



information  
and privacy  
commission  
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Our reference: **IPC25/A000236**

12 August 2025

Dr Stephen King  
Statutory Review of the DAT Act 2022  
Australian Government  
Department of Finance

By email: [DATActReview@finance.gov.au](mailto:DATActReview@finance.gov.au)

Dear Dr King

**Statutory Review of the *Data Availability and Transparency Act 2022* – Draft Findings and Recommendations**

Thank you for the opportunity to make a further submission to the Australian Government Department of Finance Statutory Review of the *Data Availability and Transparency Act 2002*.

Attached is the submission from the Information and Privacy Commission NSW (IPC). The IPC is agreeable for this submission to be published in full on your website.

Please do not hesitate to contact the IPC if you require any further information. Alternatively, your officers can contact [REDACTED] on [REDACTED], or by email, [REDACTED]

Yours sincerely

[REDACTED]

Sonia Minutillo  
Privacy Commissioner



## STATUTORY REVIEW OF THE DATA AVAILABILITY AND TRANSPARENCY ACT (2022) – Key Findings and Recommendations Report

Submission by the Information and Privacy Commission NSW

12 August 2025

Sonia Minutillo  
**Privacy Commissioner**

The Commissioner's signature has not been included in this submission to facilitate public access to the submission, manage security risks and promote availability in accordance with the *Redacting signatures on public facing documents Practice Guide* published on the IPC website.

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The Information and Privacy Commission NSW (**IPC**) welcomes the opportunity to provide a further submission to the Statutory Review of the *Data Availability and Transparency Act 2022* (Cth) on the draft findings and recommendations report.

### **About the IPC**

The Information and Privacy Commission NSW (IPC) oversees the operation of privacy and information access laws in New South Wales.

The Privacy Commissioner has responsibility for overseeing and advising NSW public sector agencies on compliance with the *Privacy and Personal Information Protection Act 1998* (NSW)(PPIP Act) and the *Health Records and Information Privacy Act 2002* (NSW) (HRIP Act). The PPIP and HRIP acts establish the Information Protection Principles and the Health Privacy Principles which govern the collection, use and disclosure of personal and health information by NSW Government agencies.

The Information Commissioner has responsibility for overseeing the information access rights enshrined in the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act) and exercises functions under the *Government Information (Information Commissioner) Act 2009* (NSW) (GIIC Act). The Information Commissioner also holds the role of NSW Open Data Advocate, in which capacity she provides advice across the NSW Government on nonpersonal data that should be released to the public.

## **Submission**

The Privacy Commissioner welcomes the opportunity to make a further submission in response to the Statutory Review of the *Data Availability and Transparency Act 2022* – Draft Findings and Recommendations Report (**the Report**). The following comments build upon our earlier [submission](#).

### **General comments**

The draft findings and recommendations are aimed at improving the operation of the *Data Availability and Transparency Act 2022* (**DAT Act**) and ensuring greater data sharing for the public benefit can occur in a safe manner. The IPC recognises the benefits of sharing of government-held data to support informed policy making, research and service delivery. However, increased data sharing must be balanced with upholding the protection of individuals' privacy rights.

### **Principles based data sharing**

The IPC reiterates the importance of retaining data sharing principles for framing and achieving the DAT Act's objects. *Recommendation 2* proposes a principles-based and outcomes-focused authorisation framework, as opposed to one that is prescriptive and rules-based. As raised in our previous submission, a principle-based approach in the DAT Act is consistent with NSW privacy legislation which is also principle-based. The IPC supports the view that data-sharing principles should be retained in the primary legislation, supported by mechanisms in subordinate legislation. Government agencies would also benefit from regulatory guidance and assistance in the application of the data sharing principles in practice.

*Recommendation 3* proposes the enabling of large-scale enduring data linkage through subordinate legislation standards and guidance. This raises some privacy concerns due to the increased complexity of the project and heightened risks, such as reidentification of individuals which could potentially lead to serious harm. It is the IPC's view that privacy safeguards need to be carefully reviewed to ensure it weighs up the increased risk relating to data linkages, for example mandating that data linkage projects must not involve personal identifiers.

### **Accountability and discretion in data sharing**

In relation to any express legislated Ministerial power to direct that data sharing is to occur, subject to safeguards, as outlined in *Recommendation 4 and 5*, the IPC acknowledges the merits in allowing government agencies to share data in certain unforeseen situations for the national interest. In addition to the controls outlined in the Report such as being subject to parliamentary scrutiny and seeking the advice of an appropriate office holder, consideration should be made to ensure appropriate privacy safeguards are also in place.

## **Expansion of accreditation arrangements**

The IPC notes *Recommendation 10* proposes to expand eligibility for accreditation to specific entities, including Aboriginal Community-Controlled Organisations (ACCOs), not-for-profit research institutes, primary health networks, and not-for-profit service delivery organisations. The IPC acknowledges the public benefits that these entities deliver, however, reiterates that any expansion in eligibility be accompanied by a robust evaluation of privacy risks and governance systems to be satisfied of adequacy of those systems used by those new entities, particularly in relation to where shared data will be hosted and how it will be accessed and kept secured. The IPC reiterates that the objectives of such data sharing should demonstrate tangible value.

*Recommendation 11* proposes a power to allow the Minister to further expand accreditation eligibility subject to the advice from the National Data Commissioner. Similar to our views on Recommendation 4 and 5 above, the IPC observes that there may be benefit to having advice from an appropriate body about the adequacy of privacy safeguards in place for those expanded entities.

## **Expansion and clarification of data sharing purposes**

The proposed expansion of data sharing purposes to include data curation and the creation of data assets considered in *Recommendation 12* raises privacy considerations. The sharing of data for 'data curation', including data cleansing and enhancements, would be detached from a defined end-use. The IPC reiterates that data sharing should occur to fulfil clearly defined objectives.

It is unclear whether the third party referred to in the example, to whom data is shared for data curation, is envisioned to be an entity that is currently eligible to be an accredited user. While it is anticipated that data custodians would retain full custody and usage rights over the created data assets, there may be additional risks associated with such data sharing with third parties and further privacy impact assessments may be of benefit.

To enhance the service delivery purpose, *Recommendation 13* considers whether inadvertent detection of misconduct should be allowed. While undertaking compliance activities as a primary purpose of data use would require separate legal authorisation, the example illustrated does not bar incidental detection of non-compliance using data under the DAT Act. The IPC remains concerned about the significant privacy risks involved in the identification of individuals, as well as the need to ensure procedural fairness in any compliance activities. As raised in our previous submission, there have been numerous concerns from stakeholders on the use of data for compliance purposes. We reiterate our earlier views about the value of broader public consultation including a further privacy impact assessment on this issue.

Thank you for your consideration of this submission.

For further information about the IPC visit [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).