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**From:** s22  
**Sent:** Friday, 17 January 2020 11:17 AM  
**To:** MHAT Ministerial Submission  
**Subject:** MS20-000099 - Outcomes of consultation on draft Census Regulations  
~~[DLM - Sensitive/Legal]~~  
**Attachments:** MS20-000099.docx

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Please find attached briefing on the draft Census Regulations consultation.

A separate ministerial submission (MS20-000046) seeking approval of Census Regulations will be provided by Law Design Office later today.

Kind Regards

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Macroeconomic Modelling and Policy Division

The Treasury

p: s22 | email: s22

**TREASURY MINISTERIAL SUBMISSION**

16 January 2020

PDR No. MS20-000099

Minister for Housing and Assistant Treasurer

cc: Treasurer

**OUTCOMES OF CONSULTATION ON DRAFT CENSUS REGULATIONS**

**TIMING:** You need to approve the Census Regulations by 24 January 2020. A separate ministerial submission (MS20-000046) seeking this approval will be provided by Law Design Office.

**Recommendation**

That you **note** the outcomes of consultation on the draft Census Regulations.

**Noted**

Signature: ...../...../2021

**KEY POINTS**

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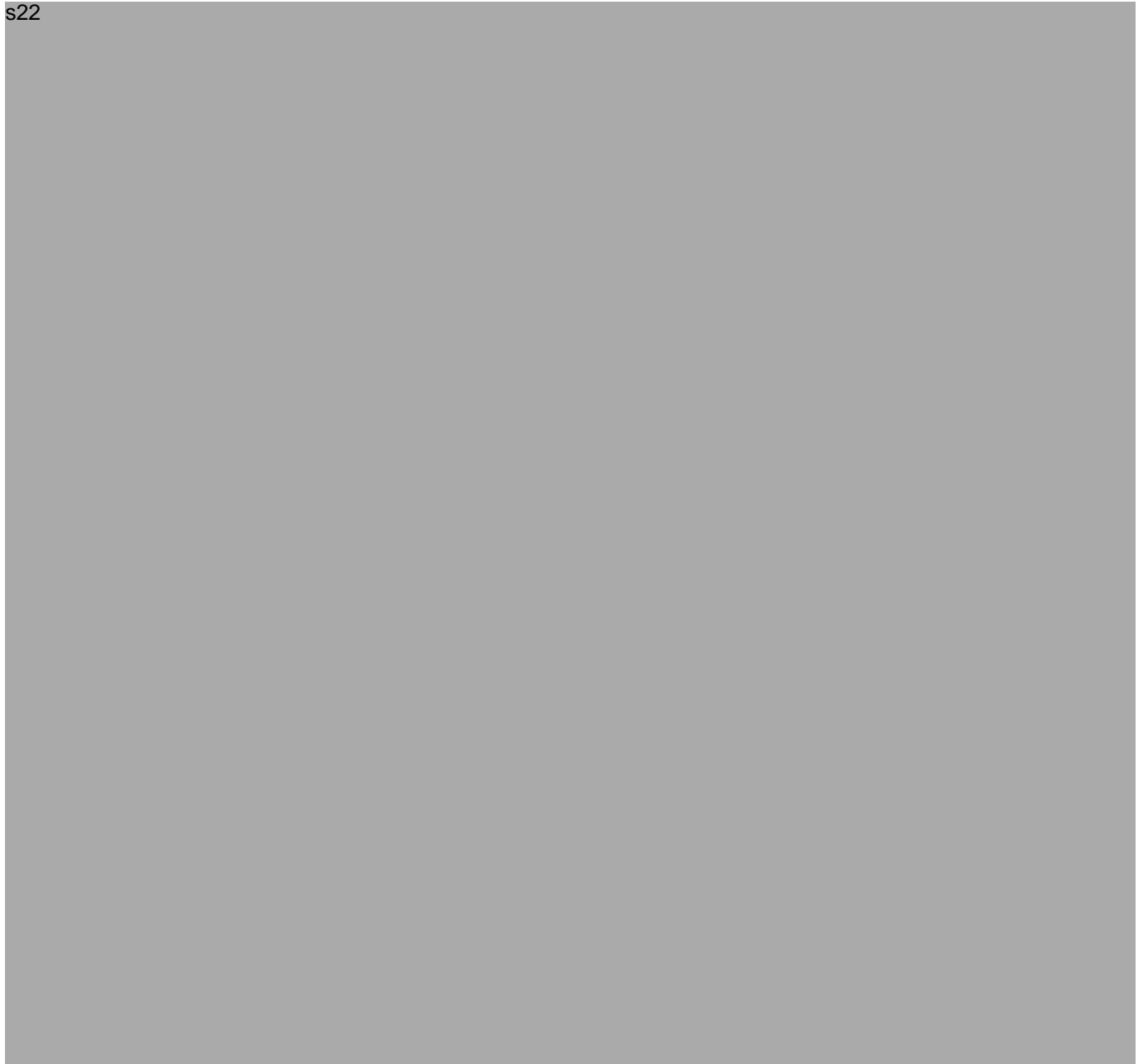


- The vast majority of submissions (144) expressed support for including an additional topic to collect information on sexual orientation, gender and intersex status.
  - These submissions argued that this information would be useful for strategies and programs that seek to improve LGBTI health and wellbeing outcomes.
  - A range of health organisations and individuals expressed support for a joint statement on this issue coordinated by the National LGBTI Health Alliance (see Attachment A for statement and example of campaign letter provided by the Alliance). The Minister for Health and the Department of Health also expressed support for this topic.

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Ian Beckett  
Division Head  
Macroeconomic Modelling and Policy  
Division  
Phone: s22

Contact Officer: s22

**Consultation:** Law Design Office, public consultation process.

## ATTACHMENT A – NATIONAL LGBTI HEALTH ALLIANCE JOINT STATEMENT AND CAMPAIGN LETTER

### Joint Statement In Support Of The Inclusion Of Sexual Orientation, Gender Identity And Intersex Status In The 2021 Census Of Population And Housing

Statement release date: 22 August 2019

*To add your organisation's name to this Statement, please contact Daniel Comensoli via email at [daniel.comensoli@lgbtihealth.org.au](mailto:daniel.comensoli@lgbtihealth.org.au)*

The Australian Bureau of Statistics (ABS) has recently identified sexual orientation, gender identity and intersex status for further testing and potential inclusion in the 2021 Census of Population and Housing (the Census). The meaningful inclusion of data on these topics is most welcomed as there are no other alternative data sources or solutions that could meet these topic needs.

As Australia's official statistical organisation, the ABS aspires to be a high quality, objective, and responsive national statistical service that strives for data excellence. The Census is best placed to understand the cultural, economic and social diversity of our communities, providing information about the population across small geographic areas and long-time trends in key aspects of the lives of Australians. Census data underpins government funding and investment and informs government decisions in a range of areas, including healthcare and social services planning.

***The current exclusion of appropriate sexual orientation, gender identity and intersex status questions in the Census means that clear demographic data of the Australian population is not being captured.***

A number of national health and wellbeing policies, strategies and programs rightly identify LGBTI people as a priority population for action. This is due to the ongoing significant health and wellbeing disparities experienced across and within LGBTI communities. This includes for example disproportionate rates of mental health diagnoses, suicidal behaviours, as well as elevated rates of drug and alcohol use, higher rates of HIV and STIs, and a significantly higher cancer burden. Discrimination and stigma have a negative impact on accessing high quality and culturally safe community and residential services, for example in aged care, domestic and family violence, homelessness and disability.

Asking appropriate questions on sexual orientation, gender identity and intersex status in the Census is crucial in fostering an evidence-informed environment for health and economic policy service planning and understanding health and social service utilisation. This is essential in addressing the significant health disparities that LGBTI people experience.

There is a strong shift internationally towards collecting this data. Scotland and Northern Ireland are considering a sexual orientation question for their 2021 Census. The Office for National Statistics in the UK are recommending the inclusion of sexual orientation and gender identity questions in the 2021 Census in England and Wales. These decisions have been made after their testing showed it would be acceptable to the population and will deliver good-quality data with minimal effect on overall response and respondent burden. The United States and Canada are also currently taking steps to achieve accurate population counts for LGBTI people in their Censuses.

Australia has a unique opportunity to provide statistical leadership in the collection, production and analysis of data for LGBTI populations. The inclusion of sexual orientation, gender identity and

intersex status in the 2021 Census will promote scientific excellence and data integrity. This will have an enormous impact on improving social cohesion and the health outcomes of LGBTI people and communities.

**The National LGBTI Health Alliance, with the support of the following health experts and community organisations, place on the public record our support for the appropriate and meaningful collection of data on sexual orientation, gender identity and intersex status of the Australian population in the 2021 Census.**







## Example of Campaign Letter Provided by the LGBTI Health Alliance

Hon. Michael Sukkar MP  
Assistant Treasurer, Minister for Housing  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Minister,

### Re: Census of Population and Housing

I write to you in my capacity as [position] of [organisation] to bring to your attention the national importance of including questions on sexual orientation, gender identity and intersex status in the 2021 Census.

The Census allows us to understand the cultural, economic and social diversity of our communities, providing information about the population across small geographic areas and long-time trends in key aspects of the lives of Australians. Census data underpins government funding and informs government decisions in a range of areas, including healthcare and social services.

An LGBTI-inclusive Census that captures sexual orientation, gender identity and intersex data is crucial in fostering an evidence-informed environment for LGBTI health policy development in terms of policy, programme and service development. This is essential in responding to the significant health disparities that LGBTI people continue to experience. The collection of quality and robust data and evidence will help increase social inclusion and reduce stigma and discrimination in the lives of LGBTI people. Being counted in the Census will result in a more supporting and accepting societal environment that will act as a protective factor for the mental health and wellbeing of LGBTI people.

We respectfully ask that you consider these issues when finalising topics to be included in the 2021 Census. Without the inclusion of sexual orientation, gender identity and intersex status questions in the upcoming Census, we will need to wait until 2026 to advocate again for us to be counted and this is too long; we desperately need to gain the insights that the Census will provide to us so that health and social services are better able to respond to our needs by making better use of their resources. Countries such as New Zealand and UK are ensuring that this data is captured, and we hope very much that you will support this to happen in the next Census.

Many thanks for your consideration of this matter.

Yours sincerely,

[Signature]  
[Name]  
[position, organisation]

**From:** s22  
**Sent:** Friday, 17 January 2020 11:30 AM  
**To:** MHAT Ministerial Submission  
**Cc:** TSR Ministerial Submission Distribution; Writer, Simon; s22  
Beckett, Ian; Quinn, Meghan; s22  
**Subject:** FOR MHAT APPROVAL - Census and Statistics Amendment (Statistical Information) Regulations 2020 [SEC - PROTECTED, DLM - Sensitive; Cabinet]  
**Attachments:** 200117- Scanned MS signed by LMU Manager.pdf; s22  
Att  
E- Explanatory Memorandum- Regs.docx; s22  
s22 Att G- Explanatory Statement- Regs.docx; s22  
s22

Good morning,

Please find attached a Ministerial Submission to the Minister for Housing and Assistant Treasurer from s22 s22 containing documents listed below for the **Census and Statistics Amendment (Statistical Information) Regulations 2020** and the accompanying **Census and Statistics (2021 Census Day) Proclamation 2020**:

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- Attachment E – Explanatory Memorandum (Regulations);

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- Attachment G – Explanatory Statement (Regulation); and

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The Ministerial Submission seeks the Minister for Housing and Assistant Treasurer's approval of the Regulations, Proclamation and associated documents and agreement to have the Regulations and Proclamation considered at the Thursday, 6 February 2020 meeting of the Federal Executive Council.

Please note a Ministerial Submission was supplied to your office this morning (MS20-000099) which should be considered in conjunction with this Ministerial Submission.

#### Action required

I would be grateful if you could arrange for the Minister's approval of the Regulations, Proclamation and associated documents by 5pm, Friday 24 January 2020, as signed original papers need to be delivered to the Federal Executive Council Secretariat by Tuesday, 28 January 2020.

Hard copies will be delivered to your Office in the next available courier service.

Please do not hesitate to contact me if you have any questions or concerns.

Kind regards,  
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**ATTACHMENTS A TO D, F, AND H TO  
MINISTERIAL BRIEF MS20/00046 HAVE  
BEEN REMOVED AS OUTSIDE THE  
SCOPE OF THE REQUEST**

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~~OFFICIAL. SENSITIVE LEGAL PRIVILEGE~~

**TREASURY MINISTERIAL SUBMISSION**

17 January 2020

PDR No. MS20-000046

Minister for Housing and Assistant Treasurer

cc: Treasurer

**CENSUS AND STATISTICS AMENDMENT (STATISTICAL INFORMATION)  
REGULATIONS 2020 AND CENSUS AND STATISTICS (2021 CENSUS DAY)  
PROCLAMATION 2020**

**Timing:** by 5pm on Friday, 24 January 2020 as signed original papers need to be delivered to the Federal Executive Council (ExCo) Secretariat by COB Tuesday, 28 January 2020, to be considered at the ExCo meeting on Thursday, 6 February 2020.

**Recommendation**

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- **initial**, but **do not date** the bottom right-hand corner of each page of each of the attached Explanatory Memoranda (Attachments E and F).

**Signed/Not Signed**

**Signature:** ...../...../2020

- That you **approve** the attached Explanatory Statements (do not date or initial) (Attachment G and H).

**Approved/Not Approved**

**Signature:** ...../...../2020

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~~OFFICIAL. SENSITIVE LEGAL PRIVILEGE~~

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Approval Type	Status	Comments
s22		
Additional Policy Approval	Outstanding	Refer MS20-000099 - currently with your Office

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**SENSITIVITIES/ISSUES**

- A number of issues were raised during recent consultation with regard to the Regulations. These have been dealt with in a separate Ministerial Submission, which is currently with your Office (refer MS20-000099).

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Contact Officer: s22  
 Ext: s22

Law Design Office  
 Ext: s22

**Consultation:** Macroeconomic and Modelling and Policy Division, Office of Parliamentary Counsel, Federal Executive Council Secretariat, Australian Bureau of Statistics

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Attachment E: Explanatory Memorandum to *Census and Statistics Amendment (Statistical Information) Regulations 2020*

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Attachment G: Explanatory Statement to *Census and Statistics Amendment (Statistical Information) Regulations 2020*

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## ADDITIONAL INFORMATION

### Law Contact

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### Policy Contact

Ian Beckett s22

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### Consultation

Public consultation on the proposed Regulations was undertaken from 13 December 2019 to 10 January 2020. Approximately 200 submissions were received, with no technical law design issues raised. Submissions made similar points to those made in previous consultation on potential Census topics undertaken by the ABS from 3 April to 30 June 2018 and generally support the proposed changes. Only a minority of submissions addressed the two new proposed Census topics of chronic illness and ADF service. Most of the submissions received were in support of an additional topic to collect information on sexual orientation, gender and intersex status. Further detail has been provided in MS20-000099, which is currently with your Office.

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**EXPLANATORY MEMORANDUM**

Minute No. \_\_\_\_\_ of 2020 - Minister for Housing and Assistant Treasurer

Subject *Census and Statistics Act 1905*

*Census and Statistics Amendment (Statistical Information) Regulations 2020*

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Public consultation on the proposed Regulations was undertaken from 13 December 2019 to 10 January 2020. Approximately 200 submissions were received, with no technical law design issues raised. Submissions made similar points to those made in previous consultation on potential Census topics undertaken by the ABS from 3 April to 30 June 2018 and generally support the proposed changes. Only a minority of submissions addressed the two new proposed Census topics of chronic illness and ADF service. Most of the submissions received were in support of an additional topic to collect information on sexual orientation, gender and intersex status.

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## EXPLANATORY STATEMENT

**Issued by authority of the Minister for Housing and Assistant Treasurer**

*Census and Statistics Act 1905*

*Census and Statistics Amendment (Statistical Information) Regulations 2020*

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Public consultation on the proposed Regulations was undertaken from 13 December 2019 to 10 January 2020. Approximately 200 submissions were received, with no technical law design issues raised. Submissions made similar points to those made in previous consultation on potential Census topics undertaken by the ABS from 3 April to 30 June 2018 and generally support the proposed changes. Only a minority of submissions addressed the two new proposed Census topics of chronic illness and ADF service. Most of the submissions received were in support of an additional topic to collect information on sexual orientation, gender and intersex status.

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PAGES 2, 3 AND 4 OF ATTACHMENT G HAVE BEEN  
REMOVED AS OUTSIDE THE SCOPE OF THE REQUEST