



Environmental  
Defenders Office

**Submission on Getting it right: Building AI infrastructure  
that works for Australia: Consultation Paper –  
September 2026**

**9 October 2026**

## About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

***Successful environmental outcomes using the law.*** With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

***Broad environmental expertise.*** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

***Independent and accessible services.*** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

**[www.edo.org.au](http://www.edo.org.au)**

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### Submitted to:

Department of the Prime Minister and Cabinet  
Australian Government  
Submitted via [website](#)

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## **Acknowledgement of Country**

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past and present and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations Cultural Heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

## **A note on language**

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations peoples will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

## **The role of EDO & First Nations Peoples**

EDO is a non-Indigenous community legal centre specialising in public interest environmental law. EDO has been operating for 40 years. This submission is based on our expertise in planning and environmental Western law and experience in working on behalf of First Nations clients, including in relation to Cultural Heritage through Western law.

Out of respect for First Nations self-determination, EDO's recommendations for Western law reform in relation to First Nations matters are high-level, to support First Nations to protect their Countries and Cultural Heritage as they see fit. In making this submission, EDO cannot and does not speak on behalf of First Nations peoples or groups.

## Executive Summary

1. Environmental Defenders Office (EDO) welcomes the opportunity to comment on the “Getting it right: Building AI infrastructure that works for Australia” Consultation Paper (**Consultation Paper**) released by the Department of the Prime Minister and Cabinet (**Department**) in September 2026.
2. We have recently published [EDO principles on data centre developments in Australia](#) (**enclosed**) and our [submission to the Senate inquiry](#) into artificial intelligence (**AI**) and data centres. We encourage the Department to consider these documents in addition to this submission and take this opportunity to reiterate our previous recommendations for a legislated national regulatory framework.
3. Given the risks posed by the rapid development of data centres, assessment and approval of new data centre developments should not be permitted to continue while the development of the proposed national regulatory framework is underway. It is imperative a national moratorium on data centre development is imposed until a national, enforceable, transparent and ecologically sustainable regulatory framework is established.
4. Rapid development of large data centres will have extensive implications for Australia’s environment, particularly due to their substantial energy, water and land needs. Communities and ecosystems also face serious impacts through air pollution from diesel generators, potentially contaminated wastewater, and thermal, noise, light and vibration pollution. To meet their energy demands, many data centres are proposing to rely on new fossil fuel projects, which could put a spanner in Australia’s efforts to transition to clean energy.
  - In the Northern Territory: Project Ares is proposing to source energy from the largest gas fired power station in Australia and take up 186,000 ha, needing 4 GL of groundwater (about 1,600 Olympic pools) per year and requiring 19,150 ha to be cleared of habitat including for threatened species.
  - In Queensland: Zerra DC is proposing the largest data centre in Australia in the Western Downs Digital Park data centre hub, set to draw the equivalent energy of 1.5 million average Australian households.
  - In Victoria: NextDC M3 is a proposed hyperscale data centre expansion set to use an area 10 times larger than the MCG, requiring 225 megawatts of power, posing noise and other impacts to nearby homes and schools.
  - In New South Wales: Project Mars, a 90 megawatt facility, was set to be developed 20 metres from homes and 160 metres from a public school. This project has since been withdrawn after significant community backlash.
5. Typically assessment of data centres is happening under state and territory frameworks that are not fit-for-purpose to avoid the particular, serious risks large data centres pose to communities and the environment. What’s worse, many state and territory governments are now further weakening their laws to increase the chance of data centre investment in their region.
6. However, Australia has an opportunity to get data centre development right with the development of a national regulatory framework. The development of a national regulatory framework provides an ideal opportunity to undertake comprehensive pre-

planning to identify areas suitable for data centres, streamlining the development process and providing certainty to the community and data centre proponents alike.

7. EDO commends the Federal Government for the steps being taken to introduce national laws to reduce the impacts of data centres across the country. The action needed is urgent, to ensure the benefits of data centre developments do not come at the expense of Australia's energy transition, communities, water, biodiversity or Cultural Heritage.
8. EDO recognises that the regulation of AI and data centres is complex and multifaceted; however, as a national community legal centre specialising in public interest and environmental law, our submission only considers matters related to the regulation of data centres to reduce community and environmental impacts.

## **Summary of Recommendations**

### General recommendations

1. A moratorium must be imposed while the regulatory framework is developed, providing the Federal Government time to investigate potential impacts and establish clear community benefits to inform the AI Standards.
2. Development of the AI Standards should be informed by the EDO's [principles on data centre developments in Australia](#) to ensure ecologically sustainable and community safe data centres and associated infrastructure that protect human rights and environmental justice.

### Application of the AI Standards

3. All data centres should be subject to minimum requirements relating to energy and water efficiency, with additional scalable obligations applying to data centres, or aggregated data centre portfolios, above a legislated threshold.
4. Smart advanced planning should stipulate regulated standards applicable to data centres in those identified areas. For data centres posed outside of the pre-planned areas, the application of the AI Standards should be relevant to the following threshold criteria in addition to the size of the centre, being proposed energy capacity and proposed reliance on drinking water or environmental water. In addition, a discretionary "call in" power should apply for proposed projects that the proposed federal regulator of the AI Standards considers should be subject to the standards, but which fall outside of any threshold.
5. The national regulatory framework should be stand-alone legislation, regulated by an independent statutory authority, which imposes an obligation on data centres that reach the relevant threshold to obtain a "federal approval" or similar that confirms the project complies with the AI Standards.
6. All data centres that reach the relevant threshold should be subject to the national regulatory framework, with incremental obligations and time-limited grace periods afforded where projects have already received approval at the time the AI Standards commence.
7. The national regulatory framework must impose ongoing obligations on data centre proponents to fund new renewable firming capacity (such as large-scale battery storage) to eliminate reliance on gas or diesel and reduce environmental and social impacts associated with data centres.

### Energy and water obligations

8. The AI Standards must impose an obligation on data centre proponents to use 100% new renewable energy, with a phased implementation of this obligation for projects already approved at the time the standards commence.
9. Data centre proponents must, at a minimum, annually report on their energy usage and source, efficiency and emissions (including reliance on offsets) for peak, average and total use.
10. The AI Standards must require data centre proponents to use and manage water, including wastewater, sustainably. Where water extraction is allowed, it must be within environmentally sustainable extraction limits.
11. The AI Standards should require data centre proponents to prioritise using recycled or municipal grey water where appropriate, with limits on potable and environmental water use. Water efficiency requirements must be applied irrespective of whether a data centre uses recycled water.
12. The AI Standards must require data centre proponents to annually publicly report on their water usage, including the water requirements (peak, average and total), water source, drought contingency plans and wastewater production, testing and management actions.

### Consultation and engagement

13. The Federal Government must undertake best practice consultation, including early, ongoing, and meaningful engagement on the draft AI Standards and during the strategic pre-planning, to ensure appropriate siting of data centre developments.
14. Decisions regarding data centre developments, including the regulatory framework that applies and assessment processes for individual projects, must reflect the inherent rights of First Nations peoples reflected in United Nations Declaration on the Rights of Indigenous Peoples, where Free Prior and Informed Consent is a mandatory requirement.
15. Through effective engagement with First Nations and best practice engagement, data centre projects should be appropriately located, designed, operated and ultimately decommissioned, to ensure development avoids adverse impacts on First Nations Country and Cultural Heritage as determined by First Nations, and on First Nations access to their land, water and resources.

## Introduction

9. As use of AI increases, demand for data centres and AI infrastructure will grow and Australia is marketed as an investment hotspot. Following the publication of the National AI Plan in late 2025,<sup>1</sup> the Federal Government outlined its 'Expectations of data centres and AI infrastructure developers' (**National Expectations**) in March 2026.<sup>2</sup> These

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<sup>1</sup> Department of Industry, Science and Resources, *National AI Plan* (2 December 2025) (available here: <https://www.industry.gov.au/publications/national-ai-plan>) (**National AI Plan**).

<sup>2</sup> Department of Industry, Science and Resources, *Expectations of data centres and AI infrastructure developers* (23 March 2026) (available here: <https://www.industry.gov.au/publications/expectations-data-centres-and-ai-infrastructure-developers>) (**National Expectations**).

expectations contain laudable signals to stipulate the requirements data centres will be subject to, to seek to limit and avoid their impacts.

10. More recently, the Prime Minister announced that a set of AI Standards, building on the National Expectations, will be legislated.<sup>3</sup> These AI Standards are intended to address two regulatory issues by setting:<sup>4</sup>
  - 1) mandatory minimum requirements for large data centres, and
  - 2) conditions for frontier AI training in Australia.
11. On 18 September 2026, the Department published the Consultation Paper, seeking submissions in relation to:
  - Part 1: managing growth in large data centres and the AI training opportunity,
  - Part 2: requirements for large data centres, and
  - Part 3: conditions for AI training.
12. Due to the nature of our expertise as environment and planning lawyers, this submission primarily responds to Parts 1 and 2 of the Consultation Paper relating to the proposed regulatory requirements for large data centres.
13. Our submission on the Consultation Paper provides general commentary regarding the issues raised in the Consultation Paper, including responses to relevant consultation questions insofar as they are relevant to our areas of expertise. Specifically, we raise the following issues:
  - a. A moratorium on data centre development is needed until laws for ecologically sustainable and community safe data centre development are in place nationally.
  - b. Minimum efficiency requirements should apply to all data centres with additional obligations for large data centres and aggregated data centre portfolios.
  - c. The AI Standards should be implemented via standalone laws applicable to all data centres with clear enforceable obligations.
  - d. AI Standards should facilitate the renewable energy transition by requiring 100% new renewable electricity and making a positive contribution to the transition, including through provision of community benefits and funding new technologies.
  - e. AI Standards must impose obligations on data centre proponents to use and manage water, including wastewater, sustainably and transparently.
  - f. Development of the AI Standards and the strategic pre-planning process should be informed by best practice community consultation and First Nations engagement in accordance with Free, Prior and Informed Consent (**FPIC**).
14. EDO would welcome the opportunity to participate in any stakeholder engagement on the proposed regulatory framework.

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<sup>3</sup> Prime Minister of Australia 'AI in Australia's interests' (Media Release, 15 July 2026) (available at: <https://www.pm.gov.au/media/ai-australias-interests>) (**AI Standards Media Release**).

<sup>4</sup> Department of Prime Minister and Cabinet, *Getting it right: Building AI infrastructure that works for Australia* (Consultation Paper, September 2026) 2 (available here: <https://www.pmc.gov.au/sites/default/files/resource/download/ai-consultation-paper.pdf>) (**Consultation Paper**).

## Moratorium needed until national laws for ecologically sustainable and community safe data centre development are in place

15. While data centres are not new developments in Australia, recently there has been an influx of “hyperscale” developments, leading to increased concern about impacts. In 2024, Australia was second only to the United States for data centre investment.<sup>5</sup> Across the Pacific Ocean, the United States has been inconsistent in relation to its approach to regulating large scale data centres. Several US states have proposed laws imposing a moratorium, or similar, on data centres, with New York passing legislation imposing a one-year moratorium on data centres over 20MW.<sup>6</sup>
16. This “pause” on data centres was imposed to provide the Department of Public Service time to ‘*examine the impacts associated with the interconnection of data centres to the electric distribution network*’ and create a General Environmental Impact Statement assessing the potential environmental impacts of construction and operation of data centres.<sup>7</sup> Further, the Governor for New York indicated an intention to establish a Community Investment Framework and a mechanism to protect consumers from the risk of increased energy costs.
17. In Ireland, an open-arms approach to data centre investment led to data centres accounting for 21% of the total metred electricity use by 2023, leading to concerns regarding the stability of the grid and significant increases in household energy bills.<sup>8</sup> A moratorium was imposed and subsequently lifted in December 2025 and replaced by the Large Energy Users Connection Policy.<sup>9</sup>
18. While EDO welcomes the Department’s request for public input to inform the proposed AI standards, as identified by the Senate Select Committee on Adopting Artificial Intelligence in 2024, it is essential that the AI standards are also informed by complete and accurate information about the full range of AI’s environmental impacts, to ensure these potential impacts are appropriately regulated.<sup>10</sup>
19. Energy demands of data centres in Australia are projected to increase by 10% over the next decade.<sup>11</sup> The Federal Government should heed the challenges experienced by

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<sup>5</sup> Department of Industry, Science and Resources, ‘National AI Plan’ (Report, 2 December 2025) 6 (available at: <https://www.industry.gov.au/sites/default/files/2025-12/national-ai-plan.pdf>).

<sup>6</sup> National Conference of State Legislatures, ‘Which States are banning data centres?’ (Publication, 15 September 2026) (available at: <https://www.ncsl.org/fiscal/which-states-are-banning-data-centers>).

<sup>7</sup> See the Executive Order here: [https://www.governor.ny.gov/sites/default/files/2026-07/EO\\_62.pdf](https://www.governor.ny.gov/sites/default/files/2026-07/EO_62.pdf).

<sup>8</sup> United Nations University, ‘Environmental cost of AI’s energy use’ (Report, 2026) 35 (available at: [https://collections.unu.edu/eserv/UNU:10647/UNU-INWEH-Report-The\\_Env\\_Cost\\_of\\_AI-2026.pdf](https://collections.unu.edu/eserv/UNU:10647/UNU-INWEH-Report-The_Env_Cost_of_AI-2026.pdf)).

<sup>9</sup> Australian Energy Council, ‘Ireland’s Green Energy Rule: What can Australia learn from its approach to data centres?’ (Article, 11 June 2026) (available at: <https://energycouncil.com.au/irelands-green-energy-rule-what-can-australia-learn-from-its-approach-to-data-centres/>) (**AEC Ireland and Australia Comparison**).

<sup>10</sup> Senate Select Committee on Adopting Artificial Intelligence, Parliament of Australia (Final Report, November 2024) ch 6 1.100 (available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Adopting\\_Artificial\\_Intelligence\\_AI/AdoptingAI/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Adopting_Artificial_Intelligence_AI/AdoptingAI/Report)) (**Adopting AI Senate Inquiry Report**).

<sup>11</sup> AEMO, ‘Electricity Statement of Opportunities’ (Report, 25 August 2026) 6 (available at: [https://www.aemo.com.au/-/media/files/electricity/nem/planning\\_and\\_forecasting/nem\\_esoo/2026/2026-electricity-statement-of-opportunities.pdf?rev=4f2e73fbd906456288198fdb24b335a&sc\\_lang=en](https://www.aemo.com.au/-/media/files/electricity/nem/planning_and_forecasting/nem_esoo/2026/2026-electricity-statement-of-opportunities.pdf?rev=4f2e73fbd906456288198fdb24b335a&sc_lang=en)) (**AEMO ES00 Report**).

Ireland and consider a similar approach to that taken by New York, imposing a moratorium on data centre development in Australia while the regulatory framework is established and the impacts and purported benefits are being understood.<sup>12</sup>

20. During the public hearing for the recent Senate inquiry into AI and data centres, the Deputy Mayor of the Lane Cove Council called for a moratorium to ensure effective and sustainable planning frameworks can be implemented.<sup>13</sup> Wingecarribee Shire Council agreed, voting unanimously for a prohibition until regulations are in place.<sup>14</sup> These calls for a national moratorium are also reflected in various petitions.<sup>15</sup>
21. This is Australia's opportunity to ensure data centre developments are sustainable and appropriately sited. It is imperative that data centre developments are properly regulated, but not at the cost of a rushed legislative process. A moratorium would provide the Federal Government with the time needed to ensure a robust framework can be implemented, ultimately streamlining the approval process and providing certainty to proponents and the community in the long-term.
22. Like the approach taken by New York, the Federal Government must legislate community benefit obligations under the AI Standards, ensuring that data centre developers invest in communities, improve local infrastructure and prioritise local workforces. These obligations could be proportionate to the size of the data centre.
23. EDO has developed [principles on data centre developments in Australia](#) guiding ecologically sustainable and community safe data centre development nationally. This includes ensuring data centres avoid, minimise and mitigate adverse impacts on the natural environment and associated ecological processes, air quality, water resources, energy supply and the renewable energy transition, First Nations rights, cultural heritage and Country.

**Recommendation 1:** A moratorium must be imposed while the regulatory framework is developed, providing the Federal Government time to investigate potential impacts and establish clear community benefits to inform the AI Standards.

**Recommendation 2:** Development of the AI Standards should be informed by the EDO's [principles on data centre developments in Australia](#) to ensure ecologically sustainable and community safe data centres and associated infrastructure that protect human rights and environmental justice.

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<sup>12</sup> See e.g. the working paper published by Maynooth University regarding the social, economic and environmental costs of data centres in Ireland (available here: <https://mural.maynoothuniversity.ie/id/eprint/21841/1/MUSSI%20working%20paper%2031.pdf>).

<sup>13</sup> See [Hansard](#), p 26.

<sup>14</sup> See [Hansard](#), p 26-27.

<sup>15</sup> See e.g. <https://greens.org.au/campaigns/moratorium-ai-data-centres-now>; <https://www.change.org/p/stopping-the-ai-data-centers-in-australia>; <https://act.350.org.au/petitions/community-centres-not-data-centres-demand-a-national-moratorium-on-data-centres>.

## Minimum efficiency requirements should apply to all data centres with additional obligations for large data centres and aggregated portfolios

24. While we recognise the benefits in prescribing a criteria outlining what projects are subject to additional obligations under the AI Standards, we consider energy capacity alone is not sufficiently determinative of whether a data centre should be subject to the national regulatory framework.
25. The Consultation Paper considers whether all data centres should be required to meet energy and water thresholds. The National Expectations provide that data centre proponents should ‘*minimise their energy demand and emissions by adopting industry-leading efficiency measures and technologies*’. On 14 August 2026, the Water Ministerial Council agreed, excluding Queensland, that “all” data centres should be subject to mandatory minimum requirements relating to water.<sup>16</sup>
26. Rather than stipulating a threshold over which minimum standards will apply, we consider it appropriate that all data centres should be required to comply with minimum energy and water efficiency requirements as a matter of practice. The performance metrics must be informed by the best available science. The AI Standards should impose additional obligations on larger data centres that are proportionate to their size.<sup>17</sup> This is considered further below.

### Development of thresholds should consider the holistic impacts of data centres

27. The Consultation Paper outlines that the Federal Government will set mandatory minimum requirements for “large data centres”. The Consultation Paper proposes adopting a tiered approach that would exclude data centre facilities with an energy capacity of less than 30MW and have more substantial requirements for data centres above 100MW.<sup>18</sup>
28. Data centre projects should be considered holistically, including in the context of water usage, proposed siting (such as proximity to communities or areas of cultural or environmental significance) and ancillary infrastructure requirements, when applying the AI Standards.
29. This is particularly important given the cumulative impacts of the large number of data centres in the grid currently and proposed to be built in the future. An aggregated approach to data centre projects and portfolios must be considered to prevent proponents “salami-slicing” proposals to avoid reaching a legislated capacity threshold and the need to comply with standards.

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<sup>16</sup> Water Ministerial Council, ‘Communique’ (14 August 2026) (available at:

<https://www.dcceew.gov.au/sites/default/files/documents/water-minco-communique-14-august-2026.pdf>).

<sup>17</sup> Response to consultation questions: “Should the Commonwealth establish national baseline energy and water efficiency metrics for data centres? What might be the benefits and/or unintended consequences of this approach?” and “Should all data centres be required to meet energy and water performance thresholds? If not, how should requirements change or scale for different data centres.”

<sup>18</sup> Consultation Paper, p 7.

30. We are further concerned that having a single standardised threshold may result in projects with a smaller energy capacity but significant impacts, due to for example extensive ancillary infrastructure requirements, slipping through the cracks. Applying a holistic and cumulative approach is a helpful way of reducing this risk. This could be aided by providing the proposed federal regulator with the authority to “call in” projects in appropriate circumstances where it may not meet the standard threshold criteria but should be subject to obligations under the AI Standards for other reasons.

**Smart advanced planning can provide thresholds for regulation and reduce impacts while facilitating development**

31. When announcing the intention to legislate a regulatory framework for data centres, the Prime Minister stated that the framework would ‘*set clear rules for large data centres: where they are built – and the power and water they use.*’<sup>19</sup>
32. As part of the development of the AI Standards, comprehensive pre-planning should be undertaken to guide locations for applications and facilitate sustainable and efficient data centre development. This pre-planning could inform data centre siting, including ancillary infrastructure, and provide a strategic framework, underpinned by robust environmental data, that identifies areas as suitable data centre development on the basis that:
- the land has previously been developed, impacted or degraded, including existing infrastructure corridors,
  - impacts on ecosystems and biodiversity will be avoided or substantially minimised,
  - appropriate water resources and infrastructure are available and impacts to water resources will be minimised and sustainable,
  - ecological health impacts on communities, such as air or thermal pollution, will be avoided or minimised to the highest possible extent, and
  - Cultural Heritage is avoided and protected, as informed by First Nations knowledge and subject to FPIC processes.
33. The pre-planning framework should integrate the policies for ecologically sustainable development of data centres, and also identify “no-go” areas that are off-limits for data centre developments. This framework could inform the threshold criteria for the application of additional AI Standards. For example, the threshold could require that data centre developments that are proposed to be situated outside the suitable areas outlined under the pre-planning framework are subject to more stringent AI Standards to ensure impacts are limited.
34. In addition, the following criteria could also apply to trigger increased AI Standards applying:

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<sup>19</sup> Prime Minister, ‘AI in Australia’s interests’ (Speech, 15 July 2026) (available at: <https://www.pm.gov.au/media/ai-australias-interests-0>) (AI Standards Media Release).

- data centres above a particular energy capacity threshold,<sup>20</sup>
  - data centres that rely on municipal drinking water or environmental water,
  - any data centre project that the proposed regulator of the AI Standards framework has determined should be subject to the AI Standards.
35. The tiered approach outlined in the Consultation Paper only appears to relate to the energy capacity and does not consider water usage or other factors. We are concerned that this approach would not ensure proportionate obligations for data centre proponents in relation to other factors, including impacts on communities.<sup>21</sup>

**Recommendation 3:** All data centres should be subject to minimum requirements relating to energy and water efficiency, with additional scalable obligations applying to data centres, or aggregated data centre portfolios, above a legislated threshold.

**Recommendation 4:**<sup>22</sup> Smart advanced planning should stipulate regulated standards applicable to data centres in those identified areas. For data centres posed outside of the pre-planned areas, the application of the AI Standards should be relevant to the following threshold criteria in addition to the size of the centre, being proposed energy capacity and proposed reliance on drinking water or environmental water. In addition, a discretionary “call in” power should apply for proposed projects that the proposed federal regulator of the AI Standards considers should be subject to the standards, but which fall outside of any threshold.

## Application of AI Standards should be via standalone laws applicable to all data centres<sup>23</sup>

36. The Federal Government has clearly articulated its intention to legislate AI Standards, including imposing obligations regarding the use of renewable energy and water efficiency.<sup>24</sup> However, it’s not yet clear what form these AI Standards would take and how they would apply, if at all, to existing data centre projects.
37. As outlined in the Consultation Paper, there are several large data centre proposals currently undergoing assessment and the Paper considers whether AI Standards should apply to projects that are yet to connect to the electricity network.<sup>25</sup> The Consultation Paper provides that:<sup>26</sup>

*The government proposes to legislate obligations for large data centres above a certain threshold to confirm that all necessary approvals (for example, building permission and energy connection approval) are in place at a particular point in development and approvals processes.*

<sup>20</sup> Consideration should be had as to whether this is the maximum peak capacity (maximum load) or the average energy capacity (operational usage).

<sup>21</sup> In response to consultation question: *Does a tiered approach sufficiently capture different types of facilities and ensure proportionate obligations relating to Australia’s energy transition, water management, and communities?*

<sup>22</sup> Recommendation 4 responds to the consultation question: *“Is a single threshold such as an energy capacity (MW) sufficient to identify the data centres that should be subject to the AI standards?”*.

<sup>23</sup> This section responds to the consultation questions outlined on p 9 of the Consultation Paper.

<sup>24</sup> AI Standards Media Release.

<sup>25</sup> Such as the Western Downs Digital Park and Project Ares; Consultation Paper, 8-9.

<sup>26</sup> Consultation Paper, 9.

38. To ensure clarity in regulation and good governance for the effective implementation of the laws, the national regulatory framework should be stand-alone legislation, administered by an independent statutory authority, regulating all data centres, or at least developments that reach the relevant “threshold”. This is as opposed to piecemeal amendments to existing legislation. This will provide certainty to proponents without interfering with state and territory assessment processes.

### **Application of Standards to new and existing data centres**

39. There is significant concern that the announcement of the Federal Government’s intention to legislate the standards may lead to an influx of proposals intending to avoid being subjected to these new rules.<sup>27</sup>
40. The Australian Energy Market Operator (**AEMO**) reports there are 225 data centre proposals, totalling 67GW of combined capacity at various stages in the development pipeline.<sup>28</sup> Even if only some of these projects proceed, the ability to rely on non-renewable electricity to supply the requisite power would have substantial implications for Australia’s clean energy transition.
41. In our view, any project that reaches the proposed threshold, whether approved or undergoing assessment, should be subject to the AI Standards to the highest possible extent. This could be through phased application of the AI Standards based on where the project is up to in the assessment process with grace periods afforded where projects have already received approval.
42. We consider that:
- The AI Standards should apply to new projects from their inception.
  - Data centre projects that are undergoing assessment but have not been approved at the time the national legislation commences should be subject to the AI Standards.
  - Data centre projects that reach the relevant threshold that have been approved prior to the commencement of the AI Standards should be subject to the Standards to the highest possible extent, with a time-limited grace period<sup>29</sup> during which there are clear obligations to demonstrate what steps are being taken in order to achieve compliance with the AI Standards, including their obligations to utilise 100% new renewable energy and minimise water use.
43. It is not unusual for the Federal Government to impose new obligations on existing projects.<sup>30</sup> A stand-alone Act, with clear obligations, would provide data centre proponents with certainty and the inclusion of incremental obligations, that are proportionate to the

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<sup>27</sup> See e.g.: <https://www.theguardian.com/australia-news/2026/aug/26/australia-may-face-a-rush-of-datacentre-construction-as-ai-firms-look-to-dodge-upcoming-rules-experts-say>.

<sup>28</sup> AEMO, ‘Electricity Statement of Opportunities’ (Overview, 24 August 2026) (available at: [https://www.aemo.com.au/-/media/files/electricity/nem/planning\\_and\\_forecasting/nem\\_esoo/2026/2026-esoo-data-centre-forecasting-overview.pdf?](https://www.aemo.com.au/-/media/files/electricity/nem/planning_and_forecasting/nem_esoo/2026/2026-esoo-data-centre-forecasting-overview.pdf?)) (**AEMO ES00 Overview**).

<sup>29</sup> This “grace period” could be in relation to honouring existing contracts and/or to account for the time required to bring new renewable energy generation projects online.

<sup>30</sup> For example, the Safeguard Mechanism imposed new obligations on existing facilities with scope 1 emissions above the relevant threshold.

project, or aggregate portfolio where applicable, and time-limited grace periods would provide proponents with a reasonable opportunity to ensure their projects can comply with the AI Standards.

44. Furthermore, the AI Standards should impose ongoing obligations for data centre proponents to innovate and/or investigate new and emerging technologies that would improve electricity and water efficiency, power firming options and reduce pollution, including wastewater production.
45. A statutory obligation to use 100% new renewable energy, including for power firming, would require data centre proponents to investigate suitable non-fossil fuel sources of back-up power supply and innovative options to improve energy efficiency. By allowing an alternative energy mix or the use of gas or diesel generators for power firming, data centre proponents will have no incentive to innovate or investigate other renewable alternatives.

**Recommendation 5:** The national regulatory framework should be stand-alone legislation, regulated by an independent statutory authority, which imposes an obligation on data centres that reach the relevant threshold to obtain a “federal approval” or similar that confirms the project complies with the AI Standards.

**Recommendation 6:** All data centres that reach the relevant threshold should be subject to the national regulatory framework, with incremental obligations and time-limited grace periods afforded where projects have already received approval at the time the AI Standards commence.

**Recommendation 7:** The national regulatory framework must impose ongoing obligations on data centre proponents to fund new renewable firming capacity (such as large-scale battery storage) to eliminate reliance on gas or diesel and reduce environmental and social impacts associated with data centres.

## AI Standards must facilitate the renewable energy transition

### Clear requirements to use new renewable electricity

46. The Consultation Paper provides that the ‘*government intends to create an obligation for data centres subject to the AI standards to match their energy demand with new renewable electricity capacity*’.<sup>31</sup>
47. “New” renewable capacity must relate to renewable projects that are not already earmarked for provision of energy to the National Grid and are brought online prior to the data centre consuming energy.<sup>32</sup> All new renewable energy projects, including those associated with data centres must comply with [EDO's principles for renewable energy transition projects](#).

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<sup>31</sup> Consultation Paper, 11.

<sup>32</sup> Response to consultation question: “How should ‘new’ renewable capacity be defined in relation to data centre investments?”.

48. The National Expectations provide that *‘new data centres and AI infrastructure should not place upward pressure on energy prices and should make a positive contribution to Australia’s energy transition.’*<sup>33</sup>
49. The AEMO recently forecast data centre electricity consumption to increase from approximately 3% to 13% of the National Energy Market (**NEM**) supply.<sup>34</sup> As outlined in the Consultation Paper, this is a significant increase in energy demand that will, without intervention, have substantial cost implications for households.<sup>35</sup>
50. The Consultation Paper proposes that, in the initial period, data centre proponents could obtain renewable electricity certificates from existing renewable generation and storage capacity, with a transitional period during which the projects gradually switch to new renewable projects.<sup>36</sup>
51. We recognise it can take time to bring new renewable projects online; however, it is a burden on other consumers where they must foot the bill through increased pressure on the grid for this transitional period. During any transitional period, we suggest data centres could assist in subsidising energy costs for communities, with other possible community benefits like community renewables or battery capacity being installed. It is important that any ability to rely on existing renewable generation is time-limited, with clear obligations to take all reasonable steps to bring new renewable electricity generation projects online as soon as possible.
52. We do not support the proposal that data centre proponents can apply to the Australian Energy Regulator to seek a modification to the renewable energy requirement to permit them to procure non-renewable electricity from State-owned corporations. There are already sufficient challenges to efforts to reduce reliance on fossil fuels to reduce the risks of climate change, it is unacceptable that data centres may exacerbate these challenges.

### **Making a positive contribution to the energy transition**

53. There is a great opportunity for data centre development to help facilitate the energy transition in Australia. This can occur via requiring data centres to use new renewable energy, to assist with investment in the grid, and to assist with smoothing electricity peaks and assisting with grid reliability. Australia has committed to net zero emissions by 2050. We have an interim target of 62–70% reductions by 2035. We cannot afford to allow data centre development to compromise hard won efforts to reduce emissions to reduce the risks of climate change. This is particularly important given the interim target of 62-70% was already weakened to account for the rise in data centre developments.<sup>37</sup>

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<sup>33</sup> See Expectation 2.

<sup>34</sup> AEMO ESOO Report, 6. Notably this does not include Western Australia or the Northern Territory as they are not part of the NEM.

<sup>35</sup> Consultation Paper, 10.

<sup>36</sup> Consultation Paper, 12.

<sup>37</sup> Climate Change Authority, ‘2035 Targets Advice’ (Report, 12 September 2025) 36 (available at: <https://www.climatechangeauthority.gov.au/sites/default/files/documents/2025-09/2035%20Targets%20Advice%20Report.pdf>).

54. There must be clear obligations on data centre proponents to invest in infrastructure to support improvements to the grid and connecting infrastructure, including in relation to improving existing infrastructure and developing new renewable generation infrastructure.
55. Minimum baseline efficiency metrics for energy and water usage for all data centres must be established under the national regulatory framework. These baseline metrics should be applicable to all data centre developments, not just large data centres. These baseline standards and performance metrics must be informed by the best available science and should be adaptable as knowledge and technology improve.
56. Having these minimum efficiency requirements and national AI Standards will avoid inter-jurisdictional competition and the subsequent potential for “watering-down” of assessment requirements. This will ensure consistency across all jurisdictions and provide certainty to both communities and proponents alike, as there will be clearly established minimum requirements for all data centre projects. Jurisdictions can then opt to legislate requirements above the minimum national standards at their discretion.
57. Data centre proponents must be required to publicly report on their energy usage, efficiency and emissions annually, at a minimum. As part of these energy-related reporting requirements, data centre proponents must be required to report on the source of the energy, including amounts paid, and any reliance on offsets (where permitted under the framework) for peak, average and total usage.
58. The AEMO is forecasting a 40% increase in the total electricity consumption across the NEM, driven in large part by increased data centre demand.<sup>38</sup> This is not dissimilar to the increased load on Ireland’s electricity grid, which subsequently resulted in higher consumer prices and grid stability concerns.<sup>39</sup> It is essential that data centre proponents are required to clearly, frequently and accurately reporting energy demands and usage.

**Recommendation 8:** The AI Standards must impose an obligation on data centre proponents to use 100% new renewable energy, with a phased implementation of this obligation for projects already approved at the time the standards commence.

**Recommendation 9:** Data centre proponents must, at a minimum, annually report on their energy usage and source, efficiency and emissions (including reliance on offsets) for peak, average and total use.

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<sup>38</sup> AEMO ESOO Overview.

<sup>39</sup> AEC Ireland and Australia Comparison.

## The AI Standards must require data centre proponents to use and manage water, including wastewater, sustainably and transparently

### Clear performance metrics and transparent reporting obligations

59. On 14 August 2026, the Water Ministerial Council agreed<sup>40</sup> that minimum standards for all data centres should be set, including requirements to:<sup>41</sup>
- minimise water use,
  - build operational resilience in the face of a changing climate,
  - meet water efficiency standards,
  - report water use transparently, and
  - pay their share of water infrastructure costs.
60. We note this communicate refers to all data centres, which EDO supports as a necessary means of reducing the cumulative impacts of data centres around Australia on water resources. As outlined in [24] to [26] above, we consider the AI Standards should impose minimum energy and water efficiency requirements for all data centres, within increased obligations for data centres above a certain threshold. This would ensure a nationally consistent baseline. The performance metrics and energy efficiency standards should be informed by the best available science.
61. Data centre proponents must, from the outset, publicly outline:
- the water requirements, total, averaged and during peak usage, to provide a comprehensive overview of the water demands of the development,
  - their contingency plan during periods of drought, prioritising community and environmental water needs,
  - water usage, including the source of the water (e.g. drinking water or recycled water) for the life of the project,
  - predicted wastewater production - total, averaged and during peak usage, the planned treatment methodology (including location), and include projected wastewater quantities and estimates of total energy requirements for treatment, and
  - contributions to the cost of water infrastructure construction, upgrades and maintenance, that is required due to (whether directly or indirectly) the data centre.

### Water use must be environmentally sustainable and must not compromise the advancement of First Nations water justice

62. Australia is the driest inhabited continent on the planet, with 70% being arid or semi-arid.<sup>42</sup> It is imperative that data centre development does not place further pressure on ecosystems in bioregions where water is limited. Data centre proponents should, where possible, establish connections to wastewater facilities and investigate closed-loop cooling systems to minimise water usage.

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<sup>40</sup> With Queensland dissenting.

<sup>41</sup> Water Ministerial Council, 'Communique' (14 August 2026) (available at: <https://www.dcceew.gov.au/sites/default/files/documents/water-minco-communicue-14-august-2026.pdf>).

<sup>42</sup> Department of Climate Change, Energy, the Environment and Water, 'Outback Australia – the rangelands' (Blog, 3 October 2021) (available at: <https://www.dcceew.gov.au/agriculture-land/land/rangelands>).

63. Further, First Nations are the Traditional Owners of lands and waters across the continent and have cared for Country for tens of thousands of years. Yet Australian water law continues to be built on the legal fiction of *aqua nullius* – that is, the incorrect assumption that water belonged to no one at the time of European colonisation.<sup>43</sup> This foundational flaw continues to impact the rights, responsibilities and opportunities of First Nations peoples. It is imperative that data centre development does not compound First Nations water injustice further – by, for example, diverting opportunities for First Nations to acquire water rights, compromising cultural flows, failing to provide for Free, Prior and Informed Consent in relation to data centre approvals, and/or undermining access to clean drinking water for regional or remote communities.<sup>44</sup> We expand further on the role of FPIC below at paragraphs [73]-[75].
64. The Discussion Paper appropriately acknowledges the potential additional pressure on water resources in regional and remote communities, particularly in areas containing agriculturally significant land and established irrigated agriculture (e.g. the Murray–Darling Basin). However, it is critical that data centre developments do not further compromise environmental and ecosystem health across the Basin. Such pressures are also felt beyond the Basin, including in jurisdictions with wholly inadequate water regulation frameworks including with respect to First Nations water rights. For example, WA is the only jurisdiction in Australia without statutory water plans<sup>45</sup> while the failures in water management in the Northern Territory have been highlighted by the granting of excessive water licences and the development and declaration of inadequate water allocation plans.<sup>46</sup> In this context, there is a significant risk that water usage required for data centres could compound the longstanding issue of overextraction and ecosystem decline in the Basin and result in similar issues in other jurisdictions.
65. The National Water Agreement (**NWA**)<sup>47</sup> – recently drafted to update and improve the existing National Water Initiative<sup>48</sup> – sets out important objectives for the sustainable regulation of water resources. The AI Standards should align with relevant objectives in the NWA, whilst noting – as we stated elsewhere – that the NWA should also be updated to

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<sup>43</sup> See e.g. Sarah Bourke, Bradley Moggridge, Clint Hansen, Margaret Shanafield, ‘[How the myth of ‘aqua nullius’ still guides Australia’s approach to groundwater](#)’ (*The Conversation*, 17 December 2025).

<sup>44</sup> We draw the Department’s attention to EDO’s submission to the current review of *Water Act 2007* (Cth). Our submission makes recommendations for advancing First Nations water justice through amendments to that legislation, including amendments that would support advancement across the Nation (i.e. not confined to the Murray Darling Basin): Environmental Defenders Office, *Submission to the Independent Review of the Water Act 2007 (Cth)* (31 August 2026) at pp 6-7, 14-18 (available at: <https://www.edo.org.au/publication/submission-to-the-independent-review-of-the-water-act-2007-cth/>.)

<sup>45</sup> Productivity Commission, ‘National Water Reform 2024 Inquiry Report’ (Report, 28 May 2024), 123-124 (available at: <https://www.pc.gov.au/inquiries-and-research/water-reform-2024/report/>). See pp 103-131 for more on water plan coverage in each jurisdiction. We also refer to our detailed analysis of the shortcomings in WA water law and the NT in EDO’s Submission to the current review of the *Water Act 2007* (Cth) (see footnote 39 above), p 38 and its annexures.

<sup>46</sup> For an outline of the deficiencies in water law and governance in the NT, see EDO’s Submission to the review of the *Water Act 2007* (Cth), 45.

<sup>47</sup> The NWA was developed in collaboration between the federal and state and territory governments. It is still awaiting agreement from the states and territories and can be accessed here: DCCEEW National Water Agreement (21 August 2026) (available at <https://www.dcceew.gov.au/water/policy/policy/national-water-agreement>).

<sup>48</sup> Intergovernmental Agreement on a National Water Initiative, signed on 25 June 2004.

incorporate objectives / principles that specifically address the regulation of water usage by data centres and AI infrastructure.<sup>49</sup>

66. Against this backdrop, the AI Standards must, at a minimum, require the following:
- a. That data centre proposals be located in areas identified as suitable through a strategic pre-planning process, to ensure that water use is environmentally sustainable, and does not adversely impact the communities and food systems that depend on freshwater resources. This pre-planning process should include identifying and excluding sites where no sustainable water supply is available, the water system is inadequately understood or regulated, or the water supply is already fully allocated.
  - b. That regional planning, from the perspective of water requirements, identify and prioritise locations where municipal wastewater could be used to supply data centre water needs. Proponents should be required to pay for the infrastructure required to transfer water to and from municipal treatment plants.
  - c. For data centres that are not located near existing municipal treatment plants, data centre proposals must outline appropriate treatment plans, for both dissolved and undissolved constituents and thermal pollution. Wastewater from data centres requires treatment and is not suitable to be discharged into receiving environments. This includes treatment in relation to water used in closed-loop cooling systems.
67. The AI Standards must also ensure that water efficiency requirements must not be impacted or reduced where data centres propose the use of recycled water. Recycled water already has competing uses, such as use in agriculture, community greening and other industrial processes.
68. Importantly, energy and water use can be related. For example, use of lower-water intensive cooling processes can increase energy demands. It is imperative the energy and water metrics are considered collectively and any potential trade-offs are identified. Smart pre-planning and imposing obligations regarding sustainable water use may be beneficial in considering water security and managing climate impacts associated with emissions from data centres or the associated energy generation.

**Recommendation 10:** The AI Standards must require data centre proponents to use and manage water, including wastewater, sustainably. Where water extraction is allowed, it must be within environmentally sustainable extraction limits.

**Recommendation 11:** The AI Standards should require data centre proponents to prioritise using recycled or municipal grey water where appropriate, with limits on potable and environmental water use. Water efficiency requirements must be applied irrespective of whether a data centre uses recycled water.

**Recommendation 12:** The AI Standards must require data centre proponents to annually publicly report on their water usage, including the water requirements (peak, average and

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<sup>49</sup> Environmental Defenders Office, *Submission to the Senate Environment and Communications References Committee inquiry into artificial intelligence and data centres* (1 September 2026), Recommendation 6 at p 24 (available at <https://www.edo.org.au/publication/submission-to-the-senate-environment-and-communications-references-committee-inquiry-into-artificial-intelligence-and-data-centres/>).

total), water source, drought contingency plans and wastewater production, testing and management actions.

## AI Standards and pre-planning must be informed by best practice engagement and co-design with First Nations in accordance with FPIC

### Best practice consultation on the draft AI Standards and during pre-planning

69. Consultation should be undertaken on the AI Standards, including in relation to the draft regulatory framework, and during the pre-planning process undertaken to inform the siting of data centres, as outlined in recommendation 4.
70. The right to participate in environmental decision-making processes is a fundamental community right under the Rio Declaration.<sup>50</sup> Best practice community engagement principles must underpin the development of the regulatory framework and AI standards to ensure more transparent, accountable and better informed decisions are made in the public interest.
71. Best practice consultation includes, for example, early, ongoing and meaningful engagement with the public. Consultation should be culturally appropriate, genuine, respectful, purposeful and proportionate where community views are considered, inform the final decision, and are responded to (including whether community views have been incorporated and if not, why not).
72. There are significant benefits of early and open engagement with communities about data centre siting, design, impacts, and benefits. This can reduce land-use and other resource-related conflicts, including, for example, regarding water use and resources, and power use and sources, delays, and costs.
73. First Nations are particularly likely to be impacted by data centre developments, including impacts on First Nations Country and Cultural Heritage and First Nations' connection to Country, including through impacts on the energy transition, water, biodiversity and Cultural Heritage. All decisions regarding data centres must be based on the Free Prior Informed Consent (**FPIC**) of First Nations and the inherent rights of First Nations people reflected in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*. UNDRIP was endorsed by the Australian Government in 2009 and has been described by the Chief Justice of the Federal Court of Australia as 'solemn objectives that Australia has committed to in international forums'.<sup>51</sup> FPIC involves the inherent collective right of First Nations to participate in decision-making about issues and laws that affect their lives, lands, waters, skies, and resources, and to grant or withhold consent as they see fit.

<sup>50</sup> See: [https://docs.un.org/en/A/CONF.151/26/Rev.1\(vol.I\)](https://docs.un.org/en/A/CONF.151/26/Rev.1(vol.I)), principle 10.

<sup>51</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, Agenda Item 68, Supp No 49 (2 October 2007, adopted 13 September 2007) (UNDRIP). Regarding the importance of this endorsement for Australia's domestic jurisdiction, see *Sampi v State of Western Australia (No 5)* [2026] FCA 517, [45]-[48]. Mortimer CJ refers to these rights as "solemn objectives that Australia has committed to" in *Sampi v State of Western Australia (No) 5* [2026] FCA 517, [45]-[48].

74. Any regulatory framework for data centre developments, approvals and decommissioning, including these AI standards, must be co-designed with affected First Nations communities and their representative organisations. This must occur before any AI Standards are made. Any regulatory framework must also specifically require data centre proponents to undertake early, iterative, culturally appropriate engagement and participation of First Nations people and their representative organisations.
75. This co-design and engagement is required to ensure, as determined and led by relevant First Nations and informed by First Nations knowledges and rights to FPIC and self-determination, that data centre design, delivery and decommissioning protects Cultural Heritage. This includes protection of culturally significant sites, objects and landscapes, and both tangible and intangible heritage. First Nations must also be resourced to effectively engage in the design, delivery and benefits of data centres, policies, and decision-making processes relating to data centres, as they see fit.

**Recommendation 13:** The Federal Government must undertake best practice consultation, including early, ongoing, and meaningful engagement on the draft AI Standards and during the strategic pre-planning, to ensure appropriate siting of data centre developments.

**Recommendation 14:** Decisions regarding data centre developments, including the regulatory framework that applies and assessment processes for individual projects, must reflect the inherent rights of First Nations peoples reflected in UNDRIP, where FPIC is a mandatory requirement.

**Recommendation 15:** Through effective engagement with First Nations and best practice engagement, data centre projects should be appropriately located, designed, operated and ultimately decommissioned, to ensure development avoids adverse impacts on First Nations Country and Cultural Heritage as determined by First Nations, and on First Nations access to their land, water and resources.

## **Data Centres, Done Right**

### *EDO Principles for Responsible Data Centre Development*

Data centres are rapidly expanding in jurisdictions across the world. Australia is increasingly viewed as a prime location for these centres.<sup>1</sup> While data centres are not new, given the increasing use of artificial intelligence (**AI**) and reliance on and use of online/cloud services, the scale and speed of the proposed development is unprecedented, requiring more space and resources to power them.<sup>2</sup>

In August 2026, the Australian Energy Market Operator (**AEMO**), recorded 225 data centre projects at ‘various stages of the connection process’ to the national electricity market, more than double the number reported the previous year.<sup>3</sup>

Governments across Australia are currently making decisions on significant and risky data centre proposals without the regulatory frameworks in place to understand, avoid and mitigate the impacts to Australia’s electricity grid, communities and environment. National regulation is needed to appropriately plan for data centre rollout, to ensure ecologically sustainable and community safe development of this significant industry.

### ***How are data centres a risk to Australia’s environment?***

Based on increasing evidence, data centre expansion, especially involving large ‘hyperscale’ or ‘AI factory’ data centres, is resource intensive, and carries significant, multifaceted risks for Australian environments and communities, including in relation to energy consumption, water demands, land consumption, pollution risks, and impacts on biodiversity and cultural heritage.

***Energy consumption:*** At a national level, AEMO forecasts data centre operational consumption will likely triple to around 15 TWh or 7.8% of Australia’s national electricity

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<sup>1</sup> See, for example, Department of Industry, Science and Resources (Cth) (**DISR**), *National AI Plan*, 2 December 2025, available at <<https://www.industry.gov.au/publications/national-ai-plan/capture-opportunities>>, ‘Capture the opportunities’; Australian Bureau of Statistics, *Spotlight – Data Centres in Economic Statistics*, 26 February 2026, available at <<https://www.abs.gov.au/articles/spotlight-data-centres-economic-statistics#cite-window2>>; ‘Australia’s data centre boom: a \$150 billion investment opportunity’ *CommBank Newsroom* (6 August 2026), available at <<https://www.commbank.com.au/articles/newsroom/2026/08/australias-data-centre-boom.html>>; Climate Council of Australia Limited, *Clouded Future: Managing the Risks of the Data Centre Boom*, 2026, available at <<https://www.climatecouncil.org.au/wp-content/uploads/2026/06/CC-Report-Data-Centres.pdf>>, p. 5.

<sup>2</sup> Climate Council, *Seizing the Opportunity to do Data Centres Right*, 3 June 2026, available at <[https://www.climatecouncil.org.au/what-does-the-data-centre-boom-mean-for-australias-switch-to-renewables/?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=DIG-TOF-NSP-AG-CON-DSA&utm\\_content=All%20Pages&gad\\_source=1&gad\\_campaignid=9878318096&gclid=EAlaIqobChMIgej8rtemlgMV3c48Ah2nMDZdEAAYASAAEgK48PD\\_BwE](https://www.climatecouncil.org.au/what-does-the-data-centre-boom-mean-for-australias-switch-to-renewables/?utm_source=google&utm_medium=cpc&utm_campaign=DIG-TOF-NSP-AG-CON-DSA&utm_content=All%20Pages&gad_source=1&gad_campaignid=9878318096&gclid=EAlaIqobChMIgej8rtemlgMV3c48Ah2nMDZdEAAYASAAEgK48PD_BwE)>.

<sup>3</sup> Note: not all of these centres will necessarily proceed; Australian Energy Market Operator, 2026 *Electricity Statement of Opportunities for the National Electricity Market*, August 2026, p 38 (**AEMO, 2026 Statement of Opportunities for the NEM**).

market by 2029-30 and grow nearly seven times this by 2035-36.<sup>4</sup> This amounts to almost as much electricity presently consumed by every home in NSW and Victoria.<sup>5</sup> This growing energy demand could slow the transition away from fossil fuels if new demand is met by additional fossil fuel generation rather than accelerating investment in renewable energy.

**Water demands:** It is estimated that water demand from data centres could increase from 5.5 GL in 2025 to 17GL by 2030 across Australia.<sup>6</sup> While estimates vary considerably, some predictions forecast data centres in Sydney could require up to 90 billion litres a year by 2035, approximately 15-20% of water supply.<sup>7</sup> Increased water consumption can place further stress on rivers, groundwater systems, groundwater dependent ecosystems and water supplies, particularly during drought and in a changing climate.

**Land consumption:** For Sydney's 1GW Mamre Road Data Centre campus alone, heralded as the 'biggest in the Southern Hemisphere', the industrial-zoned site equates to the size of approximately 52 rugby fields.<sup>8</sup> Changes in land use to accommodate new data centres can contribute to habitat loss and fragmentation through land clearing, impacts to First Nations cultural heritage, and the loss of productive agricultural or other environmentally valuable land.

**Pollution:** The potential reliance on fossil fuel power supplies for data centres, including diesel backup generators, risks significantly increasing climate pollution. For instance, the proposed Southern Highlands Data Campus proposes relying on a 673MW gas-fired power station, which reports estimate would alone emit an additional two million tonnes of carbon emissions per year, approximately the annual emissions from 800,000 cars.<sup>9</sup> The running of

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<sup>4</sup> AEMO, 2026 Statement of Opportunities for the NEM, p 38; Oxford Economics Australia prepared for AEMO, *Data Centre Energy Demand: 2026 Forecast Update*, June 2026, available at <<https://www.oxfordeconomics.com/wp-content/uploads/2026/08/OEA-AEMO-Data-Centre-Report.pdf>>, Executive Summary.

<sup>5</sup> Jake Evans, 'Data centres to consume nearly as much power as every home in NSW and Victoria by 2036' *ABC News*, 25 August 2026, available at <<https://www.abc.net.au/news/2026-08-25/data-centre-power-hungry-demand-2036/107070852>>.

<sup>6</sup> Mandala, *Data Centres as Enabling Infrastructure*, November 2025, available at <<https://mandalapartners.com/uploads/Data-Centres-as-Enabling-Infrastructure.pdf>>, p 9.

<sup>7</sup> Water Services Association of Australia, *Data Centres and Water in Australia: A resource for sustainable data centre development*, December 2025, available at <<https://wsaa.asn.au/Common/Uploaded%20files/library/report/WSAA%20Data%20Centres%20and%20water%20in%20Australia%20-%20December%202025.pdf?version=33348DA2>>, p. 8, referring to estimates from Sydney Water.

<sup>8</sup> NSW Treasurer, Minister for Innovation, Science and Technology, Minister for Planning and Public Spaces, *Southern Hemisphere's biggest data centre gets the green light*, Ministerial media release, 28 November 2025, available at <<https://www.nsw.gov.au/ministerial-releases/southern-hemispheres-biggest-data-centre-gets-green-light>>; B Cumbo and The Conversation Digital Storytelling Team, 'Can Australia Build on of the world's largest data centres?', *The Conversation*, 10 February 2026, available at <<https://stories.theconversation.com/can-australia-build-one-of-the-worlds-largest-data-centres/>>.

<sup>9</sup> NSW Department of Planning, Housing and Infrastructure, 'Planning Secretary's Environmental Assessment Requirements: Application No. SSD-102795459, Southern Highlands Data Campus Power Station', 22 December 2025, available at

data centres also discharges heat, light, noise, and chemicals which can cause significant disruption and harm to communities, environments, and ecological processes.

Collectively, these demands risk intensifying existing environmental impacts and increasing competition for scarce resources, rather than supporting a more sustainable, climate-resilient future for Australia.

Under a current application in the Northern Territory, the Project Ares hyperscale data centre project proposes to have 1 GW capacity, requiring:

- gas fired power generation capable of generating up to 1,038 MW (making it the largest gas fired power station in Australia) which will be the primary energy source during solar and battery construction and later firming up total project energy use;<sup>10</sup>
- a 7,000-hectare solar farm capable of generating up to 3,000-megawatt peak and battery storage of 16 gigawatt hours;<sup>11</sup>
- 4GL of groundwater per year;<sup>12</sup>
- a total area of 186,000 hectares, including at least 19,150 hectares of vegetation clearing (more than the size of the City of Darwin), affecting habitat for the Greater Bilby and other threatened species along with clearing of potential significant vegetation;<sup>13</sup> and
- extensive supporting infrastructure, including access roads, worker accommodation, workshops, waste management facilities and an airstrip.<sup>14</sup>

### ***What can be done to mitigate environmental risks?***

At this pivotal stage, there is opportunity for Australia to be a global leader in the conscious and responsible design, construction, and operation of data centres, enabling mitigation of the serious risks they pose, and harnessing key technological and economic advantages. At present, there are multiple proposals for significant data centre developments being pushed through without adequate laws in place to ensure the potential impacts are understood, and centres are sustainably developed for communities and the environment.

The rapid rollout of data centres and eagerness to secure economic benefits must not be to the detriment of First Nations communities, urban, regional or remote communities,

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<<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-102795459%2120251222T014859.011+GMT>>, p 1; Climate Council, *Clouded Future: Managing Risks of the Data Centre Boom*, June 2026, available at <<https://www.climatecouncil.org.au/wp-content/uploads/2026/06/CC-Report-Data-Centres.pdf>>, p 21.

<sup>10</sup> Energy North, 'Project Ares: Referral under the *Environment Protection Act 2019 (NT)*', June 2026, available at <[https://ntepa.nt.gov.au/\\_\\_data/assets/pdf\\_file/0015/1622103/referral-report.pdf](https://ntepa.nt.gov.au/__data/assets/pdf_file/0015/1622103/referral-report.pdf)>, pp 12-13 (**Energy North, Project Ares Referral under EP Act (NT)**).

<sup>11</sup> Energy North, Project Ares Referral under EP Act (NT), pp 20, 37.

<sup>12</sup> Energy North, Project Ares Referral under EP Act (NT), p 20.

<sup>13</sup> Energy North, 'Project Ares: Draft Statement of Reasons', June 2026, available at <[https://ntepa.nt.gov.au/\\_\\_data/assets/pdf\\_file/0019/1622107/project-ares-draft-sor.pdf](https://ntepa.nt.gov.au/__data/assets/pdf_file/0019/1622107/project-ares-draft-sor.pdf)>, p 4.

<sup>14</sup> Ibid, p 1.

ecological sustainability and environmental integrity, or Australia's climate change, biodiversity, and human rights protections. Nor should it derail Australia's efforts to tackle the climate and biodiversity crises, or the renewable energy transition. Australia will benefit from taking the time to get appropriate laws in place, to do data centre development right.

## **EDO Data Centre Principles**

EDO has developed the following 14 Data Centre Principles (the **Principles**) to provide a clear pathway for planning, assessment and approval of ecologically sustainable and community safe data centres and associated infrastructure and use of resources.

Establishing a comprehensive regulatory framework for data centres, which could take the form of national, mandatory and enforceable ecologically sustainable minimum standards, is essential to ensure data centres are appropriately located, sited, designed, operated, and ultimately decommissioned. Any such regulatory framework must ensure data centres avoid, minimise and mitigate adverse impacts on the natural environment and associated ecological processes, air quality, water resources, energy supply and the renewable energy transition, First Nations rights, cultural heritage and Country. There must also be clear, mandatory requirements for Free, Prior and Informed Consent (**FPIC**) and be co-designed with impacted First Nations communities.

For the purpose of this document, **data centres** include: any facility that houses IT equipment, including servers, network and storage equipment, for the purposes of providing services and applications, including training of or hosting AI models, as well as all associated and supporting infrastructure.<sup>15</sup>

While acknowledging the increasing use of AI and cloud services are contributing factors to the data centre expansion, these Principles do not consider or address regulation of AI. We recognise that there is a role however for community education on the environmental impacts associated with the demand for AI and that AI usage should be undertaken responsibly with this in mind.

### Ensuring ecologically sustainable data centre development nationally

#### **1. A moratorium is established until ecologically sustainable and community safe regulations are in place across Australia**

A moratorium must be established across all states and territories on the assessment or approval of data centres, until an appropriate regulatory framework is in place to properly avoid and mitigate harm. Until then, in the absence of a moratorium, data centre development may progress largely unchecked: carrying risks of significant

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<sup>15</sup> Including, for example, electricity/power supply and back-up power supply systems and connections, fibre networks, battery storage, physical security measures, internal and access roads, rail infrastructure, workforce accommodation, renewable and other energy infrastructure, and water supply infrastructure.

environmental and community impacts, inconsistent requirements across jurisdictions, and regulatory fragmentation.

## **2. A national, legislated, enforceable and ecologically sustainable regulatory framework be developed and apply to all data centres in Australia**

Given the appeal of Australia to data centre developers and investors, including stability, security, space and abundant renewable energy potential, ensuring a nationally consistent approach to regulation, planning and approvals, would reduce the risks of inappropriate, ad hoc development and provide clear, coherent expectations and requirements for all data centres.

A national regulatory framework, such as mandatory and enforceable minimum standards, must entrench a requirement for development to be in accordance with principles of ecologically sustainable development. These principles include the precautionary principle, conservation of biological diversity and the principle of intergenerational equity. Adopting such an approach would be consistent with Australia's international obligations.

Such a regulatory framework and decision-making must be based on the best available science, including First Nations Traditional Knowledge Systems, and must apply the precautionary principle where there is a lack of scientific certainty.

### *Data centre design, technical aspects and sustainability considerations*

## **3. Data centres must be powered by their own, additional, renewable energy sources only, and must further the energy transition, not undermine it**

Data centre expansion will require significant use of electricity and back-up power generation (often provided by diesel powered generators). This demand threatens to increase electricity costs, strain national electricity grids and upset Australia's energy transition if it is not powered by new additional renewable energy sources.<sup>16</sup>

No new or expanded data centres should be permitted to rely on fossil fuels as a power source, or for back-up power generation. Australia has committed to reducing its greenhouse gas emissions consistent with a carbon budget based on science and international commitments to pursue a limit of 1.5°C global warming above pre-industrial levels.<sup>17</sup>

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<sup>16</sup> New renewable energy sources must also be developed in a way that is ecologically sustainable, see EDO, *12 Principles for Renewable Energy Transition Projects*, available at <<https://www.edo.org.au/edos-12-principles-for-renewable-energy-transition-projects/>>.

<sup>17</sup> International Court of Justice, *Obligations of States in Respect of Climate Change* [2025] ICJ Rep 187, available at <<https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>>, [224], [230]-[231].

A regulatory framework must include:

- proponent funded additional renewable energy requirements;
- energy efficiency requirements (for example, a maximum power usage effectiveness (**PUE**) value);
- load shifting abilities (including the ability to reduce grid demands during peak periods);
- specifications for back-up generator emissions standards, and battery requirements, including requirements for investment in research and development of alternatives to fossil-fuel powered back-up generators; and
- requirements to ensure that there is no diversion of power away from consumers, and there are no additional costs to consumers for data centre connection or use of grid infrastructure or energy.

#### **4. Data centres must be designed to have minimal impacts on water resources**

Data centres can have significant impacts to water and must be located and designed to have minimal impacts on Australia's water resources and the ecosystems, communities, and food systems that depend on them. This includes:

- utilising sites where water requirements can be met through municipal grey water or other water re-use options, with strict limits on potable water and environmental water use (which includes rainwater, groundwater, and surface water);
- identifying and excluding sites where no sustainable water supply exists, or the water system is inadequately understood or regulated. No special licenses should be granted for data centres to use water from already fully allocated water supplies;
- utilising the most water efficient technology for all water use requirements, including cooling;
- accounting for energy generation water requirements in data centre assessment;
- avoiding impacts of discharging wastewater or other fluids to receiving environments, including chemical or thermal water pollution;
- accounting for changes to water availability that may occur under climate change in assessment and decision-making; and
- avoiding any impact to the cultural flows and First Nations rights and interests in water and water allocations.

Connection of data centres to water utilities and use of water resources should carry no additional costs to consumers. Data centres must be required to fund their own infrastructure and energy source required to transfer water and/or treat wastewater (with least environmentally harmful treatment options required to be used).

Contingency plans must be established for periods of drought, ensuring household and environmental water needs are prioritised.

First Nations communities hold a deep cultural, customary, and spiritual connection to water (both surface water and groundwater). This includes the cultural flows of water that informs First Nations cultural landscapes and connection to their traditional country. Data centres and their significant water use risk infringing First Nations rights related to water and cultural heritage where First Nations communities hold a deep cultural, customary, and spiritual connection to water (both surface water and groundwater). A regulatory framework must recognise First Nations right to self-determination and FPIC in all decision-making processes related to water and water resources by centring and resourcing First Nations voices, knowledge, and expertise.

**5. Pre-planning and strategic environmental assessments must be undertaken nationally to ensure appropriate siting of data centres to mitigate risk of impacts**

Pre-planning should be undertaken across Australia to select appropriate sites for data centres to have least impacts. This will also facilitate speedier development while mitigating risks.

This pre-planning of data centre siting, including of supporting infrastructure, should be consulted upon early and should provide for a coherent strategic framework designed to meet national, state and territory energy and emissions reduction targets. Regional pre-planning and robust strategic environmental assessments should be used to:

- identify and prioritise community safe and ecologically sustainable data centre development on land which:
  - has previously been developed, impacted or degraded, including existing infrastructure corridors;
  - will minimise impacts on ecosystems and biodiversity;
  - will minimise impacts on water resources and where water requirements for data centres can be sustainably met;
  - will ensure impacts of air pollution, sensory (including light and noise) pollution, chemical pollution, and heat discharge from data centres will have minimal impacts on communities and biodiversity;
  - consistent with Principle 9 below, as determined and led by relevant First Nations, will avoid and protect cultural heritage, including culturally

significant sites, objects, and landscapes, and both tangible and intangible heritage, informed by First Nations knowledges, where affected First Nations determine what is a significant site, or what is cultural heritage, whether and how to identify significant sites, and how such sites should be protected, including any location of data centres and associated infrastructure;

- mitigates cumulative impacts on habitats, biodiversity, and ecosystem services, including with consideration of current and future climate impacts;
- ensure robust environmental data is obtained to identify areas for potential data centres and related developments, including on biodiversity, ecology and ecosystem services, hydrology – groundwater, surface water, wetlands, and natural cultural heritage and any other relevant matter; and
- identify areas that are off-limits for data centre development, such as national parks, World Heritage areas and values, high conservation value land, critical habitats, wetlands and other sensitive or vulnerable ecological areas, with appropriate buffers provided.

#### **6. Data centre design must include air, sensory, and chemical pollution and heat discharge mitigation measures**

Data centre design and planning (including back-up power generation) must identify sites where air, sensory, and chemical pollution, and heat discharge from data centres will have minimal impacts and disturbances on communities and biodiversity. Design specifications must also minimise all of these impacts and include measures to ensure containment of unplanned contamination, such as PFAS and coolant leakage. Species-specific assessments should be conducted for data centres to ensure light, noise, chemical discharge, and heat do not exceed thresholds that may adversely impact species, especially threatened species. Assessments must also avoid the impacts of air, sensory, and chemical pollution and heat discharge on communities.

#### **7. Data centre design must include whole-of-life impacts and cost assessments, including measures to minimise waste and e-waste, and recycling or responsible disposal and decommissioning**

Data centre planning and assessment processes must include consideration of the entire lifecycle of a data centre and a requirement to avoid and mitigate impacts at all stages. This includes fully funded rehabilitation, restoration, and recycling plans for end-of-project works, informed by best available science and aligning with best practice.

Rehabilitation obligations must be guaranteed by adequate and enforceable bond conditions on any relevant authority. Recycling and re-use of equipment and appropriate disposal of e-waste should be prioritised and factored into planning and assessment processes.

#### **8. Data centre design must consider future climate change impacts on the environment and communities**

Climate change must be a relevant consideration in all data centre design, planning, and decision-making, including the extraction and use of water. Any regulatory framework must ensure that future climate change impacts are addressed for all data centres, including that such impacts are avoided or mitigated in data centre design and development. Such considerations must include:

- water use adaptation, including flexibility to adjust to drought conditions and water restrictions to ensure ecosystem and critical human water needs are met;
- heat discharge and rising temperatures;
- land use change and vegetation clearing, and avoiding important carbon sinks and potential future climate ex-situ refugia; and
- bushfire risks.

#### **9. Data centre regulation and development must provide for effective and meaningful First Nations engagement, participation and consent in the design, delivery, and benefits of data centres**

All decisions regarding data centres must reflect FPIC of First Nations and the inherent rights of First Nations people reflected in the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**). FPIC involves the inherent collective right of First Nations to participate in decision-making about issues and laws that affect their lives, lands, waters, skies, and resources, and to grant or withhold consent as they see fit.

Any regulatory framework for data centre developments, approvals and decommissioning, including national standards, must be co-designed with affected First Nations communities and their representative organisations.

Any regulatory framework must also specifically require data centre proponents to undertake early, iterative, culturally appropriate engagement and participation of First Nations people and their representative organisations. Among other things, this engagement is required to ensure, as determined and led by relevant First Nations and informed by First Nations knowledges and rights to FPIC and self-determination, that data centre design, delivery and decommissioning identifies and protects cultural heritage, including culturally significant sites, objects and landscapes, and

both tangible and intangible heritage. First Nations must be resourced to effectively engage in the design, delivery and benefits of data centres, policies, and decision-making processes relating to data centres, as they see fit.

#### **10. Certain areas and impacts must be identified as unacceptable and off-limits for data centres**

Areas where data centre proposals will be clearly unacceptable must be identified and protected upfront. This should include, for example:

- culturally significant sites and landscapes (as identified by relevant First Nations communities);
- national parks;
- World Heritage areas and values;
- national heritage areas;
- the marine estate;
- high conservation value land;
- critical habitats;
- wetlands;
- areas that contain irreplaceable habitats/features or features that cannot be offset within a reasonable ecological timeframe that will benefit a species; and
- areas where water extraction will have unacceptable impacts on dependent ecosystems, including under climate change induced future changes to rainfall.

#### **11. Data centres must avoid and minimise impacts, and only use carbon and biodiversity offsets for unavoidable impacts as a last resort**

Data centres must avoid and minimise impacts on land, water, biodiversity, as well as emissions from energy use and back-up generators. Offsets should only be relied on as a last resort to minimise the residual, unavoidable impacts of data centres, after first genuinely avoiding, mitigating or abating impacts.

Any design of offset projects involving First Nations should be based on FPIC.

#### **Decision-making, integrity, and social licence**

#### **12. Data centre proposals must be subject to community engagement and consultation, to ensure data centres have social licence**

Proposals for data centres should be supported by best practice community engagement and consultation. This includes, for example, early, ongoing, and meaningful engagement with the public. Consultation should be culturally appropriate, genuine, respectful, purposeful, and proportionate, where community

views are considered, inform the final decision, and are responded to (including whether community views have been incorporated and if not, why not). There are significant benefits of early and open engagement with communities about data centre siting, design, impacts, and benefits. This can reduce land-use and other resource-related conflicts, including, for example, regarding water use and resources, and power use and sources, delays, and costs.

### **13. All data centres must comply with human rights obligations and environmental justice principles, and be subject to mandatory due diligence requirements**

All decisions and activities relating to data centres must comply with Australia's international and domestic human rights obligations, and in particular, the substantive and procedural elements of the right to a healthy environment, and environmental justice principles. Particular attention should be given to the rights and needs of all individuals and communities, including communities who are already overburdened such as those living in remote areas.

Government departments and Australian corporations must also act consistently with their responsibilities under International Covenant on Civil and Political Rights (**ICCPR**), International Covenant on Economic, Social and Cultural Rights (**ICESCR**) and the UNDRIP, as well as the United Nations Guiding Principles on Business and Human Rights (**UNGPs**). This includes the corporate responsibility of Australian corporations to respect human rights, and Australia's responsibility to protect against human rights abuses from third parties including Australian corporations.

Any regulatory framework must impose mandatory due diligence requirements on data centre proponents, that require the identification of risks of environmental harm and human rights breaches across domestic and extraterritorial activities and supply and value chains.

### **14. Data centres must be subject to robust reporting and transparency requirements, and planning and assessment processes must ensure transparent and accountable decision-making**

Assessment and decision-making in relation to all data centres must be transparent and comprehensive. Merits review rights must be available to provide for better scrutiny of decisions, and to ensure decision-maker accountability. Strong third-party enforcement rights similarly empower citizens to hold decision-makers and data centre proponents to account, and these measures must be backed up by easily accessible and timely information on all data centre proposals, decisions, and conditions.

Data centres must also be subject to regular monitoring and reporting requirements in relation to environmental and community impacts, including with respect to:

- energy use;
- impacts on energy grids;
- water use/demand;
- wastewater production;
- planned treatment methodologies;
- the effectiveness or otherwise of mitigation measures for ongoing pollutants; and
- fulfillment of biodiversity offset obligations.

Such information must be made publicly available in a timely way and is critical for transparency, as well as planning and management of the energy system, water resources and biodiversity impacts.

The National EPA, state and territory regulators, or other appropriate entities, must be adequately resourced to assist data centre proponents to understand their obligations under any regulatory framework and locate and design data centres that will minimise environmental and community impacts.

There must be inspection/audit requirements to ensure ongoing oversight of data centres, including the establishment or appointment of a federal body, to ensure public accountability and to monitor deployment and effectiveness of rapidly developing technology in data centres. This could be the National EPA if adequately resourced with expertise and staff.

Any new or appointed oversight body should be federally funded and include First Nations representation.

Australia has an opportunity to get data centre development right from the outset of the current boom. Data centres can deliver economic and technological benefits, but those benefits should not come at the expense of Australia's climate, water, biodiversity, cultural heritage, or communities.

Getting the rules right now will provide greater certainty for communities, governments and industry, avoid costly environmental and infrastructure problems later, and ensure Australia's digital future strengthens — rather than undermines — a sustainable and climate-resilient future.