



**Australian Government**  
**Department of Agriculture  
and Water Resources**

**SECRETARY**

Ref: EC16-000781

Chairman Harris AO and  
Presiding Commissioner Cilento  
Data Availability and Use Inquiry  
Productivity Commission  
data.access@pc.gov.au

Dear Commissioners

The Department of Agriculture and Water Resources (the department) welcomes the opportunity to respond to the Productivity Commission's draft report on *Data Availability and Use*.

The draft report provides a logical approach for a new framework to enable greater sharing and public release of data collected by Australian Government departments. Obviously there is still a great deal of detail that needs to be worked through in order to determine how such a framework could be practically implemented.

The draft report illustrates the current difficulties facing government departments, in that the data we collect is for specified purposes under legislation and cannot be easily used or shared for any other purpose. The department supports the proposal for overarching data sharing legislation that can address some of these limitations.

The public's high expectations of the way governments use and manage data means that building and retaining community trust and confidence is critical to any enduring reform. The draft report's findings and recommendations are positive in this regard.

The department agrees that facilitating greater public trust and confidence in the collection, use and release of data by government departments is important. Having a national body that can provide guidance and consistency will promote community understanding and acceptance of the governments' approach to the management of data and assist with cultural change within agencies.

The department's detailed response to specific recommendations in the draft report is provided in Attachment A. I understand that the Australian Information Commissioner intends to respond to the draft recommendations relating to access by individuals to data held by departments. The department broadly supports the Commissioner's approach and as a result has not provided comments against these recommendations.

Yours sincerely

Daryl Quinlivan

8 December 2016

***Data Availability and Use – Productivity Commission Draft Report***

**Draft Recommendations 3.1**

***[Creation of comprehensive, easy to access data registers]***

The department supports in principle the notion of agencies publishing a data register on data.gov.au and would most likely be in a position to publish a register by 1 October 2017.

Establishing a register and improving the discoverability of data will result in users expecting that data will be more available. To meet the minimum criteria for publishing data set out in the Australian Government's public data policy, considerable investment would be required and the process would take time due to the volume of data held by the department. For example, it is anticipated that many of the data sets held by the department would need to be anonymised and cleansed to ensure their quality and 'fitness for purpose' prior to release. Meeting these expectation may not be achievable by 1 October 2017.

As data usability is very dependent on data quality, the department suggests that the data registers published by agencies include a statement about the data quality of available data sets to help manage the expectations of users.

**Draft Recommendation 4.2**

***[Access to grant-funded research data]***

The department supports the notion of the Commonwealth's right to access and use data in the public interest developed through grants provided to the private sector or research organisations.

This right could be facilitated by clearly defined and consistent data ownership, access and use arrangements applied across all Australian Government grant contracts; rather than the current process of individual departments negotiating rights per funding program. Based on the department's own experience with grant contracts – under which it owns the data yet cannot access and use it in many cases – the department supports arrangements that provide for the Commonwealth's ownership of data to also extend to the Commonwealth's use and reuse of that data. Such arrangements would create significant savings for departments and prepare applicants for the need to share the data they generate.

## **Attachment A**

### **Draft Recommendations 5.1**

#### ***[Development and publication of practical guidance on best practise de-identification]***

The department encourages the greater use and sharing of data that has been de-identified robustly (and therefore falls outside the scope of the *Privacy Act 1988*). To ensure public confidence and to support data sharing and release, de-identification methods and processes need to be standardised and current.

The department supports the notion that more detailed and regularly updated guidance on best practice de-identification processes should be provided by the Office of the Australian Information Commissioner (OAIC). To avoid, where possible, the potentially duplicative need for departments to develop their own processes, the OAIC could draw upon sound de-identification methodologies utilised by agencies experienced in this area. That said, the department acknowledges that there is not a one size fits all approach to de-identification.

The provision of centralised de-identification guidance has been successfully adopted overseas, with Canada providing a good example of how this can be implemented.

### **Draft Recommendations 6.1**

#### ***[Data management standards]***

The department agrees that data management standards should be adopted by those collecting and holding data to support increased data availability and use. As part of its work on developing a comprehensive information and data management framework, the department has developed draft standards for the management of data over its lifecycle. These standards are consistent with protocols outlined on [data.gov.au](http://data.gov.au) and with relevant Australian and international standards.

In instances where standards are developed consistent with domestic and/or international standards the department does not support the proposal that the external users of the data be consulted as part of the development process. The department collects data for a wide range of purposes, each of which are related to the work it does as a policy developer, economic and scientific research advisor, regulator and programme and service provider. To deliver this work in the most effective way, the department must have the authority independently to determine the standards that will apply to the data it manages; to ensure its usability, consistency and quality. Conforming to standards negotiated for the purposes of public data users and in circumstances where the public use of that data has not yet been identified may compromise the value of those data to the department and is likely to be difficult to implement within the existing ICT environment.

The department considers that it *is* appropriate for external users of the data to be consulted in developing standards in cases where, for example, a whole of government context exists for developing standards and the public use of the data is known, assured or anticipated beforehand.

## **Attachment A**

Where departments have developed standards, the proposed National Data Custodian could promote the use of these standards to other agencies where appropriate. The proposal for departments to publish their data standards on their website is supported.

### **Draft Recommendations 9.5 and 9.6**

#### ***[National Data Custodian; Accredited Release Authorities]***

The department endorses the concept of a National Data Custodian (NDC) and notes the importance of capitalising on the existing work being undertaken by agencies on data management policy. In this regard, the NDC role could include encouraging collaboration and coordinating the significant work undertaken so far, and responsibility for guidance and protocols regarding best practice data management.

Given the primacy of public trust and confidence in the way the government handles data, the department considers that the final report should address in more detail the NDC's governance arrangements, including the accreditation process for Accredited Release Authorities (ARAs). Whether or not the process currently used by the National Statistical Service in appointing data linkage authorities is used as a model, the governance arrangements should be as transparent as possible.

Clarity is needed in the final report on what role the NDC and the ARA's will have in decisions to release data by government departments. It is questionable how well placed a centralised governance function and ARAs could be in understanding the legislative and specific practical constraints facing a department's ability to release data. The department considers that data release decisions should remain with departments.

### **Draft Recommendation 9.11**

#### ***[Data Sharing and Release Act]***

The department supports legislative reform to address current barriers to data sharing in the public sector, provided there are appropriate safeguards in place to protect certain classes of information. However, clarification is needed on whether the proposed Data Sharing and Release Act (DSR Act) would apply to all data sets or only data sets designated as National Interest Datasets. The 'Key Points' in the draft report overview suggests the latter application. The department considers the DSR Act should apply to all data sets.

With over 120 Acts under its portfolio, a large number of legislative provisions govern the department's collection (including under coercive information-gathering powers), use and disclosure of information. These provisions mean that the department cannot easily share data with other government agencies unless it is directly connected to activities under its specific legislation. To enable data to be used for other purposes (not considered when the legislation was developed) would require amending individual portfolio legislation. An overarching Act that enables greater sharing of data between government agencies, eliminating the need for piecemeal and resource intensive legislative amendment, would be desirable.

## **Attachment A**

The *Data Sharing (Government Sector) Act 2015* (NSW) and the similarly drafted *Data Sharing (Public Sector) Bill 2016* (SA) represent suitable legislation on which to model the DSR Act – in particular, the provisions addressing both consistent application with privacy legislation and data sharing safeguards.