

Ms Julie Dennett
A/g Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
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Dear Ms Dennett

We refer to your email correspondence dated 18 September 2006 inviting submissions to your inquiry into the Privacy Legislation Amendment (Emergencies and Disasters) Bill 2006.

Thank you for the opportunity to comment on the proposed amendments to the Privacy Act to take particular account of emergency and disaster situations.

In our view it is important that legislative measures should be put in place to ensure that there is the minimum of confusion about the collection, use and disclosure of information in emergency situations, particularly where government and non-government organisations are involved.

Privacy legislation in New South Wales allows exemption from privacy provisions where such information might prevent or lessen a serious and imminent threat to the life or health of the individual to whom information relates or to another person.

The amendments foreshadowed in the current Bill before the Senate deal squarely with emergency and disaster situations. Privacy NSW supports the view that in exceptional and emergency situations the legislation should be able to be modified to accommodate these kinds of events.

For instance, we would not support the suspension of privacy legislation during a disaster or the emergency. We would, however, support reasonable modifications to allow information which could involve life or death situations or where information could be provided to assist in the rescue, rehabilitation and where necessary repatriation of those caught up in the disaster.

In our view, these proposed amendments adequately address that type of situation and provide the appropriate safeguards.

Permitted purpose sets out in a reasonable form the kinds of situation where the people and organisations, which may be involved, need to have access to personal information not available under ordinary circumstances. Similarly, the notion of a person *responsible* is an indication of the class of people being referred to in the legislation.

We would also strongly support the safeguards in section 80P(1)(e) in relation to disclosure to the media. We agree that these additional measures to relieve the stress on anxious families and on those involved in the emergency situations should not be used as an additional source of putting information into the public domain before the relatives have been informed.

As you are probably aware, the NSW Law Reform Commission is currently conducting an inquiry into the state privacy legislation. The inquiry appears to provide a suitable opportunity to consider the necessity of corresponding amendments to the NSW privacy legislation.

If you have any queries, please contact Alex Barski at Privacy NSW on (02) 9228 8581. Please quote the reference number at the top of this letter.

Yours sincerely

John Dickie
Acting Privacy Commissioner