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

6 June 2025

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

By email: DATActReview@finance.gov.au

Dear Mr Black,

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

Thank you for the opportunity to engage with the Statutory Review of the *Data Availability and Transparency Act 2022 (Cth)* **(DAT Act)** and for granting a short extension for this submission.

As an institution committed to the ethical and effective use of data for public benefit, the University of Sydney supports the objectives of the DAT Act and the Office of the National Data Commissioner's broader DATA Scheme.

This is why we invested considerable time and resources to the policy review and development processes that led to Parliament passing this legislation in 2022, as detailed in our **attached** September 2022 submission on the then draft *Data Availability and Transparency Code 2022*.

Our feedback below is intended to complement the submission made by Universities Australia on behalf its 39 member institutions, reinforcing the shared concerns and perspectives of Australian universities.

General observations

The current framework presents several challenges for users, particularly in the research and higher education sectors. These challenges include interpretive complexity, administrative burden, and insufficient recognition of existing institutional governance frameworks.

Many of the issues raised in this submission and Universities Australia's were foreshadowed in our attached submission of 2022. The complexity of the legislative framework, the need for clearer categories of data, and the recognition of existing university institutional governance and regulatory compliance were all mentioned as areas requiring attention.

Unfortunately, many of these concerns are present in the current framework. This is highlighted in the Universities Australia submission that captures the experiences of multiple universities, including the University of Sydney, during the accreditation process and subsequent access requests.

Key Issues and recommendations

Clarity and accessibility of the legislative framework

The Act and associated guidance materials would benefit from simplification and restructuring. The current format is difficult to navigate, particularly for those seeking to determine eligibility and compliance obligations. We recommend:

- Redrafting key sections in plain English.

Research Portfolio
Level 4
Michael Spence Building (F23)
The University of Sydney
NSW 2006 Australia

T +61 2 8627 8150
E dvc.research@sydney.edu.au
sydney.edu.au

ABN 15 211 513 464
CRICOS 00026A

- Providing tailored guidance for different user categories, including universities.

Recognition of institutional governance
As detailed in our 2022 submission, universities registered to operate and receive research funding from Australian government agencies operate under robust ethical, legal, and data governance frameworks. The DAT Act or Scheme should explicitly recognise these frameworks to reduce duplication and streamline accreditation processes.

Accreditation and data access processes
The current accreditation process is resource-intensive and not proportionate to the risk profile of many research projects. Utilisation of the DAT Scheme by our researchers has been low. To date, we have received notifications about only two applications lodged by our researchers through the ONDC's Dataplace portal. If this low take-up is replicated nationally, the DAT Scheme's cost per application will be high. We recommend that the review:

- Request data from the ONDC on the number of applications received through the Dataplace Portal, the average processing times and success rates.
- Seek to understand the reasons for the low utilisation of the DATA Scheme, if the data confirm that uptake has been low.

Ongoing consultation and collaboration with Australian universities
The National Data Advisory Council comprises eminent professionals with extensive relevant skills and experiences. However, it currently does not appear to include any members who are responsible for administering and promoting the DATA Scheme within *accredited data users* and *accredited data service providers*. We stress again the importance of the ONDC consulting and collaborating on an ongoing basis with staff in universities responsible for compliance with the DAT Act, if maximising utilisation of the Scheme by Australian university researchers is an objective of the Scheme. This could be achieved by the ONDC engaging informally with the sector's growing DATA Scheme community of practice accessed through Universities Australia.

Sunsetting provisions
We support the continuation of the DAT Act, subject to the implementation of the above reforms. The Act has the potential to deliver significant public value, but only if it is accessible and efficient.

Conclusion
We commend the Department of Finance and the Office of the National Data Commissioner for their leadership in advancing data sharing in Australia. We look forward to ongoing engagement and collaboration to ensure the DAT Act remains fit-for-purpose and meets its objectives to support innovation and facilitate critical research for public benefit.

Yours sincerely,

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

Attachment The University of Sydney submission in response to the Draft Data Availability and Transparency Code 2022 Exposure Draft Consultations, September 2022

Professor Emma Johnston AO FAA FTSE FRSN
Deputy Vice-Chancellor (Research)

19 September 2022

Ms Gayle Milnes
National Data Commissioner

By email: information@datacommissioner.gov.au

Dear Ms Milnes,

Data Availability and Transparency Code 2022 Exposure Draft Consultations

Thank you for the opportunity to provide feedback on the exposure draft of the *Data Availability and Transparency Code* ('draft Code') released by the Office of the National Data Commissioner (ONDC) for consultation in August 2022.

Since the Productivity Commission's 2016-2017 inquiry into data availability and use, the University of Sydney has contributed extensively to the consultations that have informed the establishment of the ONDC in 2018 and the passage of the *Data Availability and Transparency Bill* in March 2022. This engagement included making considered submissions at each stage of the policy and legislative process (see July 2016, June 2017, Aug. 2018, Oct. 2019, Nov. 2020, March 2021), participating in numerous ONDC roundtables and giving evidence in support of the enabling Bills before the related Senate Committee inquiry in April 2021.

We are currently finalising our application for institutional accreditation under the DATA Scheme and have been promoting the new framework to our research community and beyond. Our responses to the ONDC's 22 consultation questions are **attached**, which we preface with the following high-level points summarising our key concerns.

Summary of feedback

- We are very concerned that the Code, as currently drafted, is unlikely to serve the legislation's key objective, which is to establish a framework that substantially improves the sharing of data held by Commonwealth agencies in the public interest, including for research and development purposes. The draft code is extremely complex, not written in plain English and does not successfully isolate the categories of data and use of data from each other to enable data custodians to quickly identify the relevant parts of the Code that apply to the data requested and the approved use. Custodians across Commonwealth agencies, especially those unfamiliar with data requests from university researchers, will likely seek arbitrary information from applicants that is not commensurate with the risks.
- We recommend that the ONDC consider other legislative code models, such as Safe Work Australia's suite of model codes of practice, which are written in plain English with clear headings and subheadings. Using these as examples, the ONDC's codes of practice could be drafted for each of the categories of data and for each of the three categories of use permitted by the Act, explaining how the Five Safes Principles should be considered and applied by data custodians and users in each case.
- Both the draft Code and the ONDC's treatment of Australian universities for the purposes of accreditation under the Scheme, fail to recognise that all universities and their personnel (including their employed and affiliated researchers, higher degree by research students and professional staff) have specific expertise and training in the management and use of data (including highly sensitive data where relevant).
- The draft Code and the Accredited User application requirements appear to have been developed with little regard given to the extensive existing legislative and quality assurance

requirements that must be met by all Australian universities registered with the Tertiary Education Standards and Quality Agency (TEQSA) and eligible for funding from the Australian Research Council (ARC) and the National Health and Medical Research Council (NHMRC). This framework includes Commonwealth, State and Territory laws, codes and guidelines covering: research governance and management; human and animal research ethics; privacy; cybersecurity (including research data security); national security and foreign interference (including autonomous sanctions, defence trade controls and various Commonwealth transparency laws, guidelines and security vetting); critical infrastructure and many others.

- Many requests to access data are from Commonwealth government funded research projects (e.g. ARC, NHMRC). They have been rigorously evaluated by expert panels, with the public and national interests of the research proposals assessed through the peer review process and ultimately Ministerial approval requirements in accordance with both the ARC and NHMRC Acts. Applying further public interest tests for research projects supported by Commonwealth funding councils and other agencies will serve only to embed unnecessary duplication and delays.
- The 'public interest' of a given research project may not be evident to a data custodian researcher at the point when data is requested, because the essence of research involves the creation of new knowledge. The research findings from a project could underpin future public interest research, even if the project may not be of direct public interest in its own right. There are many examples of how previous research findings have been used in subsequent projects to great effect and public benefit in ways not conceived by the original investigators.

As a result of these and other issues, we are concerned that researchers employed by or affiliated with the University of Sydney and other Australian universities are likely to be dissuaded from making applications under this optional new Scheme. If levels of interest in utilising the Scheme are low from Australian university researchers, this will make it difficult for the Commonwealth and universities to justify investing staff time and other resources to support the Scheme's operation.

We have stressed throughout the development of the DATA Scheme, the importance of the ONDC consulting meaningfully with universities to maximise the prospects of the new framework operating efficiently and cost-effectively, and to help optimise utilisation of the Scheme by Australian university researchers. **The ONDC's National Data Advisory Council currently includes academic researchers but has no representatives of universities as administering institutions. We view this as a significant shortcoming and recommend that the ONDC liaise with the sector via Universities Australia to identify a suitably qualified and experienced university research administrator to be appointed to the NDAC under Section 62 of the Act as a matter of urgency.**

Notwithstanding the numerous concerns we have with the draft Code and the approach the ONDC has taken to accrediting Australian universities, we remain committed to working with the Commission to ensure the Scheme's effective design, implementation and ongoing operation. We welcome the ONDC's recent contact about the Scheme's rollout and are very keen to accept your offer to meet soon to discuss these and other issues relevant to the Scheme's design and early implementation. To organise this, please liaise with our nominated ONDC contact officer, Dr Adele Haythornthwaite, Manager, Research Data Governance (Research Integrity and Ethics, Research Portfolio), adele.haythornthwaite@sydney.edu.au, 0412 550 924 in the first instance.

Yours sincerely,

(signature removed)

Professor Emma Johnston
Deputy Vice-Chancellor (Research)

Appendix The University of Sydney submission in response to the Office of the National Data Commissioner's Data Availability and Transparency Code 2022 Consultation Paper, September 2022

THE UNIVERSITY OF SYDNEY

SUBMISSION IN RESPONSE TO THE OFFICE OF THE NATIONAL DATA COMMISSIONER'S DATA AVAILABILITY AND TRANSPARENCY CODE 2022 CONSULTATION PAPER, SEPTEMBER 2022

The University's responses to the ONDC's consultation questions are provided below.

For further information, please liaise with our nominated ONDC contact officer, Dr Adele Haythornthwaite, Manager, Research Data Governance (Research Integrity and Ethics, Research Portfolio), adele.haythornthwaite@sydney.edu.au, 0412 550 924 in the first instance.

Consultation Paper Section/Topic	Consultation Questions	Issue of concern to the University of Sydney	University of Sydney recommendations
Section 4, Draft Data Code – Data sharing principles			
The project principle (p.8)			
Project Principle - project reasonably expected to serve the public interest.	1. Is the approach to weighing arguments for and against the project serving the public interest appropriate? If not, how else could entities assess whether a project for the purpose of informing government policy and programs, or research and development, serves the public interest?	No. The proposed different treatment of projects with a data sharing purpose only relating to the 'delivery of government services' (Section 6(2)) as compared to projects with a purpose of 'informing government policy and programs' or 'research and development' 6(3)-(5) is not supported and appears inconsistent with Section 15 of the Act, which treats these three data sharing purposes equally. The public interest weighing approach is especially not considered appropriate for data requests made under the Scheme by researchers affiliated with accredited Australian universities for a research purpose. For such projects, the starting assumption should also be that the project can reasonably be expected to serve the public interest.	• We recommend the ONDC consider other legislative codes, such as Safe Work Australia's suite of model codes of practice which are written in plain English with clear headings and subheadings. Using this as an example, codes of practice could be drafted for each of the categories of data and for each of the categories of use, explaining how the Five Safes Principles should be considered in respect to each of the codes of practice. • Section 6(2) of the Code should be amended to - at the very least - include data requests made by researchers affiliated with Australian

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		The draft Code is extremely complex and will likely be difficult to implement effectively and efficiently and may lead to systemic failure, which will limit researchers' use of the Scheme and resulting access to data for research and development purposes. The draft does not successfully isolate the categories of data and use of data from each other to enable a custodian to quickly identify the relevant parts of the code that apply to the data and the approved use. Custodians will likely make arbitrary requests for information from data users that are not commensurate with the risk. For example, a data custodian may request personal information regarding individual user affiliations that have no material relevance to the data user's appropriateness to access the data. How are data custodians qualified and supported to assess what is in the public interest? What criteria will they apply to requests for data? How will ONDC ensure decisions are made according to criteria that are applied consistently by custodians in different agencies?	universities with accredited user/entity status under the Scheme. • A definition of 'public interest' is needed, plus guidelines on how an assessment may be made. • In the interests of the Act's transparency objectives, details of data custodians' reasons for permitting or denying access requests need to be published by each agency or the ONDC.
	2. If yes to the above are the requirements of what entities must do, to weigh up arguments for and against the project serving the public interest, clear and unambiguous, and is this list proper and pragmatic? In your	See response above.	

Consultation Paper Section/Topic	Consultation Questions	Issue of concern to the University of Sydney	University of Sydney recommendations
	response, please provide reasons.		
	3. Is the list of projects that do not serve the public interest able to be practically applied? What, if any, further guidance is required to support entities consider when a project does not serve the public interest?	In our assessment the list at Section 6(5) is wholly problematic and again appears inconsistent with the Act's equal treatment of the three data sharing purposes permitted under Section 15. If implemented, this list may prevent R&D projects conducted for the sole benefit of other nations including developing nations. It may prevent university researchers from accessing data for the purposes of research because, by definition, the outcomes of the project cannot be known or predicted by them or the Data Custodian at the point when the data application is being made and assessed. Numerous other legislative safeguards are in place, which Australian universities must comply with, to ensure that research projects undertaken by their staff, affiliates and research students are not undertaken that may damage Australia's interests (including Foreign Interference, Autonomous Sanctions and Defence Trade Controls legislation). We also query whether the objects of the Act (s.3) are achieved by the proposed Section 6(5) of the Code. Section 3 does not appear to limit the 'public interest' to matters concerning Australia only – Section 6(5) as currently drafted potentially 'reads down' the stated objectives of the Act. Just because a project is deemed to not fall into the category of being in 'the public interest' does not	• Delete Section 6(5). • Engage with Australian universities through Universities Australia or the Group of Eight to understand how they ensure compliance with Australia's suite of national security laws, and safeguard against foreign interference risks in line with the Australian Government's guidelines.

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		mean that the research project is of no/limited value. For example, a request to access specific data may not be deemed to have current public interest value, however, applying the outcomes from that research in another context, or linking to another dataset at a later date, may result in the public interest test being satisfied. How is this to be assessed at the point of the initial request? Finding a test for 'merely in the public interest' (6(5)(d)) will be difficult and may exclude projects of value, even though their value is to a small percentage of the Australian population.	
	4. Are the notes contained in this section helpful, and would this section benefit from other illustrative examples provided as notes? If yes, what examples and under which subsections?	As noted above, we consider draft Section 6 as highly problematic. Unless substantially amended, we are concerned that the proposed treatment of projects with research and development data sharing purposes is likely to deter researchers affiliated with accredited Australian universities from engaging with the DATA Scheme.	
Project principle - applicable processes relating to ethics	5. Under the draft data code, entities must have regard to any process of ethics applicable. Do you have any comments about this approach?	All Australian universities are bound by ethics processes and robust requirements for human and animal research as per the Australian Code for the Responsible Conduct of Research, and the National Statement for Ethical Conduct in Human Research etc.	
	6. Is the note provided to assist entities identify ethics processes helpful? Why, or why not?	The information is helpful. Examples of other 'ethics' processes, including those applied by Australian universities should be included.	
The people principle (p.10)			

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People principle – conflicts of interest	7. Are the requirements of this element of the people principle clear and unambiguous? What, if any, further details or guidance could assist?	We are concerned that the drafting of the Code's section relating to the Act's *People principle* (Sections 8-10) moves substantially away from the key design principle we had previously understood the ONDC would apply for data access requests made under the Scheme by researchers affiliated with accredited Australian universities. That principle was that the ONDC, data custodians and Accredited Data Service Providers (ADSPs) would assume that Australian universities accredited under the Scheme have appropriate conflict of interest declaration and management processes in place. All Australian universities are bound by the Australian laws, research and other codes that govern conflicts of interests, and have in place conflict of interest policies and procedures, and their own codes of conduct, on which data custodians can rely to satisfy themselves that conflicts of interests are managed appropriately. At the University of Sydney, see for example: *Code of Conduct – Staff and Affiliates* *Research Code of Conduct 2019* *Sponsorship Policy 2018* *Gift Acceptance Policy 2013* *Reporting Wrongdoing Policy 2012* *External Interests Policy 2010*	• Section 9(3) should be amended to include Australian universities accredited under the Scheme.
	8. Is the example provided under this section helpful? Why, or why not?	The example is not particularly helpful. It states what a conflict may be, but not how it was identified. Did the researcher know that there was a conflict? Did the Data Custodian know?	

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People principle – appropriate persons	9. Are the attributes, qualifications and affiliations listed in this section appropriate and easy to understand?	No. Most of Section 10 repeats the principle set out in the Act in more detail that is better suited to guidelines. The Code is intended to address 'other matters' not set out in the Act such as 'individual affiliations' in s10(4). As for our response to Question 7 above, if the data access request is being made by a researcher affiliated with an accredited Australian university, the Scheme should operate on the basis that data custodians and ADSPs can assume that all individuals designated under a data sharing agreement and permitted to access the data have appropriate expertise, qualifications and training. With respect to individual affiliations, this should be deleted as this is managed by the conflict-of-interest provisions set out in s9 of the draft Code.	• Section 10(4) should be deleted and adapted to become an example under conflict of interest (Section 9).
	10. Would this section of the draft data code benefit from other illustrative examples provided as a note? If yes, what examples and under what subsections?	The example provided about individuals with scholarships from a foreign university or participation in a talent development program is not particularly helpful. Whether these circumstances would detract from the individual's appropriateness to access data requested under the Scheme would depend on the specific details in each scenario.	
The setting principle (p.12)			
Setting principle – reasonable security standards	11. Is this section adequate in clarifying what are reasonable standards?	Yes.	
	12. Would this section benefit from an illustrative example provided as a	Not required.	

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	note? If yes, what are some proposed examples?		
The data principle (p.13)			
Data principle: appropriate protection – whether data should be altered	13. In practice, this element of the data principle, the privacy protections, and three data services set out in the Act, all work together to provide a framework to appropriately protect data. ONDC acknowledges there is a need to strike the right balance between taking a layered approach and not making the DATA Scheme too complex. Could the draft data code be improved to better assist entities apply this element of the data principle?	The Scheme's operation would be simplified, streamlined and more likely to be utilised by Australian university researchers if it built on the assumption that data shared with researchers affiliated with accredited Australian universities will be appropriately protected in accordance with the terms of each data sharing agreement and other relevant laws, codes, policies and guidelines.	
Data principle: appropriate protection - data sharing must be reasonably necessary	14. Is the 'reasonable person' test adequate in this section? If not, how could this section be improved to allow the entities to test whether the data proposed to be shared, collected and used is reasonably necessary to achieve the data sharing purpose?	The 'reasonable person' is a legal standard frequently used in contract law to set an objective standard. In this instance, this fictitious person must also be 'properly informed'. Together, these requirements are likely to cause confusion and lead to unnecessary complications. It is unclear what s12(5) seeks to address that is not already considered under the other principles including "project". If the project is appropriate, this should meet this requirement without further consideration.	• Delete Section 12(5) as unnecessary and that due to its uncertainty will be difficult to apply. • If Section 12(5) must remain, delete 'who is properly informed'.
The output principle (p.14)			

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Output principle	15. In practice, the output principle requires entities to agree how the accredited user will use shared data. Overall, how could the draft data code be improved to best assist entities apply the output principle?	This section of draft Code is confusing. The Output Principle expressed in the Act (s16(9)) is clearly intended to operate on the final outputs created by accredited users from their use of the data accessed under the Scheme and outputs the creation of which are reasonable, necessary or incidental to creation of the final output. However, this section of the Code seems intended to be applied by data custodians and ADSPs when considering requests for the release of data. A more nuanced approach to outputs should be adopted. For example, if an output is a de-identified and aggregated dataset where there is extremely low risk of re-identification, then secondary use of this resource should be allowed (so 'safe' datasets can be used by other researchers). However, if the dataset contains sensitive information and/or is unit record data (i.e. data are not aggregated or contain a small number of data points at cell level, and thus have higher risk of re-identification) then outputs should be strictly controlled. The data sharing agreements will need to allow for appropriate sharing of dataset for secondary use, and assignation of new data custodians for the output dataset (e.g. the researcher).	• Section 12 is confusing and should be re-written to make clear if this is intended to apply to the "final outputs" of the project created by the user, not the entity. • Examples should be included that discuss how risks can be managed. • If a researcher affiliated with an Australian university is the creator of the final data output, custodianship of the final data output should vest in the University, except in special circumstances including where the final Data Output contains sensitive Commonwealth information or personal information.
Section 5 – Draft Data Code – Privacy Protections (p.17)			
Privacy protections	16. One of the objects of the Act is to enable the sharing of data consistently with the Privacy Act and appropriate safeguards. Does this part of the draft data code strike the right balance between holding	Australian universities are subject to Commonwealth, State and Territory (as relevant) privacy laws and take these obligations seriously in relation to data held or accessed for research and other purposes. Waivers may be a critical step to enable sharing of Commonwealth data where the original consents	• The University strongly supports use of the NHMRC Code and the AIATSIS Code of Ethics (where appropriate). However, these research specific codes will require some adaptation to enable them to apply to uses other than research (e.g. Government services, development).

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	data custodians accountable to seek consent, and providing data custodians with an exception to collect consent in circumstances where it is genuinely unreasonable or impracticable to seek consent? How could the draft data code be improved to achieve the right balance? For example, could the National Health and Medical Research Council waiver of consent guidelines be used here?	for collection and use do not anticipate sharing for other purposes. Again, the public interest test is being applied to the sharing of Personal Information without consent. Proposed Section 19(2) will be very difficult to put into practice without appropriate guidelines. This kind of assessment is often referred to as a Privacy Impact Assessment for which there are ample guides, training and tools available from the Office of the Australian Information Commissioner. However, for research purposes, this duplicates the role of universities' Human Research Ethics Committees (HREC), which will take into account the value of the project and weigh the benefits to the public against the risks to the individual. We suggest the public interest test is met where a research project has HREC approval.	• S15 (Consent) should only apply at the time the data is collected and should not apply retrospectively to data that has been collected. • Section 18 should be amended to exclude research projects with appropriate ethics approval.
	17. Is this part of the draft data code adequate in providing further clarification for what considerations should be taken into account when determining whether it is necessary to share personal information to properly deliver a government service? How could this section be improved?		

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	18. Does this part of the draft data code provide an adequate list of factors for data custodians to consider when determining whether the public interest justifies the sharing of personal information without consent? Would this section benefit from an example provided in a note, and if so, can you suggest one?	See comments above.	
Section 6 – Data sharing agreements (p.20)			
Data sharing agreements	19. Should the data sharing agreement include any additional details about the designated individual who is a foreign national?	Section 20(2)(b) will require accredited Australian universities to undertake 'due diligence; on any individual who is not an Australian citizen or permanent resident who will have access to the data requested under the Scheme.' This is not qualified in any way to make this requirement commensurate with the foreign interference risks related to the data.	Removal of 'ensure that due diligence has been carried out with respect to the individual' in s20(2)(b) acknowledges that this is inherent in the processes to be followed under Section 20(2)(a).
Section 7 – Miscellaneous (p.21)			
Miscellaneous	20. This part of the draft data code is informed by the list prescribed in section 130 of the Act. Is this an appropriate approach, and are there any additional details that should be provided to the Commissioner outside of that list?	The University of Sydney has offered its strong support to the development of the DATA and new national Scheme since 2017 on the basis that one of the key policy objectives was to improve Australian university researchers' access to more sensitive datasets held by Commonwealth agencies for the purpose of conducting research to serve the public interest by providing insights, improving understanding and providing evidence and analysis to improve public policy and the provision of government and commercial services.	

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		We are becoming increasing concerned, however, that the ONDC's approach to implementation, reflected first in the accredited user application requirement and now in the draft Data Availability and Transparency Code, will serve to work against this policy objective. Accreditation under the Scheme of Australian universities registered as such with the Tertiary Education Quality and Standards Agency (TEQSA) should be virtually automatic, on the grounds that all such providers have (i) satisfied the Commonwealth's requirements for the conduct of research to the benchmarks set for Australian universities by the Higher Education Threshold Standards (ii) are recognised as an Administering Organisation/Institution by both the Australian Research Council (ARC) and National Health and Medical Research Council (NHMRC) and (iii) are also operating in compliance with all other Australian laws, regulations, codes and guidelines relevant to research involving potentially sensitive datasets accessed from Commonwealth, State and Territory governments and other entities. A university's accreditation under the Scheme should then give their researchers confidence that when they apply to access Commonwealth data through Dataplace, their university affiliation should cover most data custodians' requirements when considering each individual application. The terms of the data sharing agreement should then specify any additional safeguards required to protect the data and manage conflicts of interest, and clearly establish who will be responsible for	

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		ensuring compliance with these requirements within the accredited user. However, the extent to which university administrators are going to need to be involved in each application from their researchers remains unclear and there is no indication in any of the guidance material released by the ONDC to date that meaningful consideration has been given to the administrative impact participation in the Scheme will have on Australian universities, or of how the costs of those impacts are to be met. The accreditation requirements and the draft Code suggests that there will need to be much more direct involvement from university administrators (as opposed to researchers and research groups) than is currently the case for data sourced by university researchers directly from Commonwealth agencies, including potential additional reporting and document production requirements. The practical impacts for universities are potentially very broad and may require them to disclose a range of sensitive and personal information. There are no restrictions placed on the Commission in respect to its use of this information. This may lead to important projects failing to progress due to this uncertainty. It is also a very broad right to request any other information that a custodian believes is relevant. Overall, this discretionary power to request information is not well qualified throughout the Code as being commensurate with the risks associated with the data.	

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	21. Is the 31 July an appropriate deadline for data custodians to provide information and assistance to the Commissioner to prepare for the annual report?	This will depend on what information Australian universities will need to provide as accredited users and/or ADSPs and within what timeframe.	
Section 8 – Potential additions to the data code (p.22)			
Potential additions to the data code	22. What additional topics could the data code include to assist the establishment or integrity of the DATA Scheme?	This information may not need to be included in the Code. However, these are some of the questions that are exercising the University at present in relation to the Scheme: • What will annual reporting obligations be? What data will universities be required to collect? • What recourse of appeal will there be if a data sharing request is refused? For example, if ARC grants funding for a project, and data custodian turns down request (public interest (national interest) test will already have been applied and approved by ARC). • How will charges/fees for data sharing requests be calculated? Will there be an application fee and a data processing/handling fee? • How Data or Final Data Outputs EXIT the Scheme is not clear. Further guidance should be given to enable custodians and users to better understand when the Scheme (the Act and the Code) no longer applies.	