

## **Green Smokescreens:**

**A submission to the Australian Senate inquiry into greenwashing**

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This document is a copy of the Brightstride submission to the Inquiry into Greenwashing as published by the Australian Senate Environment and Communications Committee, which is identical in content except for the addition of this explanatory page 2. The original submission can be accessed among the published submissions to the Inquiry via the following link:

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Greenwashing/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Greenwashing/Submissions)

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## Profile of Contributors



**Mr Keegan Robertson**

Keegan is a climate change and sustainability economist pursuing a PhD in Economics at Curtin University. His research delves into the multifaceted economics of climate change, examining its political ramifications and analysing extensive datasets. He has actively engaged with policymakers and leaders across the Indo-Pacific to uncover regional climate priorities. He has led interdisciplinary work on greenwashing and net-zero commitments. Alongside Antoine, he recently established Brightstride to develop sustainable, research-based solutions that leverage collective intelligence and diversity to drive innovation and create meaningful impact.



**Mr Antoine Girardeau**

Antoine is a financial economist pursuing a PhD in Climate Finance at Curtin University. His research combines asset pricing, market microstructure, and behavioural models to explore how financial markets can effectively allocate resources to support the transition to a low-carbon economy. Antoine is an active community organiser, bridging academia and society. Through interdisciplinary collaboration, Antoine stays informed about the latest research, aiming to contribute to a future where finance drives environmental and social progress. With Keegan, Antoine founded Brightstride to distribute creative initiatives to propel environmental and social progress.



**Emeritus Professor Ifan Odwyn Jones, AO**

Odwyn is the former Principal of the Western Australian School of Mines in Kalgoorlie and is a respected advocate for considered mining education. With extensive experience in the field, he has emphasised the importance of delivering mining education in a mining district. He was honoured with the Goldfields Citizen of the Year award in 1978. He has made significant contributions to the Minerals Research Institute of WA, including chairing its Minerals Research Advisory Committee. Emeritus Professor Jones received the Order of Australia in 2006 for his service to the mining industry and the Kalgoorlie-Boulder community. In 2017, he was granted membership of the Curtin University Fellowship "for outstanding vision, leadership and commitment to the Western Australian School of Mines and to the State's mining and resources sector of the profession."

# A Greenwashing Timeline

1974

The Commonwealth Trade Practices Act prohibits corporate misleading or deceptive conduct, effectively banning greenwashing.<sup>[1]</sup>



1986

Activist Jay Westerveld is the first to use the term 'greenwashing' in reference to the hotel industry asking guests to reuse towels.<sup>[2]</sup>



1989

A US taskforce to combat deceptive environmental advertising leads to the Environmental Marketing Claims Act of 1991.<sup>[3]</sup>



1992

The US FTC issues the 'Green Guides' to help business navigate their environmental marketing responsibilities.<sup>[4]</sup>



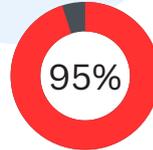
2011

The ACCC publishes 'Green marketing and consumer law' telling businesses to "consider the entire life cycle of a product when making claims about carbon neutrality."<sup>[7]</sup>



2010

Terra Choice finds 95% of 'green' advertisements commit one of their 'Seven Sins of Greenwashing'.<sup>[6]</sup>



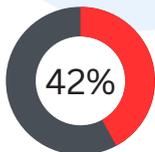
2008

The ACCC Deputy Chair gives a speech on greenwashing, highlighting CHOICE research that uncovered hundreds of instances of greenwashing.<sup>[5]</sup>



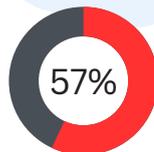
2021

The ACCC participates in a global internet sweep finding 42% of green claims could be misleading and violate law.<sup>[8]</sup>



2022

The ACCC conducts an internet sweep finding 57% of businesses raised greenwashing concerns meriting further investigation.<sup>[9]</sup>



2023

ASIC commences its first court proceedings claiming greenwashing.<sup>[10]</sup>



When will we finally see decisive action to stop greenwashing?

NB: This is an illustrative timeline and is not intended to represent a comprehensive list of all relevant greenwashing-related events.

# Executive Summary

Our message is clear: we must stop giving businesses a free pass to profit from lies while accelerating our planet and people into peril.

We are living through a triple planetary crisis – climate change, pollution, and biodiversity loss.<sup>[11]</sup> Greenwashing has been effectively illegal in Australia since at least 1974. Greenwashing has been the subject of numerous guides, speeches, internet sweeps, and studies and yet problems persist – e.g. lags in mandatory disclosure, lack of harmonised standards, vague legal requirements, and sparse enforcement.<sup>[12]</sup> We must increase both the speed and quality of our actions, or we risk disaster. We can do better.

We use three key recommendations – establish clear regulations, build robust enforcement, and offer irrefutable incentives – to describe a desired future state for Australia, which we believe is achievable within a 5-10 year timeframe. We describe actions and options to support the transition to an un-greenwashed Australia.

## Key Recommendations

### 1. Establish Clear Regulations

Future state: Australia has:

- established a Citizen’s Assembly on Greenwashing to provide recommendations to the government; and,
- implemented a Sustainability Taxonomy based on the Assembly’s recommendations, providing clear and enforceable boundaries by defining “green” or “sustainable” related terms and symbols. Compliance procedures are well-defined for governments, businesses, NGOs, and not-for-profit organisations.

Action	Rationale	Options
Establish a citizen’s assembly on greenwashing	Deliberative processes foster systematic consideration of evidence and reflection on diverse viewpoints, promoting learning and scrutinising of evidence. Deliberation leads to co-benefits such as improved representation, social cohesion, reduced political backlash, countering misinformation, and enhanced citizen trust. It also taps into a public willingness for climate action and builds hope, connection, and pride.	The OECD has developed a number of resources to support the implementation of effective deliberative institutions (see “Eight ways to institutionalise deliberative democracy”, <sup>[13]</sup> and “Good practice principles for deliberative processes for public decision making” <sup>[14]</sup> ), and there are other organisations such as Democracy Next <sup>[15]</sup> and G1000 <sup>[16]</sup> actively assisting governments in implementing democratic solutions to complex issues such as this.
Develop a binding taxonomy	Underpinning the effective use of regulation, legislation, and certification that we propose, is the requirement for a clear, legally enforceable lexicon of terms and symbology. This overarching taxonomy will work to reduce information asymmetry, confusion, distrust and, ultimately, market failure.	<p>The Commonwealth co-funded ASFI Taxonomy<sup>[17]</sup> initiative is an encouraging development. We propose that the scope of such a taxonomy should be enlarged beyond finance to broader sustainable organisational operations, and we note that the development plan appears to lack public oversight.</p> <p>One of the primary contributions of the Citizen’s Assembly could be to inform a taxonomy of legally enforceable terms and imagery. Deliberative processes have particular strengths in overcoming complex normative challenges while considering the diversity of viewpoints representative of the Australian public.</p> <p>The taxonomy can be informed by the respective strengths and guided by the noted shortcomings of the plethora of available and developing standards and recommendations globally, such as the UN Net-Zero HLEG Recommendations,<sup>[18]</sup> TCFD recommendations for climate-related financial disclosure,<sup>[19]</sup> CMA Green Claims Code,<sup>[20]</sup> FTC Green Guides,<sup>[21]</sup> Global Reporting Initiative (GRI) principles,<sup>[22]</sup> Climate Bonds Standards and Certification Scheme (CBS),<sup>[23]</sup> ISO Standard 14021:2016,<sup>[24]</sup> EU Green Bond Standard (EuGBS),<sup>[25]</sup> The UK Green Technical Advisory Group (GTAG) and Transition Plan Taskforce (TPT),<sup>[26]</sup> The OECD’s Developing Sustainable Finance Definitions and Taxonomies,<sup>[27]</sup> and the IFRS ISSB and Sustainability Disclosure Taxonomy.<sup>[28]</sup></p>

NB: identification of examples is not necessarily an endorsement of businesses or their tools, and we recommend due diligence in the selection process.



## 2. Build Robust Enforcement

Future state: Australia has:

- streamlined enforcement of its clear regulations into a greenwashing council, comprised of a standards-setting body (supported by the citizen's assembly), an enforcement body (the proposed greenwashing tribunal or ombudsman), and an independent verification body; and
- implemented efficient processes for issuing infringements, backed by cutting-edge AI-powered breach identification systems.

Action	Rationale	Options
Simplify and clarify enforcement	Excessive complexity leads to confusion, inefficiency, and delayed action. Australia has a web of departments and agencies with responsibilities in setting and communicating standards and enforcing truthfulness in environmental and sustainability claims, including ASIC, ACCC, AEMO, AER, AEMC, CER, COAG, ESB, AFSA, APRA, FRC, CFR, NOPSEMA, DCCEEW, CCA, ARENA (and likely others), along with responsible counterparts in other departments and at state and local government levels. We acknowledge that sustainability touches virtually all areas of government, but we believe there is a considerable opportunity to coordinate a consolidated approach to sustainability that provides organisations, the Australian people, and the international community clarity and confidence in Australia's effectiveness as a sustainable nation.	We perceive two plausible scenarios: 1) The government undertakes a comprehensive mapping exercise to quantify the roles of various agencies and departments and subsequently implements reform to create a streamlined framework of responsibilities, eliminating unnecessary overlap; or 2) The government establishes a tripartite council of environment and sustainability protection agencies with divided responsibilities for 1) standards, 2) certification and enforcement, and 3) independent validation.
Implement Artificial Intelligence (AI) tools to identify greenwashing	Recent explosions in AI will enable businesses to generate enormous volumes of 'green' content, and the ability to decipher fact from fiction will become increasingly difficult for the average consumer. <sup>[29]</sup> The same applications make enormous textual and graphical analysis exponentially more efficient. <sup>[30]</sup> Resourcing for enforcement is limited. While the government has promised additional funding to target greenwashing, <sup>[31]</sup> ASIC already has one the largest regulatory remits in the world. <sup>[32]</sup>  While broader AI applications present some ethical dilemmas and use must consider the rapidly evolving legislative environment, <sup>[33]</sup> we perceive the risks of analysing public statements and advertisements to be low.	Our investigations have led us to three example AI tools used in the detection of greenwashing: <ul style="list-style-type: none"> <li>ClimateBert, a tool that compares corporate disclosures against the TCFD recommendations.<sup>[34]</sup></li> <li>Greenwatch, A Science Foundation Ireland/DFAT (Ireland) co-funded project to develop "AI-based methods to detect greenwashing to improve the measurement of progress towards the [SDGs]."<sup>[35]</sup></li> <li>Greenifs, a tool to assess marketing compliance with regulations<sup>[36]</sup></li> </ul>
Establish a national environmental tribunal	Australia led the world when NSW established The Land and Environment Court in 1980, "as the first specialist superior environmental court in the world." <sup>[37]</sup> Since then, public concern with environmental issues has exploded and the number of climate legal cases in Australia is among the highest in the world. <sup>[38]</sup> Dissatisfaction with legal barriers, <sup>[39]</sup> inconsistencies across states and territories, and examples of greenwashing rhetoric influencing rulings <sup>[40]</sup> support the call for a specialised approach at the national level. Given the slow nature of legal challenge, and the complexity of existing regulatory bodies, we propose that a greenwashing Tribunal or a Greenwashing Ombudsman would merit introduction.	This recommendation is linked with the simplified enforcement recommendation, and the proposed tribunal or ombudsman could assume the enforcement responsibilities for greenwashing. UNEP developed the "Environmental Courts & Tribunals: A Guide for Policy Makers" in 2016, <sup>[41]</sup> documenting over 1200 examples worldwide, and providing guidance on policy considerations and best practices.

### 3. Offer Irrefutable Incentives

**Future state:** Australia has balanced the disincentives of penalties for non-compliance with rewards for best-practice, including financial motivators (e.g. tax incentives, grants and subsidies) and non-financial behavioural motivators, such as:

- targeted public education;
- ‘nudge’ programs building peer-pressure within industries; and
- a comprehensive, standardised certification program.

Action	Rationale	Options
Provide targeted public education on sustainability and greenwashing	Educating consumers about greenwashing effectively reduces its noted success in helping businesses generate profit. <sup>[42]</sup> Raising consumer awareness and reducing the cost of environmental practices is also effective in promoting sustainable behaviour. <sup>[43]</sup>	<p>Research has shown that providing a short 1-page graphical summary of the US FTC ‘Green Guides’ had a significant effect in increasing consumer comprehension of greenwashing and identification of deception.<sup>[44]</sup></p> <p>Consumers being provided with a brief message concerning greenwashing prior to watching ‘green’ advertisements significantly reduced purchase intention and increased perceptions of greenwashing. Careful consideration of this approach is warranted as it has been noted it could reduce overall environmentally motivated purchase intentions.<sup>[45]</sup></p> <p>The proposed Citizen’s Assembly is also an opportunity to educate members of the public who could influence their networks with knowledge and experience gained concerning environmental concerns and regulation.</p>
Instil targeted peer-pressure ‘nudges’	<p>Behavioural economics research provides policy guidance and numerous examples of relatively simplistic, non-financial motivation tools called ‘nudges’.<sup>[46]</sup> These interventions are generally highly cost-effective and widely applicable.</p> <p>Targeting interventions that leverage leaders within industries to influence their peers could be an effective strategy, as shareholders, suppliers, banks, and financial institutions have been shown to be more effective at instilling positive corporate environmental behaviours than customers and industrial associations.<sup>[47]</sup></p>	Options are plentiful, but an example program could be a government-sponsored program of star-performing businesses presenting their work to other entities within their industry. The opportunity for exposure provides a reward to exemplary actors and can instil the right environment to incentivise competitive advances to the limits of honesty and integrity.
Create a comprehensive, standardised certification program	<p>To counteract the perceived disincentive to act on climate and the environment that enforcement and regulation create,<sup>[48]</sup> positive-reinforcement approaches such as certification should be used. Research shows these initiatives can be even more effective than penalties and subsidies.<sup>[49]</sup></p> <p>There are countless ‘green’ and ‘sustainability’-linked certification schemes that lead to consumer confusion, opacity, and ultimately distrust. This has a significant negative impact on the market for genuine positive action.<sup>[50]</sup> Consumers have limited knowledge of labelling; thus, they rely on rules of thumb to guide their decisions,<sup>[51]</sup> and they rely on certifications.<sup>[52]</sup> Raising the standards and simplifying the messaging can have significant impacts to complement the educational initiatives suggested.</p>	<p>We propose that Australia implements a comprehensive government-managed, independently audited sustainability ratings scheme.</p> <p>The scheme should employ principles from existing methodologies exist to assess the life-cycle impact of products<sup>[53]</sup> and place greater emphasis on measurable impact performance rather than just socially responsible approaches and aspirations.<sup>[54]</sup> Blockchain technology is proposed as a solution to enhance transparency and trust in ecolabels, particularly among younger consumers.<sup>[55]</sup> Such applications could be supported by experts in novel blockchain and tokenisation applications such as the Digital Finance CRC.<sup>[56]</sup></p> <p>Once again, the Citizens’ Assembly could play an important role in prescribing the most effective approach, but we perceive the clear, simple yet detailed, tiered system involved in the Energy Rating,<sup>[57]</sup> Fuel Consumption Label,<sup>[58]</sup> and Climate Action Tracker<sup>[59]</sup> as strong examples to follow.</p>

# Introduction

Greenwashing is a symptom of an overwhelming appeal from the public for businesses and governments to take swift and meaningful action to reduce our negative impact on climate and the environment. We could effectively eliminate climate greenwashing in the energy sector, for example, by successfully completing the transition from fossil fuels to renewables. We urge the Commonwealth to continue to increase Australia's ambitions and actions towards the rapid and absolute reduction of greenhouse gas emissions in accordance with the Paris Agreement.

We recognise that comprehensive and conclusive change takes time, and that not all greenwashing can be solved as simply as energy-related emissions. Not all sustainability concerns are equal. One only needs to look at the scope of the UN Sustainable Development Goals to understand the swathe of issues that stand in between the world we are, and the world we wish to be.

We see the work that the Commonwealth is doing to build a more sustainable future. We welcome the invitation from the Senate's Environment and Communications References Committee to provide this submission. We acknowledge the plans in the Commonwealth Budget 2023 with targeted investment in electrification, batteries, critical minerals, energy efficiency, fuel efficiency, hydrogen, reform to the Safeguard Mechanism, and the establishment of the Environment Information Australia, Environmental Protection Australia, and the Net Zero Authority.<sup>[60]</sup> We note the Prime Minister's joint statement with the G7 leaders in championing a sustainable world, and their support of ISSB finalising sustainability and climate disclosure standards.<sup>[61]</sup> These actions, among others, signal Australia's desire to be seen as acting on these issues. We propose that with rigour, clarity, and decisive action, Australia can establish its reputation as a world leader in environmental management through the reduction of greenwashing and the incentivisation of honest disclosure and enhanced positive impact.

## 1. Environmental and Sustainability Claims Made by Companies

"the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear;"

Companies make a range of misleading or deceptive claims, and the makeup of the greenwashing landscape has changed over time. In the late 90s, researchers found that most claims related to general corporate image.<sup>[62]</sup> Later analysis has demonstrated a shift towards aspects of the consumer's role, such as recycling and product-specific claims, but that companies responsible for most 'green' advertisements continued to be in the oil and gas, automotive and energy industries.<sup>[63]</sup> A 2012 study of magazine advertisements concluded that 75% of environmental ads contained greenwashing.<sup>[64]</sup> Additional such studies are noted in the earlier section of this report, **A Greenwashing Timeline**. Despite some variation in findings, the conclusions all speak the same message – greenwashing makes up the majority of what we are being told. There are a number of guides cataloguing the categories of greenwashing, which we will not reiterate as we suspect the committee is well-versed. Instead, we aim to make a few specific points we do not see as prominently identified. First, we wish to draw attention to the important distinction between the avoidance of doing bad and the targeted value-add of doing good.<sup>[65]</sup> The first is a bare minimum; the second should be exemplified. Second, we remind that ambition and action in one area of social concern or sustainability (e.g. modern slavery) is not indicative of, and cannot be represented to demonstrate, ambition and action in another area (e.g. climate change). Third, corporations greenwash because it has demonstrated positive effects on corporate financial performance, but strict regulation and negative publicity can reverse this counterproductive incentive.<sup>[66]</sup>

We also wish to reinforce the examples of greenwashing in claims concerning natural gas project approvals we recently provided to the UN High-Level Expert Group on Net-Zero Commitments of Non-State Actors,<sup>[67]</sup> being:

1. claims about emissions from a natural gas project in an environmental approvals context;
2. decision-making by financial institutions for a natural gas project; and
3. 'green' labelling of investment in natural gas.

Woodside Energy Ltd's North West Shelf Project Expansion in Western Australia is such a case, which the Western Australian Environmental Protection Agency (EPA) recommended for government approval in June 2022. Woodside claims that producing more gas will result in 'Scope 3 benefits', and the EPA has accepted and repeated that claim. Policymakers have also repeated these claims. This scenario is illuminating in the respect that there is no bright-line difference between the environmental and sustainability claims that companies make in communications to the market, consumers, and investors and those that companies make in seeking environmental and other regulatory approvals. The same messages have distorting effects not only on the market, but also on environmental regulatory decision-making and on the perceptions of policymakers. We perceive that the implementation of better regulatory

frameworks for greenwashing in a consumer and investor context is also likely to discourage misleading or deceptive environmental and sustainability claims in an environmental regulatory context. As we noted:

“Woodside claims to target net-zero operations by 2050, referring to Scope 1 and 2 emissions. Regarding its substantial and growing Scope 3 emissions, Woodside claims these are outside of its responsibility, while simultaneously attempting to minimise attention on these Scope 3 emissions through claims that LNG from its Australian gas projects generate, or will generate, a net benefit to the global emission accounts because their LNG will displace coal. As noted in the appeal to the North West Shelf extension, empirical evidence to substantiate this claim is critically lacking, and this kind of selective accounting is allowing the largest GHG emitters to dramatically increase their emissions and claim it is in the service of climate action.”<sup>[68]</sup>

The ACCC identified this kind of selective exclusion in carbon neutrality claims as unacceptable in 2011,<sup>[69]</sup> so we wonder why corporations are still being given leave to mislead and deceive consumers in 2023.

Internationally, the UK Export Finance approved finance equivalent to \$1.15 Billion USD for an LNG Project in Mozambique, which relied on the equivalent logic of emissions avoidance in the context of Scope 3. A legal challenge met a split judgement that deferred conclusions. The lack of consistent analysis between the judgements is representative of an ongoing confusion in the understanding of responsibility for climate action and expected standards as it relates to measuring and reporting emissions from natural gas projects. It also highlights the effect that this type of greenwashing claim made in a relatively vague regulatory environment has on judicial outcomes. The EU also recently labelled natural gas as a ‘green’ investment in its Sustainable Finance Taxonomy, which reportedly contradicts the findings of its own scientific advisors and has resulted in legal challenges.<sup>[70]</sup>

We anticipate that both state and non-state actors may continue the attempt to justify their net-zero emissions commitments using hypothetical reductions in Scope 3 emissions as a means of “offsetting” or achieving a net global emissions reduction for the additional emissions they generate. This strategy represents another approach for non-state actors to evade responsibility for their Scope 3 emissions.

## 2. Impact on Consumers

“the impact of misleading environmental and sustainability claims on consumers;”

The most concerning impact of greenwashing on consumers is the exacerbation and continuation of environmental climate and social harm. Considerable research has demonstrated that climate change leads to increased crime,<sup>[71]</sup> reduced GDP,<sup>[72]</sup> and increased incidence of heat shocks and natural disasters, which in turn cause violence,<sup>[73]</sup> mass migration,<sup>[74]</sup> reduced trust,<sup>[75]</sup> the destabilisation of democracy,<sup>[76]</sup> and death,<sup>[77]</sup> inducing millions of protesters to demand greater action from their governments.<sup>[78]</sup> Air pollution affects 90% of global population, killing 7 million people annually and costing over \$5 trillion dollars.<sup>[79]</sup> Australia has the highest rate of biodiversity loss and extinction in the world,<sup>[80]</sup> of which one of the primary causes is the loss of indigenous land management practices.<sup>[81]</sup>

Greenwashing also has specific behavioural impacts, which affect the market for ‘green’ and ‘sustainable’ goods. Perhaps the main effect is that it creates confusion and damages trust.<sup>[82],[83]</sup> Trust is one of the most researched and most important social behaviours, which the World Economic Forum calls ‘the glue of a healthy society’, leading to productivity, stability, health and happiness.<sup>[84]</sup> Despite demonstrating highly ethical attitudes, younger consumers don’t trust institutions,<sup>[85]</sup> and their intention to purchase ‘green’ products is reduced by scepticism.<sup>[86]</sup> Research shows that stakeholders struggle to differentiate between genuine and deceptive sustainability claims.<sup>[87]</sup> When people feel deceived, they can avoid sustainable purchases altogether,<sup>[88]</sup> which may help to explain the “ongoing conundrum is the gap between consumer concern for environmental issues and their purchase [behaviours].”<sup>[89]</sup> Another explanation could be the price premium, as consumers indicate lower prices are important to improve sustainable purchase intention,<sup>[90]</sup> and that a higher price is associated with perceived sustainability.<sup>[91]</sup>

This gap between the desire to be morally sound in environmental and social issues and the norm-violating purchasing behaviours that are contributed to by greenwashing leads to significant cognitive dissonance, defensiveness, uncertainty, unhappiness, and shame.<sup>[92],[93],[94],[95]</sup> These outcomes emphasise the importance of building confidence and certainty in the standards for advertising, including robust, transparent certification, and confidence in the appropriate use of language and imagery following a standardised taxonomy. Targeted nudges both on consumers and businesses are demonstrably beneficial in overcoming the known distance between desired and actual behaviours. For example, the strict advertising standards for tobacco in Australia have been enforced to elicit known health and societal benefits. This legislation is an example of Australia’s ability to be a world leader in eliminating deceptive practices<sup>[96]</sup> and has effectively eliminated the brand of greenwashing of tobacco that persists in Europe, where such regulations are absent.<sup>[97]</sup>

### 3. Regulating Environmental and Sustainability Claims

“domestic and international examples of regulating companies’ environmental and sustainability claims;”

#### The Australian Regulatory Environment

Australia has a web of departments and agencies with responsibilities in setting and communicating standards and enforcing truthfulness in environmental and sustainability claims, including ASIC, ACCC, AEMO, AER, AEMC, CER, COAG, ESB, AFSA, APRA, FRC, CFR, NOPSEMA, DCCEEW, CCA, ARENA (and likely others), along with responsible counterparts in other departments and at state and local government levels. Given the complexity of the existing structure and the overarching importance of this issue, we propose that the government should simplify and clarify enforcement. Excessive complexity leads to confusion, inefficiency, and delayed action. We offer two plausible scenarios: 1) The government undertakes a comprehensive mapping exercise to quantify the roles of various agencies and departments and subsequently undertakes necessary reforms to establish a streamlined framework of responsibilities, eliminating unnecessary overlap; or 2) similar to the findings of the recent Chubb review of ACCUs, we propose that the government allocate divided responsibilities to a tripartite council of environment and sustainability protection agencies, for 1) standards, 2) certification and enforcement, and 3) independent validation.

In this section, we touch on the circumstances of two regulators: The Australian Securities and Investment Commission (ASIC) and The Australian Competition and Consumer Commission (ACCC).

The ACCC regulates consumer protection and fair business dealings and appears to have a long history of concern for the environmental behaviour of businesses, though a detailed account of actions taken has not been catalogued to our knowledge. In 2008, ACCC Deputy Chair, Louise Sylvan, gave a speech concerning greenwashing. In her remarks, she made clear the ACCC’s awareness of greenwashing, its effect on consumer behaviour, the dramatic increase in the number of complaints the ACCC received identifying alleged greenwashing, the lack of clear standards for businesses, and the relatively weak options available in Australia for enforcement.<sup>[98]</sup> Ms Sylvan noted that the ACCC raised concern with General Motors about greenwashing in their products but did not mention if any further action was taken. By contrast, she shared that Norway’s Consumer Ombudsman had announced “an outright ban on car manufacturers claiming green credentials for all cars, noting that no car was clean, green or otherwise good for the environment.” In 2011, the ACCC released a guide for businesses titled “Green marketing and the Australian Consumer Law,” which, among other things, noted the importance of complete lifecycle analysis when claiming carbon neutrality.<sup>[99]</sup> Under the Climate Active program (and previously the National Carbon Offset Standard), the Commonwealth government has been providing certification to businesses demonstrating carbon neutrality, often primarily through the use of offsets. The program, however, has raised significant concern, and the Australia Institute, represented by the Environmental Defender’s Office, recently filed a complaint with the ACCC claiming the program amounts to misleading and deceptive conduct,<sup>[100]</sup> which has been illegal in Australia since at least 1974.<sup>[101]</sup> The program permits certification of both individual products and businesses as ‘carbon neutral’ when only offsetting Scope 1 and Scope 2 emissions, but not Scope 3. This appears to be at odds with the guidance issued by the ACCC in 2011.

ASIC appears to have a much more recent timeline of consideration for greenwashing, with the first identified reference to greenwashing surveillance in a 2020 strategy document. ASIC leadership made references to greenwashing in speeches in 2021 and 2022<sup>[102]</sup> and subsequently released an info sheet on how to avoid greenwashing in June 2022.<sup>[103]</sup> From July 2022 to March 2023, ASIC issued 23 total corrective disclosure outcomes, 11 infringement notices, and commenced its first civil penalty court proceedings.<sup>[104]</sup> ASIC leadership have made a number of speeches concerning greenwashing, making clear signals to the market on expectations. ASIC has encouraged voluntary disclosure in line with the TCFD framework, noting the uptake among the ASX 100; however, research has found that overall, “only a small proportion of Australian companies are choosing to disclose their efforts to assess and manage the climate risks that they are exposed to” and “[t]he extent and quality of [climate risk disclosures] in Australia identified by this research indicates that these functions are being unfulfilled and will continue to do so in the absence of a uniform and regulated approach to climate risk assessment and disclosure.”<sup>[105]</sup>

#### International Examples of Regulation

Much of the international community appears to have had a comparable history of regulation and signaling concerning greenwashing, with limited enforcement action. For example, in the US, the Federal Trade Commission released their “Green Guides” in 1992, with several updates made up to 2012, but they have been critiqued for lack of legal force or statutory definitions, and calls have been made for mandatory disclosure of environmental information, increasing the powers of regulatory authorities to hold companies accountable for greenwashing, and empowering them to implement fines without court actions.<sup>[106]</sup>

Focusing specifically on relevant developments internationally that may provide options to Australia, the Financial Conduct Authority (UK) has proposed new investment product regulations, including labels and terms,<sup>[107]</sup> as part of the UK's broader Greening Finance policy<sup>[108]</sup> and in line with the UK Government's commitment to introduce mandatory TCFD-aligned disclosure requirements across the economy by 2025. Research into the UK regulatory environment has proposed the establishment of an "Office for Climate and Environment Targets" and suggested a blacklist could be established for non-compliant companies.<sup>[109]</sup> The UK has also established the Green Technical Advisory Group (GTAG) and Transition Plan Taskforce (TPT) with similar regulatory objectives.<sup>[110]</sup>

We have proposed that Australia should develop a taxonomy of sustainable and green terminology and symbols which could draw from similar taxonomy efforts in places such as the EU. Australia's efforts in this area of developing a taxonomy are the co-financed ASFI Taxonomy project. We note the engagement between the ASFI and the EU Taxonomy,<sup>[111]</sup> which may be an important example to review, but we implore Australia not to make the same mistake in approving natural gas as a green investment.<sup>[112]</sup> This is rampant greenwashing and provides yet another government approval for businesses to continue their pursuit of profit and growth at the expense of welfare. Other standards, codes, principles and guides that Australia could draw from to inform its own regulations include:

- UN HLEG Net-Zero Recommendations<sup>[113]</sup>
- TCFD recommendations for climate-related financial disclosure<sup>[114]</sup>
- CMA Green Claims Code<sup>[115]</sup>
- Global Reporting Initiative (GRI) principles<sup>[116]</sup>
- Climate Bonds Standards and Certification Scheme (CBS)<sup>[117]</sup>
- ISO Standard 14021:2016<sup>[118]</sup>
- EU Green Bond Standard (EuGBS)<sup>[119]</sup>
- The OECD's Developing Sustainable Finance Definitions and Taxonomies<sup>[120]</sup>
- IFRS ISSB and Sustainability Disclosure Taxonomy<sup>[121]</sup>

## Artificial Intelligence

ASIC has noted the inefficiency of individual investigation and enforcement,<sup>[122]</sup> and we propose that Artificial Intelligence (AI) could offer a productive solution to monitoring and analysis. Recent explosions in AI will enable businesses to generate enormous volumes of 'green' content, and the ability to decipher fact from fiction will become increasingly difficult for the average consumer.<sup>[123]</sup> The same applications make enormous textual and graphical analysis exponentially more efficient.<sup>[124]</sup> While the government has promised additional funding to target greenwashing,<sup>[125]</sup> ASIC already has one the largest regulatory remits in the world.<sup>[126]</sup> Efficiency and appropriate use of resources are essential.

Researchers have developed AI tools such as ClimateBERT, an algorithm designed to analyse companies' climate-risk disclosures based on TCFD categories.<sup>[127]</sup> The Science Foundation Ireland and Irish DFAT have co-funded Greenwatch, a project to develop "AI-based methods to detect greenwashing to improve the measurement of progress towards the [SDGs]."<sup>[128]</sup> Greenifs is also an AI-powered tool developed for businesses to assess their marketing compliance with greenwashing regulations.<sup>[129]</sup> These tools, or others like them, may offer a substantial solution to enforcement efficiency to agencies such as ASIC and the ACCC.

## The Role of the Australian Public

When Nobel-prizewinning economist Amartya Sen turned his mind to the environment, he focused on the contingency of value, and concluded it is important that we "make sure that strategic considerations don't overshadow people's honest opinions."<sup>[130]</sup> This informs what is perhaps our most important recommendation on regulation – to establish a Citizen's Assembly on Greenwashing (We are using the term 'Assembly' as a broad term, but it is an example from a number of possible deliberative mechanisms.). 'Passing the pub test' is an important Australian culturalism, which contains the seed of democratic values as they existed in ancient Athens. Policies need to make sense to a diverse audience and be representative of the broader views of everyday Australians. Research is demonstrating that the most effective way to do that is not always to have representatives elected to decide for them, but to provide structured opportunities for people to connect, learn, and decide for themselves.

Deliberation underpins the assembly, which encourages systematic consideration and reflection on diverse viewpoints.<sup>[131]</sup> Sortition guides the selection process, which is essentially a lottery designed to collect a representative sample at random from the population, which builds credibility and trust in a fair process. Deliberative models are "designed in such a way that participants can learn and scrutinise evidence and witness testimonies, listening and reflecting on others' arguments, instead of being rushed or baited to form an opinion."<sup>[132]</sup> Instead, assemblies build hope, pride, and cohesion, reduce political backlash, counteract misinformation, and enhance citizen trust in

government and experts.<sup>[133]</sup> As research has demonstrated that the public believes they are more concerned with climate change than their governments,<sup>[134]</sup> we also propose that cementing residents in decision-making roles will increase the quality of climate action.

The OECD has catalogued hundreds of examples of deliberative democracy mechanisms in action.<sup>[135]</sup> Complex environmental and climate challenges have been targeted in deliberations such as the Citizen's Convention on Climate in France<sup>[136]</sup> and the Climate Assembly UK.<sup>[137]</sup> Assemblies and juries offer an opportunity to tailor a locally contextualised solution that considers intersecting values and retains the inherently political nature of policy debate. Importantly, it has been demonstrated that interpretations of sustainable messages are influenced by cultural context, personal values, and prior knowledge.<sup>[138]</sup> Thus, building a strong regulatory environment to tackle greenwashing, requires the inclusion of the diversity of Australian cultural experience, personal values and knowledge. While not a panacea, working through these models has demonstrated considerable success, and there has been considerable research undertaken on these past examples to help inform improvements to future undertakings.

## Instigating Behavioural Change

To counteract the perceived disincentive to act on climate and the environment that enforcement and regulation create, positive-reinforcement approaches such as certification should be used. Research shows these initiatives can be even more effective than penalties and subsidies.<sup>[139]</sup> We propose that regulatory efforts should explore the incentivisation of best practice behaviours to complement prohibition and enforcement actions. These actions can be targeted interventions founded in the concept of 'Nudge Theory'. The cost of behavioural intervention is generally deemed low compared with other traditional policy tools such as tax and subsidy, and depending on the market, nudges can be more effective than these traditional tools.<sup>[140]</sup> The three nudge efforts we propose include targeted public education, corporate 'peer-pressure' initiatives, and a comprehensive, standardised certification program.

Educating consumers about greenwashing effectively reduces its noted success in helping businesses generate profit, which is the core motivation for its use.<sup>[141]</sup> Raising consumer awareness is also effective in promoting sustainable behaviour.<sup>[142]</sup> A research-based education initiative could include circulating a 1-page explanation of greenwashing regulations, which was shown to improve consumer comprehension of greenwashing and identification of deception.<sup>[143]</sup> Consumers being provided with a brief message concerning greenwashing prior to watching 'green' advertisements significantly reduced purchase intention and increased perceptions of greenwashing. Careful consideration of this approach is warranted as it has been noted it could reduce overall environmentally motivated purchase intentions.<sup>[144]</sup> The proposed Citizen's Assembly is also an opportunity to educate members of the public who could influence their networks with knowledge and experience gained concerning environmental concerns and regulation.

Relying on the same 'network effect', targeting interventions that leverage leaders within industries to influence their peers could be an effective strategy as shareholders, suppliers, banks, and financial institutions have been shown to be more effective at instilling positive corporate environmental behaviours than customers and industrial associations.<sup>[145]</sup> Research conducted on the Australian hotel industry also found that owners and shareholders had a greater influence on sustainability policies than guests.<sup>[146]</sup> Options to leverage networks are plentiful, but an example program could be a government-sponsored program inviting business leaders with exemplary and credible sustainability credentials to present their work to other entities within their industry. The opportunity for exposure provides a reward to participants and could incentivise competitive advances to the limits of honesty and integrity.

Identifying and rewarding legitimate action is also a nudge for businesses to act ethically. We propose that Australia should implement a comprehensive government-managed, independently audited sustainability ratings scheme. At present, there are countless 'green' and 'sustainability'-linked certification schemes that lead to consumer confusion, opacity, and ultimately distrust. There are also significant concerns about their credibility.<sup>[147],[148],[149]</sup> This has a significant negative impact on the market for genuine positive action.<sup>[150]</sup> Consumers have limited knowledge of labelling, they rely on rules of thumb to guide their decisions,<sup>[151]</sup> and they demonstrate reliance on certifications.<sup>[152]</sup> Raising the standards and simplifying the messaging can have significant impacts to complement the educational initiatives suggested.

A best-practice scheme can employ principles from existing methodologies exist to assess the life-cycle impact of products<sup>[153]</sup> and place greater emphasis on measurable impact performance rather than just socially responsible approaches.<sup>[154]</sup> Blockchain technology is proposed as a solution to enhance transparency and trust in ecolabels, particularly among younger consumers.<sup>[155]</sup> Such applications could be supported by experts in novel blockchain and tokenisation applications such as the Digital Finance CRC.<sup>[156]</sup> The Citizens' Assembly could also play an important role in prescribing the most effective approach, but we perceive the clear, simple yet detailed, tiered system involved in the Energy Rating,<sup>[157]</sup> Fuel Consumption Label,<sup>[158]</sup> and Climate Action Tracker<sup>[159]</sup> as strong examples to follow.

## 4. Advertising Standards

“advertising standards in relation to environmental and sustainability claims;”

Working well, advertisement of green and sustainable initiatives can influence sustainable consumer behaviours through triggers such as moral satisfaction and fear.<sup>[160]</sup> On the other side, as previously noted, false messaging can destroy trust and ultimately deter sustainable consumption behaviour. Subjective standards and inconsistent enforcement create uncertainty and enable greenwashing entities to avoid consequences.

In Australia, the advertising industry is broadly self-regulated under the Australian Association of National Advertisers (ANAA). The ANAA Code recently undertook a review of its Environmental Claims Code and sought consultation on possible changes in consideration of the growing focus on greenwashing.<sup>[161]</sup> Some of the consultation questions asked include:

- Should the AANA Environmental Claims Code include a rule that environmental claims must be based on the full life cycle of the advertised product or service?
- Unlike the UK Code, the AANA Environmental Claims Code does not include a rule that omitting significant information in relation to general environmental claims could amount to misleading advertising. Should this be included in the new Environmental Claims Code or Practice Notes?
- Where claims of carbon emission reductions are made in advertising, should advertisers be required to specify the extent to which this is achieved by the use of carbon offsetting?

Given that these considerations are not already embedded in the ANAA code, it seems clear that there is a pre-existing misalignment between advertising regulation in Australia and the expectations of corporate regulatory bodies. As noted previously, the ACCC already indicated in 2011 that the full lifecycle of products should be considered in claims, or businesses risk breaching misleading and deceptive conduct, and they also indicate that omission qualifies as false or misleading claims.<sup>[162]</sup> We believe that virtually every standard and guidance note from a credible organisation on net-zero and carbon neutrality claims has indicated that disclosing offsetting is a material consideration and that offsetting should be seen as a last resort after options to reduce generated emissions have been exhausted. This was also explained by the ACCC in 2008.<sup>[163]</sup> An additional concern with the self-regulated approach is that extent of action taken when a breach is identified appears to be the issuance of a request to take down the advertisement. Clearly, as greenwashing continues to abound, the disincentive of the possibility of receiving a strongly worded letter is not sufficient to deter dishonesty. Real enforcement penalties must be added to overcome the existing misalignment of incentives that provide benefits to companies that “deliberately or selectively communicate information not matched with actual environmental impacts or make largely unsubstantiated promises around future ambitions.”<sup>[164]</sup> We also note that the ANAA Ad Standards Community Panel is not a sortition-based representation of the community but an appointed body through application and interview, so there is perhaps an opportunity for improvement through the application of the same principles we previously discussed concerning the Citizen’s Assembly to the process of adjudication of advertisements.

In the UK, a similar system of self-regulation is in place, with the Advertising Standards Authority (ASA) and Committees of Advertising Practice (CAP) writing and administering the UK’s advertising standards on behalf of the Office of Communication, and like the ANAA, the ASA does not appear to have powers of enforcement. The ASA commissioned research in 2022 on environmental claims in advertising, which found inconsistency and confusion around terms like ‘carbon neutral’ and ‘net zero’ and noted the lack of official definitions or rules around what the claims should entail. Consumers voiced “a desire for an independent one-stop source of advice and guidance that explains what different descriptors mean, compares the pros and cons of the different options, helps with understanding the total cost of ownership, enables comparisons of environmental claims.”<sup>[165]</sup> This reinforces our earlier call for consumer education initiatives.

It has been noted that advertising that focuses on measurable outputs can be more effective in avoiding greenwashing and maintaining trust.<sup>[166]</sup> “Consumers are more likely to perceive the satisfaction, trust, and reputation of the firm as higher if the firm demonstrates the impact (rather than output or outcome) of sustainable performance.”<sup>[167]</sup> We propose that standards around advertising could incorporate this philosophy that businesses should not tell stories concerning ambition or possible future states but rather showcase, in honest, transparent and complete terms, the impact of their business.

## 5. Legislative Options

“legislative options to protect consumers from greenwashing in Australia;”

### The Australian Litigation Context

Current legislation in Australia appears to be insufficiently specific on environment and climate concerns to satisfy public demands. It has been noted that “politicians consistently underestimate and misunderstand public willingness to act on climate change, and the perceived lack of support from the electorate is a considerable barrier to political progress on the issue.”<sup>[168]</sup> Climate litigation has exploded worldwide, and in Australia in particular, as the public and investors demand stronger environmental protection. The improvement of attribution science in establishing specific responsibility for climate disasters is also expected to continue the growth of climate litigation case numbers.<sup>[169]</sup> Despite this, court decisions of liability for ‘greenwashing’ are scarce,<sup>[170]</sup> as with climate litigation in general.<sup>[171]</sup>

Approaches to litigation are diverse, and novel approaches are in a constant state of exploration, as people attempt to identify a suitable legal avenue for the public to hold the proponents of climate change and environmental damage to account. As the detrimental health impacts of climate change are increasingly recognised, human rights claims are common.<sup>[172]</sup> Sarah Flynne explored climate change litigation in Western Australia, focusing on possible avenues within tort law and corporate law. She highlighted that even between Australian states, there is significant variation in the legal context that requires innovation, particularly in Western Australia. “The potential for tort law climate change litigation in WA exists, with negligence and nuisance being potential grounds for liability.”<sup>[173]</sup>

### Global Considerations

The global nature of climate change means that actions taken in one jurisdiction can have far-reaching implications for others.<sup>[174]</sup> In socio-political terms, there is a noted battle between the shareholder value theory and the stakeholder value theory globally. Some legislative options tipping the balance towards stakeholder prioritisation include France’s Duty of Vigilance Law and the Loi Pacte, Germany’s Supply Chain Due Diligence Act, and The European Draft Directive on Corporate Sustainability Due Diligence.<sup>[175]</sup>

Recommended revisions to EU Competition law include the establishment of clear guidelines and metrics to evaluate the environmental benefits of sustainability initiatives, such as cost-benefit analysis.<sup>[176]</sup> The UK is also commencing reforms to consumer competition law “allow the CMA to enforce obligations on designated undertakings and impose penalties including fines of up to 10% of a firm’s global turnover for breaches.”<sup>[177]</sup>

### Options

While excessive regulation and transparency requirements can diminish investment and engagement with sustainable initiatives as costs may become higher than the perceived benefits,<sup>[178,179]</sup> alternate approaches beyond regulation and legislative enforcement lack strength, and voluntary codes of conduct or certification lack credibility.<sup>[180]</sup> As such, a careful balance needs to be struck in order to maintain sufficient interest, and integrity. The combination of mandatory and voluntary standards has been deemed effective, where the mandatory requirements set a minimum acceptable standard, and voluntary options can continue to incentivise competitive advancements.<sup>[181]</sup>

Current legislation concerning competition and corporate regulation targets commercial entities but leaves non-commercial actors and non-advertisements unregulated. Governments, NGOs and non-profits all also have the capacity and the likelihood, without appropriate regulation, to mislead their stakeholders in equivalent ways to businesses.<sup>[182]</sup> As such, the legislative framework that prohibits greenwashing must be sufficiently general to extend beyond corporate entities. Aligned with the principle of general coverage, we support calls for unified standards, mandatory disclosure, independent authentication, and strengthening of ‘greenwashing’ social supervision,<sup>[183]</sup> which we propose could be achieved through deliberative mechanisms. In the context of carbon pricing in Australia, businesses notably indicated the need for long-term policies and clarity in order to help guide their investment strategies.<sup>[184]</sup> As there is a noted discrepancy between regulators on this point, we strongly believe that it must be legally clarified that sustainability claims and messaging must consider the entire product lifecycle.<sup>[185],[186]</sup>

In terms of application of the law, Australia led the world when NSW established The Land and Environment Court in 1980 “as the first specialist superior environmental court in the world.”<sup>[187]</sup> Given the dramatic increase in case volume and examples of how greenwashing rhetoric may influence rulings,<sup>[188]</sup> we believe there is scope for a specialised greenwashing tribunal or ombudsman to be created at the national level. To help inform this approach, UNEP developed the “Environmental Courts & Tribunals: A Guide for Policy Makers” in 2016, documenting over 1200 examples worldwide and providing guidance on policy considerations and best practices.<sup>[189]</sup>

## 6. Other Matters

“any other related matters.”

### Uncover and Address Root Causes

People are angry. The world seems to be increasingly unequal, and polarisation, political disillusionment, and distrust are on the rise.<sup>[190]</sup> “Public policy has become dominated by ‘neoliberal ideology,’ leading to a sense of betrayal among voters.”<sup>[191]</sup> Environmental destruction, biodiversity loss, plastic pollution, natural disasters, poverty; the list goes on. There has been a long list of prominent thinkers, academics and activists who say that our capital institutions are to blame.<sup>[192]</sup> By focusing on developing solutions to greenwashing, we are treating symptoms, and we need to start investigating and addressing the causes. There is a tendency in policy interventions to depoliticise complex issues and focus on defining apolitical and technical issues to which technological solutions can be applied.<sup>[193]</sup>

Prominent economists, such as Kate Raworth and Nobel laureates Abhijit Banerjee and Esther Duflo, say it is an economic obsession with growth that is causing these problems.<sup>[194]</sup> Herman Daly pointed out that GDP doesn’t subtract costs, so it doesn’t tell us if things are improving; “when something grows, it gets bigger physically... When something develops, it gets better in a qualitative sense. It doesn’t have to get bigger.”<sup>[195]</sup> Marilyn Waring has voiced these flaws since the 1980s, particularly noting the incentivisation of environmental destruction and the inherently gendered defects of GDP that have diminished women’s roles in society, leading leading to the labelling of women as a welfare ‘problem’ or ‘burden’ rather than recognising their irreplaceable value.<sup>[196],[197]</sup> Waring and others have called for alternative measurement systems to address these issues.<sup>[198]</sup> Another Nobel laureate, Joseph Stiglitz, alongside Jean-Paul Fitoussi and Martine Durand, led and reviewed the OECD’s High-Level Group on the Measurement of Economic Performance and Social Progress, being their earlier work with yet another Nobel Laureate, Amartya Sen. They underscore the importance of shifting focus from GDP indicators to measuring factors that shape people’s well-being.<sup>[199]</sup> Stiglitz believes that modifications to capitalism, which he calls ‘progressive capitalism’, is the solution.<sup>[200]</sup> Others agree and believe that ‘stakeholder-oriented capitalism’ or the ‘economics of mutuality’ should focus on “[p]urpose rather than utility maximisation or profit maximisation.”<sup>[201]</sup>

These approaches have not escaped scrutiny. Even the concept of circular economy has been criticised for this logic: despite its shift from linear models of industrial capitalism, it still promotes growth.<sup>[202]</sup> It comes down to the fundamental dichotomy of prioritising economic profits versus prioritising sustainability.<sup>[203]</sup> ‘Sustainability’, as businesses have it today, is a tool to drive growth and profit, which is their fundamental goal.<sup>[204]</sup> While some commenters focus on reforming elements of the system, others say we must find alternatives.<sup>[205]</sup>

Those seeking to replace capitalism as the dominant hegemony say, “[i]t is the logic of capitalism that is undermining environmental quality, rather than any specific manifestation of it.”<sup>[206]</sup> They say competition itself is the source of greenwashing, as companies seek to gain a competitive advantage.<sup>[207]</sup> Market competition assumes self-interest; it undermines community, common property, and collective action, leaving society to bear the costs.<sup>[208]</sup> Though removing the growth imperative essentially ends capitalism, advocates acknowledge that it cannot be assumed that socialist alternatives are guaranteed to lead to environmentally sustainable outcomes.<sup>[209]</sup>

The authors do not propose to solve these problems in this submission, but we believe there is productive value in encouraging further research and conducting tests to examine the pathways forward towards stronger, more inclusive and just institutions that do not target superfluous goals but that incentivise the maximisation of happiness and welfare for all. This could prove the most effective strategy in dismantling greenwashing in the long run.

## Conclusion

Australia has enormous potential to set the global standard in truthful environmental and sustainability action through effective regulation, incentives, and enforcement. Australia must also meet its commitments to its people and the international community relying on us to fix our past and ongoing mistakes. If we do not, disaster is imminent. Researchers have suggested that if climate risk is integrated into credit ratings, downgrades could raise Australia’s cost of sovereign borrowing anywhere from \$330 million to \$1.85 billion by 2100.<sup>[210]</sup> According to the IPCC, “There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all ... The choices and actions implemented in this decade will have impacts now and for thousands of years.”<sup>[211]</sup> We must choose wisely, and we must act swiftly.

## Acknowledgement



The authors would like to provide a special acknowledgement of our former colleague and friend, Sarah Flynne. Sarah's passionate work in climate law and economics serves as an inspiration for this submission and our ongoing collaborative efforts towards the erasure of greenwashing and the successful defence of a vibrant and thriving climate and environment for all to enjoy.

Sarah completed a Bachelor of Laws with Distinction at Curtin University and a Master of Environmental Law at the University of Melbourne. Sarah worked as a solicitor for the Environmental Defenders Office, drafting legal advice on all areas of environmental law in WA and coordinating law reform submissions. Sarah later worked for Rio Tinto coordinating key approvals for renewable energy projects and assisting with the development of approvals strategies. Sarah also worked as a research assistant at Curtin University, providing research services and project coordination support for a range of legal, property, finance and economics projects, such as the DFAT-funded 'Developing a Framework for Facilitating Nationally Determined Contributions for Paris Commitments in the Indo-Pacific Countries'. Sarah was an active member of the National Environmental Law Association.

Sarah's legacy lives on through the people and organisations that she touched and through initiatives inspired to honour her life and work, such as the EDO's Sarah Flynne Memorial Scholarship and the joint NELA and Curtin University-sponsored Sarah Flynne Memorial Lecture.

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We acknowledge that Brightstride operates on Whadjuk Noongar land, and that we work on the traditional lands of diverse Indigenous Peoples around the world. We are committed to reconciliation including support for the Uluru Statement from the Heart. We pay our respects to all Indigenous Peoples and their Elders past, present, and emerging.

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