MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Judith Collins KC	**Portfolio**	Science, Innovation and Technology
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List of documents that have been proactively released		
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In Confidence

Office of the Minister of Science, Innovation and Technology

Office of the Minister for Digitising Government

Cabinet Economic Policy Committee

Proposal

1 This paper seeks agreement to a strategic approach to artificial intelligence (AI) in New Zealand, to provide confidence to the public service and wider economy to safely develop, innovate with, and use this transformative technology.

Relation to government priorities

2 Responsible development and use of AI in New Zealand can help deliver better outcomes for people in New Zealand and boost productivity. It can contribute to growing economic prosperity, delivering better public services and meeting our Government Targets, and keeping our country and its people safe.

Executive Summary

3 New Zealanders are often early adopters of new technology but businesses are slow to adopt AI, due in part to uncertainty about the future regulatory environment. Other countries are actively seeking to harness AI's economic potential. We must take action to unlock the potential of AI to help deliver better outcomes for New Zealanders through greater innovation, productivity, and export opportunities.

4 We need to state our support for increased uptake of AI in New Zealand and be clear that we will take a light-touch, proportionate and risk-based approach to AI regulation. This will provide reassurance and spur development and use of AI in New Zealand. We already have laws that provide some guardrails; further regulatory intervention should only be considered to unlock innovation or address acute risks and use existing mechanisms in preference to developing a standalone AI Act.

5 We also need to stay connected to key international discussions that are establishing international norms for AI, including on AI safety. These discussions can help New Zealand be a fast follower and provide additional reassurance to New Zealanders that we are attentive to emerging issues. New Zealand has already adhered to the OECD AI Principles; I suggest we draw on these as a key direction for our approach to AI, and identify further priority initiatives to engage in.

6 Critical to capitalising on AI is an open and coordinated approach across Government agencies. For this reason, I suggest Ministers note that the Government Chief Digital Officer (GCDO) will support agencies to safely adopt and innovate with AI and steward AI uptake for the system overall. Strong leadership is essential; without it, inefficiencies could multiply, capability deficits could create risk, and public service performance overall could suffer. I also invite Ministers to seek advice from officials on priorities for further AI policy work in their portfolios, to inform a cross-portfolio AI work programme that realises the opportunities of AI for New Zealand.

Key challenges to securing the potential of AI in New Zealand

7 AI is likely to drive global productivity growth, and many countries are harnessing AI to strengthen their economies, improve competitiveness and deliver better outcomes. New Zealand is behind its peers, with several challenges apparent.

Mistrust of AI is holding back beneficial diffusion of this technology

8 A 2023 "Internet Insights" survey by Verian found over 66% of New Zealanders were extremely or very concerned that AI may be used for malicious purposes, be unregulated, and have unintended consequences causing harm to people. Security of personal data is a general concern and cross-country studies have shown New Zealand has a low level of public trust in companies utilising AI.

Relatively low uptake of AI in the economy limits its impact on innovation and productivity

9 A 2023 Datacom survey of 200 senior business leaders found 49% have yet to take up AI in their organisation or don't plan to at all. A 2023 Westpac report suggests barriers to uptake include a lack of AI skills and strategic vision, access to data, and costs of AI solutions.

10 Regulatory uncertainty is also a factor. A 2021 Qrious survey found only 28% of businesses agreed they had a good understanding of the legal and ethical implications of AI. A Xero survey of small businesses showed 78% of New Zealand respondents were concerned that AI development and adoption was outpacing regulation.

Limited adoption of AI in the public service also holds back potential gains

11 A GCDO survey of over 50 public service agencies in late 2023 showed the potential of AI for improving Public Service performance and the customer experience of government. Most agencies are early in their AI journeys and, conscious that the public service is held to higher standards, are seeking support for managing privacy, security, and ethics/bias concerns. They are also seeking help with attracting and retaining scarce AI skill sets. A structured and consistent approach to supporting AI adoption can accelerate progress and the benefits of AI across the Public Service.

We need to prioritise our international engagement on AI

12 Countries are actively trying to shape international rules and norms on AI to support economic and security ambitions. Engaging in these conversations informs domestic policy development, keeps New Zealand abreast of emerging risks, better positions us to respond to cross-border issues (e.g., election interference), and enables us to advocate our interests. We are engaged in some international fora, but AI initiatives are proliferating. We need to reconsider which initiatives best support our interests.

Addressing the challenges: a more strategic approach to AI

13 A clear strategic direction can clear the path for AI to deliver better outcomes for people in New Zealand. I propose decisions and actions in five domains, described below. Underpinning these are system-wide activities to build trust and confidence, such as Statistics NZ's Centre for Data Ethics and Innovation and the Office of the Privacy Commissioner's guidance on privacy and AI.

Domain 1: Setting a strategic approach

Encouraging the use of AI to deliver results for people in New Zealand

14 We need to state our support for increased use of AI in New Zealand to boost innovation and productivity growth, strengthen our economy and deliver more effective public services.

Taking a proportionate, risk-based approach to AI regulation

15 New Zealand should take a proportionate and risk-based approach to AI regulation to enable innovation, mitigate harms, and build trust. Regulatory intervention should only be considered to unlock innovation or address acute risks. If regulatory intervention is needed, we should leverage existing regulatory mechanisms, preference agile options, and draw on international actions, rather than developing a standalone AI Act. This recognises that:

15.1 New Zealand has existing regulatory frameworks (e.g., privacy, consumer protection, human rights) that are largely principles-based and technology neutral. These frameworks can be updated as and when needed to enable AI innovation or address AI harms.

15.2 AI is a general-purpose technology with many potential uses. Regulating AI based on "predicted uses" or "speculated harms" may be overly broad in many contexts and harm productivity. If needed, a range of more agile options can address risks and build trust, for instance voluntary guidance, industry codes, technical standards, and audit requirements.

Giving effect to the OECD AI Principles

16 We should promote the OECD AI Principles as a key direction for our approach to responsible AI in New Zealand. The OECD AI Principles (Appendix 1) were the first intergovernmental agreement on AI and continue to be influential. They represent common ground among New Zealand's trusted partners. They can serve as a visible signal of our national approach and a high-level direction for work across government on AI issues, including in the public service.

Domain 2: Enabling safe AI innovation in Public Services

17 AI innovation can enable modern, efficient, and trusted customer-centric public services. Agencies make decisions about using AI in their own context and some are already making good headway. For example, the health sector is exploring how precision health technologies, including AI, could support more efficient and effective healthcare. ACC has recently trialled the use of generative AI to support back-office efficiency and productivity.

18 Similar to digital system leadership roles in other countries, the GCDO is working to support agencies and steward the system overall. It delivers this through developing and sharing lessons and guidance that empower agencies to safely trial and scale their use of AI. The GCDO also engages with peers to keep up with international developments for AI. The GCDO's leadership supports agencies and the system

overall to appropriately manage risk. AI is evolving rapidly and if inaccuracy or misuse were to cause failure in public service delivery the consequences could be serious. Like trust, social licence is hard to build but easy to lose. Supporting the right-sizing of risk management will be key to enabling safe progress.

19 The GCDO are developing a work programme to enable safe AI innovation in public services. This work programme includes supporting agencies to trial and scale up their use of AI and build needed AI skills, and working with providers to negotiate terms that optimise government's purchasing power. Refreshed guidance and a new Assurance Model will strengthen risk management for the system. I suggest that Ministers note the GCDO will work with their agencies to support safe AI innovation both for their agencies and the Public Service overall.

Domain 3: Harnessing AI in the New Zealand economy

20 Work is underway to support the responsible development and use of AI in New Zealand beyond the public service. For example, I have asked the Ministry of Business, Innovation and Employment (MBIE) for risk management-based guidance to firms, and an AI Roadmap to support AI uptake in the private sector and align government behind selected focus areas (e.g., health) to unlock this technology for innovation, productivity, and export potential. MBIE are engaging with the sector to inform this work and to build support and buy-in for our approach.

21 There are likely further areas where policy work can unlock AI's potential. I suggest Ministers seek advice from officials on priorities for AI policy work consistent with our strategic approach, to form a coordinated cross-portfolio work programme.

Domain 4: Prioritising our engagement on international rules and norms

22 The Ministry of Foreign Affairs and Trade (MFAT) helps coordinate New Zealand's engagement with our partners on international AI initiatives, including the recent AI Safety Summit hosted by the Republic of Korea. It is currently leveraging its global network to understand emerging and existing policy responses to AI, and to track international initiatives to respond to AI. I suggest we invite MFAT, coordinating with other relevant agencies, to provide advice on which initiatives New Zealand should prioritise engaging with.

Domain 5: Coordinating with work on national security

23 AI presents opportunities across national security issues but can also amplify risks and the ease of committing harm. The Department of the Prime Minister and Cabinet (DPMC) is the lead strategic coordination agency for the emerging, critical, and sensitive technologies (ECST) national security core issue. It has established a cross-agency ECST work programme, likely heavily featuring AI. These workstreams should seek to complement and coordinate with each other.

Treaty of Waitangi

24 AI technologies have a variety of applications and can be incorporated into many different types of systems. In this context, the Crown may have Treaty of Waitangi obligations arising from the development and use of AI in New Zealand. I have

recently met with the Data Iwi Leaders' Group (DILG) and was pleased at the ready uptake of AI by the DILG. There seems to be a common acceptance that the danger for Māori in AI is to be left outside of its ability to bring about substantial improvements in the provision of services for Māori.

Cross-Party support for AI adoption in Government

25 The CPAIC (Cross-Party AI Caucus) has met this year and has been supportive of the use of AI by government to improve services for New Zealanders. I anticipate briefing the CPAIC, with Cabinet's approval, on the progress government is making.

Implementation

26 Agencies are progressing current work in their areas of responsibility. I suggest light-touch coordination at the agency level continue. In particular:

26.1 MBIE, in collaboration with the Department of Internal Affairs (DIA), will coordinate development of the cross-portfolio work programme (domain 3).

26.2 MBIE and DIA will maintain cross-agency groups to share information and good practices, and support alignment on AI work.

27 Individual agencies would undertake public engagement and consultation, including with iwi and Māori, as relevant for their activities.

28 I propose bringing the cross-portfolio AI work programme to Cabinet in September 2024, and we could review progress across all domains in mid-2025.

Cost-of-living Implications

29 There are no cost-of-living implications from this proposal. However, I expect greater uptake of AI could generate efficiencies and contribute to better outcomes for people.

Financial Implications

30 There are no immediate financial implications arising from this proposal. Further work will rely on agencies' ability to resource their planned projects. Greater public service efficiency would improve value for money, supporting fiscal sustainability.

Legislative Implications

31 There are no immediate legislative implications from this proposal.

Impact Analysis

Regulatory Impact Statement

32 This proposal does not require a regulatory impact statement.

Climate Implications of Policy Assessment

33 This proposal does not require a Climate Implications of Policy Assessment. Future work could consider issues of emissions, sustainability, and AI use.

Population Implications

34 AI could have disproportionate impacts on some population groups. I expect agencies' work on AI would undertake analysis of population impacts as applicable.

Human Rights

35 This proposal does not present inconsistencies with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of external resources

36 No contractors or consultants were engaged in the preparation of this paper. The GCDO work programme may require highly skilled AI experts to support intended work on technical AI guidance, to be hired as contractors or consultants.

Consultation

37 This paper was prepared by MBIE, in close coordination with DIA, DPMC, MFAT, the GCSB's National Cyber Security Centre, and Statistics NZ.

38 The following agencies were consulted: Callaghan Innovation, Crown Law, Department of Conservation, Department of Corrections, Inland Revenue, Land Information New Zealand, Maritime New Zealand, Ministry of Culture and Heritage, Ministry of Defence, Ministry of Disabled People, Ministry of Education, Ministry for the Environment, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry for Primary Industries, Ministry of Social Development, Ministry for Women, New Zealand Customs Service, New Zealand Defence Force, New Zealand Police, New Zealand Security Intelligence Service, New Zealand Trade and Enterprise, New Zealand Transport Agency, Office of the Privacy Commissioner, Oranga Tamariki, the Parliamentary Counsel Office, Public Service Commission, Social Wellbeing Agency, Te Puni Kōkiri, and Treasury.

39 The Privacy Commissioner strongly supports the government taking a proactive approach to enable benefits and manage risks from AI. He supports the view that we do not yet need an AI-specific law; however, we do need quick progress to advance a shared understanding of urgent issues around AI. Organisations are making decisions about AI now without clear guidance on responsible risk management and this is driving public concern. The Commissioner is concerned that the work programme described will take too long to develop a shared national approach on AI. Progress is needed on immediate issues, such as resolving uncertainty about how existing regulatory frameworks apply to AI, which will inform whether these need strengthening. He would like to see a full draft work programme reported back to Cabinet earlier. He has also convened the Digital Regulators Forum, with MBIE, DIA, Stats NZ, and the Commerce Commission as members, and the Forum has agreed to explore progressing public-facing guidance for businesses on how existing regulations apply to and support the responsible use of AI in the near term.

Communications

40 I propose to communicate on our approach to AI to give visibility to current AI-related policy work.

Proactive Release

41 I intend to proactively release this paper.

Recommendations

The Minister of Science, Innovation and Technology recommends that the Committee:

Setting a strategic approach

1 note that increased uptake and use of AI in New Zealand can help deliver better outcomes for people in New Zealand;

2 agree that New Zealand will take a proportionate and risk-based approach to AI regulation where needed, using agile approaches, and leveraging existing mechanisms in preference to developing a standalone AI Act;

3 agree to promote the OECD AI Principles as a key direction of New Zealand's approach to AI;

Enabling safe AI innovation in Public Services

4 note the role of the GCDO in leading work to accelerate responsible use of AI across public services, to deliver better outcomes for all New Zealanders;

5 agree that government agencies should be encouraged to adopt AI for its benefits, while managing the risks;

Harnessing AI in the New Zealand economy

6 direct agencies to provide Ministry of Business, Innovation and Employment (MBIE) officials with inputs for an integrated cross-portfolio work programme with an economy-wide focus, by end-August 2024;

7 invite the Minister of Science, Innovation and Technology to report back by September 2024 with an integrated cross-portfolio work programme on AI;

Coordinating with work on national security

8 note that work by the Department of the Prime Minister and Cabinet on a system-wide approach to national security risks posed by priority emerging, critical, and sensitive technology (including AI) can coordinate with the cross-portfolio work on AI;

Prioritising our engagement on international rules and norms

9 direct the Ministry of Foreign Affairs and Trade to lead advice on prioritising international AI initiatives in which New Zealand could engage;

Implementation

10 note MBIE, in collaboration with the Department of Internal Affairs, would support development of an integrated cross-portfolio work programme on AI; and

Communications

11 invite the Minister of Science, Innovation and Technology to give visibility to current AI-related work underway across government.

[Authorised for lodgement.]

Hon Judith Collins KC MP
Minister of Science, Innovation and Technology
Minister for Digitising Government

Appendix 1: OECD AI Principles

The OECD AI Principles (formally, the OECD Recommendation on Artificial Intelligence) is an intergovernmental standard on AI. They identify five complementary values-based principles for responsible stewardship of trustworthy AI and call on AI actors, including governments, to promote and implement them. These values-based principles are grouped under the headings of:

- Inclusive growth, sustainable development, and well-being
- Respect for the rule of law, human rights, and democratic values, including fairness and privacy
- Transparency and explainability
- Robustness, security, and safety
- Accountability.

Consistent with these values-based principles, the OECD AI Principles also provide five recommendations to policymakers pertaining to national policies and international cooperation, grouped under the headings of:

- Investing in AI research and development
- Fostering an inclusive, AI-enabling ecosystem
- Shaping an enabling interoperable governance and policy environment for AI
- Building human capacity and preparing for labour market transformation
- International cooperation for trustworthy AI.

The OECD AI Principles are considered part of the OECD's suite of legal instruments. As "soft law" they are not enforced, but adherents face strong expectations to implement their directions. There is a process of regular review by the OECD to ensure the instrument remains fit-for-purpose, which includes assessment of adherents' progress in implementing the Principles.

A scheduled five-yearly review recently took place to consider whether any revisions were needed to update the Principles. The full revised text was formally adopted at the OECD Ministerial Council Meeting on 2-3 May 2024, and is available in the OECD's Compendium of Legal Instruments (OECD/LEGAL/0449 at OECD Legal Instruments).