



Professor Julie Cairney, B.Met. Eng. *UNSW*, PhD *UNSW*
Interim Deputy Vice-Chancellor (Research)

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Mr Taylor Black
Data Availability and Transparency Act Statutory Review
Department of Finance
1 Canberra Avenue
Forrest ACT 2603

By email: DATAActReview@finance.gov.au

Dear Mr Black,

Statutory Review of the *Data Availability and Transparency Act 2022* (Cth)

Thank you for the opportunity to provide feedback on the draft findings and recommendations of the Statutory Review of the *Data Availability and Transparency Act 2022* (**DAT Act**). Our comments are again intended to complement those made by Universities Australia on behalf of its member institutions.

High-level feedback

The University of Sydney strongly supports and is encouraged by the Statutory Review's key findings and recommendations, many of which align with points we and/or Universities Australia stressed in initial submissions.

We note that the Statutory Review is occurring alongside the Australian Government's renewed focus on improving productivity, including through better regulation and effective use of digital technologies. In this context, the design and implementation of the DAT Act may serve as a valuable case study, given the Statutory Review's confirmation that the DAT Act and the DATA Scheme it supports have fallen short of the Government's original policy objectives, which were, in summary, to *'streamline and modernise data sharing across the Australian government to support better service delivery, policies and programs and research.'*¹

Feedback on draft findings

The University, in particular, endorses the Statutory Review's following draft findings:

- That there is broad support for the DAT Act's objectives but that the legislation has not achieved its aims, with only 34 requests for data made under the Act as of 1 July 2025, and no requests made by non-Commonwealth entities approved. **(pp.4-7)**
- That the ongoing limitations and obstacles inhibiting access to public sector data are more likely to be overcome by reforming the DAT Act than by allowing it to sunset, but that substantial reforms are necessary to justify the DAT Act's continuation. **(p.5)**
- The DAT Act is difficult to use because it is too complex, prescriptive and inflexible. **(p.9)**
- That the Commissioner's regulatory functions and powers focus on compliance and enforcement rather than empower the role to promote safe and secure data sharing across the broader data sharing ecosystem. **(p.10)**

¹ The Hon. Stuart Robert, Minister for the National Disability Insurance Scheme and Minister for Government Services (9 December 2020) [Data Availability and Transparency Bill 2020, Second Reading Speech](#)



- That the DAT Act accreditation framework can be improved to make it more effective, less complex, less resource intensive for custodians and users, and more flexible. (p.11)
- That the DAT Act does not include principles or mechanisms for specifically enabling First Nations people to be heard, recognised and empowered, restricting the Act's ability to contribute to Government commitments aimed at improving outcomes for First Nations people. (p.13)

Feedback on draft recommendations

The University of Sydney strongly supports the Statutory Review's draft finding that the DAT Act should be retained, but that significant amendments are needed to clarify its role and improve its settings.

While the current framework has limitations, the DAT Act provides a valuable foundation for enabling safe, lawful, and transparent data sharing across the Commonwealth. Sunsetting the legislation would risk losing momentum, institutional knowledge, and the progress already made. Instead, we recommend extending the Act's operation to allow time for meaningful reform, implementation and critically to improved levels of ongoing consultation with key users of the DAT Act including researchers and technical experts in universities and other organisations accredited under the Act. Here we note that the National Data Advisory Council does not include a member with demonstrated technical expertise and operational experience in implementing the DAT Act and other data sharing arrangements with Commonwealth agencies, from the perspective of an accredited public Australian university. If the inclusion of such expertise on the Council is not possible, then the Statutory Review should consider recommending to the ONDC that it establish an expert 'Accredited User Operational Advisory Group' (to be reviewed after three years), with the aim of improving levels of information sharing and collaboration between the ONCD and accredited universities, and other accredited organisations if eligibility is expanded in the future.

We support a principles-based, simplified framework for data sharing that is easier to use and more transparent as detailed below in response to the consultation questions posed by the Statutory Review:

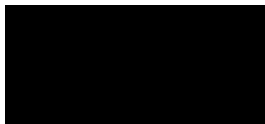
- Recommend subordinate legislation for defining linked data asset requirements - rather than embedding them in the primary legislation - making it a more flexible regime.
- Implement defined timeframes (e.g. 30–60 days) for data custodians to respond to data requests, with published reasons for refusals.
- Ensure the Commissioner's role is refocused on data sharing promotion, assurance, oversight, and facilitation of data sharing by Commonwealth agencies, and to act as a data sharing champion and mediator for access. Greater promotion and assurance authority would enable the Commissioner to play a more positive role in the data sharing ecosystem - providing binding guidance to data custodians and requestors/users on safe and lawful sharing, mediating disputes between custodians and requestors, and reviewing projects to ensure appropriate safeguards are in place. This would help promote consistency and reduce delays.
- A strengthened promotion and assurance function for the Commission would also support more predictable access for accredited users, particularly universities, and ensure that public sector data is used effectively and responsibly in the public interest. Here we note that the following recommendations from the Productivity's Commission's 2017 report on Data Availability and Use remain highly relevant and potentially useful reference points for the Statutory Review, given the broader productivity and regulatory efficiency policy context with which this review coincides:
 - 'Recommended reforms are aimed at moving from a system based on risk aversion and avoidance, to one based on transparency and confidence in data processes, treating data as an asset and not a threat. Significant change is needed for

Australia's open government agenda....'

- 'A key facet of the recommended reforms is the creation of a data sharing and release structure that indicates to all data custodians a strong and clear cultural shift towards better data use that can be dialled up for the sharing or release of higher-risk datasets.'²
- Endorse a permissions-based accreditation model and tiered accreditation to facilitate data sharing. Appropriately trained staff and affiliates of trusted entities like public Australian universities should be able to have broad access to data (including highly sensitive data) based on their institution's proven capability and existing compliance regime (HREC oversight, secure data research environments, stringent codes of conduct and staff training etc).
- Recommend expanding accreditation eligibility to include:
 - Aboriginal Community-Controlled Organisations (ACCOs) and embedding Indigenous data governance frameworks and co-design processes into the Act (e.g. adopting CARE and FAIR principles for First Nations data).
 - Not-for-profit medical and other research institutes, including those affiliated with accredited universities.
 - Private sector entities under appropriate oversight. This will support university collaboration with private sector entities.
- Support:
 - Inclusion of data curation and asset creation (e.g. structured reusable data sets) as authorised purposes under the DAT Act; and
 - Recognition of state and territory roles in data sharing and enabling two-way data flows.
- Endorse the development of a nationally consistent data sharing framework with jurisdictional co-design.
- Recommend investment in:
 - Discipline-specific metadata standards
 - Discoverability tools
 - Incentives for custodians to make data accessible.

We trust this feedback assists and would be happy to discuss further if that would assist.

Yours sincerely,



Professor Julie Cairney
Interim Deputy Vice-Chancellor (Research)
The University of Sydney

² [Productivity Commission \(2017\) Inquiry report - Data Availability and Use](#)