Beyond Blue Submission to the Productivity Commission's Harnessing Data and Digital Technology Interim Report

September 2025

Summary

- Beyond Blue recognises the transformational opportunities that artificial intelligence (AI) presents across society, including in healthcare. However, the interim report places disproportionate emphasis on the potential benefits without adequately addressing the emerging risks and harms that AI poses to mental health and wellbeing.
- While the current proposals emphasise innovation-friendly reform, human outcomes must be front and centre. Mental health and inclusion should be treated as core outcomes, with wellbeing impact assessed alongside productivity impact as dual benchmarks for reform.
- We recognise that people in the community are increasingly turning to AI to explore mental health topics, seek motivation and self-reflection, find companionship and, in some cases, use it as a substitute for professional mental health diagnosis, therapy and support. The latter may reflect one or many realities for people: the cost and/or availability of timely mental health support and/or self-stigma and shame.
- Beyond Blue recommends that the final report include a comprehensive consideration of AI-related mental health and wellbeing risks more broadly, with a focus on:
  - Ensuring AI does not cause negative mental health and wellbeing impacts or suicide risk.
  - Preventing AI from providing inappropriate support and establishing appropriate, clear and accessible pathways to report mental health and wellbeing harms.
  - Data-driven systems (monitoring, feedback, AI decision support) designed with humans in the loop and reflecting the diversity of people and experiences. This must be supported by appropriate governance.
  - Ensuring that nobody in Australia is disproportionately excluded from the productivity gains due to the digital divide.

Recommendations

The Productivity Commission's final report should:

1. Expand draft recommendation 1.1 to include a legislation and regulation review on the risks and harms of the community using AI for mental health and wellbeing purposes. This should explore and consider:

   o expanding the remit of existing bodies and the Online Safety Act to ensure that there is an appropriate, visible mechanism to report harms
   o the creation of an oversight body, including lived experience, clinical expertise and research to provide ongoing input on the regulatory environment
   o mandating safety by design and proactive approaches
   o requiring regular monitoring for unintended consequences and mandatory reporting of incidents
   o the need for community education and literacy on the limitations, risks and reporting pathways
   o where regulatory gaps are identified, recommendations with timelines to address these gaps.

2. Respond to the macroeconomic and organisational risks associated with rapid AI adoption. Model workplace health and safety regulations and regulatory advice should be updated to reflect these risks.

3. Ensure that the digital divide is addressed to allow all people in Australia to benefit from the potential productivity gains.

4. Consider measures that protect Indigenous Cultural Intellectual Property (ICIP) in the context of AI and ensure that First Nations Peoples are partners in decision-making and governance.

AI and mental health

- AI chatbots are an emerging feature of Australia's mental health landscape. **People in Australia are increasingly turning to AI chatbots to explore mental health topics**, and in some instances, as a substitute for professional mental health diagnosis and support. In June 2024, one in 10 (9.9%) people in Australia reported using ChatGPT to obtain health-related information in the preceding six months, and a further 38.8% who knew about ChatGPT were considering using it for health-related questions in the following six months.[1] An analysis of online discussions about AI found that therapy and companionship were considered the top use case for generative AI in 2025.[2]

- Given the significant barriers to accessing professional mental health support,[3] the uptake of general-purpose AI chatbots for mental health support is unsurprising given their free, immediate, and 24/7 availability. However, this access does not equate to safe and effective mental health support.

- **Beyond Blue holds significant concerns about the impacts of generated mental health advice or support that can be inaccurate at best, and at worst, unsafe and harmful**. We are seriously alarmed by reports that allege harms for people seeking mental health support through general-purpose AI chatbots, including unsafe advice, failure to provide an appropriate response to crisis and providing information on disordered eating, self-harm and suicide methods for people experiencing suicidal thoughts and behaviours.[4,5]

[1] Ayre, J., Cvejic, E. & McCaffery, K.J. (2025). Use of ChatGPT to obtain health information in Australia, 2024: insights from a nationally representative survey. Med J Aust, 222: 210-212. https://doi.org/10.5694/mja2.52598

[2] Zao-Sanders, M. (2025). How people are really using Gen AI in 2025. Harvard Business Review.

[3] Beyond Blue, The Social Research Centre. (2025). Australia's Mental Health and Wellbeing Check – Trends in mental health and support-seeking (2024). Beyond Blue, Melbourne.

[4] The Conversation. (2025). In a lonely world, widespread AI chatbots and 'companions' pose unique psychological risks.

[5] eSafety Commissioner. (2025). New industry codes seek to take on AI chatbots that encourage suicide and engage in sexually explicit conversations with Aussie kids [media release].

- Currently, we note that consumer-facing general-purpose AI chatbots alone:
    - cannot and should not be relied upon to accurately diagnose or treat mental health conditions
    - cannot and should not replace professional support or social connection
    - can provide inaccurate information
    - may share or use personal data to improve their models
    - seemingly has a primary goal of increased user engagement, and not therapeutic outcomes.
- Consumer-facing AI models do not undergo the same rigorous accreditation required for other digital mental health services, e.g. National Safety and Quality Digital Mental Health Standards[6] accreditation or Therapeutic Goods Administration approval. The lack of safeguards, combined with rapidly increasing community uptake, creates a significant risk for the Australian community and requires urgent attention from the Australian Government to address risks to mental health.

Ensuring the safe use of consumer-facing, general-purpose AI chatbots

- In principle, Beyond Blue supports draft recommendation 1.1, which recommends that gap analyses are completed to understand whether existing regulations sufficiently address AI-related risks. However, while the interim report notes that some reviews are underway and complete, it has not recognised that these reviews do not consider the potential for harm associated with community use of AI chatbots for mental health support and/or support through periods of suicidality. The eSafety Commissioner has noted that while chatbots can provide mental health and wellbeing advice, these functions should include similar protections that are required of professionals.[7] There is an urgent need to prioritise reviewing the regulatory frameworks for the community use of AI in mental health and wellbeing, as introduced in other jurisdictions.[8]
- The Department of Health, Disability and Ageing and the Therapeutic Goods Administration have completed reviews on the legislation and regulation of AI in healthcare and medical device software, respectively.[9,10] While these reviews are important, they focus on contexts that involve clinical oversight and well-established regulatory frameworks. Consumer-facing, general-purpose chatbots have operated without this level of oversight, which requires urgent attention.
- **Beyond Blue holds serious concerns about the lack of clear regulation and accountability processes of AI use in the community. At present, it is unclear who people in Australia can turn to if they experience inappropriate or unsafe mental health or suicide prevention support from AI**. Existing regulators, complaints bodies and quality safety standards are not designed to address mental health and wellbeing risks arising from general-purpose chatbots. For example, chatbots being used by the community for mental health purposes are not recognised by the Therapeutic Goods Administration as a regulated medical product, and it is unclear which agency should be notified through a clear complaint process if there is community harm. An appropriate and visible body is needed to receive reports, proactively monitor harm and mitigate risks. **Some AI organisations note that their safeguards have not worked as intended,** which are designed to not provide self-harm instructions, to direct people to seek professional help and to escalate risk of harm to others for human review.[11] In response to current safeguards not working, OpenAI has announced plans to convene an advisory group of mental health experts to ensure that their approaches are appropriate, allow one-click access to local emergency services, explore how people may be connected to a certified therapist before an acute crisis, consider features that allow people to opt-in to allow ChatGPT to reach out to a designated contact if needed, and add additional protections for people under 18. While these are welcome, we cannot rely on voluntary, industry-led measures alone.

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[6] Australian Commission on Safety and Quality in Health Care. (2020). National Safety and Quality Digital Mental Health Standards.

[7] eSafety Commissioner. (2023). Submission to the inquiry into the use of generative artificial intelligence in the Australian education system.

[8] Association of Health Care Journalists. (2025). States crack down on AI for behavioral health care.

[9] Department of Health, Disability and Ageing. (2025). Safe and responsible artificial intelligence in health care – legislation and regulation review. Australian Government.

[10] Therapeutic Goods Administration. (2025). Clarifying and strengthening the regulation of Medical Device Software including Artificial Intelligence (AI). Australian Government.

[11] OpenAI. (2025). Helping people when they need it most.

- **Robust standards are required across all platforms, developed in partnership with people with lived experience, researchers and clinicians**. This should embed a 'safety by design' approach. Safety by design has been at the centre of advice and policy advocacy relating to existing and emerging technology platforms by Beyond Blue and many others in the mental health sector.[12] More recently, Suicide Prevention Australia has recommended that AI companies should be required by governments to demonstrate safety by design.[13] This approach would require companies to anticipate, identify and remove online harms before they occur. This could be achieved through amendments to the Online Safety Act, with a recent review recommending it adopts a duty of care approach that covers the instruction or promotion of self-harm, suicide and disordered eating at a minimum.[14]
- The eSafety Commissioner has recently registered six new industry codes (effective March 2026) under the Online Safety Act 2021.[15] These codes focus on preventing children from accessing harmful material, including self-harm material, from AI chatbots. They ensure that providers undertake risk assessments, and if the risk of accessing restricted content is moderate or high, the platform may be required to implement age assurance measures, measures that prevent these features from being used, reporting mechanisms and mitigation measures. These new codes are a substantial step forward in closing this regulatory gap. However, a review and an oversight body that includes people with lived experience should consider whether they provide appropriate safeguards for people of all ages in Australia and whether there are opportunities to integrate appropriate support pathways.
- **Recommendation 1:** Expand draft recommendation 1.1 to include a legislation and regulation review on the risks and harms of the community using AI for mental health and wellbeing purposes. This should explore and consider:
    - expanding the remit of existing bodies and the Online Safety Act to ensure that there is an appropriate, visible mechanism to report harms
    - the creation of an oversight body, including lived experience, clinical expertise and research to provide ongoing input on the regulatory environment
    - mandating safety by design and proactive approaches
    - requiring regular monitoring for unintended consequences and mandatory reporting of incidents
    - the need for community education and literacy on the limitations, risks and reporting pathways
    - where regulatory gaps are identified, recommendations with timelines to address these gaps.

AI and the Future of Work

- The interim report notes that AI is already changing Australian workplaces and the very nature of work. While AI demonstrates great promise in improving productivity, it also presents risks for employees, including through job displacement, change and uncertainty, algorithmic bias contributing to workplace discrimination, data, privacy and ethical concerns.[16]
- Employers must consider these work-related risks when implementing AI and emerging technologies and proactively assess and respond to risks, redesign work and effectively manage change. Psychosocial safety laws and associated regulatory advice need to adapt to keep pace with these emerging risks.
- At a broader macroeconomic level, while modelling around the impact of AI on the labour market remains unclear, there is sufficient evidence that a sizeable number of workers will be displaced. Job loss is a significant risk factor for mental health conditions and psychological distress. The final report should leverage the findings from Jobs and Skills Australia *Our Gen AI Transition* report,[17] and adopt recommendations to minimise the negative impact of the AI transition on employee wellbeing.

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[12] ReachOut, Beyond Blue & Black Dog Institute. (2024). Collaborative submission to the inquiry into social media impacts on Australian society.

[13] Suicide Prevention Australia. (2025). AI and digital safety.

[14] Rickard, D. (2024). Report of the Statutory Review of the Online Safety Act 2021. Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

[15] eSafety Commissioner. (2025). New industry codes seek to take on AI chatbots that encourage suicide and engage in sexually explicit conversations with Aussie kids [media release].

[16] World Economic Forum. (2024). Digital health and AI: ushering in a new era of employee productivity and well-being.

[17] Jobs and Skills Australia. (2025). Our Gen AI transition: implications for work and skills. Final overarching report.

- **Recommendation 2:** Respond to the macroeconomic and organisational risks associated with rapid AI adoption. Model workplace health and safety regulations and regulatory advice should be updated to reflect these risks.

Digital inclusion

- Almost one quarter (23.6%) of people in Australia are digitally excluded.[18] For example, in 2023, First Nations Peoples recorded a digital inclusion score 7.5 points lower than other people in Australia. This undermines progress towards Target 17 of the National Agreement on Closing the Gap, which aims for equal levels of digital inclusion by 2026.
- Beyond Blue welcomes the Productivity Commission's recognition that the Australian Government's responsibilities are central to harnessing the benefits of AI, including in providing the necessary digital infrastructure for high-speed internet. These responsibilities should include **addressing the disparities in digital access, affordability and literacy, ensuring that every person can share in the potential productivity gains enabled by AI.**
- **Recommendation 3:** Ensure that the digital divide is addressed to allow all people in Australia to benefit from the potential productivity gains.

Information request 1.1: the issue of copyrighted materials being used to train AI models

- While the interim report acknowledges the potential for AI exacerbating harm through copyright issues, the needs of First Nations Peoples remain unaddressed. Building trust and ensuring culturally safe approaches will be critical to reducing the digital divide. The First Nations Digital Inclusion Advisory Group has raised concerns about the protection of Indigenous Cultural Intellectual Property (ICIP) rights in AI.[19] While copyright covers individual intellectual property, it does not appropriately cater for intellectual property connected to cultural heritage and Country. While the Australian Government has committed to introducing new laws to protect Aboriginal and Torres Strait Islander traditional knowledge and cultural expressions, it is not clear whether this will consider AI. This must be addressed through genuine consultation with First Nations Peoples.
- **Recommendation 4:** Consider measures that protect ICIP in the context of AI and ensure that First Nations Peoples are partners in decision-making and governance.

Conclusion

- Beyond Blue recognises the need to leverage the transformational opportunities that AI can deliver. However, these benefits must not come at the expense of serious risks to mental health and wellbeing. We have strong concerns about the lack of clear safeguards and urge the Productivity Commission to prioritise an urgent review of AI's impact on mental health and suicide risk, alongside measures to close the digital divide and uphold ethical responsibilities. We must harness the opportunities of AI while protecting the mental health of every person in our community.

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[18] Thomas, J., McCosker, A., Parkinson, S., Hegarty, K., Featherstone, D., Kennedy, J., Holcombe-James, I., Ormond-Parker, L., & Ganley, L. (2023). Measuring Australia's digital divide: Australian Digital Inclusion Index: 2023. Melbourne: ARC Centre of Excellence for Automated Decision-Making and Society, RMIT University, Swinburne University of Technology, and Telstra.

[19] First Nations Digital Inclusion Advisory Group. (2024). Submission to the Proposed Mandatory Guardrails for AI in High-Risk Settings.