

# Andrew Barr MLA

## Chief Minister



Member for Kurrajong

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Ms Giulia Jones MLA

Chair

Standing Committee on Justice and Community Safety

ACT Legislative Assembly

CANBERRA ACT 2601

Dear Ms Jones

I refer to the Standing Committee on Justice and Community Safety's (Legislative Scrutiny Role) (Standing Committee) Scrutiny Report 5, specifically its consideration of the City Renewal Authority and Suburban Land Agency Bill 2017 (the Bill).

The Standing Committee has requested a response to two issues raised in the report – the right to privacy under section 12 of the *Human Rights Act 2004* (HR Act) and creating offences by regulation.

### *Right to Privacy*

Clause 56 of the Bill provides the ability for information holders (senior government officials and statutory office holders), and the Minister to request and share protected information if that information is required by another information holder to exercise a statutory function. The receiving information holder may not share the protected information with anyone else, save for other information holders requiring the information to exercise a statutory function. The giving information holder may impose conditions on how the receiving information holder uses or stores the information.

The purpose of the information exchange is to permit review and monitoring of the entities by senior ACT Government officials to promote strong governance of the entities including through ministerial supervision and the holding of board members to account for performance. It will also support compliance with statutory and other reporting and transparency arrangements, including the annual budget process.

The provisions of the *Information Privacy Act 2014* will continue to apply to the information and information holders. The clause does not give information holders carte blanche power to share information with other parties who are not information holders requiring the information for the exercise of a statutory function. The City Renewal Authority and Suburban Land Agency's information privacy statements will inform people when they are providing information to the entities that it may be used to review and monitor the operations of the entities. This is consistent with Territory Privacy Principle (TPP) 6 in the Information Privacy Act.

### **AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

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Clause 56 does not engage the right to privacy under section 12 of the HR Act. The Bill makes the sharing of protected information lawful for a limited purpose for exercising statutory functions by a limited number of senior government officials. The Information Privacy Act would continue to apply prohibiting information holders from sharing information with third parties to whom release was not explicitly authorised.

*Creation of Offences by Regulation*

Clause 57 of the Bill provides a regulation-making power for the Executive, including creating offences and fixing a maximum penalty of not more than 20 penalty unit for the offences. This is a not uncommon form of words in Territory legislation. Nevertheless, at this stage the Government does not intend to create offences under this act, once made.

Should such a view be formed in the future, any regulation which creates an offence would be limited by the scope of the Act. Further, and as Scrutiny Report 5 notes, any such offences would generally be minor and limited to a maximum of 20 penalty units for offences. Should the Executive make any such regulations they would be disallowable by the Legislative Assembly.

I trust this response is useful to the Standing Committee, and thank the Standing Committee for considering this Bill.

Yours sincerely

Andrew Barr MLA  
Chief Minister