

## A new law to cement access to open data?

### A discussion paper on open data in Queensland

Businesses and the community must have confidence that government will continue to invest in open data. A business cannot be built on a foundation that may go away if the public sector does not make a clear and lasting commitment to open data. Failure to build this confidence can stall the creation of new business opportunities and economic growth.

#### What is open data?

Open data is a concept that promotes the opening and sharing of data. However, a myriad of definitions for open data have been published by organisations and agencies around the world. Why? As with any concept embracing openness, there should be very few, if any, restrictions on its scope. The difficulty this poses though, is finding consensus amongst business, government and the community on what open data means.

We see open data as encompassing the release of government data between departments and the release of Queensland Government data to the people of Queensland and around the world.

What does open data mean to you?

#### Why is open data big business?

Open data is a driver for innovation, competition, efficiency and sharing. Open data can provide opportunities to improve services to the community, inform government decision making, contribute to economic development and growth, and make entities more customer focused and accountable. These benefits apply equally to the release of government, private industry/business and research data as well as data generated from individual citizens.

A McKinsey & Company report titled *Open data: unlocking innovation and performance with liquid information*, outlined the potential for open data to realise in excess of USD \$3 trillion in additional value annually across the global economy if opportunities are seized.

This is supported by Lateral Economics' report, *Open for Business: How open data can help achieve the G20 growth target*. The report highlighted the contribution that open data can provide in the achievement of economic growth. It estimated that open data (in its broadest form) has the potential to unlock \$64 billion per annum of economic benefit in Australia. The report also valued the return on investment of open government data in Australia at around \$25 billion per annum.

From a government perspective, open data is perceived to create value by:

- reducing the cost of existing government and private services, for example, through the release of data that can be used for benchmarking;
- enabling new services and improved quality of services, for example, by using the data provided by government to refine the process of defining and creating products and services; and
- improving transparency and accountability, such as, by providing data which enables the identification of issues facing government.

However, data is only as valuable as the actions that follow it.

### **What is Queensland doing about it?**

On 9 October 2012, the Premier, Campbell Newman, appointed the Assistant Minister to the Premier on eGovernment Ray Stevens MP, to assist him with the 'open data revolution'.

The Premier made a commitment to change the culture of the Queensland Government to be more open and allow public access to government information collected in all regions, in all kinds of formats, for all kinds of reasons.

The Queensland Government's open data portal was launched on 14 December 2012. The object of the Portal is designed to make all Queensland Government data available through a single, searchable point of access.

The opening of government data under an open data initiative is intended to stimulate the development of new, innovative applications by private individuals, companies and non-government organisations and provide a key measurement to judge the performance of all governments in the future.

Significant progress has been made within government on the open data initiative since October 2012. Over 1,550 datasets have been published on the Portal, with more than half of those datasets published in 2014. The number of real-time datasets published is also increasing. What more should we do to cement open data in Queensland in order to unlock its incredible value?

### **An open data law?**

It is proposed to introduce legislation to provide certainty to the open data revolution, and demonstrate the Government's commitment to opening government data. The proposed laws will also build trust and confidence between government and business, a key element to delivering the potential economic and social benefits open data promises.

What follows is a proposed framework for draft open data legislation (draft Bill). We would appreciate your feedback on our proposal. Is legislation the desired approach? Will legislation help business unlock the potential of open data?

## What would an open data law look like?

The purpose of the draft legislation would be to facilitate an increase in the openness and transparency of government and its processes for the stimulation of Queensland's economic growth and the benefit of all Queenslanders.

We propose that the draft Bill's purpose would be achieved by:

- demonstrating the State's recognition of the inherent value of government data and formalising a framework for publishing it to foster innovation and collaboration;
- requiring government departments to make open data available and easily accessible to the public;
- promoting the publishing and sharing of open data consistent with the open data principles as an enduring characteristic of good governance.

It is proposed that the draft laws would complement the existing legislative framework and as such, would be read subject to the provisions of the *Right to Information Act 2009*, the *Information Privacy Act 2009* and any other Acts which contain provisions regarding the non-release of data. As an example, any data which related to national security would also not be capable of disclosure under the draft laws.

The scope of the draft laws do not intend to address any privacy impacts such as dealing with unintended consequences of making data available for re-use.

It is proposed that the draft Bill would apply to all government departments within the Queensland government and statutory bodies as they are defined within the *Financial Accountability Act 2009*. Statutory bodies are entities established under an Act and have control of funds. As government data is owned by Queenslanders and should be made available to everyone, statutory bodies should therefore be required to comply with the Bill.

The draft Bill also sets out a series of key responsibilities regarding open data – or 'open data principles' – which agencies must comply with.

The proposed open data principles include:

- publish data as the default position;
- safeguard particular data before publication;
- maintain the currency of published open data;
- ensure published open data is available through a single and central location;
- provide access to open data free of charge where possible (charging in limited circumstances is permissible);
- prepare open data strategies;
- publish and annually review open data strategies;
- ensure there are minimal restrictions or technical barriers for published open data;
- make no representations or warranties in relation to published open data; and
- promote the use of open data and the open data principles.

The draft Bill may also establish provisions whereby anyone may voluntarily register and notify government of their use of published data. Voluntary registration is designed to assist government agencies to identify users of their data and to facilitate engagement with those users when data is to be removed or substantially changed.

It is proposed that the distinguishing feature of the draft Bill relative to other open data laws and policies is the requirement for government to have a dialogue with businesses, specifically users of data, before an agency can remove its published data.

In order to remove data, the chief executive of the agency administering the legislation must agree to its removal and only in certain circumstances.

It is proposed that some of those factors will include:

- the extent to which the department has consulted with registered users for the registrable dataset;
- whether there will be any impact on the agency or on the registered users for the dataset if the dataset is removed;
- whether there has been any use or access of the registrable dataset within the last year; and
- any other relevant matters, having regard to the type of registrable dataset to be removed.

Exceptions to the consultation process will need to exist. If it is considered that removal of a published dataset is necessary or desirable in the circumstances and the removal is on a temporary basis, no consultation is required. For example, if the removal is for an administrative purpose, such as updating the data or correcting a mistake or inaccuracy. It is expected that the data should be republished as soon as that update or mistake has been corrected.

Also, if an agency has published data which contravenes an open data principle, they should be given the flexibility to urgently remove the data. This exception is not intended to exempt any agency from liability if they have committed any offence under any other laws or regulations. It is recognised however that a mechanism needs to exist to allow an agency to swiftly remove data published as open data in urgent circumstances.

The aim of the proposed laws is to put in place a framework for open data. What can we do to cement open data in Queensland in order to convert opportunities into economic, social and environmental benefits for Queensland?

### **What can I do now?**

We want to hear from you. Your opinions matter to us so please provide us with any comments, thoughts or suggestions to this discussion paper:

[Have your say on whether open data needs to be cemented into the framework of government by introducing legislation.](#)

The call for responses will close at 5pm on **6 February 2015**. However, if the community requests that this timeframe be extended, Government would be willing to consider this.

All responses will be compiled and then considered by a range of thought leaders to ensure the direction of open data in Queensland, and the steps taken by government, will respond to the needs of the community and provide the longevity necessary to realise the potential value.

We will keep you updated on the progress of this consultation via the open data portal (<https://data.qld.gov.au>).

Thank you for collaborating with us to create a greater Queensland.

### Agreement to use or disclose response

All papers and copyright therein will become the property of the Department of the Premier and Cabinet (DPC). They may be used in full or in part in any response provided regarding the open data initiative. Any papers you provide may be published in paper copy and/or online. You should bear this in mind when providing agreement to use or disclose your response.

Should you not want your response published please let us know at the time of submitting your response.

### Privacy Notice

The DPC is collecting personal information as specified in this call for responses.

The personal information will only be used as specified in this consultation process and in accordance with your consent, unless required or permitted by law. Responses may be subject to disclosure under the Right to Information Act 2009, subject to the various exemptions under that Act.

[Access DPC's Privacy Guide in relation to the treatment of personal information.](#)