



Law Council
OF AUSTRALIA

An AI Action Plan for All Australians: A Call for Views

Department of Industry, Science, Energy and Resources

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About the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Law Firms Australia, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- Law Firms Australia
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2020 Executive as at 1 January 2020 are:

- Ms Pauline Wright, President
- Dr Jacoba Brasch QC, President-elect
- Mr Tass Liveris, Treasurer
- Mr Ross Drinnan, Executive Member
- Mr Greg McIntyre SC, Executive Member
- Ms Caroline Counsel, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.

Acknowledgement

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Introduction

1. The Law Council of Australia (**the Law Council**) is pleased to provide input to the Department of Industry, Science, Energy and Resources (**the Department**) in relation to its discussion paper, *An AI Action Plan for All Australians: A Call for Views* (**the discussion paper**).

General Comments on Discussion Paper

2. The Law Council welcomes the Department's engagement with the emergence of AI in today's Australia, and its objectives of maximising the benefits of AI for all Australians and managing the potential challenges.
3. The discussion paper is described as presenting issues at a 'high-level'.¹ The Law Council considers that there is an opportunity for a more ambitious and strategic approach to AI through an action plan that reflects a more in-depth and whole-of-government analysis. This would incorporate the development of an appropriately targeted and balanced regulatory framework (ranging from self-regulation to legislation where required to address specific risks) regarding the use of AI, which prioritises overarching objectives of transparency and accountability. A central agency may be best placed to coordinate this work.

Opportunities for Responsible Innovation

4. From an opportunities perspective, AI techniques have the potential to increase efficiency, including in knowledge industries such as law. This carries with it potentially dramatic implications for the future of work that the discussion paper only touches on superficially.
5. Some of the critical enablers of reaping the full potential of AI, which may merit sustained attention from policymakers include digital commons, open government, consumer data rights, and digital trusts.
6. Facilitating greater data sharing and availability, which is one way government might support the uptake and use of AI technologies in Australia, involves removing barriers and increasing incentives for governments and agencies at all levels to make datasets increasingly available to researchers and technology companies, subject to appropriate data privacy and security safeguards.
7. The Australian Government is in a position to make curated government datasets publicly available and to facilitate national repository-style data collection and sharing, such as through setting up national databases with open access, where users can deposit their own sets in return for access to the sets created by others. Australia already does this with environmental data, for example, where the Terrestrial Ecosystem Research Network data collection is supported by the Australian Government's National Collaborative Research Infrastructure Strategy.²
8. The Consumer Data Right (**CDR**), which is currently being rolled-out to the banking and energy utilities sector, will enable AI and data analytics to access a deeper pool of data from which new insights and potentially new products and services can be

¹ Australian Government, Department of Industry, Science, Energy and Resources, *An AI Action Plan for All Australians: A Call for Views* (Discussion Paper, 29 October 2020) 22 <<https://consult.industry.gov.au/digital-economy/ai-action-plan/>>.

² TERN, *Data Discovery Portal* <<https://portal.tern.org.au/home/infrastructure>>.

derived. The CDR provides a set of secure tools to enable sharing of personal data – with the informed consent of the data subject – with a range of actors including established institutions and utilities as well as new entrants.

9. The ability for Australians to prove their identity online securely and authoritatively will be a key enabler of an open connected economy into the future. A number of regional neighbours, including Singapore and Thailand, are moving quickly to establish secure, safe national digitised identification schemes that can support digital transactions.
10. A final innovation consideration involves opening and supporting the research space. In order to coordinate Australia’s national research effort around areas of national priority, one suggestion is a central database of priorities and self-reporting of who is working on each one, giving new players an idea of who is in the space and who might be approached for assistance.
11. However, the promotion of innovation has corresponding responsibilities: a commitment to fairness, ethics, accountability and transparency to reassure data subjects and users of new technologies and protect their rights. The Law Council emphasises the importance of safeguards in each of the spaces of innovation canvassed above, and makes the following suggestions for further consideration:
 - committing and investing in enhancing digital trust, which is the measure of confidence in the ability of governments, organisations and institutions to protect the data privacy of individuals;
 - making statements about data obtainment mandatory, to disclose the dataset used and where it came from;
 - creating intellectual property rules specifically for data and databases, such as has been done in the European Union;
 - creating intellectual property rules specifically for AI, requiring publicly accessible deposits of data to gain regulatory approval to sell certain products (law enforcement, surveillance, medical);
 - ensuring datasets containing personal or behavioural data are available only if the recipient enters into an enforceable undertaking that the data will be kept securely and not further disclosed;
 - requiring risk management plans to be provided as part of ethics approval processes;
 - extending ethics approvals into all research (public or private) involving personal data, helping to create a transparent environment where collection is open, not clandestine;
 - ensuring programming assumptions are clearly set out and making training datasets available so that third parties can test for bias, noting that increasing transparency may have the added benefit of bolstering user confidence and uptake of technologies; and
 - ensuring any imported AI-based products comply with minimum standards of disclosure, transparency and ethics.

12. The Law Council also emphasises that it is the role of the Australian Government to ensure that no social group is left behind through inability to take up AI initiatives, including through lack of capacity due to financial position or available public infrastructure.

Risk Management and the Role of Regulation

13. In the Law Council's view, there has to date been a strong emphasis on voluntary ethical frameworks to govern the use of new and emerging technologies. Promoting discussion of ethics is vital: over time, this will prompt design frameworks which reflect ethical considerations, and therefore ensure built-in safeguards. However, consideration is also needed of when, and how, ethics should be incorporated into an overarching regulatory framework. Promoting Australia's AI Ethics Principles may be insufficient without appropriate accountability and enforcement mechanisms, including government oversight and opportunities for redress.³ The limitations of reliance on ethics alone should be understood, considering the serious consequences that can flow from the improper use of AI.
14. There are risks for Australians flowing from rapidly expanding and unchecked use of AI processes. These include biased, discriminatory and/or erroneous outcomes, a lack of transparency and accountability in decisions affecting people's rights and interests, an inability to understand or challenge AI decisions or processes and breaches of privacy. These risks present both through government and industry reliance on AI. They must be recognised and carefully managed. It is important to engage upfront with how AI is presently being employed in ways that may have a significant impact upon the rights of individuals.
15. The Law Council has previously publicised its support for the Australian Human Rights Commission's (AHRC) draft recommendation that the Australian Government develop a National Strategy on New and Emerging Technologies, in order to promote national leadership, responsible innovation and a multi-faceted regulatory approach.⁴ This would encompass legislation, co-regulation and self-regulation, appropriately targeted and balanced towards addressing certain key risks (discussed below), creating greater oversight to facilitate greater innovation.⁵
16. The exact parameters of a robust regulatory framework encompassing legislation, co-regulation and self-regulation – particularly, what might appropriately be left to organisations to self-manage and what might require government intervention – still need to be drawn. The Law Council has received mixed views from its constituent bodies, committees and sections in this respect, with some members suggesting it is not yet obvious what organisations should be doing: that is, the self-management task and test has not been sufficiently described in this space, and therefore the precise parameters for legislative regulation of organisations are not yet obvious. These members further suggest that the Commonwealth Government begin by developing

³ See Law Council of Australia, Submission to the Department of Industry, Innovation and Science (DIIS), *Artificial Intelligence: Australia's Ethics Framework* (June 2019) <<https://www.lawcouncil.asn.au/resources/submissions/artificial-intelligence-australias-ethics-framework>>.

⁴ Law Council of Australia, Submission to the Australian Human Rights Commission, *Human Rights and Technology: Discussion Paper* (21 April 2020) <<https://www.lawcouncil.asn.au/resources/submissions/human-rights-and-technology-2>> 5.

⁵ Ibid.

a user guide, policy or checklist for federal government agencies, as has occurred in New South Wales, and then advocate a similar step for private sector organisations.⁶

17. At this early stage, the Law Council considers that any regulatory framework must achieve the broad aims of transparency and accountability. It notes that Australia is not the only jurisdiction confronted with these issues, and has the opportunity to build upon global lessons (noting it makes sense to remain broadly consistent with protective measures adopted in other jurisdictions) and even take a leading role (as it has, for example, in respect of legislation to combat modern slavery)⁷.
18. The General Data Protection Regulation (**GDPR**) is a useful benchmark for how regulation might be approached in Australia.⁸ It sets out a range of interconnected rights for data 'subjects' and responsibilities for 'controllers' and 'processors'.⁹
19. Australia might also draw from analogous legal debates, such as the recent conversations around privacy legislation in Canada and America, which saw several iterations of draft bills including the Brookings Institute's draft legislative text dated 3 June 2020.¹⁰
20. The following headings provide a non-exhaustive list of areas in which a regulatory framework might appropriately form part of a government action plan.

AI Decision Making

21. The use of AI-assisted decision making raises a wide variety of issues. At the core of all the issues is the need to protect overarching democratic principles such as the principle of legality, the rule of law, principles underpinning administrative law including procedural fairness, and human rights.
22. AI-informed decision making should not evade or bypass the existing protections of the law and domestic and international human rights standards. In addition, it raises new problems, which may in turn require new solutions, or at the very least, careful consideration of whether existing frameworks are fit for purpose. Measures may need to be taken – by industry and by government – to ensure transparency of decisions, accountability for decision making, the availability of effective remedies for individuals affected by decision making, and the provision of effective responses that address (rectify or stop in a timely manner) systemic issues.
23. AI-informed decision making must be 'explainable' – a person affected by it must be able to assert a right to a reasonable explanation. To this end, the Law Council has previously supported the AHRC's draft recommendation that the Australian Government introduce legislation mandating the explainability of AI-informed decision

⁶ See New South Wales Government, *User Guide* (undated) <<https://www.digital.nsw.gov.au/policy/artificial-intelligence-ai/user-guide>>; New South Wales Government, *Artificial Intelligence (AI) Ethics Policy* (August 2020) <<https://www.digital.nsw.gov.au/policy/artificial-intelligence-ai/ai-ethics-policy>>. See also Lisa R Lifshitz and Cameron McMaster, 'Legal and Ethics Checklist for AI Systems' 2020 *The SciTech Lawyer* 28.

⁷ See, eg, *Modern Slavery Act 2018* (Cth).

⁸ Law Council of Australia, Submission to the Australian Human Rights Commission, *Human Rights and Technology: Discussion Paper* (21 April 2020) 14. See *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)* [2016] OJ L 119/1 <<https://gdpr-info.eu/>> (**GDPR**).

⁹ *Ibid.*

¹⁰ See Brookings Institute, 'Information Privacy Act' (3 June 2020) <<https://www.brookings.edu/wp-content/uploads/2020/06/InformationPrivacyAct-June3-2020.pdf>>. See also Cameron F Kerry and John B Morris Jr, 'Framing a Privacy Right: Legislative Findings for Federal Privacy Legislation', *Brookings Institute* (online, 8 December 2020) <<https://www.brookings.edu/research/framing-a-privacy-right-legislative-findings-for-federal-privacy-legislation/>>.

making.¹¹ Individuals should be able to access an appropriate and reasonable explanation of how both government and private sector decision making is based on algorithmic formulations, especially for decisions that materially affect their rights and interests. If an individual would have been entitled to an explanation of a decision were it made by a person, then the AI-informed decision should also be explainable. Where AI is materially used in a decision that has a legal or similarly significant effect on an individual's rights, there should be a requirement to provide notice to the individual that AI was employed, and explanation of the decision should be possible.¹²

24. There are two aspects to the right to an explanation. An explanation should contain the reasons for an AI-informed decision, such that it would enable an individual, or a person with relevant technical expertise, to understand the basis of the decision and any grounds on which it should be challenged. Consequently, an affected individual should be able to demand a:
 - non-technical explanation of the AI-informed decision, which would be comprehensible to a layperson; and
 - technical explanation of the AI-informed decision that can be assessed and validated by a person with relevant technical expertise.
25. The latter would also provide the capacity to resolve systemic problems, not merely individual cases.
26. The introduction of a rebuttable presumption that certain decisions were not lawfully made where they cannot be reasonably explained should also be considered.¹³ The existing grounds of review in administrative law will likely apply in many instances, but in other contexts (such as industry) a rebuttable assumption may be appropriate.
27. In addition, the Law Council notes a developing trend that a person affected by the decision should be able to require a substitute decision be made by a human decision maker. Some of the Law Council's constituent bodies have suggested that, where the decision is in the process of being litigated or disputed, a judicial officer or tribunal member should have the power to refer of their own initiative the matter to a human decision maker. However, mandating inclusion of a human-in-the-loop does not in itself effect a solution – the Law Council emphasises the importance of a clear right of recourse with respect to erroneous decisions made relying in whole or materially in part on AI being available in Australia.
28. The Law Council has also previously publicised its support for the proposition that where an AI-informed decision-making system does not produce reasonable explanations for its decisions, that system should not be deployed in any context where decisions could infringe the human rights of individuals.¹⁴
29. In order to prevent improper AI-informed decision making occurring, legal frameworks need to be embedded into AI systems. One suggestion is the creation, in effect, of a building code for AI systems development, which has the explicit goal of protecting overarching legal principles and rights. There should also be capacity for ongoing analysis, testing and checking over the entire lifespan of an AI system. This could be implemented through the establishment of a regulatory 'sandbox' to test AI-informed

¹¹ Law Council of Australia, Submission to the Australian Human Rights Commission, *Human Rights and Technology: Discussion Paper* (21 April 2020) 16.

¹² *Ibid* 14.

¹³ *Ibid* 17.

¹⁴ *Ibid* 17.

decision-making systems for compliance with legal principles and rights, including human rights.

30. It follows from the above that regulation of AI-informed decision making requires a greater dialogue between legal and technical experts. For AI systems to respect the rule of law and other legal principles and rights, systems developers will require input from legal practitioners. There are particularly detailed questions of administrative law that require urgent consideration and resolution, for example.¹⁵ Similarly, legal practitioners will need to draw upon technical expertise and tools to effectively challenge AI-informed decisions and seek legal remedies.
31. With respect to government decision-making, in 2004, the Administrative Review Council examined issues arising from the increasing use of automated government decision making and devised 27 Best Practice Principles,¹⁶ but this seminal analysis needs to be reviewed (including the extent of its implementation in practice) and/or updated. The intricacies of other legal frameworks, such as anti-discrimination laws, must be similarly applied to the spectre of an increasingly automated future.
32. It is noted that the Australian Law Reform Commission (**ALRC**) has recommended a project on this topic,¹⁷ and has more recently conducted a webinar on it.¹⁸ Beyond specific matters of concern such as Centrelink's online compliance scheme ('Robodebt'), there is value in the ALRC studying the issue in a principled manner (in broader terms, although still informed by 'Robodebt' as one relevant case study). The Law Council supports the ALRC conducting an inquiry into the accountability of AI-informed decision making.¹⁹

Data Privacy

33. The European Union has already identified and legislated to mitigate a number of data privacy risks relating to AI, through the GDPR, mentioned above. The GDPR implements general limitations on the collection, use and transmission of data, which can impact AI, but also a number of rules more specifically directed towards AI, including:²⁰
 - the requirement for processing to be fair (Article 5(1)(a)). Fair processing requires that data 'controllers' consider the likely impact of their use of AI on individuals and continuously reassess it. In particular, fair processing requires that AI systems do not produce bias;
 - the principle of data minimisation (Article 5(1)(c)). The data minimisation principle requires that personal data be 'adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed';

¹⁵ Ibid.

¹⁶ Administrative Review Council, *Automated Assistance in Administrative Decision Making* (Report No 46, 2004) 5, [2.1].

¹⁷ Australian Law Reform Commission, *The Future of Law Reform: A Suggested Program of Work 2020-2025* (December 2019) <https://www.alrc.gov.au/wp-content/uploads/2019/11/Future-of-Law-Reform-Final-Report_v3web.pdf>.

¹⁸ Australian Law Reform Commission, 'Automated Decision-making and Automated Decision Making and Administrative Law – a nationwide conversation on law reform', online webinar, 10 August 2020.

¹⁹ Law Council of Australia, Submission to the Australian Human Rights Commission, *Human Rights and Technology: Discussion Paper* (21 April 2020) 9.

²⁰ GDPR, <<https://gdpr-info.eu/>>.

- the ‘right of access by the data subject’ (Article 15), allowing the data subject access to ‘meaningful information about the logic involved’ in solely automated decision-making;
 - a ‘right to explanation’ of automated decisions (Article 22, though there are significant restrictions on the types of automated decisions that are covered — which must both be ‘solely’ based on automated processing and have legal or similarly significant effects); and
 - data protection impact assessments (**DPIAs**) (Article 35). DPIAs are designed to assess the impact of a processing activity on the protection of personal data, where the processing is likely to result in a high risk to the rights and freedoms of natural persons.²¹
34. The Law Council encourages the Australian Government to institute a fundamental review of Australia’s data protection and privacy legislation, which is specifically targeted at AI, and informed by the experiences of other jurisdictions.²² A robust review in this space is necessary in order to support and promote responsible innovation and adoption of AI in Australia, which hinges on the safe and secure availability and sharing of data. The Terms of Reference for the current Attorney-General’s Department review of the *Privacy Act 1988* (Cth) do not gear it towards squarely confronting these issues of emerging prominence.

AI in the Financial Services Sector

35. The Law Council similarly encourages the Australian Government to request that the Council of Financial Regulators (**CFR**) conduct a review of the challenges posed by AI in the regulated financial services sector, and the appropriate risk mitigants to be adopted, including the possibility of an ethical charter for the use of AI and machine learning in this sector.
36. The Monetary Authority of Singapore has recently published a set of Principles to Promote Fairness, Ethics, Accountability and Transparency (**FEAT**) in the Use of Artificial Intelligence and Data Analytics (**AIDA**) in Singapore’s Financial Sector.²³ The objectives of this work are to provide firms offering financial products and services with a set of foundational principles to consider when using AIDA in decision-making, to assist these firms in contextualising and operationalising governance of AIDA in their own business models and structures, and to promote public confidence and trust in the use of AIDA.

²¹ See Centre for Information Policy Leadership, *Artificial Intelligence and Data Protection: How the GDPR Regulates AI* (March 2020) <https://www.huntonprivacyblog.com/wp-content/uploads/sites/28/2020/03/cipl-hunton_andrews_kurth_legal_note_-_how_gdpr_regulates_ai_12_march_2020_-1.pdf>.

²² See also Office of the Australian Information Commissioner, Submission to the Department of Industry, Innovation and Science, *Artificial Intelligence: Australia’s Ethics Framework* (24 June 2019) <<https://www.oaic.gov.au/engage-with-us/submissions/artificial-intelligence-australias-ethics-framework-submission-to-the-department-of-industry-innovation-and-science-and-data-61/>>; Office of the Australian Information Commissioner, Submission to the Australian Human Rights Commission, *Artificial Intelligence: Governance and Leadership White Paper* (19 June 2019) <<https://www.oaic.gov.au/engage-with-us/submissions/artificial-intelligence-governance-and-leadership-white-paper-submission-to-the-australian-human-rights-commission/>>.

²³ Monetary Authority of Singapore, *Principles to Promote Fairness, Ethics, Accountability and Transparency (FEAT) in the Use of Artificial Intelligence and Data Analytics in Singapore’s Financial Sector* <<https://www.mas.gov.sg/-/media/MAS/News%20and%20Publications/Monographs%20and%20Information%20Papers/FEAT%20Principles%20Final.pdf>>. See also Financial Stability Board, *Artificial Intelligence and Machine Learning in Financial Services* (online, 1 November 2017) <<https://www.fsb.org/2017/11/artificial-intelligence-and-machine-learning-in-financial-service/>>.

37. Such a review by the CFR could also encompass the possibility of AI approaches being applied to the supervision of the financial markets. Indeed, as more and more transactions become dematerialised, or placed on blockchain, there is potential for supervision of those transactions to be automated and overseen using AI techniques. The Australian Government could encourage regulatory agencies of all kinds, including the financial regulatory agencies, to take a more innovative approach to harnessing the very large data sets they have access to, in order to diagnose and predict regulatory issues and measure systemic health.

Physical Risks from AI

38. The broad risk that needs to be addressed in general terms is that of AIs behaving unexpectedly, including illegally, presenting physical dangers. Governance of the design, engineering, and operation of AIs, and governance of the training data they rely on, is therefore of great importance.
39. While the existing law of negligence and products liability could potentially mitigate some of the risks around AIs, there may be a need for more specific regulation of certain legal risks where common law oversight may be insufficient.²⁴
40. This would appear to be a topic that may sit more naturally with state governments since it intersects with the issue of autonomous vehicles and drones, but at very least a whole-of-government approach could allocate responsibility for considering the issue in more depth.

Next Steps

41. The Law Council notes that the next steps of the Department are: 'set out clear objectives and develop the actions needed to deliver on these and achieve our vision for AI in Australia'.²⁵ The Law Council hopes there will be further opportunity for public input throughout this process, in order for discussion at a more granular level including on issues of legal implications, regulation and risk mitigation. This process needs, as flagged above, to be truly whole-of-government and comprehensive.

Recommendations

The promotion of AI has corresponding responsibilities, including accountability and risk mitigation through regulation, to reassure and protect data subjects and users of new technologies. The Law Council recommends that the Australian Government:

- **expand the scope of the current discussion towards an action plan that is ambitious, strategic and whole-of-government;**
- **address in detail both the opportunities and the challenges presented by AI, with an action plan that matches issues to specific work to be undertaken by relevant bodies, preferably coordinated by a central agency;**
- **draw in detail from previous work, issues and recommendations, including the inquiries of the DIIS and AHRC;**

²⁴ See Samir Chopra and Laurence White, *A Legal Theory for Autonomous Artificial Agents* (University of Michigan Press, 2011) <https://www.press.umich.edu/356801/legal_theory_for_autonomous_artificial_agents>.

²⁵ Australian Government, Department of Industry, Science, Energy and Resources, *An AI Action Plan for All Australians: A Call for Views* (Discussion Paper, 29 October 2020) 23.

- **direct policy resources towards critical enablers of reaping the full potential of AI, including digital commons, digital trust, open government, the CDR, and facilitation of greater data sharing and availability, subject to appropriate data privacy and security safeguards;**
- **prioritise a regulatory framework for AI which responds appropriately to emerging risks, encompassing legislation, co-regulation and self-regulation;**
- **introduce legislation mandating the ‘explainability’ of AI-informed decision making;**
- **ensure a clear right of recourse is available in Australia for decisions made relying in whole or materially in part on AI;**
- **ensure that, where an AI-informed decision-making system does not produce reasonable explanations for its decisions, it is not deployed in any context where decisions could infringe human rights;**
- **consider the establishment of a regulatory ‘sandbox’ to test AI-informed decision-making systems for compliance with legal rights and principles, including human rights;**
- **require expert legal input into the development and analysis of AI-informed decision-making systems created or commissioned by government departments, agencies or statutory bodies;**
- **recommend an ALRC inquiry into the accountability of AI-informed decision making, covering complex questions of administrative law, anti-discrimination law and privacy law;**
- **institute a fundamental review of Australia’s data protection and privacy legislation, which is specifically targeted at AI and informed by the experiences of other jurisdictions, such as the European Union’s GDPR, and complements broader current privacy legislation review processes;**
- **recommend a CFR review of the opportunities and challenges posed by AI in the financial services sector and the possible risk mitigants to be adopted; and**
- **consider the extent to which the existing law of negligence and products liability addresses foreseeable instances of AIs behaving unexpectedly, including illegally, presenting physical dangers, and the necessity of further governance in this area.**