Climate Council of Australia

Submission to:	Australian Senate - Inquiry into greenwashing
Addressed to:	Senate Standing Committee on Environment and Communications PO Box 6100 Parliament House Canberra ACT 2600
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About the Climate Council

The Climate Council is Australia's own independent, evidence-based organisation on climate science, impacts and solutions.

We connect decision-makers, the public and the media to catalyse action at scale, elevate climate stories in the news and shape the conversation on climate consequences and action, at home and abroad.

We advocate for climate policies and solutions that can rapidly drive down emissions, based on the most up-to-date climate science and information.

We do this in partnership with our incredible community: thousands of generous, passionate supporters and donors, who have backed us every step of the way since they crowd-funded our beginning as a non-profit organisation in 2013.

To find out more about the Climate Council's work, visit www.climatecouncil.org.au.

Introduction and context

Global temperatures are rising and we are running out of time to prevent wide-scale climate harm. This is the reality that Australia must confront: if we do not cut greenhouse gas emissions rapidly and deeply this decade, we face an escalating climate catastrophe.

The world has already warmed by around 1.2°C and Australia is suffering significant losses from climate change with worse on the way. Extreme weather-related events – such as bushfires, floods, heatwaves and droughts – are happening more often, and are more severe. To prevent further and potentially catastrophic harm from climate change, we must hold warming to well below 2 degrees Celsius and strive to limit it to 1.5 degrees.

This will not be possible unless the amount of harmful greenhouse gases produced in Australia, and around the world, rapidly declines. Genuine emissions reduction at the source this decade must be the focus, because it is our best chance of protecting the places and communities we love. This means replacing polluting fossil fuels with clean alternatives like wind and solar power in our energy system; rethinking how we move around to cut carbon pollution from personal and heavy transport; and pursuing new technologies and approaches that clean up production processes in industry and agriculture. It also means reversing deforestation and stopping the degradation of our natural ecosystems, which causes the release of previously-stored carbon. By reducing emissions at their source, we can cut the amount of harmful greenhouse gases spewing into our atmosphere.

Greenwashing is actively harmful to our shared efforts to reduce emissions and protect Australians from escalating climate harm. When high polluting companies use buzzwords like 'low emissions', 'net zero' or 'carbon neutral' without a real basis, it doesn't just mislead consumers. It obscures accountability for their ongoing contribution to harmful climate change, reduces pressure on governments to regulate their actions, and leads to the misallocation of capital in our economy.

This submission focuses on greenwashing in the context of this specific category of claims - those relating to the climate impact of company operations or products. We acknowledge that there are other varieties, with claims relating to sustainability, recycling and management of waste being particularly prevalent in relation to consumer goods. However, the Climate Council is concerned that the current public conversation in Australia is overly focused on consumer-facing instances of greenwashing - for example, in the advertising of products and services. **The billion tonne elephant in the room is greenwashing by major multinational fossil fuel companies operating in Australia, who are gaslighting governments, investors and communities alike with serious and systemic greenwashing claims**.

This submission outlines why no fossil fuel company that is pursuing new or expanded projects can claim to have a genuine plan for achieving 'net zero' or 'carbon neutrality'. It draws on the evidence-based framework provided by the United Nations High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities (2022) to demonstrate that some of Australia's largest corporations are currently making baseless and unsubstantiated claims to financial markets, investors and governments - as well as to consumers. The serious and systemic nature of this greenwashing calls for government regulation, to ensure climate action in Australia is not derailed by the dishonesty of these corporations. The Climate Council calls on the Australian Parliament to pursue legislation banning greenwashing, drawing on emerging international precedents. In this critical decade for action to prevent the worst impacts of harmful climate change, the stakes are simply too high to allow major corporations to continue misleading us all about their role in adding fuel to the fire.

Emissions explainer

Throughout this submission we refer to different categories of emissions and the importance of ensuring that all are considered when assessing the veracity of corporate 'net zero' or 'carbon neutral' claims.

SCOPE 1 or direct emissions are those that result from a company's owned or controlled sources. This includes direct emissions from coal mining and gas extraction (fugitive emissions), as well as emissions from chemical reactions in industrial processes (such as cement and steelmaking), emissions from on-site fuel combustion to generate heat and power machinery, and emissions from landfill.

SCOPE 2 or indirect emissions are produced from the generation of purchased energy. They reflect the emissions produced by the physical burning of fuels at the power station, and are measured as kilograms of carbon dioxide equivalent (CO2e)[1] per unit of electricity purchased by an organisation.

SCOPE 3 emissions are produced within an organisation's value chain, but from sources the facility or business does not own or control – for example, where a company exports a raw material that is then processed into a different product. Emissions from the export coal and gas industry, where coal and gas is extracted then exported from Australia and burned overseas, are considered Scope 3 emissions.

In 2020-21, emissions from the burning of exported coal and gas were more than double Australia's total domestic emissions (Climate Council, 2023a).

[1] CO2e is a metric measure used to compare the emissions from various greenhouse gases on the basis of their global-warming potential, by converting amounts of other gases to the equivalent amount of carbon dioxide with the same global warming potential.

Summary of recommendations

Recommendation 1

The Climate Council recommends the Australian Parliament develop clear legislation to unambiguously define and prevent greenwashing by major corporations - including fossil fuel companies. This legislation should take as its basis the evidence-based recommendations of the United Nations High Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities.

Recommendation 2

The Climate Council recommends the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission issue immediate guidance clarifying that fossil fuel corporations engaged in the following activities cannot make 'net zero' or 'carbon neutral' claims in advertising or to financial markets:

- Proposing or developing new and expanded coal, oil and/or gas projects;
- Failing to make plans for addressing the full life cycle emissions impact of their products;
- Relying primarily on offsets for the purpose of meeting any proposed emissions reduction targets (whether Scope 1, 2 or 3).

Recommendation 3

The Climate Council recommends the Australian Parliament pursue the development of legislation banning the following practices:

- Making net zero, carbon neutral or associated claims where a corporation is continuing to build or invest in new or expanded fossil fuel supply;
- Making net zero, carbon neutral or associated claims where a corporation does not have methods in place to appropriately measure its full life cycle emissions - Scope 1, 2 and 3 - and progressively reduce emissions from all of these sources;
- Making net zero, carbon neutral or associated claims which are based on emissions intensity metrics rather than genuine reductions in absolute lifecycle emissions;
- Making net zero, carbon neutral or associated claims which are based primarily on the use of offsetting, rather than genuine emissions reduction.

This legislation should be drafted so as to prevent corporations from making the above claims in the following contexts as a minimum:

- in public advertising in any form - including through a corporation's own communication channels such as social media or printed marketing materials
- to financial markets - including investors and market regulatory bodies
- to government agencies, regulators and the Parliament - including through consultation processes and in response to direct requests for information about their climate action plans.

Recommendation 4

The Climate Council recommends policymakers engage with regulators in France, the European Union and California about the drafting and inclusions of an Australian anti-greenwashing law, to ensure this reflects current international best practice while also identifying opportunities to advance and build on this - particularly in relation to the regulation of environmental claims by fossil fuel companies.

Misleading environmental and sustainability claims

In 2022 the United Nations (UN) established a High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities ("Expert Group"). Made up of scientific, economic and public policy experts from 16 countries, the group was tasked with addressing net zero pledges and commitments from non-state actors including corporations, financial institutions, and local and regional governments. The core mission of the Expert Group was to establish an evidence-based framework for net zero planning, answering the question: *what criteria must non-state actors like corporations satisfy in order to make genuine net zero claims*?

In undertaking its work, the Expert Group built on existing credibility and standard setting frameworks for net zero pledges to formulate its findings and recommendations. It also conducted extensive global consultation involving more than 500 organisations, and received hundreds more written submissions from organisations, initiatives and individuals. The findings of this project therefore represent current best practice on net zero claims by non-state actors globally. The full recommendations of the Expert Group are provided at Appendix A, and can be summarised as follows:

- Non-state actors cannot claim to be net zero while **continuing to build or invest in new fossil fuel supply**.
- Non-state actors cannot **buy cheap credits** that often lack integrity instead of **immediately cutting their own emissions** across their value chain.
- Non-state actors cannot focus on reducing the **intensity** of their emissions rather than their **absolute emissions** or **tackling only a part of their emissions** rather than their **full value chain** (scopes 1, 2 and 3).
- Non-state actors cannot **lobby to undermine ambitious government climate policies** either directly or through trade associations or other bodies.
- To effectively tackle greenwashing and ensure a level playing field, non-state actors need to move from **voluntary initiatives to regulated requirements for net zero**. (High Level Expert Group, 2022)

On the basis of the Expert Group's recommendations, it is very clear that there is serious and systemic greenwashing occurring in Australia - primarily by major multinational fossil fuel companies, as well as the financial institutions which finance them. We encourage the committee to consider the following focus points drawn from the Expert Group's work, and actively pursue these lines of inquiry through its ongoing work.

Fossil fuel expansion

The 10 fossil fuel corporations in Australia listed below collectively produced at least 54.5 million tonnes of CO2e of Scope 1 emissions in 2021-22 alone (Clean

Energy Regulator, 2023) - equivalent to the emissions of 2.8 million Australians in that year.[2]

1. Chevron
2. Woodside
3. AngloAmerican
4. Santos
5. BHP
6. Glencore
7. Inpex
8. Shell
9. ConocoPhillips
10. Esso Australia.

All of these fossil fuel corporations have made public commitments to Australian consumers and financial markets to achieve net zero emissions by 2050 or sooner. A number of them have also outlined interim emission reduction targets; a summary of these commitments is provided in Appendix B.

At the same time, all of these corporations are pursuing the development of new or expanded fossil fuel production - in some cases, multiple very large-scale projects. An illustrative list of these proposals is also provided in Appendix B. On this basis alone, it is clear the net zero claims of these corporations do not meet the standard established by the UN Expert Group. This is entirely logical - the International Energy Agency (IEA) has clearly stated that no new coal or gas projects can proceed if we are to have any hope of holding warming as close as possible to 1.5 degrees Celsius (International Energy Agency, 2021). This is based on the understanding that emissions from existing fossil fuel production will already challenge our ability to meet this goal. Further, the IEA has noted that existing fossil fuel production globally is more than sufficient to meet projected declining use of coal, oil and gas in a net zero by 2050 scenario. Expanding production at this time therefore raises questions about the genuine intent of fossil fuel corporations to support and participate in the transformation of our energy system to achieve net zero emissions.

Any fossil fuel company which is claiming to have plans for ‘net zero’ or ‘carbon neutral’ operations while pursuing new and expanded projects has therefore failed to meet a basic threshold for integrity. This is currently being overlooked in the national conversation about the scope and extent of greenwashing.

In October 2022, the Climate Council referred the 10 fossil fuel corporations above to the Australian Competition and Consumer Commission and asked it to investigate them for greenwashing on the above basis. No action appears to have been taken to date. Similarly, in May 2023 the Australian Securities and Investment Commission (ASIC) released a report on greenwashing interventions it had undertaken in the previous 12 months. This report noted that a small number of infringement notices

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[2] Climate Council calculations based on Clean Energy Regulator (2023) and Department of Climate Change, Energy, the Environment and Water (2022a).

and requests for corrective disclosure had been issued, but only to relatively minor energy companies and financial services providers for claims made to investors via the Australian Securities Exchange (ASIC, 2023). The agency does not appear to have taken action against any of the 10 major fossil fuel corporations listed above, or the major financial institutions which are funding and investing in them.

Pursuing fossil fuel expansion is not the only way these corporations fail to clear the necessary standard outlined by the UN Expert Group. We provide two further case studies below which highlight how the 'net zero' claims of these actors fail to meet the threshold for integrity on a range of further fronts.

Case Study 1: Woodside

Gas corporation Woodside has made a public commitment to reduce its direct emissions by 30 percent by 2030, and achieve net zero emissions by 2050. Despite this, the corporation has indicated it intends to progress development of the Scarborough gas field (Woodside, 2023a), which has been estimated to produce an additional 1.37 billion tonnes of harmful emissions in the years to 2055 - more than fourteen times Western Australia's total emissions in 2019 (Climate Analytics, 2021).

Woodside is also proposing to develop the Browse gas fields off the coast of Western Australia which would see the corporation continue to extract and export this fossil fuel well into the middle of this century (Woodside, 2023b). Woodside CEO Meg O'Neill has indicated that the total additional harmful emissions from the project would be "in the order of 1.6 billion tonnes" or almost three and a half times Australia's total domestic emissions in 2021 (Department of Climate Change, Energy, the Environment and Water, 2022b; Readfearn, 2021).

Woodside had previously indicated it would seek to implement carbon capture and storage technology to reduce emissions from the Browse project. However, environmental approval paperwork lodged with the Australian Government reportedly does not include any commitments or plans to do so (Milne, 2022).

At its May 2022 Annual General Meeting, almost half of Woodside's investors voted against the corporation's sustainability plans, with the major institutional investor Vanguard indicating that it had done so due to insufficient evidence these plans were aligned with the Paris Agreement and inadequate disclosure of Scope 3 emissions impacts (Vanguard, 2022). The company again faced shareholder pressure at its 2023 Annual General Meeting (Bourke, 2023) with investors noting that the company had not materially updated its Climate Plan, and particularly continued to focus only on Scope 1 and 2 emissions without consideration of its far larger Scope 3 emissions. Woodside's own Climate Report notes that these emissions comprise over 91 percent of its total emissions, yet the corporation has no current plans to address these (Woodside, 2022). The Climate Report also highlights Woodside's heavy intended reliance on offsets to make progress towards its stated goals, and emphasises emissions intensity metrics as a key indicator of performance, rather than absolute emissions reduction (Woodside, 2022a).

In its recent submission to the Australian Government's consultation process on reform of the Safeguard Mechanism and a range of other policy processes such as the Chubb Review of Australian Carbon Credit Units, Woodside argued for unconstrained access to carbon credits and offsets - including cheap international offsets which are known to lack integrity and often do not result in any actual emissions abatement (Woodside, 2022a; 2022b). Extensive use of carbon credits via the Safeguard Mechanism and elsewhere would not be required if Woodside had genuine plans to reduce its emissions in absolute terms.

It is unclear how Woodside's proposed forward expansion plans, its lack of planning to deal with the largest source of emissions across its value chain (Scope 3) and requests for access to cheap, unlimited offsets through various public policy processes could possibly be consistent with its published claims about emissions reduction during the years to 2030, and achievement of net zero emissions by 2050.

Case study 2: Chevron

Like the other corporations identified in this submission, oil and gas giant Chevron has made a public commitment to achieve net zero emissions by 2050. However, since the commencement of the Safeguard Mechanism in 2016, Climate Council analysis of Clean Energy Regulator compliance data indicates Chevron has increased its total emissions regulated under the scheme by 23% (Climate Council, 2023b).

Furthermore, Chevron is open about its plans to continue expansion of its fossil fuel projects in Australia. The corporation's website notes: "We are the largest exploration lease holder in Australia and always look at opportunities to expand our resource base and add to our asset portfolio. We have an impressive queue of projects" (Chevron, 2023).

Chevron's largest Australian source of emissions is the Gorgon gas project, which emitted more than 8.3 million tonnes of harmful pollution in 2021-22 alone (Clean Energy Regulator, 2023). This project includes the world's largest operating carbon capture and storage facility; under the terms of the gas plant's approval, Chevron is required to sequester at least 80% of the carbon dioxide (CO_2) emissions released in the course of gas extraction. However, the corporation has acknowledged this facility is working at significantly reduced capacity after several years in operation - having reportedly captured just one-third of the CO_2 produced - and there is no current timeframe for it to meet its promised targets for carbon capture and storage (Paul, 2022; Milne 2021). The mandated goal of storing 80% of CO_2 emissions produced has not been met in any year since the facility was commissioned in 2019 (Potter, 2022). In early 2023, it was revealed that the facility has stored <u>less</u> CO_2 in each year of operation than the year before (Morton, 2023).

Chevron's stated plans to reduce its emissions rest heavily on the successful development of carbon capture and storage technology. On the basis of its failure to date to successfully capture and store significant amounts of the harmful pollution produced by its highest-emitting facility - together with the ongoing failure of this technology to live up to its promises in a range of other contexts including other fossil fuel projects internationally - it is unclear how this corporation could honestly assert it has genuine plans to deliver on its public emissions reduction commitments.

The Woodside and Chevon case studies are just two examples of common practices observed across the Australian fossil fuel sector. Corporations engaged in these practices simply should not be allowed to claim that they have genuine plans to achieve 'net zero' or 'carbon neutrality', because this is greenwashing on an industry-wide scale.

Extensive use of carbon offsets

The UN Expert Group has highlighted that net zero claims which rest on extensive use of offsetting also lack integrity. Offsets are currently a popular way for significant emitters like fossil fuel companies to claim they are taking action to tackle climate change. This is because they can keep polluting as usual and pay for offsets to account for the emissions they produce on paper. Unfortunately, it simply is not possible to fully offset billions of tonnes of greenhouse gas emissions from burning of coal, oil and gas by regrowing forests, increasing the amount of carbon in soils or other common offset measures.

This is because the carbon dioxide released by burning fossil fuels is fundamentally different to the way carbon is stored above ground in trees, wetlands and in the soil. In this section, the Climate Council offers a brief summary of the scientific rationale for rejecting the use of offsets as a mechanism for addressing fossil fuel emissions, and therefore providing a basis for 'net zero' or 'carbon neutral' claims by these corporations.

Carbon is everywhere on Earth — in the atmosphere, the ocean, in soils, in all living things, and in rocks and sediments. It is constantly being cycled through these different parts. Some of these exchanges take place over relatively short time scales: living organisms absorb carbon as they grow and when they die it is released back into the atmosphere and ocean. Carbon is also being continually exchanged between the atmosphere and the ocean's surface. Together these processes make up the earth's 'active' carbon cycle.

When we burn fossil fuels, we release carbon locked away in the Earth's crust for millions of years, pumping vast new volumes of carbon into the active carbon cycle. This is altering the balance of carbon in the Earth system, and doing so faster than ever recorded in geological history. Planting trees does not permanently lock carbon away again. Instead, the introduced fossil carbon remains part of the active carbon cycle; this is what is heating the planet and driving the climate crisis (Climate Council, 2016; Morgan, 2023). To make the problem worse, much of the carbon stored in land-based offsets does not stay stored. Forests can be destroyed by fire, disease, floods and droughts, all of which are increasing with climate change. So the carbon that has been stored can literally go up in smoke.

Despite these important differences in how carbon is released and stored, there are currently no restrictions on what offsets companies can use - as long as they are produced in Australia - or how many of them. This means fossil fuel companies and other big polluters can offset their emissions without limit under national climate regulations like the Safeguard Mechanism and other state and territory government policies. This is a recipe for unchecked pollution leading to more climate damage.

There is a limited role for offsets in scenarios where it is currently impossible to avoid or reduce pollution. For instance, critical industries like cement or steelmaking will rely on burning fossil fuels while alternative solutions are progressively phased in.This means some companies and industries will need to use offsets in the near term, after they have taken all possible steps to cut their emissions at the source. The use of offsets in these cases should progressively decline over time, as opportunities for genuine emissions reductions at the source are developed and scaled up. However, allowing fossil fuel companies to use unlimited offsets as the basis for making 'net zero' or 'carbon neutral' claims is based on an incorrect understanding of the science of climate change. Offsets cannot cancel out the harm that fossil fuel extraction and use causes to our climate, and so their use as a basis for corporate sustainability claims is nothing more than greenwashing.

Fossil fuel corporations are misleading Australian investors, governments and communities about their efforts to tackle harmful climate change. This is evident in their pursuit of new and expanded coal, oil and gas projects, against clear expert advice that this will make it impossible to hold global warming as close as possible to 1.5 degrees Celsius. It is also evident in their reliance on offsets to account for the massive and ongoing production of harmful carbon pollution, despite clear scientific evidence that one cannot cancel out the other. These corporations have demonstrated that they will not voluntarily provide transparent accounting for their harmful practices, so it is now time for Australia to put in place mandatory requirements which force them to do so.

Recommendation 1

The Climate Council recommends the Australian Parliament develop clear legislation to unambiguously define and prevent greenwashing by major corporations - including fossil fuel companies. This legislation should take as its basis the evidence-based recommendations of the UN High Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities.

Impact of misleading claims on consumers

Australian consumers should not be required to parse the specific, individual 'net zero' or 'carbon neutral' claims of companies to make choices about the services and products they buy or invest in. Companies should have a clear legal obligation not to lie, mislead or obfuscate about their climate impact. The focus on consumer impacts in this inquiry is worthy and important.

However, the serious and systemic greenwashing currently engaged in by the fossil fuel industry does much more wide-reaching damage than just individual consumer harm. When fossil fuel companies make untrue and illegitimate statements about their climate action plans, this:

- obscures the necessity of ending new fossil fuel production and progressively phasing down existing use - meaning Australia (and the world) is not making plans to end fossil fuel use at the scale and pace needed to avoid the worst impacts of harmful climate change;
- misdirects investment to future stranded assets and extractive activities which are fuelling further climate change - meaning available investment in not being fully channelled to sectors, industries and projects which can actually reduce emissions or create new, clean industries for the future;
- skews the playing field for companies and industries that are genuinely transforming to cut their emissions - meaning companies that greenwash are receiving an unfair commercial advantage over those seeking to do the right thing;
- enables ongoing social licence for extractive activities that would otherwise not be supported by the Australian community because of its contribution to climate harm - meaning there is not the pressure there should be on governments to act and companies to genuinely cut their emissions.

These are not just impacts on consumers; these are society- and economy-wide harms that are caused by fossil fuel greenwashing. Addressing them should therefore be a priority for regulators, while the Australian Parliament pursues the development of legislation to stamp out these practices entirely.

Recommendation 2

The Climate Council recommends the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission issue immediate guidance clarifying that fossil fuel corporations engaged in the following activities cannot make ‘net zero’ or ‘carbon neutral’ claims in advertising or to financial markets:

- Proposing or developing new and expanded coal, oil and/or gas projects;
- Failing to make plans for addressing the full life cycle emissions impact of their products;
- Relying primarily on offsets for the purpose of meeting any proposed emissions reduction targets (whether Scope 1, 2 or 3).

Opportunities to regulate misleading claims

The regulation of 'net zero' and 'carbon neutral' claims by corporations is often suggested to be complex and difficult to capture in regulatory frameworks. The UN Expert Group's work demonstrates that this is not the case. There are several clear and unambiguous thresholds which can easily be set to end the current serious and systemic greenwashing engaged in by fossil fuel companies and their financiers.

With this in mind, the Climate Council recommends the Australian Parliament develop legislation banning the following practices:

- Making net zero, carbon neutral or associated claims where a corporation is continuing to build or invest in new fossil fuel supply;
- Making net zero, carbon neutral or associated claims where a corporation does not have methods in place to appropriately measure its full life cycle emissions - Scope 1, 2 and 3 - and progressively reduce emissions from all of these sources;
- Making net zero, carbon neutral or associated claims which are based on emissions intensity metrics rather than genuine reductions in absolute lifecycle emissions;
- Making net zero, carbon neutral or associated claims which are based primarily on the use of offsetting, rather than genuine emissions reduction.

The first three points would be simple to define and could be tested on a straightforward yes/no basis using a range of publicly-verifiable metrics. For example, if a company is pursuing fossil fuel exploration through the holding and use of government-issued exploration permits; disclosing the development of a business case; communicating with investors about a proposed new project or expansion; and/or actively rolling out a project for which Final Development Decision has been made, it is clearly pursuing new or expanded fossil fuel projects.

The fourth point would require the establishment of appropriate benchmarks to determine what constitutes primary reliance on offsets within corporate emissions reduction plans. The simplest metric would involve requiring companies to declare how many tonnes of CO_2e emissions would be reduced from onsite abatement compared with use of offsets, if they wish to make 'net zero' or 'carbon neutral' claims.

Recognising that greenwashing claims by fossil fuel corporations can have widespread impacts beyond individual consumer harm, the Climate Council recommends this legislation prevents corporations from making the above claims in the following contexts as a minimum:

- in public advertising in any form - including through a corporation's own communication channels such as social media or printed marketing materials

- to financial markets - including investors and market regulatory bodies
- to government agencies, regulators and the Parliament - including through consultation processes and in response to direct requests for information about their climate action plans.

If a short and straightforward piece of legislation drafted along these lines were passed by the Australian Parliament, it would immediately constrain the ability of major fossil fuel corporations to greenwash by making false and deceptive claims. It would also likely spark a major review and updating of 'net zero' and 'carbon neutral' claims across the corporate sector, as financial institutions and other fossil fuel project partners would also be required to adjust their statements in many cases. The Climate Council encourages the Australian Parliament to focus on pursuing legislation that is drafted in these clear and explicit terms as a priority, while acknowledging there may be a range of further practices and claims which also warrant legislative action but require further in-depth consideration and scoping.

International precedents

In moving to regulate serious and systemic greenwashing in this way, Australia would be aligning with recent international best practice. A number of major economies have moved to regulate greenwashing in recent years, with key examples for consideration in the Australian context including:

- **France** - In 2022, France introduced new regulations against greenwashing under the country's *Climate and Resilience Law*. The regulations stipulate that corporations must prove any public environmental or sustainability statement, or face a financial penalty if they cannot. Under these rules, companies are prohibited from claiming in advertising that their products or services are carbon neutral (or similar equivalents such as zero carbon or fully offset) unless they provide:
    - A Greenhouse Gas (GHG) emissions report outlining the direct and indirect emissions of their products or services.
    - The process by which the GHG emissions of their products or services are: avoided, reduced or offset and the plan for GHG emissions reduction.
    - The methods for offsetting residual GHG emissions that comply with minimum standards (CMS Green Globe, 2022).
- **European Union -** In March 2023, the European Commission released a draft bill for consultation on 'substantiation and communication of explicit environmental claims'. The bill establishes a requirement for companies making environmental claims to prove these, and outlines new common criteria to allow external assessment of the veracity of these claims. The European Commission has explicitly stated that the intention of the bill is to stop companies from making misleading claims about the environmental merits of their products and services (European Commission, 2023).

- **California** - In recent years, the Californian Senate has developed new laws regulating environmental advertising. While the California bill SB-343 initially focused on recycling and claims about the recyclability of products and packaging, there is now discussion of extending the regulation of environmental claims to climate action as well (Beveridge and Diamond, 2023).

In seeking to regulate environmental claims to prevent greenwashing, Australia has the opportunity to draw from these international precedents. However, we also have an opportunity to help build global awareness and understanding about greenwashing through the scope and inclusions of our legislation. At present, none of the above examples explicitly prevent corporations making net zero claims on the basis of pursuing fossil fuel expansion. Socialising this within the greenwashing debate is essential so that national and international efforts to prevent misleading environmental claims can recognise it, and take action to stop it.

Recommendation 3

The Climate Council recommends the Australian Parliament pursue legislation banning the following practices:

- Making net zero, carbon neutral or associated claims where a corporation is continuing to build or invest in new fossil fuel supply;
- Making net zero, carbon neutral or associated claims where a corporation does not have methods in place to appropriately measure its full life cycle emissions - Scope 1, 2 and 3 - and progressively reduce emissions from all of these sources;
- Making net zero, carbon neutral or associated claims which are based on emissions intensity metrics rather than genuine reductions in absolute lifecycle emissions;
- Making net zero, carbon neutral or associated claims which are based primarily on the use of offsetting, rather than genuine emissions reduction.

This legislation should be drafted so as to prevent corporations from making the above claims in the following contexts as a minimum:

- in public advertising in any form - including through a corporation's own communication channels such as social media or printed marketing materials
- to financial markets - including investors and market regulatory bodies
- to government agencies, regulators and the Parliament - including through consultation processes and in response to direct requests for information about their climate action plans.

Recommendation 4

The Climate Council recommends policymakers engage with regulators in France, the European Union and California about the drafting and inclusions of an Australian anti-greenwashing law, to ensure this reflects current international best practice while also identifying opportunities to advance and build on this - particularly in relation to the regulation of environmental claims by fossil fuel companies.

Conclusion

Serious and systemic greenwashing is occurring in Australia at present, led by our largest fossil fuel corporations and their financiers. This has wide-reaching consequences: for policy making, for the ongoing development of genuinely low and zero emissions industries, and ultimately for the effectiveness of our shared efforts to cut harmful emissions to protect Australians from dangerous climate change. It must stop.

The recommendations set out in this submission would see Australia align with expert advice and emerging international practice to tightly regulate, then eliminate, greenwashing. What's more, they reflect basic common sense that *no company pursuing the development of new fossil fuel supply has a genuine plan for cutting its emissions*. It really is that simple, and no amount of corporate obfuscation should blind the Australian Parliament to this truth. It is entirely possible to regulate greenwashing by establishing a small number of clear headline principles as a first step. These alone would be sufficient to rule out many of the laughable claims made by fossil fuel corporations today.

Corporations taking genuine steps to cut their emissions should not be placed at a commercial disadvantage by those who are greenwashing and gaslighting Australians. We need every dollar of available investment directed towards decarbonising our economy and growing the low and zero emissions industries that will power Australia's next era of prosperity. To allow greenwashing to continue unchecked will stunt the growth of these new industries, at a time we most need them to be scaling up.

The Australian community is already experiencing more extreme weather, floods and fires, turbocharged by climate change. Major multinational fossil fuel corporations have long sought to downplay their role in causing harmful change. Now, they are lying to us all about working to fix it. We need strong regulation of greenwashing to hold these companies to account, and ensure they cannot keep evading real action with flimsy fake plans.

The Climate Council stands ready to work with Members and Senators to design new greenwashing regulations which can cut through the green bullsh*t we are currently being served, so that together, we can all get on with taking action that will genuinely tackle harmful climate change.

Appendix A - Full recommendations of the United Nations' High-Level Expert Group On The Net Zero Emissions Commitments of Non-State Entities

1. A net zero pledge must be a commitment by the entire entity, made in public by the leadership, and be reflective of the city, region or corporation's fair share of the needed global climate mitigation.
2. A net zero pledge must contain stepping stone targets for every five years, and set out concrete ways to reach net zero in line with the Intergovernmental Panel on Climate Change (IPCC) or International Energy Agency (IEA) net zero greenhouse gas (GHG) emissions modelled pathways that limit warming to 1.5°C with no or limited overshoot. The plan must cover the entire value chain of a city, state or business, including end-use emissions. It needs to start fast and not delay action to the last minute, reflecting the fact that global emissions must decline by at least 50% by 2030.
3. Non-state actors must prioritise urgent and deep reduction of emissions across their value chain. High integrity carbon credits in voluntary markets should be used for beyond value chain mitigation but cannot be counted toward a non-state actor's interim emissions reductions required by its net zero pathway.
4. Non-state actors must publicly share their comprehensive net zero transition plans detailing what they will do to meet all targets, align governance and incentivise structures, capital expenditures, research and development, skills and human resource development, and public advocacy, while also supporting a just transition.
5. City, region, finance and business net zero plans must not support new supply of fossil fuels: there is no room for new investment in fossil fuel supply and there is a need to decommission and cancel existing assets.
6. Non-state actors must lobby for positive climate action and not against it. By working with governments to create strong standards, non-state actors can help create an ambition loop and ensure a level playing field for ambitious net zero pledges and to further de-risk a speedy transition and maximise the economic benefits of rigorous net zero alignment.
7. By 2025, businesses, cities and regions with significant land-use emissions must make sure that their operations and supply chains don't contribute to deforestation, peatland loss and the destruction of

remaining natural ecosystems. Financial institutions should have a policy of not investing or financing businesses linked to deforestation, and should eliminate agricultural commodity-driven deforestation from their investment and credit portfolios by 2025.

8. Non-state actors must report publicly every year, and in detail, on their progress, including greenhouse gas data, in a way that can be compared with the baseline they set. Reports should be independently verified and added to the UNFCCC Global Climate Action Portal. Special attention will be needed to build sufficient capacity in developing countries to verify emission reductions. The recommendations of this report are therefore relevant to both the UNFCCC global stocktake (GST) process and the anticipated mitigation work programme.
9. To achieve net zero globally, while also ensuring a just transition and sustainable development, there needs to be a new deal for development which includes financial institutions and multinational corporations working with governments, Multilateral Development Banks and Development Finance Institutions, to consistently take more risk and set targets to greatly scale their investments in the clean energy transition in developing countries.
10. To make net zero work and to create a level playing field, regulators should develop regulation and standards starting with high-impact corporate emitters, including private and state-owned enterprises and financial institutions. Countries should launch a new Task Force on net zero Regulation to convene regulators across borders and across regulatory domains, alongside leading voluntary and standard-setting initiatives and independent experts, to drive reconfiguration of the ground rules of the global economy to align to the goals of the Paris Agreement.

UN High Level Expert Group (2022)

Appendix B: Net zero commitments of major fossil fuel corporations operating in Australia

Corporation	Public commitment	Proposed expansion/extension of fossil fuel projects
Chevron	Achieve net zero by 2050 for Scope 1 and 2 emissions	North West Shelf and Carnarvon Basin - https://australia.chevron.com/our-businesses/exploration
Woodside	Reduce emissions by 30% by 2030; net zero by 2050	Scarborough gas project - https://www.woodside.com/what-we-do/growth-projects/scarborough Browse gas fields - https://www.woodside.com/what-we-do/developments-and-exploration/browse
Anglo American	Carbon neutral by 2040	Moranbah South longwall coal mine - https://australia.angloamerican.com/about-us/what-we-do
Santos	Net zero by 2040	Barossa gas project - https://www.santos.com/news/santos-announces-fid-on-the-barossa-gas-project-for-darwin-lng/
BHP	Reduce operational GHG emissions by at least 30% on 2020 levels by 2030; net zero operational emissions GHG emissions by 2050	Peak Downs coal mine - https://www.mining.com/web/bhps-plan-to-keep-coal-mine-open-for-93-years-delusional/
Glencore	Net zero by 2050	Glendell coal mine expansion - https://www.glencore.com.au/operations-and-projects/coal/projects/glendell-continued-operations-project
Inpex	Net zero carbon emissions by 2050	Icthys LNG expansion -

		https://territorygas.nt.gov.au/Knowledge-Centre/latest-news/2022/inpex-commits-to-lng-expansion
Shell Australia	Reduce absolute emissions by 50% by 2030; reduce net carbon footprint by 100% by 2050	QGC Western Downs gas expansion - https://www.shell.com.au/media/2022-media-releases/shell-qgc-business-develops-next-phase-of-gas.html
ConocoPhillips	Reduce greenhouse gas intensity by 40-50% by 2030; net zero emissions by 2050	Otway basin gas field development - https://www.ogj.com/general-interest/article/14284570/conocophillips-moves-toward-second-otway-basin-farmin
Esso Australia	"Greenhouse gas plans consistent with goals of Paris Agreement"	Gippsland Basin Kipper field gas project - https://www.exxonmobil.com.au/news/newsroom/news-releases-and-alerts/2022/esso-australia-to-expand-gas-development-in-the-gippsland-basin

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