



10 October 2023

Department of Finance
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AUSTRALIA

feedback@finance.gov.au – also to be uploaded to
<https://www.digitalidentity.gov.au/have-your-say/2023-digital-id-bill-and-rules-submissions>

Digital ID Bill and Digital ID Rules

The NSW Council for Civil Liberties (NSWCCL) wishes to make a detailed submission to the Department in regard to the Digital ID Bill and Digital ID Rules (Bill and Rules). NSWCCL is aware that the time for lodging submissions is this coming Tuesday 10 October (Have your say opened only 19th September 2023). The NSWCCL requests an extension of time until 31 October 2023 to properly consider the implications of the new Bill and rules and do a comparison with the Exposure Draft.

As with the initial public consultation process for the Digital Identity System developed by the preceding government, once again the public and stakeholders have very little time to engage with what is complex and technical legislation. It is very difficult for stakeholders, many of which, like the NSWCCL, are manned by volunteers, to provide reasonable feedback in such a short timeframe. NSWCCL believes that the legislation affects the civil and human rights of Australian to such a significant extent as to warrant the provision of more time to assess the Bill and Rule's impact.

1. For the sake of submitting something relevant to the Committee, we provide a link to a website posting with a summary of our concerns of the Exposure draft, many of which concerns still remain. https://www.nswccl.org.au/trusted_digital_identity_bill_2021. In a non-exhaustive list of examples:
 - a) There should be equity in the use of the system and a digital identity must not be a precondition to access basic services and rights. Analogue pathways (non-digital systems for identity verification) should be maintained.
 - b) The Bill and Rules should not rely solely on privacy law, which laws are still being reviewed and are likely to be inadequate for the significant amount of biometric and other sensitive information being dealt with in the proposed legislation.
 - c) Australian privacy regulators have cautioned against an over-reliance on informed consent. This 'notice and consent' model puts the burden of protecting privacy on an individual and limits their choice to 'all or nothing'.

Thank you, in anticipation, for considering our request for an extension of time. We look forward to being able to make more detailed and considered comments on the Bill and Rules.

Yours faithfully



Michelle Falstein
Assistant Secretary