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Dear Ms Ho

LANDGATE COMMENT ON THE PROPOSED PRIVACY AND RESPONSIBLE SHARING OF INFORMATION LEGISLATION

Thank you for the opportunity to comment on the proposed Privacy and Responsible Sharing of Information Legislation. Landgate has contributed to several of the recent Government reviews that have helped to form the basis of the proposal, and we remain supportive of the initiative.

Our comments below reflect Landgate's operational environment, as well as matters relevant in our capacity as the lead agency for implementation of the Government's Open Data Policy. Landgate's responses to the questions raised in the Discussion Paper are outlined below.

What issues should be considered when developing privacy and information sharing legislation for Western Australia?

Discussions at the workshops facilitated by the Public Sector Reform Unit (PSRU) in September and October 2019 addressed the need for consistent whole of government messaging to customers and clients, and Landgate supports this approach. A key issue will be ensuring the appropriate level of support is provided to agencies to implement the legislation. For example, an implementation issue to be considered is how agencies will communicate with customers around personal information being collected and the agency's obligations under the legislation to protect the privacy of the individual.

What should the role of a Privacy Commissioner be, and how can this role best protect privacy and ensure public trust?

Landgate believes the role of the Privacy Commissioner should be considered in relation to that of the current Chief Information Officer, to ensure the roles are complimentary and there is clarity on functional responsibility. The function of the

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proposed Privacy Commissioner would be most effective if appropriate penalties in the event of a privacy breach could be imposed. In addition to the role of the Privacy Commissioner, the privacy legislation should also carefully consider the interplay with the existing Freedom of Information legislation so that any crossover is avoided.

How should breaches of privacy be managed, and what action should be taken in response to a breach?

Landgate supports the compulsory reporting of breaches. Clarification would be required regarding imposing penalties for breaches on individuals versus corporate/ executive responsibility. Consideration should also be given to breaching privacy through the verbal provision of information (eg. in a customer service environment).

What should the role of a Chief Data Officer be? How can this role best support the aims of Government and the interests of the public?

Echoing the discussion from the workshops, we emphasise that it is essential for the Chief Data Officer to undertake a functional leadership role. We support the concept of the Chief Data Officer permanently employing subject matter experts that would provide short-term support to agency teams using a flexible placement approach, and for Landgate staff having the opportunity to participate in flexible skills-based work share arrangements where appropriate.

As implementation lead agency of the Government's Open Data Policy, Landgate possesses existing infrastructure, relationships and expertise that will enable us to better support the Chief Data Officer. Upon introduction of the privacy legislation, the PSRU has confirmed that Landgate will continue in its role of 'operational custodian' of Open Data while maintaining a strong relationship with the Chief Data Officer to facilitate the sharing of sensitive and confidential information. However, clarification on the relationship between Landgate and the Chief Data Officer may be required depending on the final role of the Officer and its office.

Should the WA Government facilitate sharing of information outside the WA public sector? What should be considered when making a decision to share outside the WA public sector?

Landgate recognises the many benefits to the State's economy arising from effective data sharing arrangements and has for some time facilitated access to a variety of datasets through the Capture WA program and the Open Data portal. Where government data/information is assessed to have commercial applications, Landgate believes it is appropriate that consideration continues to be given to making the information available for commercial or research purposes under appropriate licensing terms and conditions, subject to legislative constraints. Landgate also supports appropriate data sharing with relevant Commonwealth agencies.

Yours sincerely

Graeme Gammie


**CHIEF EXECUTIVE
LANDGATE**

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