

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: NEMA Feedback: Draft findings and recommendations - Statutory Review of the DAT Act [SEC=OFFICIAL]
Date: Friday, 8 August 2025 3:18:10 PM
Attachments: [REDACTED]

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Dear DAT Act Review Team,

Thank you for extending the opportunity to NEMA for response to the recently published Statutory Review – Draft Findings and Recommendations document. We appreciate your work in identifying the challenges in applying the DAT Act, and your articulation of proposed changes to the Act. We have reviewed your recommendations, and noted our stance to each recommendation that is relevant to NEMA's submission below.

- 1. Recommendation 4:** The DAT Act should support a default posture of agreeing to share data, with data custodians able to refuse requests in appropriate circumstances
 - While NEMA broadly support the Review's stance on reframing sharing responsibilities as a positive obligation to prompt data sharing where possible, we note that there is no protections afforded in this recommendation for sensitive data. NEMA holds National Security Hotline data which will not be appropriate to share in the majority of circumstances.
 - NEMA has concerns around the burden of rejecting these requests, which would be compounded by any additional time limits applied to the response requirement, or specifying a position as responsible for reviewing and responding to these requests.
 - NEMA strongly recommend additional provisions to protect sensitive data that are not appropriate for sharing from being requested, and flexibility for Agencies that play a responsive role in the Australian Government.
- 2. Recommendation 5:** The Minister should have an express power to authorise data sharing that is not otherwise authorised under the DAT Act where the sharing is in the national interest, subject to appropriate safeguards
 - NEMA are broadly supportive of this recommendation, given that national interest may extend to a crisis situation and result in easier access to data for NEMA to guide emergency response work
 - NEMA do note that there may be complications with an express power to direct data sharing more broadly, given variance in Agency capacity to fulfil data requests. This extends to the Recommendation 8, where there is mention of 'tiers' of accreditation, with a high tier potentially having rights to 'encourage or compel data custodians to share under defined circumstances'. Agencies may not have the capacity to complete these sharing requests in addition to their BAU and broader work programme, which is a barrier that needs consideration.
- 3. Recommendation 7:** The DAT Act should establish a permissions-basis for accreditation which replaces the current strict 'user' and 'data service provider' accreditation designations.
 - Where flexibility in accreditation is being considered, NEMA would like to reiterate points raised under Recommendation 4 around granting a fit-for-purpose accreditation for Agencies that have a purview that is reactive in nature (i.e. emergency management response). Strict timelines and designated people handling request responses is not feasible for Agencies that need to pivot from BAU work to task related work during

unpredictable events.

NEMA are broadly supportive of the intention of the DAT Act, and echo the findings that are listed in the Review. However, we would like to further reiterate our stance on protections afforded to sensitive data that are not appropriate for sharing, and the undue burden that fielding requests for these data have potential to impose on our Agency. This is compounded by NEMA's role in the emergency management space, which limits NEMA's capacity to complete BAU when responding to emergencies and is, by nature, difficult to predict. NEMA strongly recommend the consideration and acknowledgement of specific emergency management provisions, and an exclusion mechanism for sensitive data.

Regards,

Davina Marotte

On behalf of **Vidoshi Jana** PSM FCPA CPHR

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The National Emergency Management Agency acknowledges the Traditional Owners and Custodians of Country throughout Australia and recognises the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures; and to Elders past and present.