



FOR ACTION

FOI 3712
Document 1

MS24-900012

Title:	Confirming Government decision on 2026 Census topics and next steps	
To:	The Hon Dr Andrew Leigh MP Assistant Minister for Competition, Charities and Treasury	
Cc:	<i>The Treasurer, The Hon Dr Jim Chalmers MP Dr Steven Kennedy PSM, Secretary to the Treasury</i>	
Due date:	Timing: Urgent Action required by: 21 August 2024 Reason: 2024 Census Test communications are required to start no later than 22 August 2024.	
Recommendations:	1. That you confirm the Government's decision to make no changes to the <i>Census & Statistics Regulations 2016</i> (the Regulation), and therefore the 2026 Census will collect the same topics as the 2021 Census.	
	Agreed <input checked="" type="checkbox"/>	Not Agreed <input type="checkbox"/>
	2. That you advise the ABS on the timing and nature of communication plans of this decision so the ABS can assist with reducing risks to the delivery of a successful Census.	
	Agreed <input checked="" type="checkbox"/>	Not Agreed <input type="checkbox"/>
	3. That you agree to the LGBTIQ+ Expert Advisory Committee being briefed immediately before public announcement of the decision in recognition of the importance of this critical relationship.	
	Agreed <input type="checkbox"/>	Not Agreed <input type="checkbox"/>
Signature:	 The Hon Dr Andrew Leigh MP Assistant Minister for Competition, Charities and Treasury	23 / 8 / 2024 Date

Executive summary

- This brief seeks confirmation of your verbal advice, provided to the Australian Statistician on 13 August 2024, that the Government has decided that the 2026 Census of Population and Housing (the Census) will collect the same topics as the 2021 Census.
- We request advice on the planned timing and approach to communicating the Government's decision publicly. There are risks to the ABS and Government whenever the decision is announced, although the nature of these risks varies depending on timing.

PROTECTEDPROTECTEDCleared by:	Dr David Gruen AO, Australian Statistician	Contact officer:	Duncan Young, General Manager Census & Population Division
Date cleared:	16 August 2024	Contact number:	s 22
Consultation: Nil			

- One immediate consideration is the 2024 Census Test which includes the topics previously under consideration. The ABS had planned to begin communication with parliamentarians in Test areas and other key stakeholders on 20 August 2024, which requires information on the topics being tested. This can be deferred to no later than 22 August 2024.
- The LGBTIQ+ Expert Advisory Committee should be briefed in advance of the public announcement to help reduce damage to an important working relationship. You met with the Expert Advisory Committee in April 2024.

Key points

- On 14 June 2024, the ABS recommended the Government make 5 topic changes in the Regulation for the 2026 Census (MS24-900008). These were:
 - The addition of topics on Gender and Sexual orientation.
 - The removal of the Number of children ever born topic.
 - Minor updates to wording for the Main language other than English used at home and Proficiency in spoken English topics.
- On 13 August 2024 you advised the Australian Statistician that the Government does not support the ABS recommendation on topic changes. The ABS seeks confirmation of this decision and the Government's plans to announce. This will support the ABS to progress the successful delivery of the 2026 Census and manage risks associated with not changing the topics.
- Consideration should be given to the following when determining the timing of the Government's announcement:
 - There will be increasing public interest, particularly from the LGBTIQ+ community, on topic decisions for the 2026 Census, as the ABS has publicly stated that it will make its recommendation to Government in mid-2024.
 - Prolonged uncertainty will reduce the effective functioning of the LGBTIQ+ Expert Advisory Committee (EAC) for the 2026 Census. The ABS has suspended meetings to provide space for Government decision making. If this suspension is protracted it is likely to generate concern from this group.
 - On the 22 August 2024 the ABS will begin communicating with stakeholders about the 2024 Census Test. This communication necessarily includes discussion of new topics and questions being tested, including the LGBTIQ+ topics recommended by the ABS for inclusion. This includes a national media briefing, launch of the Census website and a publication providing an update on the topic changes that have not progressed to this Test (MS24-000006).
 - From 27 August 2024, members of the public will receive Census test forms that include the recommended LGBTIQ+ topics along with Variations of sex characteristics. This may lead to social media or questions to the ABS or Government.
 - The retention of current topics will require additional testing of the Sex and the Number of children ever born question. This testing will involve recruiting members of the public, including from the LGBTIQ+ community, to participate in cognitive testing. This testing needs to occur in October 2024 to meet timeframes for finalisation of the Census form and will require engagement with LGBTIQ+ stakeholders.

Next steps for ABS

- The ABS will conduct the Census Test from late August till mid-October. The Census Test is critical as a mechanism to test question changes, data collection processes and operational systems to ensure they are ready to deliver a positive, safe and secure Census that is easy to complete. Communication supporting the Test will need to include information on changes to topics and questions that are included in the Test.
- The timing of the Census Test is fixed as printed material has been produced, temporary staff have been recruited, arrangements are in place with external suppliers and the timing has been publicly communicated. The ABS needs to proceed with the Test to avoid any unacceptable risks to Census delivery.
- The ABS will undertake additional work on 2026 Census questions given the decision to not change topics, specifically:
 - The ABS needs to undertake public testing to refine the question on sex. The testing undertaken to date has focused on changes to the sex question, asked alongside a question on gender. Through the Australian Human Rights Commissions (AHRC) conciliation with Equality Australia and Mx Long, the ABS has committed to making changes to the 2021 Census question on sex, specifically to not use the term 'non-binary sex' as one of the options but to still to provide more than two response options. This followed analysis published by the ABS that the inclusion of the term 'non-binary sex' led to the collection of data that was not meaningful.
 - The ABS had communicated in the 2021 Census that the topic of Number of children ever born was not expected to be included on the 2026 Census as there is insufficient need for the data. The ABS also communicated this through the 2026 Census topic review process and recommended its removal to Government. In line with this, the ABS had not invested resources on testing refinements to this question. The ABS has made a commitment through the resolution of the AHRC complaint to not ask this question in a way that assumes who can give birth. Changing this question to meet this commitment will require public testing and engagement with LGBTIQ+ stakeholders.
 - The topics in the Regulation for Main language other than English used at home and Proficiency in spoken English are currently not aligned to the Census question, which was broadened in the 2021 Census to include languages that are used but not spoke (e.g. Auslan). Without an update to the topic the ABS will need to retain this inconsistency between the Census form and the Regulation.
- The ABS has developed experimental population estimates for people who are trans and gender diverse, for people who have a sexual orientation other than heterosexual, and for people born with a variation of sex characteristics. The release of these estimates will not fully meet data needs, as the data will not be available at the required geographic levels or be able to be analysed alongside other Census data. While the ABS has not yet set a release date, as the estimates have been peer reviewed by external experts, there will be an expectation of a release this year.
- To design questions that best collect data on each of the prescribed topics, the ABS will continue to pursue changes to improve questions for the topics of Ancestry, Attendance at an educational institution, Country of birth of parents, Household and family relationships, Industry of employment, Labour force status, Long-term health conditions, Marital status, Mode of travel to work and Religious affiliation.

Issues/sensitivities

- These issues are relevant to the Government's decision to collect the same topics as the 2021 Census:
 - The ABS has publicly communicated that the topics of Gender, Sexual orientation and Variations of sex characteristics are shortlisted for inclusion and have high public value.
 - The ABS published a statement of regret in August 2023 that recognised that the absence of question on gender identity, variations of sex characteristics or sexual orientation meant that some respondents felt invisible and excluded when completing the Census and in the Census results. This decision will mean that these feelings are repeated for the 2026 Census.
 - There is a risk to the successful delivery of the Census if there is public criticism and campaigning while the Census is underway. The ABS expects a strong negative reaction from the LGBTIQ+ community and supportive members of the public. This could reduce the Census response rate and quality of the data collected, and draw criticism of the ABS and Government.
 - LGBTIQ+ advocates may point to the successful implementation of questions relating to Gender and/or Sexual orientation in Censuses in New Zealand, England/Wales and Canada.
- The decision to not include the additional topic of Gender is likely to lead to continued conflation of Sex and Gender in Census form responses, leading to the need to highlight data quality limitations in the Sex data collected in the 2026 Census.

From: Gruen, David (ABS - Unclassified - DLM)
Sent: Sunday, 25 August 2024 1:47 PM
To: Terrell, Nick
Cc: s 22
Subject: RE: Update regarding [SEC=OFFICIAL]

~~OFFICIAL~~

Thanks for this, Nick.

~~OFFICIAL~~

From: Terrell, Nick <Nick.Terrell@TREASURY.GOV.AU>
Sent: Sunday, August 25, 2024 9:02 AM
To: David Gruen <david.gruen@abs.gov.au>
Cc: s 22 @TREASURY.GOV.AU
Subject: Update regarding [SEC=OFFICIAL]

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Good morning David - just wanted to make sure you're aware that Sky News has reported on the govt decision regarding no change to Census topics for the 2026 Census.

In keeping with the formal decision provided back to the ABS on Friday, we'll be providing this response from AM Leigh to subsequent media enquiries:

Attributable to Assistant Minister Andrew Leigh:

"While the Australian Bureau of Statistics tests changes from time to time, it is the decision of the government that there will be no change to the topics in the next Census, which will be held in 2026."

Please be in touch with any questions or further info you feel AM Leigh should be aware of.

Many thanks David

Nick Terrell — Chief of Staff
Office of the Hon Andrew Leigh
Assistant Minister for Competition, Charities and Treasury
Assistant Minister for Employment
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The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

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Hon Harriet Shing MP

FOI 3712
Document 3

Minister for Housing
Minister for Water
Minister for Equality

GPO Box 1774
Melbourne Victoria 3001

Hon Dr Andrew Leigh MP
Assistant Minister for Competition, Charities and Treasury
Assistant Minister for Employment
andrew.leigh.MP@aph.gov.au

Dear Minister

I refer to your commitments made in 2023 to collect specific information on sex, gender, variations of sex characteristics and sexual orientation variables to inform demographic analysis, policy, and resourcing that include LGBTIQ+ communities.

As you are aware, this announcement was welcomed by LGBTIQ+ representatives, leaders and communities, and intended to form a key part of Victoria's work in providing targeted support to some of our population's most vulnerable groups.

LGBTIQ+ people experience significant disadvantage, evidenced in poorer health and wellbeing outcomes, along with higher instances of family and sexual violence compared with the general population. Victoria's whole-of-government LGBTIQ+ strategy, *Pride in our future 2022-2032* is a direct response to the opportunities to provide better whole of life outcomes for LGBTIQ+ people.

Along with the statement of regret issued in August 2023, your stated intent to gather inclusive information, and minimise risk of further harm as part of the 2026 Census was received with immense enthusiasm and relief.

The notification by the Australian Bureau of Statistics on August 25 that proposed changes to the next Census will not proceed has caused enormous concern, particularly given the government's recent decision not to proceed with legislation to protect LGBTIQ+ people from hate speech as part of religious discrimination legislation.

I seek review and consideration of the impact of this decision on our diverse LGBTIQ+ communities and welcome the opportunity for ongoing collaboration on this matter.

I look forward to meeting with you to discuss further.

Yours sincerely

Hon Harriet Shing MP
Minister for Equality
26 / 08 / 2024

cc: Hon Mark Dreyfus MP, Attorney-General; Hon Dr Jim Chalmers MP, Treasurer; Hon Ged Kearney MP, Assistant Minister for Health and Aged Care, Assistant Minister for Indigenous Health.