



ABS response to the Census Data Enhancement Privacy Impact Assessment

As foreshadowed in the ABS discussion paper *Enhancing the Population Census : Developing a Longitudinal View* (cat. no. 2060.0), the ABS has commissioned an independent Privacy Impact Assessment to ensure the privacy related aspects of the proposal are well understood, and to seek suggestions on further privacy safeguards that might be appropriate in relation to the proposal.

The Privacy Impact Assessment has been completed by Mr Nigel Waters, of Pacific Privacy Consulting, and his report is attached. Anyone wishing to comment on this report should do so by e-mailing the ABS Privacy Officer at g.vanhalderen@abs.gov.au.

The ABS has yet to make a final decision on the Census Data Enhancement proposal, and this response to the assessment does not represent a final decision from the ABS. In making its decision, the ABS must weigh up the public benefits of the proposal, and options contained within it, against privacy issues, risks and benefits. While the privacy risk identified in the assessment relates largely to perceptions of 'what might happen' in the future to reduce current safeguards, it is still important that the privacy risk as well as the privacy issues and benefits are taken into account and addressed to the extent possible.

The ABS has sought to address privacy concerns by providing a number of safeguards within the Proposal, the most important of these being that:

- name and address information held by the ABS will continue to be destroyed at the end of census processing as has been the practice to date (information for those who choose to have their forms archived for 99 years will be held by National Archives);
- ABS is obligated to comply with the Census and Statistics Act 1905 and the Privacy Act 1988, and these Acts will govern the use and release of data under the Proposal;
- no identifiable data will be released outside of the ABS; and
- the same high standards of security in the ABS technological environment, and in ABS practices will be maintained for data related to the proposal as is in place for all ABS data. This includes a regular program of related audits.

The Privacy Impact Assessment notes the significance of the ABS Census dataset as a comprehensive set of information about all Australians. It notes:

- "The legislative framework within which the ABS operates in general, and conducts the Census in particular, is as protective of individuals' personal information as is possible. Subject to some recommended clarification, the *Census and Statistics Act* 1905 and the *Statistics Determination* 1983 together provide an assurance that no identifiable personal information will be disclosed by ABS, and that any uses of the information will be confined to statistical and not administrative purposes.";
- the Proposal can operate within the Privacy Act 1988, meeting all Information Privacy Principles;
- "the ABS' track record both of procedural safeguards and of defence of the principle of confidentiality".

None the less, the report assesses "a residual privacy risk of future changes in legislation to allow administrative or other non-statistical uses" while acknowledging "the history over the last 100 years has been one of strengthening privacy protection in the ABS legislation rather than the reverse."

The report indicates a "privacy benefit of the proposal could be reduced pressure for, and incidence of, longitudinal data sets outside the protection of ABS legislation and processes." This highlights the role set for the ABS, by its legislation, in providing a safe environment within which to meet significant statistical needs of Government and the community. The Proposal has been put forward by the ABS in recognition of the growing need in research, policy development and evaluation, for longitudinal information that can give insight into cause and effect relationships, as well as help guide investment in early intervention strategies. Undertaking longitudinal analysis and the inclusion of relevant data from alternative sources, within the safeguards provided by the statistical legislation and the secure ABS physical and technological environment, provides a means for meeting these statistical needs, at a potentially lower cost in privacy terms to having them met outside the ABS environment.

The ABS will now consider the overall report and the assessed residual privacy risk, against the potential benefits of the statistical information that can be obtained through the proposal for researchers, policy makers and the community. ABS have placed, and continue to place, a high priority on privacy management and will give serious consideration to the recommendations of the assessment. The ABS response to these recommendations is given below.

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ABS response to the Census Data Enhancement Privacy Impact Assessment Recommendations

Recommendation 1 -Consideration should be given to abandonment of the Census Data Enhancement proposals involving name matching and of reverting to previous ABS practice of confining the use of names during Census processing periods to ABS quality studies only.

ABS Response : The ABS is currently considering the Census Data Enhancement Proposal and no final decision has been made. The Privacy Impact Assessment is one input into the decision making process. Public submissions and input from the Australian Statistics Advisory Council are other important inputs to the process. All inputs will be considered and in doing so, the ABS will be weighing up the public benefits of the Proposal and options contained within it against the assessed residual privacy risk.

Recommendation 2 -If the Proposal is implemented, the ABS should adopt all the administrative measures it has already planned to protect confidentiality and privacy in relation to the SLCD, including in particular the setting up of a separate administrative unit within ABS to be the creator and custodian of the SLCD, and clear communication of the nature of the intended uses to respondents to all relevant surveys.

ABS Response: Agreed.

Recommendation 3- The ABS should consider seeking an amendment to the CSA to insert a definition of 'statistical purposes' to put beyond doubt that statistical purposes cannot include administrative, client management or law enforcement purposes that relate to specific individuals. A similar definition could usefully be inserted into the Australian Bureau of Statistics Act 1975. The precise wording of any such amendments would need very careful consideration to achieve their objective, and the Privacy Commissioner should be consulted.

Recommendation 4 - The ABS should consider seeking amendment to the CSA to put beyond doubt that the reference to 'the purposes of the Act' in the secrecy provision (s.19) is confined, as the ABS asserts, to publication in accordance with s.12, communication between officers for the purposes of compilation, analysis and dissemination, and the prosecution of offences covered by the CSA.

Recommendation 5 -The ABS should consider seeking amendment to the CSA to make it clear that disclosure under s.19 'in accordance with a determination' is not an *alternative to* 'for the purposes of this Act' (as it now reads) but rather a specific subset of disclosures *for* those purposes.

Recommendation 6 -The ABS should consider seeking amendment to the CSA to apply the express defence against access by courts and tribunals (currently in s.19A in relation to 2001 Census information), both to 2006 and subsequent Census information, including the name and address information held during the processing period in whatever form, and also expressly to the SLCD indefinitely.

ABS Response: Recommendations 3, 4, 5 and 6 will all be considered as part of legislative review processes planned in preparation for the 2006 Census.

Recommendation 7 -If the name matching proposals are abandoned (see Recommendation 1), the ABS should consider seeking amendment to the CSA to expressly confine the use of name information from Census forms to ABS quality studies (apart from the separate Census archiving provision for those providing express approval for their Census information to be retained by Archives).

ABS Response: The ABS will consider the recommendation but notes that the residual privacy risk identified in the Assessment relates to possible future legislative change, and recommendation 7 does not address the residual privacy risk. Current legislation restricts the use of all Census information, including name information, to use for statistical purposes.