally notice must be given to the Owners Corporation of leases or subleases, this includes the name of the lessee, sublessee or assignee, the date of commencement or assigning of the lease and the name of any agent acting for the owner in respect of the sublease or lease.

In respect of corporations subject to by the *Strata Schemes Management Act (1996)* MSM must keep minutes of meetings that include the particulars of the motions passed at those meetings. These minutes are required to be published in a public place and for all practical purposes are accessible to the public.

MSM will also collect information which is gathered for the primary purpose to allow MSM to carry out functions as Strata Managers and/or managing agents of Owners Corporations and home unit companies.

This will include items such as telephone numbers and/or email addresses. This information is important to MSM to allow effective discharge of our duties. This information as provided will be accessible by third parties in the same way that information is required to be provided in accordance with the legislation.

### 3. Use and disclosure of personal information

MSM uses your personal information for the purpose for which it was originally collected and in accordance with our contractual and/or statutory obligations.

Your personal information will also be used by MSM in respect to its appointment as a Strata Management Agent by any owner's corporation and/or Managing Agent of a "home unit" company in order to:

- to help manage and enhance the services it provides to you;
- to help and assist Owners Corporation's and/or "home unit" company carry out its function in maintaining properties in good order, including maintaining common property, arranging building insurance, raising levies and/or managing by-law breaches;
- ensure where applicable by-laws are kept up-to-date, accurate and provided on a Notice Board in the Strata Scheme for anyone to view; or
- ensure all owners and/or shareholders share the continuing cost of maintaining the Strata Scheme and/or "home unit" company, and where levies remain unpaid for a month, commence appropriate action to recover these monies from the defaulting owner;
- ensure records are updated on a timely basis and can be accessed by anyone (properly authorised) wishing to view the information and be assured of accurate and reliable information;
- provide statements and reconciliations of receipts and expenditure in respect of a Strata Scheme and/or "home unit" company;
- provide a full report on the financial aspects of a Strata Scheme and/or "home unit" company to every person entitled to receive same as required by law;
- provide and/or display Minutes of the various Meetings as required by law held by the relevant entities;
- forward to you periodic mail containing information on upcoming events which we are required to do so or think you may be interested in. If at any time you decide that you do not wish to receive such mailings, please contact MSM on (02) 9560 2600.

If MSM uses or discloses your personal information for a purpose (the "secondary purpose") other than the main reason for which it was originally collected (the "primary purpose"), to the extent required by the Privacy Act, we will ensure that:

- the secondary purpose is related to the primary purpose of collection (and directly related to the case of sensitive information), and you would reasonably expect that MSM would use or disclose your information in that way; or
- you have consented to the use or disclosure of your personal information for the secondary purpose; or
- the use or disclosure is required or authorised by or under law; or
- the use or disclosure is otherwise permitted by the Privacy Act (for example, as a necessary part of an investigation or suspected unlawful activity).

Under Chapter 3, Part 5 Division 3 of the *Strata Schemes Management Act (1996)* the Owners Corporation must prepare financial statements. These statements are available to the owners and can include the amount of contribution to the fund for each person liable to make such contribution, and the balance outstanding for each such contribution. Accordingly, these financial statements may contain personal information of strata owners that are in default, which are disclosed to, at least, other owners.

MSM will not accept complaints that are anonymous other than in conformity with paragraph 5 hereunder. Where a complaint is made that is not anonymous, MSM may disclose to interested and/ or relevant parties personal information of the complainant.

#### **4. Data quality and security**

Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that personal information is relevant and to the extent necessary, accurate, complete and up to date for the purpose for which it is to be used.

MSM will take reasonable steps to:

- protect the personal information that we hold from misuse and loss and from unauthorised access, modification or disclosure; and
- destroy or permanently de-identify personal information that is no longer needed for any purpose that is permitted by the Privacy Act.

Sometimes information can never be destroyed due to technical and accounting requirements, and in some cases legal responsibilities that will require us to retain some information.

You should advise us immediately when you become aware that any information, we hold about you is incorrect or out of date. MSM will amend its records as soon as practical after it is advised subject to the validity of the request being confirmed.

The majority of the information received by MSM is on behalf of the entities it manages and accordingly where the management of entities ceases to be conducted by MSM, the information will be transferred by MSM to such person or body as the relevant entity shall nominate.

#### **5. Anonymity**

In complying with the APPs, MSM will allow individuals an option of not identifying themselves whenever it is lawful and practical to do so. MSM are unable to offer anonymity to an individual when carrying out its statutory requirements and in performing its functions as outlined in paragraphs 1 and 2, or where we are required to disclose your personal information to third parties as required by law and/or in discharge of our contractual obligations.

#### **6. Transfer of personal information outside Australia**

If MSM transfers your personal information outside Australia, we will comply with requirements of the Privacy Act that relate to transborder data flows.

MSM will ensure that contractors, affiliated companies and related companies that need to see personal information are compliant with the Privacy Act or a legislative regime which is at least as rigorous as the Privacy Act. All agreements with these third parties will impose this obligation. You can contact these third parties directly to obtain access to the personal information they hold about you.

## 7. Access to your personal information

If you would like to access the personal information that we hold about you, please contact MSM. We will generally provide you with access to your personal information if practicable. In some circumstances, MSM may not permit access to your personal information where:

- a. providing access would pose a serious threat to the life or health of any individual; or
- b. providing access would have an unreasonable impact upon the privacy of other individuals; or
- c. the request for access is frivolous or vexatious; or
- d. the information relates to existing legal dispute resolution proceedings between the Owners Corporations and/or the "home unit" company and the individual, and the access would not be accessible by the process of discovery in those proceedings; or
- e. providing access would reveal the intentions of MSM in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- f. providing access would be unlawful; or
- g. denying access is specifically authorised by law; or
- h. providing access would be likely to prejudice an investigation of possibility unlawful activity; or
- i. providing access would be likely to prejudice:
  - i. the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; or
  - ii. the enforcement of laws relating to the confiscation of the proceeds of crime; or
  - iii. the protection of the public revenue; or
  - iv. the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
  - v. 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 organisation not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

## 8. Correction of your personal information

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

MSM will provide written acknowledgment of receiving your request within 7 days of receipt. We will investigate and advise you of the steps we have taken to resolve your request.

Unless MSM does not agree to your request for correction of personal information, in most cases MSM will make the corrections requested to your personal information it holds within 30 days of receipt of your request. If MSM does not agree to your request for correction, it will notify you of the reasons it does not agree and will note your request on the records it holds about you.

MSM relies on the accuracy of personal information as provided to it directly or indirectly. We encourage you to contact us if the personal information we hold about you is incorrect by contacting MSM.

## 9. Complaint handling

If you believe that personal information that we hold about you has been used incorrectly you should advise us immediately when you become aware of a potential breach of privacy. In such a situation MSM will take all reasonable steps to correct the breach of privacy. Unless MSM does not agree that there has been a breach of your privacy, MSM will make corrections relating to that breach within 30 days of receipt of your request. If MSM does not agree that there has been a breach of your privacy, it will notify you of the reasons it does not agree and will note your request on the records it holds about you.

In addition, under the *Privacy Act 1988* you can make a complaint to the Office of the Australian Information Commissioner (**OAIC**) about the handling of your personal information.

### Further Information

Please contact us if you have any queries about the personal information that MSM holds about you or the way we handle that personal information. Our contact details for privacy queries are set out below.

Address: 135 Marion Street, LEICHHARDT NSW 2040

Telephone: 02 9568 2600

Email: [strata@montano.net.au](mailto:strata@montano.net.au)

MSM may, from time to time, review and update this Privacy Policy to consider new laws and technology and changes to MSM operations. You may like to check it each time when you visit our site, or at the Head Office of MSM at 135 Marion Street, Leichhardt, NSW 2040. All personal information held by MSM will be governed by this Privacy Policy.

This privacy statement applies to Lesley Montano Pty Limited.

**Dated: December 2019**