Submission to the Senate Environment and Communications References Committee: Inquiry into Artificial Intelligence and Data Centres

Darcy WE Allen and Chris Berg[1]

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1 Introduction

We welcome the opportunity to contribute to the Senate Environment and Communications References Committee's Inquiry into Artificial Intelligence and Data Centres as academics specialising in innovation policy, technology regulation, and frontier technologies. Each of us lecture and research in artificial intelligence and the digital economy.[2]

Australian policymakers have decided that they want artificial intelligence sovereignty, data sovereignty, and a domestic compute capacity that does not leave the country hostage to decisions made elsewhere. But Australia cannot have sovereign compute without data centres. A data centre is a general-purpose industrial infrastructure that host critical economic services like banking, government records, health systems, logistics and streaming video. Data centres now host AI workloads as well. Treating data centres as though they are a novel development of the new artificial intelligence industry invites bad regulation and bad regulatory outcomes.

In December 2025 the Albanese government released a National AI Plan committing to "sovereign capability in AI".[3] On 12 December 2025 Australia became a founding signatory to the United States–led "Pax Silica" declaration on securing technology supply chains, a declaration premised on the proposition that "the 21st century runs on compute".[4] And on 23 March 2026 it issued 'Expectations' for data centres and AI infrastructure developers — an instrument that does not amend the current regulatory landscape.[5]

But we believe that there is a genuine risk that a moral panic about AI is being directed onto the most visible and immobile target available — the physical infrastructure that drives the digital

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[1] Associate Professor Darcy WE Allen and Professor Chris Berg, School of Economics, Finance and Marketing, College of Business and Law, RMIT University. This submission is provided in our personal capacity.

[2] See for example, Chris Berg (2026) *Artificial Intelligence: A Classical Liberal Approach*, Palgrave Macmillan; Waters-Lynch, J. et al. (2025) "Shadow user innovation: governing covert generative-AI use for dynamic-capability renewal," *Innovation*, pp. 1–17; Darcy W.E. Allen, Chris Berg, and Sinclair Davidson (2020) *The New Technologies of Freedom*, American Institute for Economic Research.

[3] Department of Industry, Science and Resources, *National AI Plan* and Ministers' foreword (Senator Tim Ayres and Dr Andrew Charlton MP), December 2025, https://www.industry.gov.au/publications/national-ai-plan. The foreword commits to "building sovereign capability in AI" as "a key pillar of the government's Future Made in Australia agenda."

[4] Department of Industry, Science and Resources, "Australia signs Pax Silica Declaration to secure our digital future," 13 December 2025, https://www.industry.gov.au/news/australia-signs-pax-silica-declaration-secure-our-digital-future

[5] Department of Industry, Science and Resources / Ministers Ayres, Bowen and Charlton, "An Australian approach to AI: Expectations for data centres that deliver for Australians," 23 March 2026, https://www.minister.industry.gov.au/ministers/timayres/media-releases/australian-approach-ai-expectations-data-centres-deliver-australians.

economy — and that any resulting regulation could entrench incumbents, invite rent-seeking, and place at risk the sovereign compute capacity that policymakers want to prioritise. To the extent that artificial intelligence requires policy reform, "data centres" are the wrong target for regulation.

2 Sovereignty and compute are complements

Commonwealth policy has repeatedly stated that establishing AI and data sovereignty is a national priority. The National AI Plan promises to build "sovereign capability in AI" as "a key pillar of the government's Future Made in Australia agenda."[6] The Minister for Industry and Innovation has framed onshore infrastructure as ensuring that "Australian data benefits Australians — not offshore jurisdictions."[7] The Commonwealth has contracted Amazon Web Services to build a "sovereign Top Secret Cloud" for defence and intelligence.[8] And through the Digital Transformation Agency's Hosting Certification Framework, the government already *mandates* that sensitive and classified government data be hosted in certified, onshore, sovereignty-vetted facilities.[9]

This sovereign capability requires physical infrastructure. The sovereign Top Secret Cloud is a data centre. The certified hosting providers are data centres. "Sovereign compute" requires GPUs in racks in buildings drawing power on Australian soil. There is no path to sovereign-compute that does not require physical data centres. The Hosting Certification Framework is, in effect, a demand-side mandate for onshore data centres. Any policy that constrains data centre build-out constrains the Commonwealth's own ability to meet its own data-sovereignty rules.

Additionally, access to advanced compute and chips is now an openly negotiated, geopolitical strategic good.[10] Australia has formally committed to securing compute supply chains with its allies. If at the same time we treat domestic compute infrastructure as a burden, we will not be able to achieve our own stated strategic posture.

3 A data centre is not the same as artificial intelligence

The data centre industry is not a novel creation of the post-ChatGPT artificial intelligence. Australia has had institutional computing facilities since CSIRAC in 1949. We have had a commercial data centre industry since the early 2000s. Nor are hyperscalers new to Australia.

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[6] Department of Industry, Science and Resources, *National AI Plan* and Ministers' foreword (Senator Tim Ayres and Dr Andrew Charlton MP), December 2025, https://www.industry.gov.au/publications/national-ai-plan. The foreword commits to "building sovereign capability in AI" as "a key pillar of the government's Future Made in Australia agenda."

[7] Department of Industry, Science and Resources / Ministers Ayres, Bowen and Charlton, "An Australian approach to AI: Expectations for data centres that deliver for Australians," 23 March 2026, https://www.minister.industry.gov.au/ministers/timayres/media-releases/australian-approach-ai-expectations-data-centres-deliver-australians.

[8] Australian Government / Defence Ministers, "Australian Government partners with Amazon Web Services to bolster national defence and security," 4 July 2024, https://www.minister.defence.gov.au/media-releases/2024-07-04/australian-government-partners-amazon-web-services-bolster-national-defence-security (AWS to "establish a sovereign TS Cloud in Australia"; investment of at least A$2 billion over a decade).

[9] Hosting Certification Framework, https://www.hostingcertification.gov.au/framework.

[10] Department of Industry, Science and Resources, "Australia signs Pax Silica Declaration to secure our digital future," 13 December 2025, https://www.industry.gov.au/news/australia-signs-pax-silica-declaration-secure-our-digital-future; and *The Pax Silica Declaration by countries attending the Pax Silica Summit, 12 December 2025*, https://www.industry.gov.au/publications/pax-silica-declaration-countries-attending-pax-silica-summit-12-december-2025

For example: Amazon Web Services opened its Sydney cloud region in 2012; Google Cloud in 2017; Microsoft's Canberra government regions opened in April 2018 — all *before* the generative-AI moment of late 2022.[11] The firms building "AI data centres" in 2026 are largely the same firms that built the country's cloud capacity over the preceding decades. This is an established industry adding capacity for new demand.

More fundamentally, data centre infrastructure is largely fungible. The buildings, the land, the grid connection and substations, the backup power, the cooling, the security, the network fabric, and the installed base of conventional CPU servers and storage all serve the entire digital economy — government records, banking, health, logistics, web, streaming video — of which AI is one workload among many.

It is true that there *is* a genuinely AI-specific tier of infrastructure: high-density GPU clusters and purpose-built training infrastructure. But that AI specific tier is a minority tier *within* what is a fundamentally general-purpose industry — and that tier is defined by its workload and equipment, not by the building or its size. The government's 2026 Expectations apply to large-scale AI compute centres but exempt small-scale edge and on-site enterprise facilities.[12] In other words, they draw their regulatory distinction by size, not by whether a facility does anything to do with AI.

4 Conclusion

Government should focus on regulating harms, not technologies — nor the land, the buildings, or the infrastructure the technology happens to run on. This is the settled doctrine of good regulatory practice. We have argued elsewhere that this should guide how the state meets each new wave of technology.[13] New technologies and new business models ought to be allowed to develop and disseminate unless and until they cause clear and concrete harm — what Adam Thierer calls "permissionless innovation" — and then to regulate that harm if and when it appears.[14]

Constraining data centre build-out to guard against speculative harms would impose serious certain costs — foregone investment, higher prices, slower technological innovation and adaptation, and hold back the sovereign-compute capacity the government says it wants. While the precautionary principle has an intuitive appeal, as Cass Sunstein has shown, applied strictly

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[11] AWS, "Announcing the AWS Asia Pacific (Sydney) Region," 12 November 2012; Google "Google Cloud Platform expands to Australia with new Sydney region - open now", 21 June 2017; Microsoft, "Microsoft First to Offer Azure Cloud Regions for Australian Government" (Canberra), 14 August 2017.

[12] Department of Industry, Science and Resources / Ministers Ayres, Bowen and Charlton, "An Australian approach to AI: Expectations for data centres that deliver for Australians," 23 March 2026, https://www.minister.industry.gov.au/ministers/timayres/media-releases/australian-approach-ai-expectations-data-centres-deliver-australians.

[13] We develop this argument at greater length in Darcy W. E. Allen, Chris Berg and Jason Potts, *Institutional Acceleration: The Consequences of Technological Change in a Digital Economy* (Cambridge: Cambridge University Press, Cambridge Elements in Evolutionary Economics, 2025). On the costs of Australia's regulatory approach more broadly, see Darcy W. E. Allen, Chris Berg, Aaron M. Lane and Patrick A. McLaughlin, "The Political Economy of Australian Regulatory Reform," *Australian Journal of Public Administration* 80, no. 1 (2021): 114–137; and Darcy W. E. Allen and Chris Berg (eds), *Australia's Red Tape Crisis: The Causes and Costs of Over-regulation* (Brisbane: Connor Court, 2018).

[14] Adam D. Thierer, *Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom* (Arlington, VA: Mercatus Center, George Mason University, 2016).

it “is literally paralysing — forbidding inaction, stringent regulation, and everything in between,” because every course of action, including doing nothing, carries a risk.[15]

An additional danger is for data centre regulation at this stage is rent-seeking. As George Stigler famously wrote “regulation is acquired by the industry and is designed and operated primarily for its benefit.”[16] A bespoke data centre regime with its own definitions, thresholds, certifications and compliance burdens is exactly the kind of structure that incumbents have every incentive to shape and that new entrants cannot easily clear. The early, fluid stage of a technology is when these barriers are easiest to erect and hardest to see, because they arrive dressed as safety, sustainability or sovereignty.

The committee asks whether existing frameworks are effective at managing the growth of data centres, and what the impacts of AI and data centres might be. The question is poorly formulated. Data centres are not AI; they are a general-purpose industrial infrastructure that mostly does other things. Their growth as an industry is necessary for sovereign compute capacity.

The right response to any genuine regulatory gap is to tune existing instruments of general applicability not to build a bespoke regime around a particular type of building. The alternative approach invite over-reach, hand incumbents a vehicle for rent-seeking, and risk Australian national priorities.

[15] Cass R. Sunstein, “Beyond the Precautionary Principle,” 151 *University of Pennsylvania Law Review* 1003 (2003).
[16] George J. Stigler, “The Theory of Economic Regulation,” 2 *Bell Journal of Economics and Management Science* 3 (1971), at 3.