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Minister for Corrections
Minister for Building and Construction
Minister for the Arts
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Mr Roger Clarke
Secretary
Australian Privacy Foundation

21 JUL 2020

By Email: Secretary@privacy.org.au

Dear Mr Clarke

Thank you for your letter dated 23 May 2020 expressing concern over the new section 60A of the *Emergency Management Act 2006*, as introduced by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (COVID-19 Act). I sincerely apologise for the delay in responding to you.

The COVID-19 Act was introduced to support and ensure continuity of administrative law and government regulation and services during the COVID-19 emergency. It also enabled State and local government entities to quickly and effectively respond to this unprecedented public health emergency. Some amendments were considered necessary for the COVID-19 emergency alone, while others were considered necessary during this and future state of emergencies. In times of emergency, urgent and unexpected circumstances can arise where there is a critical need to collect, use, and share information to mount a rapid and effective whole-of-government response.

The limited circumstances of section 60A include that it only applies during the state of emergency, and to the disclosure, collection, exchange of use of 'relevant information', for the 'relevant purposes', by a 'relevant body or person'. Each of these terms is defined in a very limited way, by reference to emergency and public health legislation, to people exercising functions or powers under that legislation, and to information collected for the purposes of that legislation. Due to its limited application to both emergency and public health legislation, it will have even narrower application in emergencies that do not involve significant collection of information under public health legislation (bushfires, for example).

Other secrecy, privacy, or confidentiality provisions of other Acts such as the *Public Health Act 1997* continue to apply at all times. In a state of emergency involving a pandemic, the *Public Health Act 1997* in particular provides a framework for collection, use and disclosure of information relating to notifiable diseases such as COVID-19.

The *Privacy Information Protection Act 2004* (PIP Act) will both apply to relevant information when the state of emergency concludes, and also apply to information during the state of emergency in relation to matters not within the scope of s 60A. Section 60A does not permit the disclosure of information for purposes that are not relevant to the emergency or public health legislation.

The non-application of the PIP Act to certain information during a state of emergency only affects 'personal information custodians' who are subject to the PIP Act, such as Government agencies. It does not affect the privacy requirements on other persons and bodies imposed by Commonwealth privacy requirements or other legislation.

In terms of oversight of administrative actions of Departments, the Ombudsman's jurisdiction applies.

I assure you that the State Controller, Public Health Services, the Department of Justice and other relevant Tasmanian Government departments involved take the responsibility for maintaining data security very seriously, while ensuring protocols are in place to enable effective and timely responses to this and any future states of emergency.

Thank you for writing to me about this important matter.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'E. Archer', written over the typed name.

Hon Elise Archer MP
Attorney-General
Minister for Justice