Environmental Defenders Office

Submission to the Parliamentary Inquiry into AI Data Centres in Lutruwita (Tasmania)

21 September 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

Submitted to:

The Committee Secretary
Government Administration Committee A, Inquiry into AI Data Centres in Tasmania
House of Assembly
Parliament House, Hobart TAS 7000

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Acknowledgement of Country

The Environmental Defenders Office (**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 Tasmanian Aboriginal people/Community. We acknowledge that not all Tasmanian Aboriginal people will identify with those terms 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.

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Executive Summary

1. Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Inquiry into AI Data Centres in Tasmania. We have recently prepared EDO principles on data centre developments in Australia ('**Principles**', **enclosed**) and made a Submission to the Senate Inquiry into artificial intelligence and data centres, which we will provide once published by the Senate Committee. In making this submission, we encourage the Standing Committee on Government Administration A ('**Committee**') to also consider EDO's Principles and our Submission to the Senate Inquiry. We anticipate further consultation opportunities in relation to the proposed regulatory framework in Lutruwita (Tasmania) and will provide further recommendations at that time.

2. EDO urges the Committee to ensure effective engagement with the public in undertaking this Inquiry and developing the regulatory framework in Lutruwita (Tasmania). This must include effective and meaningful engagement with the Tasmanian Aboriginal Community through targeted consultation and participation, including opportunities for the Committee to take evidence in communities if requested.

3. Data centre expansion, especially involving large 'hyperscale' or 'AI factory' data centres, is resource intensive and carries significant, multifaceted risks for environments and communities in Lutruwita (Tasmania) – including in relation to energy consumption, water demands, land consumption, pollution risks, and impacts on biodiversity and Cultural Heritage. With two development proposals for AI data centres already approved, one currently being assessed, and six more data centre proposals on the way, the Government needs to take urgent steps to ensure the regulatory framework in Lutruwita (Tasmania) is adequate to address these risks.

4. EDO recognises that the regulation of AI data centres is complex and multifaceted. As a national community legal centre specialising in public interest and environmental law, our submission only considers the aspects of the Inquiry Terms of Reference that are within our area of expertise. It is structured in three parts.

   Part 1 – Environmental Impacts of AI Data Centres
   This part details the potential environmental impacts and risks associated with the development of AI and data centres in Australia and Lutruwita (Tasmania), including:
   - considerable energy consumption and the risk of undermining Australia's renewable energy transition;
   - potential risks to water resources due to intensive water demands;
   - extensive land usage, including for ancillary infrastructure; and
   - social and ecological health impacts.

   Part 2 – Impacts on First Nations rights and interests and human rights
   This part highlights the likely effects of rapid data centre developments on the Tasmanian Aboriginal community, and risks to human rights more broadly. It makes recommendations based on fundamental obligations under international law to ensure the rights of Tasmanian Aboriginal people and the community generally.
   Part 3 – Regulation of AI data centres in Lutruwita

This part outlines our recommendations for appropriate regulation of AI data centres in Lutruwita (Tasmania), addressing the need for:

- amendments to the Tasmanian Resource Management and Planning System (**RMPS**) to ensure adequate planning assessment and thorough environmental impact assessments are done;
- water resource planning and regulation to control water usage by AI data centres and ensure water security;
- energy regulation – in particular the need to legislate requirements that AI data centre proponents supply at least 100% of their energy needs through new renewable energy;
- pre-planning and strategic environmental assessments to ensure appropriate siting of AI data centres, including identifying unacceptable areas and/or impacts, to avoid or mitigate impacts and support sustainable development;
- all amendments to the Tasmanian regulatory framework to be informed by complete, accurate and publicly available research about the potential impacts;
- robust community consultation on any proposed changes to the regulatory framework;
- transparent and accountable decision-making and clear annual public reporting obligations on AI data centre developers; and
- a moratorium on data centre developments, until the Tasmanian regulatory framework has been updated and is fit for purpose.

Summary of Recommendations

Recommendation 1: The Committee should ensure and facilitate effective engagement with the Tasmanian Aboriginal Community in the Inquiry, in accordance with principles of self-determination and Free, Prior and Informed Consent.

Recommendation 2: Decisions regarding AI data centre developments in Lutruwita (Tasmania), including the regulatory framework that applies and assessment processes for individual projects, must reflect the inherent rights of First Nations peoples captured in the United Nations Declaration on the Rights of Indigenous Peoples, including the requirement to obtain their Free, Prior and Informed Consent concerning laws, policies and projects impacting them.

Recommendation 3: Through engagement with the Tasmanian Aboriginal Community, ensure that AI data centre projects in Lutruwita (Tasmania) are appropriately located, designed, operated and ultimately decommissioned, to ensure development avoids adverse impacts on First Nations Country and Cultural Heritage, as determined by the Tasmanian Aboriginal Community, and access to their land, water and resources.

Recommendation 4: Decision-making about, and monitoring and evaluation of, AI data centres in Lutruwita (Tasmania) must be based on the best available science, including First Nations knowledges, while retaining First Nations control of this knowledge and expertise, including by instituting strong legal protections for Indigenous Cultural and Intellectual Property.

Recommendation 5: Legislate a Tasmanian Human Rights Act, including the right to a healthy environment, which should underpin the Tasmanian regulatory framework.

Recommendation 6: The Tasmanian regulatory framework must ensure that AI data centres not be permitted to breach human rights, including the right to a healthy environment.

Recommendation 7: The Tasmania Planning Scheme be amended, through a research-informed and consultative process, to ensure adequate controls are in place for assessment of AI data centre proposals in Lutruwita (Tasmania).

Recommendation 8: The *Environmental Management and Pollution Control Act 1994* (Tas) be amended to ensure AI data centre proposals are subject to full environmental impact assessment by the Board.

Recommendation 9: Environment Protection Authority decisions, including decisions of the Environment Protection Authority Board not to assess an activity referred to it, should be transparent and open to third parties for external review, with legislated open standing provisions for judicial and merits review.

Recommendation 10: The framework for managing the sustainable use and supply of water in Lutruwita (Tasmania), including the *Water Management Act 1999* (Tas), must be reviewed and amended to ensure it incorporates principles regulating water usage by AI data centres in Lutruwita (Tasmania).

Recommendation 11: Tasmanian legislation must be amended or introduced to mandate that all AI data centre proposals must be fully powered by their own additional renewable energy sources.

Recommendation 12: The Tasmanian regulatory framework must require pre-planning and strategic environmental assessments to ensure appropriate siting, including identifying unacceptable areas, with offsets only to be used as a last resort and in accordance with the mitigation hierarchy.

Recommendation 13: Tasmanian laws must require AI data centre design to incorporate whole-of-life considerations and requirements to avoid impacts and include air, thermal, sensory and chemical pollution standards and mitigation measures.

Recommendation 14: Amendments to the Tasmanian regulatory framework for AI data centres must be informed by complete, accurate and publicly available research regarding the potential impacts of AI data centres.

Recommendation 15: Robust consultation must be undertaken on any proposed changes to Tasmanian law and policy relating to assessment and regulation of AI data centre developments in Lutruwita (Tasmania).

Recommendation 16: The Tasmanian regulatory framework must incorporate accountability and transparency through decision-making to ensure it is in the public interest, including particularly:

a. the right to information, by imposing comprehensive and ongoing reporting obligations on proponents, including in relation to energy and water usage and sourcing, land impacts, pollution and potential community impacts;
b. the right to meaningful participation, by enshrining community consultation rights; and
c. access to justice, by providing for merits review rights and third-party enforcement.

Recommendation 17: The Tasmanian Government must impose a moratorium on development of AI data centres in Lutruwita (Tasmania) until the Tasmanian framework is legislated to ensure development is sustainable and impacts on the environment, First Nations and communities more generally are avoided.

Introduction

5. Increasing demand for, and use of, artificial intelligence (**AI**) has led to an influx of investment in data centres worldwide and Australia is rapidly emerging as a data centre hotspot.[1] In 2024, Australia was second only to the United States of America for highest capital investment in data centres globally.[2]

6. The substantial energy and water needs of AI data centres mean that rapid development of this industry will have extensive implications for the environment. Nationally, the Australian Energy Market Operator forecasts data centre energy consumption will increase to nearly 35 TWh by 2035-36, which is almost seven times more than the energy usage that is forecast for 2029-2030.[3] It is estimated that water demand from data centres could increase from 5.5 GL in 2025 to 17 GL by 2030 across Australia.[4]

7. The Federal Government's promotion of Australia as a leading location for data centre investment globally has led to jurisdictional competition. Several states have outlined aspirations to be leaders in data centre development in Australia,[5] including the Tasmanian Government.[6]

8. We reiterate the recommendations made in EDO's Submission to the Senate Inquiry into artificial intelligence and data centres on the need for a national regulatory framework for data centres and AI infrastructure in Australia.[7] Consistent standards for data centres nationally are essential to ensure AI and data centre development is sustainable and negative impacts on the environment, First Nations and communities more generally are avoided.

9. In 2018, the Tasmanian Office of the Coordinator-General published its 'Data Centre Action Strategy' (**Action Strategy**), which 'outlines the Tasmanian Government's approach to attracting large-scale data centre investment to the State, by promoting Tasmania to data centre investors and facilitating streamlined investment'.[8] The Action Strategy includes a vision of '[p]lacing Tasmania on the world map as a suitable location for large-scale data centre investment'.[9] Notably, none of the Action Strategy's '12 key actions' address the

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[1] Department of Industry, Science and Resources, *National AI Plan* (2 December 2025) 6. Available at: https://www.industry.gov.au/publications/national-ai-plan.
[2] Baringa and Clean Energy Finance Commission, *Getting the balance right: data centre growth and the energy transition* (December 2025) 4. Available at: https://www.cefc.com.au/insights/market-reports/data-centre-growth-and-the-energy-transition/ (**Baringa CEFC Report**).
[3] Australian Energy Markets Operator, 'Data Centre Energy Demand: 2026 Forecast Update' (Report, June 2026). Available at: https://www.oxfordeconomics.com/wp-content/uploads/2026/08/OEA-AEMO-Data-Centre-Report.pdf.
[4] Mandala, 'Data Centres as Enabling Infrastructure' (Report, November 2025) 9. Available at: https://mandalapartners.com/uploads/Data-Centres-as-Enabling-Infrastructure.pdf.
[5] Department of Energy and Economic Diversification (WA), *Data Centre Prospectus* (Report, 7 November 2022) 3. Available at: https://www.wa.gov.au/system/files/2022-12/221202_DataCentre%20Prospectus_V4.pdf; Department of Jobs, Skills, Industry and Regions (Vic), *Sustainable Data Centre Action Plan*. Available at: https://djsir.vic.gov.au/priorities-and-initiatives/ai-mission-statement/sustainable-data-centre-action-plan
[6] Tasmanian Government, Office of the Coordinator-General, *Data Centre Action Strategy 2018*, p 3. Available at: https://www.cg.tas.gov.au/investment_opportunities/sector_opportunities/emerging_sectors/data_centres.
[7] EDO Submission to the Senate Inquiry (1 September 2026).
[8] Action Strategy, p 1.
[9] Ibid, p 3.

need for an adequate and fit for purpose Tasmanian regulatory framework for AI data centres.[10]

10. In July 2025, the Tasmanian Premier announced the establishment of 'a world-leading AI Factory Zone in Northern Tasmania'.[11]

11. On 1 September 2025, the Launceston City Council approved a Firmus Technologies' (**Firmus**) AI data centre in St Leonards, Launceston.[12] In June 2026, Tasmanian Energy Minister, in Senate Estimates, confirmed Firmus plans to set up three AI data centres.[13] Since then, a second Firmus AI data centre was approved by the George Town Council in Long Reach, with a third Firmus AI data centre proposal in Wesley Vale currently under assessment by the Latrobe Council.[14]

12. According to a document tabled in the Tasmanian Parliament in September 2026, unnamed companies are looking to set up six additional new AI data centres in Tasmania.[15]

13. On 7 September 2026, the Tasmanian Government released 'Draft Expectations for Data Centres and AI Infrastructure' (**Draft Expectations**)[16] which are open for consultation until 12 October 2026 and are set to be finalised at the end of 2026.[17] The Draft Expectations 'apply to new and expanded data centre and AI infrastructure developments, including hyperscale, co-location, large-scale AI compute facilities and multisite developments' and 'do not apply to small-scale edge or on-site enterprise facilities'.[18]

14. While the Draft Expectation outline three key principles – which include expectations that AI data centre developers minimise water use, apply best-practice environmental

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[10] Ibid, p 2.
[11] Tasmanian Liberals, 'Transformational Industry Coming to Norther Tasmania' (Media Release, 1 July 2025). Available at: https://tas.liberal.org.au/news/2025/07/01/transformational-industry-coming-northern-tasmania.
[12] City of Launceston, *Special Council Meeting Minutes* (1 September 2025), p 23 (**City of Launceston Special Council Minutes**). Available at: https://www.launceston.tas.gov.au/Agendas-and-Minutes?dlv_OC%20CL%20Public%20Meetings=(dd_OC%20Year=2025).
[13] Ashleigh Barraclough, 'AI company Firmus to become Tasmania's biggest power user if three planned sites come to fruition', *ABC News* (News article, 15 June 2026). Available at: https://www.abc.net.au/news/2026-06-15/firmus-ai-company-tasmania-biggest-power-user-three-sites/106783142.
[14] Ashleigh Barraclough, 'Firmus 288-megawatt AI data centre at Bell Bay, Tasmania gets approval after 6-1 council vote', *ABC News* (News article, 25 August 2026). Available at: https://www.abc.net.au/news/2026-08-25/firmus-ai-bell-bay-receives-george-town-council-approval/107074336.
[15] Ashleigh Barraclough, 'Six new AI data centres proposed for Tasmania, but companies behind them are being kept secret', *ABC News* (News article, 9 September 2026). Available at: https://www.abc.net.au/news/2026-09-09/six-new-confidential-data-centre-proposals-tasmania-revealed/107131974; House of Assembly Tasmania, *Response to Notice of Motion No. 146* (8 September 2026). Available at: https://www.parliament.tas.gov.au/house-of-assembly/tabled-papers/house-of-assembly-tabled-papers-2026/TP52-1-486.pdf.
[16] Tasmanian Government, Premier of Tasmania, 'Clear expectations for data centres and AI infrastructure' (7 September 2026). Available at: https://www.premier.tas.gov.au/latest-news/2026/september/clear-expectations-for-data-centres-and-ai-infrastructure?utm_source=chatgpt.com; Tasmania Government, *Draft Expectations for Data Centres and AI Infrastructure Developers: Tasmania* (September 2026). Available here: https://hdp-au-prod-app-sgtas-engage-files.s3.ap-southeast-2.amazonaws.com/4517/8849/8926/Data_Centre_and_AI_Statement_of_Expectations_4_September_2026.pdf.
[17] Draft Expectations, p 16.
[18] Draft Expectations, p 3.

management, and prevent material environmental harm – the Draft Expectations are not enforceable. Rather, they are:

> *a non-statutory statement of government policy. They do not create a new approval or regulatory process, alter statutory assessment criteria, fetter independent decision-makers or replace any requirement to comply with existing laws. They provide early guidance on the outcomes the Government expects proponents to pursue through existing approval, connection and commercial processes.*[19]

15. We are deeply concerned by the Tasmanian Government positioning Lutruwita (Tasmania) as world leader in AI data centre investment, before undertaking adequate research as to the potential impacts and ensuring there are adequate National and Tasmanian regulatory frameworks in place.

16. On 5 August 2026, the House of Assembly Standing Committee on Government Administration A resolved to commence this inquiry on the construction and operation of AI Data Centres in Tasmania (**Inquiry**).[20] Consistent with the Terms of Reference for the Inquiry, our submission focuses on AI data centres, as opposed to small-scale edge data centres. We take the term AI data centre to include all hyperscale and large-scale AI infrastructure and data centre facilities. We note the need to imagine scales of data centre beyond the three that have so far been proposed in Lutruwita (Tasmania) and we make our submissions and recommendations with this in mind.

17. We thank the Committee for the opportunity to respond to this Inquiry. Noting the relatively short timeframe given to address questions of the scale provided in the terms of reference, our recommendations are general in nature. We would welcome the opportunity to further consider and advise on potential draft legislative amendments.

Part 1 – Environmental impacts of AI data centres

Energy consumption risks undermining the renewable energy transition

18. In its 2035 Targets Advice published in 2025, Australia's Climate Change Authority expressed concern that the rapid growth of AI and data centres is 'driving significant increases in electricity demand, which in turn is contributing to higher emissions than anticipated, making a more ambitious [climate emissions] target harder to meet.'[21] Additionally, not all data centre energy needs are equal. Some data centres, such as Tier III

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[19] Draft Expectations, p 3.
[20] House of Assembly Government Administration Committee A, 'Resolution of the Standing Committee on Government Administration A on 5 August 2026' (5 August 2026). Available at: https://www.parliament.tas.gov.au/__data/assets/pdf_file/0007/110104/Media-release-AI_submissions-open-own-motion.pdf.
[21] Climate Change Authority, *2035 Targets Advice* (12 September 2025) (**CCA 2035 Targets Advice**) 15. Available at: https://www.climatechangeauthority.gov.au/sites/default/files/documents/2025-09/2035%20Targets%20Advice%20Report.pdf.

data centres, require power 24/7,[22] which creates additional concerns in relation to the renewable energy transition due to the prevalent use of diesel generators to provide back-up energy supply in addition to, or in place of, battery storage systems.

19. We are in a critical decade with respect to climate change. The United Nations (**UN**) Intergovernmental Panel on Climate Change has stated that global greenhouse gas (**GHG**) emissions must peak in 2025 at the latest and be reduced by 43% from 2019 emission levels by 2030 in order to limit warming to 1.5°C in accordance with the Paris Agreement.[23] Australia is a party to the Paris Agreement, having ratified it on 9 November 2016.[24]

20. The United Nations recently warned that global temperature rise is set to cross 1.5°C in the next few years, 'pushing climate risks and impacts to increasingly dangerous heights'. However, it is still possible to bring temperatures down and meet the global goals of the Paris Agreement if effective action is taken swiftly.[25]

21. On 23 July 2025, the International Court of Justice (ICJ) issued an Advisory Opinion[26] outlining the obligations of UN member States to address climate change and confirming that 1.5°C is the scientifically based consensus target under the Paris Agreement.[27] The ICJ Advisory Opinion made it clear that more stringent measures are expected from member States with a 'well-developed economy', such as Australia, to meet the standard of due diligence required to discharge their duty to prevent significant climate harm under international law.[28]

22. In the most recent Nationally Determined Contributions report, Australia set a target of 62-70% reduction in net national greenhouse gas emissions below 2005 levels by 2035.[29] In their consideration of what emissions target range to recommend, the Climate Change Authority explicitly considered the challenges posed by the increase in electricity demand and consequent emissions driven by increased AI use and data centre development.[30]

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[22] Uptime Institute, 'Tier Classification System'. Available at: https://uptimeinstitute.com/tiers.
[23] IPCC AR6 Synthesis Report: Climate Change 2023 (Summary for Policymakers) 20-21. Available at: https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf.
[23] United Nations, *Paris Agreement* (12 December 2015). Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&clang=_en.
[24] United Nations, *Paris Agreement* (12 December 2015). Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&clang=_en.
[25] United Nations Environment Programme, 'Limiting Overshoot: Navigating Exceedance of 1.5° and Pathways Towards Return' (Report, 2026). Available at: https://www.unep.org/resources/limiting-overshoot-navigating-exceedance.
[26] ICJ Advisory Opinion, *Obligations of States in respect of Climate Change* (Advisory Opinion) [2025] ICJ Rep 187, 131 (**ICJ Advisory Opinion**). Available at: https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf.
[27]Ibid, [224].
[28] Ibid, [290]-[292].
[29] Commonwealth of Australia, *Australia's 2035 National Determined Contribution* (2025) 3. Available at: https://unfccc.int/sites/default/files/2025-09/Australias%20Second%20NDC.pdf.
[30] CCA 2035 Targets Advice, p 36.

23. Australian data centres are predicted to utilise more than 10%[31] and up to 13%[32] of Australia's energy by 2035 – from a use of only 1% in 2024.[33] Meanwhile in Lutruwita (Tasmania), Firmus' three AI data centres alone are estimated to consume a combined 444MW, being 30% of Tasmania's grid power,[34] while the six additional planned AI data centres are estimated to consume together at least 500MW of power.[35]

24. While the Draft Expectations include an expectation on developers to 'unlock new renewable energy generation to offset demand'[36] it is difficult to see how this expectation is being, or can be, implemented in practice unless data centres are required by law to provide their own renewable energy and be prohibited from using fossil fuels.

25. Hydro Tasmania, the largest electricity generator in Tasmania, says it will decide by the end of the year whether to approve Firmus' request for a 444MW contract between Firmus and Hydro to support Firmus' AI data centre plans in Lutruwita (Tasmania).[37]

26. According to Firmus' Energy Statement, the company has pledged to build two MW of new renewable energy generation for every one MW it uses.[38] Hydro Tasmania has identified two options for how Firmus might achieve this:

    - *Firmus could enter an agreement to contract energy directly from new wind and solar developers, leaving us to fill the gaps when there is little or no wind and sun. Our role in this is called firming.*[39]
    - *Firmus could enter an agreement to contract energy from Hydro Tasmania, and we could enter into direct agreements with the new wind and solar generators.*[40]

27. While Firmus' pledge could be seen as a step in the right direction, we note Hydro and Firmus are yet to reach an agreement, and there are currently no legal requirements for Firmus or other AI data centre proponents in Lutruwita (Tasmania) to provide for

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[31] CCA 2035 Targets Advice, p 47.
[32] Australian Energy Market Operator, 'Forecasting growing data centre energy demand' (Explainer, 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.
[33] Baringa CEFC Report, 2.
[34] House of Assembly Tasmania, *Response to Notice of Motion No. 146* (8 September 2026). Available at: https://www.parliament.tas.gov.au/house-of-assembly/tabled-papers/house-of-assembly-tabled-papers-2026/TP52-1-486.pdf; Ashleigh Barraclough, 'Hydro Tasmania to decide by end of year on AI data centre company Firmus's request for 450 MW', *ABC News* (News article, 4 September 2026). Available at: https://www.abc.net.au/news/2026-09-04/hydro-tasmania-assess-firmus-450-mw-energy-request/107116852.
[35] Ashleigh Barraclough, 'Six new AI data centres proposed for Tasmania, but companies behind them are being kept secret', *ABC News* (News article, 9 September 2026). Available at: https://www.abc.net.au/news/2026-09-09/six-new-confidential-data-centre-proposals-tasmania-revealed/107131974.
[36] Draft Expectations, p 4.
[37] Hydro Tasmania, 'Hydro Tasmania and Firmus Technologies'. Available at: https://www.hydro.com.au/hydro-tasmania-and-firmus-technologies#firmus-proposal; ABC News, 'Hydro Tasmania to decide by end of year on AI data centre company Firmus's request for 450 MW' (4 September 2026). Available at: https://www.abc.net.au/news/2026-09-04/hydro-tasmania-assess-firmus-450-mw-energy-request/107116852.
[38] Firmus, 'Firmus Australia Energy Policy, Supporting Australia's Renewable Energy Transition' (June 2026), p 5. Available at: cdn.sanity.io/files/q43wife6/production/abee15eeb342ae068045b9fbfb435e6a7ff39ad5.pdf.
[39] Hydro Tasmania, 'Hydro Tasmania and Firmus Technologies'. Available at: https://www.hydro.com.au/hydro-tasmania-and-firmus-technologies#firmus-proposal.
[40] Hydro Tasmania, 'Hydro Tasmania and Firmus Technologies'. Available at: https://www.hydro.com.au/hydro-tasmania-and-firmus-technologies#firmus-proposal.

additional renewable energy generations. Further, even if an agreement is reached requiring Firmus to provide two-for-one new renewable energy generation, it is not clear how long it will take to develop the new renewable energy, or what happens in the meantime. Hydro Tasmania states it will need to consider how Firmus' energy demand could be met while any renewable projects are being built.[41]

28. If the proposed new renewable energy generation is not online in the required timeframe, this poses a risk of increasing gas fired power generation. As discussed at [31], significant changes in seasonal rainfall across Lutruwita (Tasmania) are projected to occur under climate change, including increases in interannual variability, which may impact hydro-electric power generation. Historically, the hydro-energy profile undergoes rapid fluctuations due to significant intra-seasonal and interannual rainfall variability. The system switches between wet and dry extremes depending on major climate drivers. In 2024-25 low rainfall caused a 15.1% drop in hydro-electric generation, which then required Hydro Tasmania to offset that with net imports of approximately 2 GWh across Basslink and increase gas-fire generation from Tamar Valley power Station by 30%.[42]

Intensive water demands

29. The majority of data centres operating under common technological practices use a lot of water for cooling. They also create wastewater and require energy and treatment for wastewater or recycled water use – all of which have local and sometimes regional impacts.[43] The UN recently reported that the 2025 energy needs of data centres globally had a water footprint of 4.5 trillion litres.[44]

30. Increasing data centre developments in Lutruwita (Tasmania) will lead to increased demand for water, with data centres often using water volumes equivalent to 70,000-80,000 households.[45]

31. Environmental water (including rivers, groundwater, and soil moisture) is critical to maintaining ecosystems and protecting environmental values. Tasmania is already experiencing the impacts of climate change, with annual average rainfall declining and temperature increasing since 1910.[46] While projections of future rainfall (years 2046-2075 in a high emissions scenario) show little change to statewide mean annual rainfall when

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[41] Hydro Tasmania, 'Hydro Tasmania and Firmus Technologies'. Available at: https://www.hydro.com.au/hydro-tasmania-and-firmus-technologies#firmus-proposal.

[42] Tasmanian Economic Regulator, Office of the Tasmanian Economic Regulator, *Energy in Tasmania report 2024–25* (February 2026). Available at https://www.economicregulator.tas.gov.au/Documents/26%201689%20CORRECTED%20Energy%20in%20Tasmania%20Report%202024-25.PDF.

[43] Navid B Saleh, 'Why Water Demand Is No Longer Enough: Rethinking Sustainability in AI Data Centres' (2026) 60(26) *Environmental Science & Technology*. Available at: https://pubs.acs.org/esthag/article/60/26/18383/5169293/Why-Water-Demand-Is-No-Longer-Enough-Rethinking.

[44] United Nations University, 'The environmental cost of AI' (Report, 3 June 2026) 10. Available at: https://collections.unu.edu/eserv/UNU:10647/UNU-INWEH-Report-The_Env_Cost_of_AI-2026.pdf.

[45] Water Services Association of Australia 'Data centres and water in Australia' (Report, December 2025) 3. Available at: https://wsaa.asn.au/Common/Uploaded%20files/library/report/WSAA%20Data%20Centres%20and%20water%20in%20Australia%20-%20December%202025.pdf.

compared with the 1976–2005 average, there is an increase in interannual variability.[46] In addition, there are considerable changes to regional rainfall across different seasons.[46, 47] For example, across western Tasmania projections are for significant decreases for spring, summer, and autumn rainfall with modelled decreases of 33% by 2090 under high emissions, and in eastern Tasmania significant decreases in spring rainfall. Combined with increased temperatures, heatwaves, and lightning strikes these changes are forecast to have catastrophic impacts on some vulnerable ecosystems.[48,49]

32. Reduction in rainfall has an amplified effect on stream and river flows, and groundwater recharge.[48, 48] For example, under a high emissions scenario (RCP-8.5) the median projection is for a 2% decline in mean annual rainfall across Tasmania. This translates to a 6% decline in mean annual runoff, which can be considered an analogue for river flow.[49] It is imperative that the updated regional projections for rainfall and other relevant climate variables using CMIP6 modelling inform any decisions regarding water take (currently available in spatial format, not fully interpreted products).[50]

33. There is scientific concern that some river and groundwater systems in Lutruwita (Tasmania) have been over-allocated without adequate scientific study of environmental water needs and impacts of water extraction.51,52 This must not be compounded by further water-extraction for AI data centres.

34. The power requirements of any data centres in Lutruwita (Tasmania) must also be carefully considered in terms of their impacts to water. Over 70% of the state's electricity generation currently comes from hydro.[53] The development of hydro power has had profound and irreversible impacts on Tasmania's rivers and dependent ecosystems.[54]

35. In addition to the water demands of AI data centres, there are concerns about water impacts caused by contamination, either through the release of wastewater or contaminants from the data centre directly, or through impacts caused by ancillary energy or infrastructure projects.[55]

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[46] Hongxing Zheng et al., 'Projections of future streamflow for Australia informed by CMIP6 and previous generations or global climate models' (2024) 636 *Journal of Hydrology*. Available at: https://www.sciencedirect.com/science/article/pii/S0022169424006814.
[47] CSIRO and Bureau of Meteorology, Climate Change in Australia. Available at: http://www.climatechangeinaustralia.gov.au/.
[48] Gelsinari, S., Bourke, S., McCallum, j., McFarlane, D., Hall, J., Silberstein, R., & Thompson, S., 'Nonstationary recharge responses to a drying climate in the Gnangara Groundwater System' (April 2024) Western Australia, *Journal of Hydrology*, 633, 131007). Available at: https://doi.org/10.1016/j.jhydrol.2024.131007.
[49] Ibid., Figures 3 and 5.
[50] See the LIST data: https://www.thelist.tas.gov.au/app/content/data/geo-meta-data-record?detailRecordUID=0b2fe7a1-3f4a-4e2b-b9be-acae722be15a.
[51] Freshwater Systems, CSIRO Marine Research, GECO consulting, 'Environmental Flows for the Lower Derwent River' (February 2002) Final Report to DPIWE (. Available at https://nla.gov.au/nla.obj-1837797473/view
[52] Lambourne M., Bowmer KH., 'Investigating over-allocation of water using risk analysis: a case study in Tasmania, Australia' (2013) *Marine & Freshwater Research* 64, pp 761–773. Available at: https://doi.org/10.1071/MF12282
[53] Department of Climate Change, Energy, the Environment and Water, 'Australian Energy Statistics, Table O Electricity generation by fuel type 2024-25 and 2025'. Available at: https://www.energy.gov.au/publications/australian-energy-statistics-table-o-electricity-generation-fuel-type-2024-25-and-2025.
[54] K F Walker, 'A review of the ecological effects of river regulation in Australia' (1985) 125 *Hydrobiologia* 111.
[55] Siddik, M.A.B., Shehabi, A. and Marston, L., 'The environmental footprint of data centers in the United States' (May 2021) Environmental Research Letters 16(6), 064017.

36. Furthermore, there are implications for water security, particularly where the data centre relies on municipal drinking water.

Extensive land footprint required can have significant impacts if unregulated

37. Data centre developments often require large sites and ancillary infrastructure, particularly if not located near metropolitan areas.[56] This land usage has the potential to impact critical, or important, habitat for native species and ecological communities, including threatened species.

38. Along with the land usage for the data centre itself, there are additional impacts caused by data centre developments. These include ancillary infrastructure and any additional resources required to develop the data centres, as well as the renewable, or other, energy developments required to power them. For example, the demand for energy to power data centres is likely to contribute to increased demand for the critical minerals required to construct the associated infrastructure.[57]

Social and ecological health

39. In addition to energy, water and land usage, data centres and AI infrastructure have other impacts affecting human and ecological health, including the following impacts, explored further below:

- air pollution, particularly in relation to diesel generators;
- sensory pollution;
- thermal pollution and heat islands; and
- use of perfluoroalkyl and polyfluoroalkyl substances (**PFAS**) in coolant systems.

Air pollution

40. Data centres can have a significant effect on air quality, largely due to reliance on diesel generators to provide a back-up power supply. Diesel generators have a very negative effect on the atmosphere, affecting air quality (locally) and climate (regionally and globally).

41. The Federal Department of Climate Change, Energy, the Environment and Water commissioned a cost-benefit analysis of non-road diesel engines, such as diesel generators,[58] ostensibly to inform a national approach to emissions in accordance with objectives of the National Clean Air Agreement.[59] In this report, it was noted that emissions from non-road diesel engines, including associated health impacts, are likely to remain a

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[56] Planning Institute Australia, 'Planning for Data Centres' (Guidance Note, 1 June 2026) 3. Available at: https://www.planning.org.au/Common/Uploaded%20files/Smart%20Suite/Smart%20Library/c5618db6-579d-40be-866a-7c0057e87abf/Planning%20for%20Data%20Centres%20Guidance%20Note%20v6.pdf).

[57] EDO Submission guide on the referral of Project Ares hyperscale data centre. Available at: https://www.edo.org.au/publication/submission-guide-on-the-referral-of-the-project-ares-hyperscale-data-centre/.

[58] Paul Boulter et al, 'Non-road diesel engines – cost-benefit analysis' (Final Report, 2022) (**Non-road Diesel Emissions Report**). Available at: https://www.dcceew.gov.au/sites/default/files/documents/nrde-cost-benefit-analysis-final%20report.pdf.

[59] Department of Climate Change, Energy, the Environment and Water, National Clean Air Agreement, Towards a clean air future for all Australians' (December 2015). Available at: https://www.dcceew.gov.au/sites/default/files/documents/national-clean-air-agreement.pdf.

concern absent any government management action.[60] Since commissioning this report, the Federal Government has not yet taken any further action to regulate non-road diesel engine emissions.[61]

42. In 2018 alone, emissions from non-road diesel engines are attributed as having human health implications relating to premature mortality equivalent to 5,387 years of life lost across the Australian population.[62] Importantly, as outlined by the Centre for Safe Air, this report pre-dates the rapid uptake in development of data centres.[63]

43. Without intervention, this issue, including the associated health impacts, is only going to be exacerbated by the prevalent use of back-up diesel generators to support data centres.

Sensory pollution

44. Sensory pollutants, such as acoustic noise and night lighting can fundamentally impact ecological processes by altering how animals process information in their environment. This can include:[64]
    - **masking**, which decreases an animal's ability to distinguish between a pollutant and a natural environmental stimulus (for example, light pollution can mask lunar cues);
    - **distracting**, which occurs when a sensory pollutant interferes with information processing by occupying part of animal's finite attentional capacity; and
    - **misleading**, which is when a pollutant acts as a natural cue. For example, noise pollution can mask or mislead prey or mating cues.

45. Different species are impacted and respond to sensory pollutants in different ways. It is therefore important to conduct species-specific assessments for each of the sensory pollutants caused by projects to ensure that the amount of light and noise generated by the projects do not exceed thresholds that may result in fitness consequences for threatened species. This is especially important for projects that are not located within metropolitan areas.

46. Furthermore, sensory pollution can have human health risks, with cardiovascular and mental health implications associated with noise;[65] and interruption to circadian and neuroendocrine physiology, which can have flow-on impacts to more serious health problems, attributed to light pollution.[66]

Thermal pollution and the heat island effect

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[60] Non-Road Diesel Emissions Report, p 2.
[61] As reported in: Centre for Safe Air, 'Artificial intelligence and data centres inquiry' (Submission, 10 July 2026) *2* (**CSA Submission**). Available at: https://safeair.org.au/data-centres-inquiry/.
[62] Non-Road Diesel Emissions Report, p 72.
[63] CSA Submission.
[64] Davide M Dominoni et al 'Why conservation biology can benefit from sensory ecology' (2020) 4(4) *Nature Ecology& Evolution*. Available at: https://pubmed.ncbi.nlm.nih.gov/32203474/.
[65] World Health Organisation, 'How much does environmental noise affect our health? (News Release, 4 August 2024) Available at: https://www.who.int/europe/news/item/04-08-2024-how-much-does-environmental-noise-affect-our-health--who-updates-methods-to-assess-health-risks.
[66] Chepesiuk R., 'Missing the Dark: Health Effects of Light Pollution' (2009) Environ Health Perspect, 117(1): A20-7. Available at: https://doi.org/10.1289/ehp.117-a20.

47. Data centres have been identified to produce significant waste heat, caused by continuous operation, leading to thermal pollution.[67] There is emerging research suggesting that large scale data centres can create 'heat islands', actively warming the area around them.[68]

48. In addition to waste heat, wastewater produced through cooling systems may also be hotter than the receiving environment. Many species have a narrow thermal range and thermal pollution can constitute a significant cause of ecological harm.[69]

49. Given extreme heat already causes more deaths in Australia than any other natural hazard,[70] it is concerning that data centres continue to be developed in areas already experiencing elevated heat impacts, without necessary mitigation measures. The Urban Heat Planning Toolkit identifies ways to create cool cities, recommending local provisions that support low carbon cities, robust energy systems, sustainable water supplies and cool buildings.[71] These recommendations seem at odds with known data centre impacts.

PFAS contaminants

50. PFAS, commonly referred to as 'forever chemicals' as they do not break down in the natural environment, are often used by data centres for cooling.[72] There are concerns that PFAS contamination of ground or surface water from data centre developments could lead to significant environmental harms and human health implications.[73]

51. The Federal Department of Climate Change, Energy, the Environment and Water has identified that, in accordance with the precautionary principle in relation to persistent organic pollutants, PFAS warrants global action due to the 'persistence, bioaccumulation, potential for long-range transport and adverse effects on human health and/or the environment.'[74] We are concerned that the use of PFAS by data centre developments may lead to contamination of water resources and could cause significant environmental and human health harms.

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[67] Xiaolei Yuan et al, 'Waste heat recoveries in data centres: A review' (2023) 188 *Renewable and Sustainable Energy Reviews.* Available at: https://www.sciencedirect.com/science/article/pii/S1364032123006342.
[68] Andrea Marinoni et al, 'The data heat island effect: quantifying the impact of AI data centres in a warming world' (2026) *ResearchGate*. Available at: doi 10.48550/arXiv.2603.20897.
[69] Francesca Verones et al, 'Characterisation Factors for Thermal Pollution in Freshwater Aquatic Environments' (2010) 44(24) *Environmental Science & Technology*. Available at: https://pubs.acs.org/esthag/article-abstract/44/24/9364/803340/Characterization-Factors-for-Thermal-Pollution-in?redirectedFrom=fulltext.
[70] Australian Climate Service, 'Hazards'. Available at: https://www.acs.gov.au/pages/hazards-heatwaves/
[71] Western Sydney Regional Organisation of Councils, 'Urban Heat Planning Toolkit' (Report, 2021) ix. Available at: https://wsroc.com.au/media-a-resources/reports/send/3-reports/306-wsroc-urban-heat-planning-toolkit.
[72] Environmental and Energy Study Institute, 'Data centres are contributing to PFAS forever chemical pollution' (Article, 9 April 2026). Available at: https://www.eesi.org/articles/view/data-centers-are-contributing-to-pfas-forever-chemical-pollution.
[73] EDO has published a resource on the potential health implication caused by exposure to PFA. Available at: https://www.edo.org.au/wp-content/uploads/2024/11/PFAS-chemicals-and-the-regulation-of-drinking-water.pdf.
[74] Department of Climate Change, Energy, the Environment and Water, 'Per- and poly-fluoroalkyl substances (PFASs)' Available at: https://www.dcceew.gov.au/environment/protection/chemicals-management/pfas#the-stockholm-convention-on-persistent-organic-pollutants-pops.

Part 2 – Impacts on First Nations rights and interests, and other human rights

First Nations rights and interests

52. AI data centres are likely to have impacts on Tasmanian Aboriginal people, their Country and Cultural Heritage and their connection to Country, including through impacts on the energy transition, water, biodiversity and Cultural Heritage.[75] The potential impact of data centres on ecological health (see above at paragraph 39) also has ramifications for First Nations peoples, where health of Country is integral to First Nations culture and wellbeing.[76] Ecological degradation that damages Country can disrupt First Nations connections to identity, culture and Country and, in turn, adversely affect First Nations cultural, social and emotional wellbeing.[77]

53. These impacts threaten First Nations' inherent rights reflected in the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**),[78] endorsed by the Australian Government in 2009 and described recently by the Federal Court of Australia as 'solemn objectives that Australia has committed to in international forums'.[79] The impacts also abrogate First Nations rights under the *International Covenant on Civil and Political Rights* (**ICCPR**), the *International Covenant on Economic, Social and Cultural Rights* (**ICESCR**), and the *International Convention on the Elimination of All Forms of Racial Discrimination* (**ICERD**). In making decisions about AI data centres, government and companies must act consistently with these obligations. This includes obligations on government to protect against human rights abuses from corporate actors.

Effective and meaningful engagement with the Tasmanian Aboriginal community in data centre regulation and development

54. UNDRIP mandates that States engage in genuine consultation and cooperation with First Nations peoples and their representative organisations to secure their Free, Prior, and Informed Consent (**FPIC**) before taking action that affects their lands, territories, resources and rights. FPIC reflects the inherent collective right of First Nations to participate in decision-making processes on issues and laws that affect their lives, lands, waters, skies and resources, and to grant or withhold consent where decisions affect them.

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[75] See for example: David Prestipino, 'Cultural concerns over planned data centre near Mandoon Bilya', *National Indigenous Times* (News article, 3 April 2026). Available at https://nit.com.au/03-04-2026/23550/cultural-concerns-over-planned-data-centre-near-mandoon-bilya.

[76] See for example: South Australia, State of Environment 2023. Available at: https://soe.epa.sa.gov.au/health-of-country/perspectives-of-aboriginal-people-2; https://www.naidoc.org.au/get-involved/2021-theme.

[77] Research consistently demonstrates that stronger connections to identity, culture and Country are associated with improved health and wellbeing outcomes for First Nations people. See summary of studies in https://www.indigenoushpf.gov.au/measures/2-14-first-nations-people-with-access-to-their-tra#references.

[78] See for example the right to self-determination (Art 3); the requirement for Free, Prior and Informed Consent (Arts 10, 19, 32); the right to participate in decision-making (Art 18); and rights to lands, territories and resources (Arts 25–26).

[79] *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].

55. FPIC requires that:

a. First Nations are resourced to effectively engage in the design, delivery and benefits of projects, policies, and decision-making processes relating to data centre infrastructure, as they see fit.
b. Any proposed data centre development project involves effective engagement and participation of First Nations peoples and their representative organisations that is early, iterative, and culturally appropriate.
c. Regulatory frameworks for data centre developments, approvals and decommissioning are co-designed with affected First Nations communities and their representative organisations.

56. First Nations involvement at all stages of decision making about data centre developments should reflect First Nations as rights holders and decision makers with authority over Country who continue to maintain deep connection to, and are custodians of, their Countries.[80] First Nations self-determination, participation and governance should be centred in data centre regulation, design and implementation. First Nations should also be involved in the co-design of mechanisms for benefit sharing to ensure they reflect First Nations priorities, knowledge and interests.[81] Data centre developments and the fulfillment of FPIC should be informed by the principles and standards in the First Nations Clean Energy Network's Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects. [82] Any potential barriers to First Nations participation should be addressed, including lack of funding and resources for First Nations representative organisations to be able to fully participate as rights holders in planning, design, implementation and regulation as they choose.

AI Data centre developments threaten Country and Cultural Heritage

[80] Dr Anne Poelina notes that "Aboriginal custodians are considered stakeholders rather than decision-makers". See Anne Poelina 'Martuwarra Fitzroy River Catchment– sustainable lifeways and livelihoods' (2026) Australasian Journal of Water Resources, 9. Available at: https://www.tandfonline.com/doi/full/10.1080/13241583.2026.2644027.
[81] See for more Jenna Imad Harb and Shanine Ryan, 'The fight over AI data centres is becoming Australia's next Indigenous policy challenge', *The Conversation* (28 August 2026). Available at: https://theconversation.com/the-fight-over-ai-data-centres-is-becoming-australias-next-indigenous-policy-challenge-289623.
[82] First Nations Clean Energy Network, *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects* (November 2022). Available at: https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN_-_Best_Practice_Principles_for_Clean_Energy_Projects.pdf?1680570396; see also L O'Neill, B Riley, J Hunt and G Maynard, 'Clean Energy Agreement Making on First Nations Land: What Do Strong Agreements Contain?' (2021) Centre for Aboriginal Economic Policy Research, Australian National University. Available at: https://d3n8a8pro7vhmx.cloudfront.net/originalpower/pages/96/attachments/original/1637114200/Clean_Energy_Company_Guide.pdf?1637114200; Department of Climate Change, Energy, the Environment and Wate, *First Nations Clean Energy Strategy* (6 December 2024). Available at: https://www.energy.gov.au/energy-and-climate-change-ministerial-council/working-groups/community-engagement-working-group/first-nations-engagement-sub-working-group/first-nations-clean-energy-strategy.

57. Due to a failure to implement FPIC through domestic law, projects with significant impacts on Country often proceed despite clear opposition from First Nations, with detrimental and severe ramifications for their rights, land, resources and Cultural Heritage.[83]

58. Governments and companies involved in data centre development should follow *Dhawura Ngilan (Remembering Country): A Vision for Aboriginal and Torres Strait Islander Heritage*[84] to implement best practice Cultural Heritage management, including being transparent and accountable, and upholding First Nations' rights to FPIC. In relation to Cultural Heritage, FPIC means that First Nations decide what is Cultural Heritage and what sites are significant, whether and how to identify that heritage, and how such heritage should be protected. This approach must be applied when considering the location of any proposed data centres and associated infrastructure.

59. Despite years promised reform, Cultural Heritage laws in Lutruwita (Tasmania) remain the weakest across Australian jurisdictions. The inadequacy of the *Aboriginal Heritage Act 1975* (Tas) is compounded by a lack of protection for Aboriginal heritage under RMPS, including under the *Land Use Planning and Approvals Act 1993* (Tas) ('**LUPA Act**') and the Tasmanian Planning Scheme (**TPS**).

60. We reiterate the 45 recommendations made in EDO's recent Submission on the Aboriginal Heritage Bill 2026 (Tas).[85] Implementing these will help ensure that AI data centre approvals processes appropriately consider and protect Cultural Heritage.

Data centre developments threaten First Nations water rights

61. Data centre developments will also have direct impacts on First Nations Country, land and territories, and resources, including through land clearing, pollution, waste and contamination issues, as well as demand for energy and water, as addressed above.

62. As noted above at [29]–[30], the sheer volume of water used by data centres (with the exception of a minority using non-water-based cooling options), regardless of what water-saving measures are implemented, is of particular concern.[86] Without sufficient safeguards, the volume of water required for data centre developments, particularly those using water-based cooling, will inevitably impact on and limit First Nations rights to use and access water, including for cultural purposes, with flow on effects including to Country and Cultural Heritage.

63. Appropriate regulation and policy, and effective impact assessments that capture all impacts for each project, are required to ensure continuing water security, healthy river systems and cultural integrity of Country. The Tasmanian Government should engage with

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[83] See for example Jenna Imad Harb and Shanine Ryan, 'The fight over AI data centres is becoming Australia's next Indigenous policy challenge', *The Conversation* (28 August 2026). Available at: https://theconversation.com/the-fight-over-ai-data-centres-is-becoming-australias-next-indigenous-policy-challenge-289623.

[84] *Dhawura Ngilan (Remembering Country): A Vision for Aboriginal and Torres Strait Islander Heritage*.

[85] EDO Submission to Aboriginal Heritage Bill 2026 (Tasmania) (April 2026).

[86] See for example the submissions made by various experts to the Parliament of Australia, *Select Committee on Adopting Artificial Intelligence (AI), Final Report* (Nov 2024). Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Adopting_Artificial_Intelligence_AI/AdoptingAI/Report/Chapter_6_-_Impacts_of_AI_on_the_environment.

the Tasmanian Aboriginal community and their representative organisations about how to protect their water rights and interests at risk of data centre developments.

Data centre developments threaten climate justice

64. As noted in Part 1 of this submission, the considerable energy consumption of data centres risks undermining the transition to renewable energy, with disproportionate adverse impact on First Nations.

65. Climate change is intensifying colonial injustices and disrupting cultural and spiritual connections to Country that are central to health and well-being and disrupted by environmental degradation. Australia's National Climate Risk Assessment has clearly spelt out the risks of climate change to the rights of First Nations.[87] The ICJ Advisory Opinion has also emphasised that Indigenous peoples may be more severely affected by the impacts of climate change, and that their enjoyment of human rights is at risk from the adverse effects of climate change.[88]

66. If data centres' consumption of energy slows Australia's energy transition away from fossil fuels, this will accelerate the environmental crisis and increase climate pollution already causing disproportionate impacts on First Nations. Specifically, slower emissions reductions contribute to greater cumulative emissions and, consequently, to the increasing severity of climate change and its adverse effects. These adverse effects will disproportionately impact First Nations peoples both in and beyond Lutruwita (Tasmania) by virtue of geography, culture, pre-existing health sensitivities, socioeconomic factors and political environments.[89]

Recommendation 1: The Committee should ensure and facilitate effective engagement with the Tasmanian Aboriginal Community in the Inquiry, in accordance with principles of self-determination and Free, Prior and Informed Consent.

Recommendation 2: Decisions regarding AI data centre developments in Lutruwita (Tasmania), including the regulatory framework that applies and assessment processes for individual projects, must reflect the inherent rights of First Nations peoples captured in the United Nations Declaration on the Rights of Indigenous Peoples, including the requirement to obtain their Free, Prior and Informed Consent concerning laws, policies and projects impacting them.

Recommendation 3: Through engagement with the Tasmanian Aboriginal Community, ensure that AI data centre projects in Lutruwita (Tasmania) are appropriately located, designed, operated and ultimately decommissioned, to ensure development avoids adverse impacts on First Nations Country and Cultural Heritage, as determined by the Tasmanian Aboriginal Community, and access to their land, water and resources.

[87] Australian Climate Service, 'National Climate Risk Assessment' (Report, 2025), p36. Available at: https://www.acs.gov.au/pages/national-climate-risk-assessment.
[88] ICJ Advisory Opinion, [382], [384], [404].
[89] Standen, J.C., Spencer, J., Lee, G.W., Van Buskirk, J.; Matthews, V.; Hanigan, I.; Boylan, S.; Jegasothy, E.; Breth-Petersen, M.; Morgan, G.G., 'Aboriginal Population and Climate Change in Australia: Implications for Health and Adaptation Planning' (2022) Int. J. Environ. Res. Public Health, 19, 7502, p 15. Available at: https://doi.org/10.3390/ijerph19127502.

Recommendation 4: Decision-making about, and monitoring and evaluation of, AI data centres in Lutruwita (Tasmania) must be based on the best available science, including First Nations knowledges, while retaining First Nations control of this knowledge and expertise, including by instituting strong legal protections for Indigenous Cultural and Intellectual Property.

Impacts on other human rights

67. Australia is the only liberal democracy in the world without a national Human Rights Act or Charter of Human Rights.[90] Lutruwita (Tasmania) also does not have a Human Rights Act. Consequently, there is no legal obligation for decision-makers to consider human rights.

68. We urge the Tasmanian Government to legislate a Human Rights Act, including the right to a healthy environment, to ensure that human rights are a mandatory consideration for all Tasmanian decision-making processes.

69. The regulatory framework in Lutruwita (Tasmania) should require proponents of AI data centre developments to identify potential inconsistencies with, or limitations of, human rights. This due diligence should be undertaken in accordance with the UN Guiding Principles on Business and Human Rights, as the authoritative global standards.[91]

70. It is essential that all AI data centres are consistent with human rights; in particular, the substantive and procedural elements of the right to a healthy environment. The substantive elements of the right to a healthy environment comprise the rights identified by the UN Special Rapporteur on human rights and the environment, namely the rights to:[92]

    a. clean air;
    b. a safe climate;
    c. access to safe drinking water and sanitation;
    d. healthy biodiversity and ecosystems;
    e. toxic free environments in which to live, work and play; and
    f. healthy and sustainably produced food.

71. As outlined in Part 1 of this submission, AI data centres are known to have significant impacts on the environment, including air pollution caused by the use of diesel generators. We have expressed concerns that allowing AI data centre projects to use fossil fuels to generate energy will undermine the renewable energy transition and contribute to climate change.

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[90] Australian Human Rights Commission, 'A Human Rights Act for Australia' (Factsheet, 2023). Available at: https://humanrights.gov.au/__data/assets/file/0028/46855/Free_equal_hra_2022_-_2_pager_rgb.pdf.
[91] Australian Human Rights Commission, 'Actioning global standards' (Article, 25 June 2025). Available at: https://humanrights.gov.au/resource-hub/resources-for-organisations-businesses/actioning-global-standards-on-business-and-human-rights.
[92] See David R Boyd, Special Rapporteur on Human Rights and the Environment, 'Right to a Healthy Environment: Good Practices', UN DOC A/HRC/43/53 (30 December 2019) (**Boyd RTHE Good Practices Report**). Available at: https://www.ohchr.org/en/special-procedures/sr-environment/good-practices-right-healthy-environment.

72. The excessive water demands of, and wastewater produced by, AI data centres must be carefully managed to ensure these developments do not create or worsen water insecurity in Lutruwita (Tasmania). As outlined in Part 1, water issues related to AI data centres are not limited to direct water use. Wastewater output, potential for contamination, including PFAS contamination, and impacts to water resources caused by energy production all operate to compound the impacts of data centres on water resources.

73. The procedural elements of the right to a healthy environment align with those outlined in the 1992 Rio Declaration, that people must have the right to access information, the right to participate in environmental decision-making and access to justice.[93]

74. As outlined in Part 3, development of the Tasmanian regulatory framework should incorporate public consultation. The framework must impose robust reporting obligations on proponents of AI data centres – particularly in relation to energy and water usage and sources – and include clear, enforceable obligations. Without these elements, the regulatory framework cannot be said to comply with the principles outlined in the 1992 Rio Declaration.

75. It is essential the Tasmanian Government legislate the right to a healthy environment within a Tasmanian Human Rights Act to ensure these fundamental rights are protected and considered during decision-making.

76. We will be pleased for an opportunity to provide input on the drafting of a Tasmanian Human Rights Act. Any proposed Human Rights Act must be made through a rigorous consultation process.

Recommendation 5: Legislate a Tasmanian Human Rights Act, including the right to a healthy environment, which should underpin the Tasmanian regulatory framework.

Recommendation 6: The Tasmanian regulatory framework must ensure that AI data centres not be permitted to breach human rights, including the right to a healthy environment.

Part 3 – Regulation of AI data centres in Lutruwita (Tasmania)

Resource Management and Planning System requires revision

77. States and territories are generally responsible for assessing proposals for new AI data centres and for regulating their environmental impacts. Unless the project is referred for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**), the Federal Government currently has limited regulatory oversight in relation to environmental impacts of data centres and AI infrastructure developments.

78. The Federal Government has announced it will work with states and territories to create mandatory standards for how data centres use energy, water and land. These standards will work together with state planning and approval processes, and will be legislated. The

[93] Boyd RTHE Good Practices Report.

Federal Government is currently consulting on this plan, with submissions open until 9 October 2026.[94]

79. In the meantime, with six new data centre proposals coming to Lutruwita (Tasmania), the Tasmanian Government must work to ensure the planning and approval processes are fit for purpose. The Tasmanian Government makes the following statements in relation to planning and approval processes in the Draft Expectations.

- *Tasmania has well-established planning, environmental, infrastructure and regulatory processes that apply to new developments, including data centre and AI infrastructure projects.*[95]
- *Existing pathways provide mechanisms to assess and manage potential impacts, including through permit conditions and other statutory or commercial requirements where appropriate.* [96]
- *Depending on a project's location, scale and impacts, assessment will involve a local planning authority and/or the Tasmanian Planning Commission and/or the Environment Protection Authority and other relevant regulators. Relevant TasNetworks, TasWater, building, plumbing, fire, workplace safety, heritage and natural-values processes also continue to apply.*[97]

80. We do not consider these processes and pathways to be adequate. As set out in Parts 1 and 2 above, AI data centre developments pose environmental risks and create impacts on the Tasmanian Aboriginal Community and for human rights of a nature and scale requiring rigorous assessment and regulation. It is essential that a robust and fit for purpose Tasmanian regulatory framework is in place to manage these risks and to ensure AI data centre developments are appropriate and sustainable. This will require change to Tasmania's environmental and planning laws, which were not written to accommodate these types of development.

81. In its Draft Expectations, the Tasmanian Government has commented that data centres and AI infrastructure developments will 'continue to be assessed through Tasmania's existing Resource Management and Planning System (RMPS)'.[98] EDO agrees the RMPS is the appropriate development approval pathway for AI data centre proposals, like other development proposals. We disagree with government that '[e]xisting pathways provide mechanisms to assess and manage potential impacts'.[99]

82. EDO proposes that changes are made to ensure the RMPS is adapted to address the particular risks associated with this type of development. Our submissions consider the

[94] Department of the Prime Minister and Cabinet, 'Getting it right: Building AI infrastructure that works for Australia'. Available at: https://www.pmc.gov.au/domestic-policy/office-ai/getting-it-right-building-ai-infrastructure-works-australia.
[95] Draft Expectations, p 3.
[96] Ibid, pp 16-17.
[97] Ibid.
[98] Ibid, p 14.
[99] Ibid.

planning approvals process typically carried out by local councils, and the environmental impact assessment process we consider ought to be done routinely by the Environment Protection Authority Tasmania (**EPA**) for AI data centres. We also make submissions specific to water and energy, and about strategic planning for better resource management in Lutruwita (Tasmania) in the context of AI data centre developments.

Tasmanian Planning Scheme

83. Latrobe Council, in assessing the recent Firmus AI data centre proposal in Wesley Vale, indicated that the current Tasmanian planning system and regulatory framework is 'outdated' and not 'fit for purpose' to assess the 'ever-evolving hi-tech sector' and called for urgent amendments to the Tasmanian Planning Scheme (**TPS**).[100]

84. Further, following a Special Council Meeting on 7 September 2026, Latrobe Council unanimously requested that the Tasmanian Government declare the 52MW Wesley Vale AI data centre proposal as a 'Major Project'. This approval pathway would require the Tasmanian Planning Commission to assess the proposal under the LUPA Act and the EPA to assess the application as a Level 2 Activity under the *Environmental Management and Pollution Control Act 1994* (Tas) (**EMPC Act**).[101] The Tasmanian Government is reported to have rejected this request, indicating it considers the standard council approval system adequate.[102]

85. AI data centres are currently regulated under the TPS in an ad hoc way. To make a planning permit application, an AI data centre must fit within an existing Use Class. The Use Class matters, because it defines where an AI data centre can be situated, what controls apply to AI data centre use and development, and what right the public has to participate in planning permit decisions.

86. If a proposed activity does not readily fit within an existing Use Class, it must be classified as the most similar Use Class.[103] Of the 34 existing Use Classes, there is currently no dedicated Use Class for AI data Centres.

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[100] Ashleigh Barraclough, 'Six new AI data centres proposed for Tasmania, but companies behind them are being kept secret', *ABC News* (News article, 9 September 2026). Available at: https://www.abc.net.au/news/2026-09-09/six-new-confidential-data-centre-proposals-tasmania-revealed/107131974; Elise Kaine, 'Council demands controversial AI data centre be declared a major state project', *The Mercury* (News article, 8 September 2026). Available at: https://www.themercury.com.au/news/tasmania/tasmanian-government-moves-to-control-states-massive-ai-data-centre-boom/news-story/e6163711029b2092810a1296d50d72c1.

[101] Latrobe Council, *Agenda – Special Council Meeting* (7 September 2026) pp 7-10 (**Latrobe Special Council Meeting Agenda**) Available at: https://www.latrobe.tas.gov.au/council/publications/minutes-and-agenda; Latrobe Council, *Unconfirmed Minutes – Special Council* Meeting (7 September 2026). Available at: https://www.latrobe.tas.gov.au/council/publications/minutes-and-agenda.

[102] Elise Kaine, 'State government rebuffs council concerns over AI data centre planning 'gap'' *The Mercury* (News article, 9 September 2026). Available at: https://www.themercury.com.au/news/tasmania/state-government-rebuffs-council-concerns-over-ai-data-centre-planning-gap/news-story/23db73243ae3f7bcd6f2a81380a2b5b2.

[103] TPS, 6.2.3.

87. Instead, the three AI data centre developments so far assessed under the TPS have been classed as 'Utilities'104 and as 'Research and Development'.[105] Utilities is intended for infrastructure including telecommunications, while Research and Development is defined as 'use of land for electronic technology, biotechnology, or any other research and development purposes, other than as part of an educational use'.[106] The three AI data centre proposals are located in 'General Industrial Zone', 'Light Industrial Zone', and 'Rural Zone' under the TPS. As a result, AI data centre proposals to date have been subject to limited assessment under the TPS (see Annexure 1).

88. We make the following observations as an example only, to illustrate the limitations of the TPS in its current form for data centre development assessments.

- In the Light Industrial Zone, Utilities is a 'no permit required' use for minor utilities, or in other cases a discretionary use, which must be subject to the applicable Use Standards. Research and Development is a permitted use, with no Use Standards. [107]
- In the General Industrial Zone, both Utilities (if not minor utilities) and Research and Development are permitted uses. Where the use class is permitted, and the proposed development does not rely on Performance Criteria to demonstrate compliance with an applicable standard,[108] a planning authority is required to approve a development application. In such cases, there is no requirement for public advertising or opportunity for public consultation, representation or appeal.[109]
- Development standards also apply in both Zones, but the height and setback controls were not designed for AI data centre development. As a result, there is no requirement to consider design or amenity of neighbouring land in assessing these proposals. As an example, in the Light Industrial Zone, a generator will be allowed if 10 metres from the boundary of General Residential Zones. [110] That includes any diesel generator or other electricity generation required, with no noise or pollution controls.

89. EDO has received a large number of enquiries nationally about AI data centre planning permit applications, including in Lutruwita (Tasmania). The issues raised include concerns about pollution, energy, water usage, noise, threatened flora and fauna, and climate change. These concerns are often not relevant to assessment of an AI data centre proposal under the TPS, provided the use is permitted or development standards are met.

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[104] For Long Reach AI data centre, see: George Town Council, Ordinary Council Meeting Attachments (25 August 2026) (**George Town Council Meeting Agenda**), p 96 and 100-101. Available here: https://georgetown.tas.gov.au/council-meeting; for Wesley Vale AI data centre, see: Latrobe Council Special Council Meeting Agenda, pp 7-8.
[105] City of Launceston Special Council Minutes, p 10.
[106] State Planning Provisions, cl 6.2.
[107] State Planning Provisions, cll 18.2 and 19.2.
[108] State Planning Provisions, cll 6.7.2 and 6.8.2.
[109] *Land Use Planning and Approvals Act 1993* (Tas), s 58. This concern was raised the Latrobe Council, see: Latrobe Council Special Council Meeting Agenda, p 8.
[110] State Planning Provisions, cl 18.4.2.

90. In assessing the Long Reach AI data centre proposal, the George Town Council planners noted that: [111]

> *In some instances, concerns raised in representations do not directly relate to the applicable provisions of the planning scheme and, as such, cannot be addressed through the planning approval process*
>
> *This is not intended to diminish the importance or legitimacy of those concerns, rather council is required to undertake a statutory assessment with a defined scope and may only consider matters that are relevant under the planning scheme and within its powers as the planning authority.*

91. We recommend amending the TPS through a new Use Class or code that explicitly includes larger scale data centres (eg, 50MW and above), so that all AI data centre developments in Lutruwita (Tasmania) are assessed as discretionary (where not prohibited) with appropriate use and development standards. This will enable planning authorities to control the siting and scale of AI data centres, establish clear community rights for participation in the assessment process, and pollution to neighbouring land – including consideration of cumulative impacts.

92. Development of a new Use Class will necessarily involve:

- deciding on the definition for data centre to fit within the Use Class, considering scale and impact;
- identifying appropriate Zones in which AI data centre development is prohibited (e.g. Residential Zone) and where AI data centre development is discretionary – noting the use should never be permitted or 'no permit required';
- developing clear and fit for purpose Use Standards informed by complete, accurate and publicly available research about the potential impacts of AI data centres the TPS aims to assess; and
- developing clear and fit for purpose Development Standards to control setback, height and visual scale, noise, and the location and scale of electricity and water infrastructure to protect neighbours from noise, pollution and visual amenity issues. This should include an assessment of cumulative impacts where there is more than one AI data centre in the area.

93. We will be pleased for an opportunity to further consider and discuss the form of these amendments. Any proposed amendments to the TPS should be done through a rigorous consultation process.

Recommendation 7: The Tasmania Planning Scheme be amended, through a research-informed and consultative process, to ensure adequate controls are in place for assessment of AI data centre proposals in Lutruwita (Tasmania).

[111] Ashleigh Barraclough, 'Firmus 288-megawatt AI data centre at Bell Bay, Tasmania gets approval after 6-1 council vote', *ABC News* (News article, 25 August 2026). Available at: https://www.abc.net.au/news/2026-08-25/firmus-ai-bell-bay-receives-george-town-council-approval/107074336.

Environmental Impact Assessments

94. In addition to these improvements to the TPS to ensure adequate planning approvals for AI data centres, changes to Lutruwita (Tasmania's) environmental management laws will also be required to ensure effective assessment and regulation of factors outside the planning assessment process. These include water and electricity usage, noise, particulate matter and other air pollution, and must also include greenhouse gas emissions. Any environmental impact assessment must also address cumulative impact.

95. The EPA is the appropriate body to assess environmental impact of AI data centres. It has the power to assess a broad range of environmental matters including:

- noise emissions;
- air emissions and air quality;
- natural values (including flora and fauna, weeds and diseases and geoconservation);
- water emissions and quality (including storm water and marine water quality);
- groundwater;
- waste management;
- management of environmentally hazardous materials;
- land contamination;
- monitoring; and
- decommissioning and rehabilitation.[112]

96. However, legislative amendments are required to ensure this happens for all AI data centre development proposals in Lutruwita (Tasmania). In its Draft Expectations, the Tasmanian Government notes that, '[e]nvironmental assessment and referral requirements under the *Environmental Management and Pollution Control Act 1994* continue to apply, including mandatory referral of Level 2 activities and the existing ability for other activities to be called in for assessment'.[113] However, this system in its current form is not adequate to assess the environmental impacts of AI Data centres in Lutruwita (Tasmania) – as demonstrated by the three AI data centre development assessment processes to date.

97. Under the EMPC Act, certain activities can be subject to environmental impact assessment by the Board of the EPA. For planning approval applications, activities that are level 2 activities (as defined in Schedule 2 of the EMPC Act) must be referred by the planning authority (generally the relevant local Council) to the EPA Board for environmental

[112] EPA, 'Guide to Environmental Impact Assessment Conducted by the EPA Board' (March 2019) at 6. Available at: https://epa.tas.gov.au/Documents/Guide%20to%20Environmental%20Impact%20Assessment%20%28%20EIA%20%29.pdf.
[113] Draft Expectations, p 14.

assessment.[114] Activities that are permissible level 1 activities[115] may also be 'called in' for assessment by the EPA Board. That is, the EPA Director may require the planning authority to refer the application to the EPA Board for an environmental assessment and treated as if it were a level 2 activity. Once an application is referred to the EPA Board, it must determine within 14 days whether it needs to assess the activity to which the application relates.[116] AI data centres are not listed as a level 2 activity in Schedule 2 of the EMPC Act. This means that an AI data centre proposal will only be considered by the Board if:

a. it is called in by the EPA Director as a level 1 activity; or

b. the activity meets the definition of one of the level 2 activities listed in Schedule 2 (for example, Firmus' Long Reach and Welsey Vale AI data centres were both referred to the EPA as level 2 activities because their diesel generators met the definition of a fuel burning activity under Schedule 2, cl 7(a) of the EMPC Act[117]).

98. Although all three Firmus AI data centre proposals were referred to or called in by the EPA, the EPA Board determined it did not need to undertake an environment impact assessment for any of them.[118] For example, the EPA Board advised the George Town Council that it did not need to assess the Long Reach AI data centre application on the basis: [119]

- *that the Council's process and powers under [the LUPA Act] can facilitate an appropriate level of environmental impact assessment and regulatory control, sufficient to manage the risk of environmental harm or nuisance associated with the proposal; and*
- *that the risk of the activity causing serious or material environmental harm or environmental nuisance is very low or negligible.*

99. The EPA instead provided George Town Council with 'some preliminary advice relating to environmental matters arising from the proposal', and recommended the Council consider relevant permit conditions to address the matters in the advice, which included conditions on construction, diesel generators, noise and air quality, and water quality. However, the EPA noted that this was not a 'mandatory requirement being imposed by the EPA'.[120]

100. While we do not have access to the planning approval permit for Firmus' Long Reach AI data centre, we understand George Town Council imposed 15 conditions on the permit. Condition 13, which limits the use of Firmus' diesel generators, is the subject of an appeal

[114] EMPC Act, s 25(1).
[115] EMPC Act, s 3 defined ***level 1 activity*** as an activity which may cause environmental harm and in respect of which a permit under the *Land Use Planning and Approvals Act 1993* is required but does not include a level 2 activity or a level 3 activity.
[116] EMPC Act, s 25(1D).
[117] For the Wesley Vale AI data centre see: Latrobe Special Council Meeting Agenda, p 7; for the Long Reach AI data centre, see George Town Council Meeting Agenda, pp 71-72.
[118] For St Leonards AI data centre see: City of Launceston Special Meeting Minutes, p 35; For the Wesley Vale AI data centre see: Latrobe Special Council Meeting Agenda, p 7; for the Long Reach AI data centre, see George Town Council Meeting Agenda, pp 71-72.
[119] See George Town Council Meeting Agenda, pp 71-72.
[120] Ibid.

to the Tasmanian Civil and Administrative Tribunal brought by Firmus on 10 September 2026.[121]

101. The Wesley Vale AI data centre development application (which is yet to be approved) was also referred to the EPA Board and accepted as a level 2 activity due to the proposed diesel generators meeting the definition of a fuel burning activity under Schedule 2, cl 7(a) of the EMPC Act. However, the EPA decided to not assess the application on the basis that the Council's process and powers under the LUPA Act could 'facilitate an appropriate level of environmental impact assessment and regulatory control, sufficient to manage the risk of environmental harm or nuisance associated with the proposal'.[122]

102. In response to the EPA's decision not to assess, Latrobe Council's Planning Officer raised concerns about the 'adequacy and robustness' of the State Planning Provisions under the TPS in assessing AI data centres in Lutruwita (Tasmania). Council's assessment report expressed a view that the development application should have been assessed by the EPA under the EMPC Act, which has 'a broader criterion that would provide a more fulsome assessment to consider environmental concerns raised by the community.'[123] As an example, the Council Planning Officer notes:

> *The development is located within proximity of prime agricultural land utilised for irrigated cropping…the use and development standards for the General Industrial zone, which is applicable to the subject site, are completely silent in relation to assessing potential impacts of any industrial proposals that are adjacent to agricultural land. The only mechanism that would trigger the need for industrial uses to expressly identify potential impacts to the adjoining agricultural land would be if the proposal was assessed by the EPA as a Level 2 Activity.*[124]

103. We agree with comments that the TPS is not adequate to address all environmental impacts of AI data centre development proposals. The EPA is the body with the regulatory powers to impose appropriate conditions on data centre development and use relevant to environmental impacts and human health. Alongside these powers, however, the EPA Board also has a broad discretion to decide not to assess a level 2 activity under s 25(1D) of the EMPCA. We are concerned by its use of this discretion not to assess the three AI data centre developments so far referred to it for assessment. We note the EPA has published lists of 'proposals not assessed by the EPA' for each financial year beginning 2023/2024.[125] Accompanying these lists, the EPA notes that referrals will be considered on a 'case by case basis' and that '[p]roposals for which other assessment and post-approval regulatory mechanisms are sufficient to manage the likely environmental impacts' are recognised as

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[121] ABC News, 'AI data centre company Firmus lodges TASCAT appeal against restrictions on generator use' (15 September 2026). Available here: https://www.abc.net.au/news/2026-09-15/firmus-technologies-lodge-tascat-appeal-for-generator-use/107144572.
[122] Latrobe Special Council Meeting Agenda, p8.
[123] Latrobe Special Council Meeting Agenda, p8.
[124] Latrobe Special Council Meeting Agenda, p8.
[125] EPA, 'Proposals Not Assessed by the EPA'. Available at: https://epa.tas.gov.au/business-industry/assessment/proposals-not-assessed-by-the-epa.

not being likely to require assessment. However, we consider this provides very limited guidance on how the EPA exercises its discretion in determining when not assess a proposal.

104. We recommend Schedule 2 of the EMPC Act be amended to include a new 'level 2' activity definition that explicitly covers all AI data centres of a certain scale (for example 50MW). We also recommend an accompanying policy or regulation that requires the EPA to do a full environmental impact assessment of these developments, including addressing cumulative impacts.

105. We will be pleased for an opportunity to further consider and discuss any amendments to the EMPC Act. Any proposed amendments to the EMPC Act should be done through a rigorous consultation process.

Recommendation 8: The *Environmental Management and Pollution Control Act 1994* (Tas) be amended to ensure AI data centre proposals are subject to full environmental impact assessment by the Board.

Recommendation 9: Environment Protection Authority decisions, including decisions of the Environment Protection Authority Board not to assess an activity referred to it, should be transparent and open to third parties for external review, with legislated open standing provisions for judicial and merits review.

Water regulation

106. The Draft Expectations provide that data centre infrastructure proponents should 'use innovative, efficient and sustainable solutions to minimise water use', and are expected to 'plan, design and operate data centres and AI infrastructure to ensure water security for other water users is not impacted'.[126] Tasmania's water management system is inadequate to ensure these expectations are met, despite the Draft Expectations' statement that 'Tasmania has a well-established framework for managing the sustainable use and supply of water.[127]

107. The Premier's Economic and Social Recovery Advisory Council Final Report (March 2021) identified water resource management in Tasmania inadequate to ensure environmental and agricultural water security, and in need of urgent attention. The report noted that:

> *To meet future demand for water and ensure that water quality is sufficient for our agricultural and environmental needs, we need a broader water resource policy approach that addresses resource allocation, water security and water quality, setting specific targets and binding the State Government to monitoring and reporting, as well as more transparency. This should be an immediate priority.*[128]

[126] Draft Expectations, p 13.
[127] Draft Expectations p 13.
[128] Premier's Economic and Social Recovery Advisory Council, Final Report (March 2021) 42 and 68. Available at: https://www.parliament.tas.gov.au/house-of-assembly/tabled-papers/2021/HATP10.2_03_2021.pdf.

108. This recommendation is endorsed in the 2024 State of the Environment Report, which also notes that river health and riparian zone condition are getting worse.[129]

109. AI data centres must be required to minimise their cumulative environmental footprint, including by utilising the most water efficient technology for all water use requirements. This includes cooling, which may involve locating AI data centres where water requirements can be met through municipal grey water or other re-use options. Tasmania's water planning framework is currently not adequate to assess where, and using what water supply, data centres may be located.

110. Given the extensive water demands of most AI data centres, including wastewater production, the Tasmanian regulatory framework should provide clear planning requirements to ensure new AI data centres do not place further pressure on ecosystems with limited water. The Tasmanian regulatory framework should identify areas where AI data centres are not suitable developments due to risks to ecosystems, water security, or water quality.

111. Noting these concerns and the environmental impacts highlighted in Part 1, we recommend that the framework for managing the sustainable use and supply of water in Lutruwita (Tasmania), including the *Water Management Act 1999* (Tas), be reviewed and amended to ensure it adequately regulates environmental risks associated with AI data centres and other pressures on water resources.

Recommendation 10: The framework for managing the sustainable use and supply of water in Lutruwita (Tasmania), including the *Water Management Act 1999* (Tas), must be reviewed and amended to ensure it incorporates principles regulating water usage by AI data centres in Lutruwita (Tasmania).

Energy regulation – renewables requirement

112. As outlined in Part 1, AI data centres have immense energy requirements. It is imperative that rapid uptake of AI data centres in Lutruwita (Tasmania) does not undermine the renewable energy transition, particularly as global temperatures continue to rise and the risks of crossing one or more climate-system tipping points increase, potentially triggering self-reinforcing changes that become irreversible on human timescales.

113. The Tasmanian Government's Renewable Energy Action Plan includes a goal to 'increase the state's renewable energy output equivalent to 200 per cent of renewable electricity generation levels' by 2040.[130] In 2020, the Tasmanian parliament legislated a renewable energy target.[131] In its 2024 State of the Environment Report, the Tasmanian Planning

[129] Tasmanian Planning Commission (2024), State of the Environment Report Volume 1: Summary Report (**State of Environment Report**), p 56. Available at: https://www.planning.tas.gov.au/other-resources/state-of-the-environment/state-of-the-environment-report-2024.

[130] Tasmanian Government, 'Tasmanian Renewable Energy Action Plan' (December 2020). Available here: https://www.recfit.tas.gov.au/__data/assets/pdf_file/0005/451859/Tasmanian_Renewable_Energy_Action_Plan_December_2020.pdf, p 3.

[131] *Energy Co-ordination and Planning Act 1995* (Tas), ss 3B & 3C.

Commission recommended 'the Tasmanian Government continue efforts to reduce greenhouse gas emissions across all sectors'.[132]

114. Specifically in relation to AI data centres, the Draft Expectations include an expectation on developers to 'unlock new renewable energy generation to offset demand'.[133] Acknowledging the scale of AI data centre electricity demand, the Draft Expectations state '[p]roponents are required to bring on additional renewable energy generation in Tasmania' and 'partner with new energy generation projects'.[134] This expectation is inadequate: it requires specificity and enforceability to ensure rapid investment in AI data centres does not compromise the renewable energy transition.

115. To achieve this, all AI data centre energy demands in Lutruwita (Tasmania) must be supplied by 100% additional renewable energy. Implementing this will require legislative amendment, for example through the *Climate Change Act 2008* (Tas) or through standalone AI data centre legislation. This must include a prohibition on AI data centre projects that involve any new, or expanded, coal, gas or oil projects to provide primary or back-up energy supply.

116. Even in circumstances where the primary power supply is renewable energy, often AI data centre developments rely on diesel generators to provide back-up supply or otherwise will draw energy from the grid (as is the case for two of the Firmus AI data centres[135]). The 100% renewable energy requirement should include back-up power generation, imposing obligations on AI data centre proponents to investigate alternatives to fossil-fuel powered back-up generators and establishing energy efficiency requirements.

117. Further, AI data centre proposals in Lutruwita (Tasmania) should, where appropriate, supply power to the grid to support additional energy needs of Tasmanians and reduce reliance on fossil fuels nationally.

118. It is imperative that renewable energy developments: adhere to the principles of ecologically sustainable development; are designed to avoid and minimise impacts and water usage; and have fully funded full-life recycling, rehabilitation and restoration.[136]

Recommendation 11: Tasmanian legislation must be amended or introduced to mandate that all AI data centre proposals must be fully powered by their own additional renewable energy sources.

[132] State of Environment Report, Recommendation 15 at p 44.
[133] Draft Expectations, p 4.
[134] Draft Expectations, p 10.
[135] For the Wesley Vale AI data centre see: Latrobe Special Council Meeting Agenda, p 8; Ashleigh Barracough, 'Firmus plans to truck water in and use rainwater to cool proposed Wesley Vale AI data centre', *ABC News* (News article, 27 August 2026). Available here:https://www.abc.net.au/news/2026-08-27/firmus-truck-water-rainwater-cool-wesley-vale-ai-data-centre/107083230. For the Long Reach AI data centre, see George Town Council Meeting Agenda, pp 48 and 65; Kelsey Reid, 'AI data centre company Firmus lodges TASCAT appeal against restrictions on generator use', *ABC News* (News article, 15 September 2026). Available here: https://www.abc.net.au/news/2026-09-15/firmus-technologies-lodge-tascat-appeal-for-generator-use/107144572.
[136] We refer to EDO's 12 principles for renewable energy transition projects.

Strategic planning

119. As outlined above, the regulatory framework in Lutruwita (Tasmania) requires reform to be able to adequately assess and regulate data centre developments in a context of rapidly evolving technology, significant environmental, human health and Cultural Heritage impacts, and the compounding uncertainty of cumulative impacts.

120. The regulatory framework must also require pre-planning and strategic environmental assessments to ensure appropriate siting of AI data centres in Lutruwita (Tasmania), including identifying unacceptable areas and/or impacts, to avoid or mitigate impacts and support sustainable development.

121. This pre-planning should aim to ensure the siting is appropriate for both the AI data centre and also for the ancillary renewable energy infrastructure required to power the data centre. This approach would provide for improved biodiversity outcomes and increase industry certainty in relation to AI data centre proposals.

122. Pre-planning should also contemplate ancillary infrastructure and the need for increased renewable energy projects and associated critical minerals mining, which can have significant environmental impacts and must be considered cumulatively.

123. EDO has previously expressed concerns that biodiversity offsetting is not effective in delivering environmental outcomes.[137] We consider it imperative that biodiversity offsets are only relied upon as a last resort to minimise residual, unavoidable impacts of data centre projects and only after first genuinely applying the mitigation hierarchy to avoid, mitigate or abate impacts.

124. As outlined in Part 1, AI data centres pose serious risks to human and ecological health, including from pollution and contamination. It is essential data centre design considers lifecycle impacts and that the regulatory framework requires avoidance of impacts and includes air, thermal, sensory and chemical pollution mitigation standards and measures.

Recommendation 12: The Tasmanian regulatory framework must require pre-planning and strategic environmental assessments to ensure appropriate siting, including identifying unacceptable areas, with offsets only to be used as a last resort and in accordance with the mitigation hierarchy.

Recommendation 13: Tasmanian laws must require AI data centre design to incorporate whole-of-life considerations and requirements to avoid impacts and include air, thermal, sensory and chemical pollution standards and mitigation measures.

Legislation to be informed by adequate research

125. Noting the significance of the impacts highlighted in Parts 1 and 2 of this submission, it is essential that Tasmania's regulatory framework is updated to ensure development is

[137] Environmental Defenders Office, 'Defending the Unburnt: Offsetting our way to extinction' (Report, November 2022) 4. Available at: https://www.edo.org.au/wp-content/uploads/2022/12/EDO-Offsetting-our-way-to-extinction.pdf.

sustainable and adverse impacts on the environment, Tasmanian Aboriginal people, and communities more generally are avoided.

126. It is not clear that the Tasmanian Government has taken steps to ensure that complete and accurate information has been obtained, despite welcoming increased investment in AI data centres in Lutruwita (Tasmania).

127. Comprehensive research into the potential environmental impacts of AI data centres must be undertaken to inform changes to the Tasmanian regulatory framework and ensure regulation is adequate. Complete and accurate information about the full range of AI's environmental impacts is critical for the purposes of energy system and water resource planning and management. This research should be made publicly available to foster transparency and facilitate informed public consultation on the proposed framework.

Recommendation 14: Amendments to the Tasmanian regulatory framework for AI data centres must be informed by complete, accurate and publicly available research regarding the potential impacts of AI data centres.

Robust consultation on the regulatory framework

128. AI Data centres are a matter of significant public concern. Given the extensive known impacts and the potential for further issues to reveal themselves as developments progress and research on data centres improves, it is essential people are given an opportunity to have their say about the Tasmanian regulatory framework in accordance with best practice principles. This includes, early, ongoing and meaningful community engagement.

129. EDO would welcome the opportunity to participate in any stakeholder engagement on the proposed regulatory framework, particularly given our expertise in relation to planning and environment law and human rights.

130. Further, we consider it essential that the Tasmanian Government meaningfully engages with the Tasmanian Aboriginal community and their representative organisations to inform the regulatory framework. We provide further information about the importance of engagement with First Nations in Part 2 of this submission.

Recommendation 15: Robust consultation must be undertaken on any proposed changes to Tasmanian law and policy relating to assessment and regulation of AI data centre developments in Lutruwita (Tasmania).

Transparent and accountable decision-making and access to information

131. Transparency and accountability are essential to foster trust, and to establish and maintain social licence.

132. Principle 10 of the Rio Declaration outlines three fundamental community rights in relation to environmental decision-making, comprising the rights to:[138]
(1) have appropriate access to information held by public authorities;
(2) genuinely participate in decision-making processes; and
(3) have access to review or challenge decisions.

133. It is imperative the Tasmanian regulatory framework for AI data centres incorporates these rights, to ensure better outcomes for communities and the environment.

134. It is also critical that the Tasmanian regulatory framework for AI data centres imposes clear annual public reporting obligations on AI data centre developers, for example in relation to:

a. energy usage, including the source (for example renewable or fossil fuel sources) and any energy supplied back to the grid;
b. water usage, including the source of the water (such as wastewater, drinking water, or water extracted from water resources) and water expenditure (including wastewater produced) for the life of the project;
c. land clearing associated with the project, including ancillary infrastructure or energy generation projects;
d. air pollutants, particularly those associated with diesel generators;
e. thermal pollution and sensory pollution associated with the project;
f. any use of PFAS, including management actions to prevent contamination;
g. financial information, including amounts paid for water and energy sources where derived from external sources; and
h. community and social impacts and benefits, such as cost-sharing for public infrastructure.

Recommendation 16: The Tasmanian regulatory framework must incorporate accountability and transparency through decision-making to ensure it is in the public interest, including particularly:

a. the right to information, by imposing comprehensive and ongoing reporting obligations on proponents, including in relation to energy and water usage and sourcing, land impacts, pollution and potential community impacts;
b. the right to meaningful participation, by enshrining community consultation rights; and
c. access to justice, by providing for merits review rights and third-party enforcement.

Moratorium on data centre development until regulatory framework is legislated

135. In EDO's Submission to the Senate Inquiry,[139] we have called on the Federal Government to impose a moratorium on development of data centres and AI infrastructure developments

[138] See: United Nations, Report of the United Nations Conference on Environment and Development, Rio de Janeiro, (3-14 June 1992) Volume 1, Resolutions adopted by the Conference. Available at: https://docs.un.org/en/A/CONF.151/26/Rev.1(vol.I).
[139] EDO Submission to the Senate inquiry, pp 17-18.

in Australia until the national regulatory framework is legislated to ensure compliance with Australia's commitments under international law.

136. Additionally, the Tasmanian Government must impose a moratorium on development of AI data centres in Lutruwita (Tasmania) until the new national framework is in place and the Tasmanian regulatory framework has been appropriately amended to adequately assess and regulate data centre development proposals.

137. Given recent Federal Government announcements relating to proposed renewable energy requirements for AI data centre developments,[140] we consider there is a real concern that AI data centre proponents will seek to implement their projects in Lutruwita (Tasmania) before the commencement of the national regulatory framework and updates to the Tasmanian regulatory framework, to take advantage of the lack of federal regulation and insufficient assessment processes under Tasmanian laws.[141]

138. While we support the Federal Government's proposed approach of developing a mandatory national set of standards to regulate AI and data centres in Australia, and the Tasmanian Government's objective to unlock and support new renewable energy projects in Lutruwita (Tasmania), we are concerned that the current lack of federal and state governance may lead to increased risks of adverse impacts on the environment, First Nations and communities more generally.

Recommendation 17: The Tasmanian Government must impose a moratorium on development of AI data centres in Lutruwita (Tasmania) until the Tasmanian framework is legislated to ensure development is sustainable and impacts on the environment, First Nations and communities more generally are avoided.

[140] The Hon. Chris Bowen, 'National Press Club Address' (Speech, National Press Club, 5 August 2026). Available at: https://minister.dcceew.gov.au/bowen/speeches/speech-national-press-club-canberra.

[141] See for example: Josh Taylor, 'Australia may face a rush of datacentre construction as AI firms look to avoid upcoming rules, experts say', *The Guardian* (News article, 26 August 2026). Available at: 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.

Annexure 1 – AI data centre development proposals in Lutruwita (Tasmania)

Data centre (Firmus)	Council	Use class	Zone(s)	Energy (MW)	EPA referral	Council Minutes/Agendas/Attachments
St Leonards (DA0273/2025) – approved with conditions on 1/9/26	City of Launceston	Research and Development	Rural Zone and Light Industrial Zone	104MW	Yes (not assessed) – Unknown if Level 2	Special-Meeting-Minutes-1-September-2025.pdf
Long Reach (DA 20-26/29) – approved with conditions on 25/8/26	Goerge Town	Utilities	General Industrial Zone	288MW	Yes (not assessed) – Level 2	2026-08-25-Ordinary-Council-Meeting-Attachments_Part1.pdf
Wesley Vale (LDA066/2026) – under assessment	Latrobe	Utilities	General Industrial Zone	52MW	Yes (not assessed) – Level 2	Agenda-Special-Meeting-7-September-2026-inline.pdf