

Party platforms on corporate democracy and governance

Few political parties have detailed policies on corporate democracy and governance, despite the major role that corporations play in our economy and political debate.

Discussion paper

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Summary

Environmental, social and governance (ESG) issues are an increasing priority for corporations, governments and the public. Of these, corporate governance laws and policies go to the heart of the question of how corporations conduct themselves. Despite the growing interest in and prioritisation of ESG issues, Australian political parties vary significantly in their coverage of corporate governance concerns.

The newly-elected Labor Party has a national platform that contains many policies either explicitly or implicitly related to corporate governance. Along with a national integrity commission to investigate allegations of corruption, Labor supports truth in political advertising laws, increased whistle-blower protections for both the public and private sectors, donations reform and strengthening accountability institutions. Labor has a policy of achieving employee representation on company boards through an 'Australian model', yet to be elaborated.

The platforms of the parties that formed the governing coalition between 2013 and 2022 – the Liberals and the Nationals – have relatively little to say on the subject of corporate governance. The National Party says that its policies and political activities are built on triple bottom line considerations (social, economic and environmental), but has few policies specifically on the topic of corporate governance.

The Greens platform contains a wide range of ESG policies, many of them explicitly identified as corporate governance policies – including an ambitious target for employee representatives on the boards of medium and large corporates. Centre Alliance, too, has a range of corporate governance policies, including ones addressing procurement, subcontracting and government accountability.

Australian corporations are affected by government policies and law on issues that figured prominently in the 2022 election campaign: gender equity, the need for urgent action on climate change and the need for greater accountability in government and the business sector. There will be profound consequences for corporations if policies are implemented that limit political donations, place employee representatives on boards, improve whistle-blower protections and require more disclosures on gender equity and pay.

Introduction

Corporations play a major role in Australian democracy. They lobby governments for favourable policy outcomes. They make substantial donations to political parties and sometimes run overtly political advertising campaigns. Executives use the public profile of their companies to influence debate and are often members of politically active trade associations such as the Business Council of Australia.

Despite the influence of corporations on Australian politics, relatively little attention is paid to how corporations operate as political actors or why their internal governance is structured the way it is. While corporations influence government policy, governments also have a role in shaping policy around corporate governance. Governments can change legislation to manage corporate influence and policy.

This briefing paper reviews the federal policies of political parties to identify which policies – if any – address corporate governance and the role of corporations in Australian democracy. It takes an expansive view of corporate governance, considering how government policy may constrain or shape how companies form themselves, operate and report, as well as the constitution of management and boards.

Labor Party

Following the election in May 2022 the Australian Labor Party (ALP) formed government.

LABOR PARTY POLICIES

The Labor Party's National Platform is 'a clear statement of Labor's beliefs, values and program for government'. The most recent platform, published in March 2021, includes several policies with corporate governance implications.

Under 'Inclusive and sustainable growth':

Labor encourages companies and unions to replicate the success of other nations in making employees real and valued stakeholders through representation on company boards. In government, Labor will work towards the implementation of an 'Australian model' of company and relevant board representation for workers.¹

Labor will examine options for improving ordinary shareholder rights to enable greater worker and citizen shareholder participation in the governance of corporations.²

Under 'A strong, fair and well-regulated financial sector':

Labor will support the four pillars policy [to prevent any merger between the big four banks].³

We will not tolerate conflicted remuneration practices in the banking and finance sector.⁴

Under 'Dignity and security in retirement':

Australia's largest companies should be able to be held to account by their shareholders for actions, decisions and behaviour which may negatively impact their investment, and required to inform shareholders of risks which shareholders deem relevant.⁵

¹ ALP (2021) *ALP national platform: as adopted at the 2021 special platform conference*, para. 18, p 6, <https://www.alp.org.au/about/national-platform>

² ALP (2021) *ALP national platform: as adopted at the 2021 special platform conference*, para. 19, p 6

³ ALP (2021) *ALP national platform: as adopted at the 2021 special platform conference*, para. 90, p 14

⁴ ALP (2021) *ALP national platform: as adopted at the 2021 special platform conference*, para. 91, p 14

⁵ ALP (2021) *ALP national platform: as adopted at the 2021 special platform conference*, para. 107, p 16

Labor will work with the superannuation industry and business to improve company sustainability reporting on their environmental, social and governance performance in conformance with emerging global standards.⁶

Labor supports equal representation governance of superannuation boards and opposes the mandating of independent directors.⁷

Under ‘Gender equality and women’s rights’:

Labor will promote and support women’s leadership in Australia’s parliaments, governments, senior levels in the public and private sectors and in communities throughout Australia to ensure the equal participation of men and women in decision-making processes.⁸

Under ‘Better working conditions’:

Labor will enact a strategy for achieving equal pay for equal or comparable work, underpinned by legal and reporting obligations.⁹

Under ‘Strong democratic and public institutions’:

Labor will:

- improve whistle-blower protections for the public sector and extend them to the private sector;¹⁰
- enforce the Code of Conduct for ministers and their staff to ensure they uphold clear standards relating to their behaviour¹¹

Under ‘An electoral system we can all trust’:

We will minimise the disproportionate influence of vested interests in the democratic process by supporting an effective and practical public funding system of elections and limiting the level of federal campaign expenditure, through the introduction of spending caps.¹²

⁶ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 112, p 17

⁷ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 113, p 17

⁸ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 25, p 63

⁹ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 17, p 25

¹⁰ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 7(b), p 69

¹¹ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 7(e), p 69

¹² ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 24, p 71

Labor will introduce truth in political advertising laws which will further enhance the transparency of our electoral processes and improve the integrity of the electoral system.¹³

OTHER GOVERNANCE POLICIES AND ACTIONS

Codes of conduct

The Albanese Government introduced the Ministerial Code of Conduct in June 2022. Its principles include a requirement to treat public office as a public trust, and to act with due regard for integrity, fairness, accountability, responsibility, and the public interest.¹⁴ It is similar to, but expands on, previous statements of ministerial standards.¹⁵

The duties in relation to conflicts of interest¹⁶ and lobbyists¹⁷ and the employment restrictions on former ministers are particularly relevant to corporate governance.¹⁸

The Albanese Government also released a Code of Conduct for Ministerial Staff. They apply to the staff of ministers and assistant ministers, including staff in electorate offices. The duties in relation to avoiding conflicts of interest are particularly relevant to corporate governance.¹⁹

Federal anti-corruption body

The Albanese Government promised to 'legislate a powerful, transparent and independent National Anti-Corruption Commission by the end of 2022'.²⁰ The National Anti-Corruption Commission was legislated in November, and will be established by mid-2023.²¹

¹³ ALP (2021) ALP national platform: as adopted at the 2021 special platform conference, para. 25, p 71

¹⁴ Australian Government (2022) *Code of conduct for Ministers*, <https://www.pmc.gov.au/sites/default/files/publications/code-of-conduct-for-ministers.pdf>, para. 1.2, p 4

¹⁵ SMH (2022) *Albanese must back up new ministerial conduct code with actions*, <https://www.smh.com.au/politics/federal/albanese-must-back-up-new-ministerial-conduct-code-with-actions-20220708-p5b08m.html>

¹⁶ Australian Government (2022) *Code of conduct for Ministers*, paras. 3.1–3.24

¹⁷ Australian Government (2022) *Code of conduct for Ministers*, paras. 7.2–7.5

¹⁸ Australian Government (2022) *Code of conduct for Ministers*, paras. 8.1–8.2

¹⁹ Special Minister of State (n.d.) *Ministerial staff code of conduct*, <https://www.smos.gov.au/ministerial-staff-code-conduct>

²⁰ ALP (n.d.) *Fighting corruption: national anti-corruption commission*, <https://www.alp.org.au/policies/national-anti-corruption-commission>

²¹ *National Anti-Corruption Commission Act 2022* (Cth), https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6917

Australian Building and Construction Commission

The Australian Building and Construction Commission (ABCC) is responsible for monitoring conduct in the building and construction industry. It was established in 2016, although predecessors existed before.²² The Albanese Government plans to abolish the ABCC, describing it as a ‘politicised and discredited’ body set up ‘to discredit and dismantle unions and undermine the pay, conditions and job security’.²³

CAMAC

In 2014 CAMAC (the federal Corporations and Markets Advisory Committee) was abolished. It had made an invaluable contribution to the nurture of Australian corporate law and governance arrangements since 1989. It was reported prior to the 2019 federal election that, if it formed government Labor would restore CAMAC’s functions.²⁴ The status of this proposal is unclear today.

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.²⁵ The rules would have required advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition and the entire crossbench voted to support a motion from independent Senator Rex Patrick.²⁶

²² ABCC (n.d.) *History of the agency*, <https://www.abcc.gov.au/about/who-we-are/history-agency>

²³ Grattan (2022) *Government pulls teeth of Australian Building and Construction Commission*, <https://theconversation.com/government-pulls-teeth-of-australian-building-and-construction-commission-187593>

²⁴ AICD (2019) *AICD supports proposed Competition and Growth Taskforce restoring CAMAC functions*, <https://www.aicd.com.au/news-media/media-releases/2019/aicd-supports-proposed-competition-and-growth-taskforce-restoring-camac-function.html>

²⁵ Butler (2021) *Frydenberg’s proposed crackdown on proxy advisers dismissed as ‘Trumpian brainfart’*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

²⁶ Wright, Duke and Grieve (2022) *Frydenberg’s proxy adviser laws shot down in the Senate*, <https://www.smh.com.au/politics/federal/frydenberg-s-proxy-adviser-laws-shot-down-in-the-senate-20220210-p59vdl.html>

Liberal Party

Following the 2022 election, the Liberal Party formed the Opposition in coalition with the National Party.

LIBERAL PARTY POLICIES

Ahead of the 2022 election, the Liberal Party released election policies under the headings 'Our Plan for ...', and a separate 'Our Plan' webpage, with some overlap.²⁷ The Liberal Party also has a federal platform, although it contains more general statements of values and beliefs.²⁸

Election policies

Under 'Our plan for women's safety, economic security and health':

The [Government's] review supports the implementation of the Respect@Work Report to prevent and address workplace sex-based harassment and discrimination.

Under the Act, non-public sector employers with 100 or more employees must report annually against standardised gender equality indicators. ...

After consultation with employers, unions and women's organisations, the Act review recommends steps to accelerate gender equality in workplaces and streamline reporting for employers. This includes further consultation on publishing organisation gender pay gaps to improve transparency and requiring large employers (500 or more employees) to set measurable gender equality targets.²⁹

Under 'Our plan for a cleaner environment':

Invest \$128 million to **deliver improved environmental outcomes, and support economic recovery and job creation**, through more efficient assessment processes. These include maintaining timely assessments, strengthening compliance measures and a regional planning scheme that supports pre-approved activities.³⁰

²⁷ Compare Liberal Party (2022) *Election policies*, <https://www.liberal.org.au/our-policies> and Liberal Party (2022) *Our plan*, <https://www.liberal.org.au/our-plan>

²⁸ Liberal Party (2002) *Federal platform*, <https://www.liberal.org.au/our-beliefs>

²⁹ Liberal Party (n.d.) *Our plan for women's safety, economic security and health*, <https://www.liberal.org.au/our-plan-cleaner-environment>

³⁰ Liberal Party (n.d.) *Our plan for a cleaner environment*

Our Plan

Under ‘Supporting small business’:

A dedicated small business unit in the Fair Work Commission will help small businesses navigate their workplace obligations.³¹

OTHER GOVERNANCE POLICIES AND ACTIONS

Registered Organisations Commission and Australian Building and Construction Commission

The Registered Organisations Commission (ROC) regulates employer associations and trade unions. The Turnbull Government established the ROC in 2017.³²

The Australian Building and Construction Commission (ABCC) is responsible for monitoring conduct in the building and construction industry. The Turnbull Government established the ABCC in 2016, although predecessors existed before.³³

Banking Royal Commission

Then Treasurer Scott Morrison labelled the Labor Opposition’s calls for a royal commission into banking (and financial services generally) a ‘populist whinge’.³⁴

Just prior to release of the Royal Commission report then Prime Minister Scott Morrison warned that tightening finance regulations in a way that restricted credit would damage the economy.³⁵

Three days after receipt of the report, Prime Minister Morrison and Treasurer Josh Frydenberg ‘promised they would take ‘action’ on all seventy-six of commissioner Kenneth Hayne’s recommendations to government.’³⁶

³¹ Liberal Party (2022) *Supporting small business*, <https://www.liberal.org.au/our-plan/small-business>

³² ROC (n.d.) *Our role*, <https://www.roc.gov.au/about-us/our-role>

³³ ABCC (n.d.) *History of the agency*, <https://www.abcc.gov.au/about/who-we-are/history-agency>

³⁴ SBS (2016) *Bank royal commission a 'populist whinge': Morrison*, <https://www.sbs.com.au/news/article/bank-royal-commission-a-populist-whinge-morrison/jb34iz0ez>

³⁵ Shields (2019) *Scott Morrison warns against rash response to banking royal commission*, <https://www.smh.com.au/politics/federal/scott-morrison-warns-against-rash-response-to-banking-royal-commission-20190130-p50uo1.html>

³⁶ Bird (2021) *Banking their winnings*, <https://insidestory.org.au/banking-their-winnings/>

However, when assessed by *Inside Story* two and a half years' later, many recommendations had not been progressed or been postponed indefinitely, or the government had 'offered something different' instead.³⁷

Disclosure of ineligible JobKeeper recipients rejected

During the first year of the pandemic, the Morrison Government paid \$89 billion in wage subsidies under the JobKeeper program to businesses that expected a downturn in profits. The Parliamentary Budget Office has calculated that nearly \$40 billion of that amount went to businesses that did not experience a downturn in the relevant period. ASIC data revealed that at least \$4.2 billion went to ASX listed companies, some of which recorded substantially increased profits. Treasurer Josh Frydenberg defended decisions not to name or seek repayment from those companies that received JobKeeper for a period in which their profits increased.³⁸

Online Safety Act

The Morrison Government introduced the *Online Safety Act 2021*, which sets out online safety expectations. It requires industry to develop new, mandatory codes for illegal and restricted content.³⁹

Franchises

In 2017, the Turnbull Government amended the Fair Work Act to make franchisers liable for underpayment of wages by franchisees, if they knew or should have known of the underpayment.⁴⁰

³⁷ Bird (2021) Banking their winnings

³⁸ Cockburn (2021) *Latest ASIC data reveals the amount of JobKeeper taken by public companies*, <https://www.canberratimes.com.au/story/7542184/latest-asic-data-reveals-the-amount-of-jobkeeper-taken-by-public-companies/?cs=14264>; Kehoe (2021) *Treasurer dodges review of JobKeeper 'waste'*, <https://www.afr.com/policy/economy/treasurer-dodges-review-of-jobkeeper-waste-20210730-p58ecu>; Bourke (2021) *No clawback in JobKeeper because businesses wouldn't have taken the money: Frydenberg*, <https://www.smh.com.au/politics/federal/no-clawback-in-jobkeeper-because-businesses-wouldn-t-have-taken-the-money-20210901-p58o0q.html>

³⁹ eSafety Commissioner (n.d.) *Our legislative functions*, <https://www.esafety.gov.au/about-us/who-we-are/our-legislative-functions>

⁴⁰ Patrick (2021) *Politicians, regulators are dismantling a tenet of commerce*, <https://www.afr.com/policy/economy/politicians-and-regulators-are-dismantling-a-tenet-of-commerce-20210621-p582t7>

The Coalition Government amended the Franchising Code of Conduct, which regulates franchisees and franchisors, in 2015 and 2021, and in 2021 introduced a Franchise Disclosure Register.⁴¹

Aged care governance

Although the Liberal Party platform says the Morrison Government ‘invested \$918 million to improve the governance of the aged care sector’,⁴² most of the reforms under governance seem to involve the government rather than the governance of aged care providers.⁴³

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.⁴⁴ The rules would have required advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition and the entire crossbench voted to support a motion from independent Senator Rex Patrick.⁴⁵

Ban on payments to unions by employers

In 2017, the Turnbull Government passed the *Fair Work Amendment (Corrupting Benefits) Act 2017*, which makes it an offence to give, receive or solicit a corrupting benefit; for employers to give and unions to receive or solicit illegitimate payments; and for employers and unions that are bargaining a proposed enterprise bargaining agreement to disclose

⁴¹ Parliamentary Joint Committee on Corporations and Financial Services (2019) *The operation and effectiveness of the Franchising Code of Conduct*, p 14, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/Franchising/Report; Business Victoria (2021) *New protections for franchisees in the updated Franchising Code of Conduct*, <https://business.vic.gov.au/news-and-updates/2021/new-protections-for-franchisees-in-the-updated-franchising-code-of-conduct>

⁴² Liberal Party (2022) *Our plan for aged care*, <https://www.liberal.org.au/our-plan-aged-care>

⁴³ Department of Health (n.d.) *5 pillars over 5 years*, <https://www.health.gov.au/sites/default/files/documents/2021/05/five-pillars-over-5-years.pdf>

⁴⁴ Butler (2021) *Frydenberg’s proposed crackdown on proxy advisers dismissed as ‘Trumpian brainfart’*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

⁴⁵ Wright, Duke and Grieve (2022) *Frydenberg’s proxy adviser laws shot down in the Senate*

financial benefits they may derive from the proposed agreement. The reform implements a recommendation of the Royal Commission into Trade Union Governance and Corruption.⁴⁶

Federal anti-corruption body

The Liberal Party promised before the 2019 elections that it would establish a federal anti-corruption body. The model it designed was subject to criticism on the grounds that it would not allow public hearings, would not permit investigation of behaviour short of criminality, required a referral from government to commence investigation, discouraged whistle-blowers, and permitted the Attorney General to withhold information.⁴⁷

The Morrison Government refused to allow debate on a model developed by Independent MP Helen Haynes and did not introduce the Greens Bill for a commission that passed the Senate in 2019.⁴⁸

Truth in political advertising

When Warringah MP Zali Steggall asked in 2019 whether the Morrison Government would introduce or support truth in political advertising laws, then Prime Minister Scott Morrison referred her to the JSCEM inquiry into the 2019 election.⁴⁹

Liberal Party federal director Andrew Hirst's submission to the Joint Standing Committee on Electoral Matters' (JSCEM) inquiry into the 2022 election argues that the Albanese Government does not have a 'mandate' for truth in political advertising reform in the absence of a specific proposal on what reform would look like.⁵⁰

⁴⁶ Hannan (2017) *Coalition bid to ban law-breaking union officials*,

<https://www.theaustralian.com.au/national-affairs/industrial-relations/coalition-bid-to-ban-lawbreaking-union-officials/news-story/efb48ea11003e84517cdec489922f4d5>; Registered Organisations Commission (n.d.) *Corrupting benefits*, <https://www.roc.gov.au/running-a-registered-organisation/corrupting-benefits>

⁴⁷ Knaus (2020) *Toothless tiger? Five problems with the Coalition's anti-corruption commission*,

<https://www.theguardian.com/australia-news/2020/nov/03/toothless-tiger-five-problems-with-the-coalitions-anti-corruption-commission>

⁴⁸ Hitch & Doran (2021) *Scott Morrison defends blocking proposed federal corruption commission after MP crosses the floor*, <https://www.abc.net.au/news/2021-11-25/federal-iac-bill-vote-parliament-helen-haines/100649316>; Martin (2019) *Senate passes Greens bill to create federal Icac*,

<https://www.theguardian.com/australia-news/2019/sep/09/senate-passes-greens-bill-to-create-federal-icac>

⁴⁹ Steggall and Morrison (2019) *Questions without notice – Federal election*,

https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/bf07f4c7-cb9e-476c-a990-c87b42b76cec/&sid=0141

⁵⁰ Hirst (2022) *Submission 382*,

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2022federalelection/Submissions

National Party

The National Party is the junior partner in the Liberal–National Coalition, currently in Opposition.

NATIONAL PARTY POLICIES

The Nationals publish their Plan for a Stronger Regional Australia on their website.⁵¹ Most of the plan described current government initiatives (as they were before the election) rather than policies to be implemented.

They have also identified their policy priorities, but not specific policies, on a separate page, which claims ‘Our policy platform, and our approach to day-to-day political issues, is built on a triple bottom line of social, economic and environmental considerations.’⁵²

No explicit references to corporate governance could be found in the party’s policies, apart from the above statement of values.

OTHER GOVERNANCE POLICIES AND ACTIONS

Coalition Government policies and actions are described above (under Liberal Party).

Federal anti-corruption body

The Morrison Government’s position on a federal anti-corruption body has been described above (under Liberal Party).

In 2019, National backbencher Llew O’Brien warned he may cross the floor unless the Government proposed an integrity commission ‘with teeth’.⁵³ In 2021, Deputy Prime Minister Barnaby Joyce criticised the NSW Independent Commission Against Corruption, comparing it to the ‘Spanish Inquisition’.⁵⁴

⁵¹ The Nationals (n.d.) *Plan for a stronger regional Australia*, <https://nationals.org.au/our-plan-2/>

⁵² The Nationals (n.d.) *What we stand for*, <https://nationals.org.au/about/what-we-stand-for/>

⁵³ Remeikis (2019) *LNP MP may cross floor over federal integrity commission legislation*, <https://www.theguardian.com/australia-news/2019/nov/21/lnp-mp-may-cross-floor-over-federal-integrity-commission-legislation>

⁵⁴ Belot and Lowrey (2021) *Barnaby Joyce criticises idea of federal ICAC amid calls for corruption body*, <https://www.abc.net.au/news/2021-10-04/barnaby-joyce-criticises-idea-of-federal-icac/100511572>

Australian Greens

Reviewed: February 2022

The Australian Greens are the largest party on the crossbench in the Australian Parliament.

GREENS 2022 ELECTION PLATFORM

The Greens policy platform for the 2022 election contained the following corporate governance related policies.⁵⁵

Under 'Tackling the climate crisis':⁵⁶

- Ban all political donations from the mining and resources sector (and other dirty industries) and cap all other donations at \$1000 per year;
- Stop Resource Ministers and advisers from working for the fossil fuel industry within five years of leaving parliament.

Under 'No more dirty donations':⁵⁷

- Deliver a strong, independent national corruption watchdog that will be retrospective, can act on tipoffs, and holds public hearings;
- Deliver a Code of Conduct for all politicians and senior staff that ensures fossil fuel billionaires cannot buy political outcomes that favour them.

Under 'Cleaning up politics, reviving democracy':

- introducing truth in political advertising laws.
- capping electoral spending so elections can't be bought by those with the deepest pockets
- strengthening the Register of Interests so all potential conflicts are disclosed
- strengthening the Lobbying Code and publish Ministers' diaries so you know who's meeting with who
- protecting whistleblowers
- preventing Ministers taking roles in industries they used to regulate within 5 years of leaving parliament.⁵⁸

⁵⁵ Greens (2022) *Greens 2022 election policy platform*, <https://greens.org.au/platform>

⁵⁶ Greens (2022) *Tackling the climate crisis*, <https://greens.org.au/platform/climate>

⁵⁷ Greens (2022) *Politics for people, not corporations and billionaires*, <https://greens.org.au/platform/democracy>

⁵⁸ Greens (n.d.) *Clean up politics*, <https://greens.org.au/campaigns/clean-politics>

Under ‘Politics for people, not corporations and billionaires’:

- Ban all political donations from the mining and resources sector (and other dirty industries) and cap all other donations at \$1000 per year
- Publish a register of meetings between Ministers and mining lobbyists
- Requiring in-house lobbyists to be included on the Lobbyists Register
- Making it easier to access details of registered lobbyists and who they’ve been meeting with;
- Requiring Ministers to regularly publish details of their meetings with for-profit lobbyists;
- Strengthening the Lobbying Code of Conduct to improve transparency and stop political favours being repaid with cushy mining industry jobs.⁵⁹

Federal integrity commission

The platform calls for a federal integrity commission that is ‘retrospective, independent and has teeth’ as soon as possible.⁶⁰ A Greens Bill for such a commission passed the Senate but the Coalition would not put it to the vote in the House.⁶¹

GREENS POLICIES

The Australian Greens publish other policy documents distinct from their 2022 election policy platform.

Under ‘Constitutional reform and democracy’:

[E]lectoral funding reform that provides for:

- public funding of political parties and candidates for election campaigns and for the administration of political parties, to be set at a level that ensures proper democratic participation by voters and reduces corporate influence on political decisions;
- bans on political donations from for-profit corporations

⁵⁹ Greens (2022) *Cleaning up politics, reviving democracy*, <https://greens.org.au/sites/default/files/2022-01/Greens-2022-Policy-Platform--Democracy--Clean-Up-Politics.pdf>; Greens (2022) *Politics for people, not corporations and billionaires*

⁶⁰ Greens (n.d.) *Federal ICAC now!* <https://greens.org.au/campaigns/federal-icac-now>

⁶¹ Martin (2019) *Senate passes Greens bill to create federal icac*, <https://www.theguardian.com/australia-news/2019/sep/09/senate-passes-greens-bill-to-create-federal-icac>

- caps on individual political donations (excluding bequests) and donations from not-for-profit organisations;
- continuous comprehensive public disclosure of political donations and funding on a public website;
- strong uniform national political donations laws;

For a period of at least five years following their term, Ministers and their senior staff not to be engaged in lobbying for, or undertaking any position in, a for-profit enterprise which raises a conflict or particular benefit from their role and connections developed as a Minister or senior member of staff.⁶²

Under ‘Corporate governance’:

A business environment that encourages businesses and governments to fulfill their corporate, social and environmental responsibilities.

Effective regulation of the conduct of the corporate sector including international entities, to include:

- increased funding for regulatory agencies, adequate to enable enforcement;
- sanctions and fines that are sufficiently high to deter breaches of the law;
- extended liability of directors and managers and
- an extended range of effective penalty provisions such as publication orders, restrictions on Government related work, barring and de-listing of individuals and entities.

Decision-making processes in publicly listed companies that ensure informed and comprehensive participation by shareholders.

Transparent and accountable public utilities and government business enterprises. Where public subsidies are provided, information on the full environmental, social and fiscal costs should be publicly available.

Full accountability of government and corporations to the broader community, including implementing holistic accounting measures at all levels of government to incorporate social, environmental and financial impacts into policy development and assessment.

⁶² Greens (n.d.) *Constitutional reform and democracy*, <https://greens.org.au/policies/constitutional-reform-and-democracy>

Australian public companies, large proprietary companies and their subsidiaries, and government departments to be required to independently audit and publicly report their performance against economic, environmental and social criteria on an annual basis

Elections of boards of publicly listed companies to be conducted by an independent statutory body.

The inclusion of corporate ethics and environmental and social responsibilities in all business and commerce course curricula at secondary and tertiary institutions.

Strong powers for the Commonwealth Auditor General and the Commonwealth Ombudsman to examine and report on the propriety of government tenders and procurement

Persons detrimentally affected by the operations of Australian corporations overseas to have a legally-enforceable right to take action against those corporations in Australia.

All government-appointed boards to be representative of their stakeholders.

Stronger consumer education initiatives in the areas of reduced and responsible consumption, consumer rights and responsible investment.

Greater powers and resources for regulators to police anti-competitive behaviour and abuses of market power.

Continued monitoring and enforcement of competition policy to ensure that individual stakeholder or sector interests do not override the public interest.

The Australian Competition and Consumer Commission (ACCC) to have the powers and resources to prevent the formation of monopolies through 'creeping acquisitions', and to divest monopolies and oligopolies of assets if they are abusing their market power.

Amendment of all relevant legislation to ensure the directors of phoenix companies and the new entities themselves can be pursued for outstanding liabilities.

Increased exposure and, where necessary, prosecution of Australian-based companies and their directors for breaches overseas of human rights, tax evasion or industrial or environmental law.

Measures to reduce excessive executive salaries.

Affirmative action targets for more diversity on corporate and government boards.

A requirement that all large companies, resources companies, and the financial sector report their exposure to carbon risk using uniform standards.

At least a third of members of the board of medium and large corporations to be employees or their representatives.⁶³

END CORPORATE TAX AVOIDANCE ANNOUNCEMENT

In a 2021 press release, party leader Adam Bandt released a stakeholder statement.⁶⁴

Under 'Increased transparency':

Reduce the threshold for public tax transparency reports to \$50m for all public and private companies, including partnerships.

Abolish the 'grandfathered list' of private companies exempt from public reporting requirements.

Establish a public register of beneficial owners so that we can see who really owns and controls companies operating in Australia.

Publish country-by-country reports issued by all significant global entities.

Require all multinational companies who win government contracts to issue country-by-country reports.

Publish details on the value of assets transferred offshore by significant global entities to other branches of the same company.

Introduce a Publish What You Pay requirement for Australian mining companies to disclose any payments made to foreign countries on a country-by-country and project-by-project basis.

Abolish fees for access to publicly available information on the ASIC Register and make all company reports freely available and searchable.

Require companies tendering for government contracts to disclose where they are domiciled for tax purposes.

Require companies to disclose to shareholders all subsidiaries and the jurisdiction of incorporation for these subsidiaries.

⁶³ Greens (2020) Corporate governance

⁶⁴ Bandt (2021) *Greens plan to clamp down on multinational tax avoidance estimated to net \$4.5 billion*, <https://greens.org.au/news/media-release/greens-plan-clamp-down-multinational-tax-avoidance-estimated-net-45-billion>

Under 'Improved monitoring and enforcement':

[R]equire companies to disclose any aggressive tax minimisation schemes they are using.

Provide better protection for whistle-blowers, including by increasing the scope of whistle-blower protections to cover all public and private sector employees, introducing rewards for whistle-blowers, and establishing a single and consistent national framework.

Require real estate agents, accountants, and lawyers to report suspicious transactions to AUSTRAC.

Publish data on international funds transfer reports made to AUSTRAC.

Publish details of individual settlements agreed to by the ATO with large companies (more than \$100m in turnover) where these companies are contesting their tax bill.

Ensure one-third of the Board of Taxation are representatives of civil society and trade unions.

Structurally separate the Big-4 accounting firms so that they can't provide both audit services and tax advice to the same companies.

OTHER GOVERNANCE POLICIES AND ACTIONS

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.⁶⁵ The rules would have required advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition, the Greens and the remainder of the Senate crossbench voted to support a motion from independent Senator Rex Patrick.⁶⁶

⁶⁵ Butler (2021) *Frydenberg's proposed crackdown on proxy advisers dismissed as 'Trumpian brainfart'*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

⁶⁶ Wright, Duke and Grieve (2022) *Frydenberg's proxy adviser laws shot down in the Senate*

One Nation

Pauline Hanson's One Nation has two senators: Pauline Hanson and Malcolm Roberts.

ONE NATION POLICIES

One Nation publishes its policies on its website.⁶⁷

On 'Multinational taxation':

We will ... pursue a tax regime that ensures multi-national businesses pay their fair share of tax while operating within Australia.⁶⁸

On 'Foreign ownership':

One Nation will pursue urgent reform to Australia's foreign investment rules by legislating a clear definition of 'National Interest' based on national security, competition, tax, a character test, and any other impacts to Australia. Essential services including power, water, telecommunications, roadways, and ports would be off-limits to foreign investors. With a crucial shortage of housing stock in Australia, we must stop the sale of property to non-residents and non-citizens.⁶⁹

OTHER GOVERNANCE POLICIES AND ACTIONS

Political donations

Pauline Hanson is reportedly in favour of increased transparency in political donations.⁷⁰

Federal anti-corruption body

In 2019, One Nation's abstention on a Greens' national integrity commission bill allowed the bill to pass the Senate with the support of Labor, Greens, Centre Alliance and Jacqui

⁶⁷ One Nation (n.d.) *Our policy on important issues*, <https://www.onenation.org.au/issues>

⁶⁸ One Nation (n.d.) *Multinational taxation*, <https://www.onenation.org.au/tax>

⁶⁹ One Nation (n.d.) *Foreign ownership*, <https://www.onenation.org.au/foreign-ownership>

⁷⁰ Keane (2021) Labor, Lambie, Hanson and Palmer are on a donations unity ticket — so why not the Coalition? What does the Coalition have to hide? <https://www.crikey.com.au/2021/01/29/political-donations-coalition-hide/>

Lambie.⁷¹ In 2021, Hanson criticised the Coalition Government's 'flawed' proposal but later cooperated with the Coalition Government to defeat an attempt by Labor Opposition and Greens Senators to commence a debate on a national integrity commission.⁷²

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.⁷³ The rules would have required advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition, One Nation and the remainder of the Senate crossbench voted to support a motion from independent Senator Rex Patrick.⁷⁴

⁷¹ Martin (2019) *Senate passes Greens bill to create federal Icac*, <https://www.theguardian.com/australia-news/2019/sep/09/senate-passes-greens-bill-to-create-federal-icac>

⁷² Burgess (2021) *'Same rules for everybody': MPs urged to cross floor over integrity commission*, <https://www.canberratimes.com.au/story/7036294/same-rules-for-everybody-mps-urged-to-cross-floor-over-integrity-commission/>; Doran (2021) *Pauline Hanson helps government block federal integrity commission debate*, <https://www.abc.net.au/news/2021-11-23/pauline-hanson-government-block-federal-icac-bill/100643150>

⁷³ Butler (2021) *Frydenberg's proposed crackdown on proxy advisers dismissed as 'Trumpian brainfart'*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

⁷⁴ Wright, Duke and Grieve (2022) *Frydenberg's proxy adviser laws shot down in the Senate*

Jacqui Lambie Network

The Jacqui Lambie Network has two senators: Jacqui Lambie and Tammy Tyrrell.

JACQUI LAMBIE NETWORK POLICIES

The Jacqui Lambie Network's website has a section on her position on the political system, which calls for electoral expenditure accounts for organisations that run political campaigns, a strong anti-corruption commission, restrictions on the transition between politics and lobbying and greater transparency on the activities of lobbyists and their meetings with politicians.⁷⁵

OTHER GOVERNANCE POLICIES AND ACTIONS

Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020

In 2020, Jacqui Lambie proposed a private member's bill that would extend which entities need to report donations and require them to report six-monthly instead of yearly, lower the donation disclosure threshold to \$2,500, require disclosure of smaller donations that in aggregate exceed the threshold, require disclosure within 7 days and increase the AEC's monitoring powers, among other things.⁷⁶

Balanced gender representation on public sector boards

Jacqui Lambie was signatory to a dissenting report of the Inquiry into Australian Government Boards (Gender Balanced Representation) Bill 2015, after the main report of the Senate Standing Committee on Finance and Public Administration recommended against requiring gender parity.⁷⁷

⁷⁵ Jacqui Lambie Network (n.d.) *Politics is rotting at its core*

⁷⁶ Lambie (2020) *Commonwealth Electoral Amendment (Donation Reform and Other Measures) Bill 2020*, https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=s1244

⁷⁷ Senate Standing Committee on Finance and Public Administration (2015) *Australian Government Boards (Gender Balanced Representation) Bill 2015*, Dissenting Report, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Gender_Balanced_Represent/Report

Federal anti-corruption body

In 2019, Jacqui Lambie joined the Centre Alliance, Labour and the Greens to pass the Bill introduced into the Senate by the Greens to establish a powerful national integrity body. It was not introduced into the House by the Coalition Government.⁷⁸ In 2021, she criticised the Coalition Government's 'flawed' proposal.⁷⁹

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.⁸⁰ The rules would require advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition and crossbench voted to support a motion from independent Senator Rex Patrick.⁸¹

⁷⁸ Martin (2019) *Senate passes Greens bill to create federal Icac*, <https://www.theguardian.com/australia-news/2019/sep/09/senate-passes-greens-bill-to-create-federal-icac>

⁷⁹ Burgess (2021) 'Same rules for everybody': MPs urged to cross floor over integrity commission

⁸⁰ Butler (2021) *Frydenberg's proposed crackdown on proxy advisers dismissed as 'Trumpian brainfart'*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

⁸¹ Wright, Duke and Grieve (2022) Frydenberg's proxy adviser laws shot down in the Senate

Centre Alliance

The Centre Alliance emerged from the Nick Xenophon Party. It has one federal representative: Rebekha Sharkie MP.

CENTRE ALLIANCE POLICIES

Centre Alliance publish their policies on their website.⁸²

Under ‘Government accountability and transparency’:

Establish a national anti-corruption commission and ensure that the SA ICAC can hold meetings in public for maladministration cases.

Put in place whistleblower legislation that protects the informant and compensates them for any loss of income due to their actions. The changes brought about by our team in December 2016 are a big step forward, but these need to be rolled out to the corporate and public sectors as per the governments firm commitments.⁸³

The changes referred to above probably refer to amendments to the Fair Work Registerer Organisations Act which provided protections to whistleblowers who disclose information about contraventions of the law.⁸⁴

Under ‘Utilities’:

There should be an option for all new utility proposals (such as generation and network assets) to be community owned or owned through a co-operative.⁸⁵

Under ‘Superannuation’:

Overhaul the superannuation industry to increase transparency, end fee gouging and require that investment choices are made under increased checks and balances.

⁸² Centre Alliance (n.d.) *Policies*, <https://centrealliance.org.au/policies/>

⁸³ Centre Alliance (n.d.) *Government Accountability & Transparency*, <https://centrealliance.org.au/policies/government-accountability-and-transparency/>

⁸⁴ Joint Committee on Corporations & Financial Services (2017) *Whistle-blower Protections*, para 2.2, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/WhistleblowerProtections/Report/c02

⁸⁵ Centre Alliance (n.d.) *Utilities*, <https://centrealliance.org.au/policies/utilities/>

Superannuation funds must be required to hold an annual general meeting where members are entitled to ask questions as to how their fund is performing and how it is being administered.⁸⁶

Under 'Foreign investment':

Adapt New Zealand's foreign investment laws which clearly set out a definition of the national interest and have lower thresholds for foreign investment approval.

Lower the existing Foreign Investment Review Board threshold (\$252 million) so that all proposed overseas transactions greater than \$5 million are subject to greater scrutiny.

Have a foreign investment register of key assets in order to promote greater transparency.⁸⁷

Under 'Government procurement':

The Federal Government must ensure government procurement officers conduct procurement in accordance with the full intent of the new Commonwealth procurement rules negotiated by our team in December 2016 and which came into effect on 1 March 2017. Those rules require officials to:

- Ensure applicable Australian Standards are mandated in all procurements.
- Ensure that the procurement is carried out considering relevant regulations and/or regulatory frameworks, including but not limited to tenderers' practices regarding a) labour regulations, including ethical employment practices; b) occupational, health and safety; and c) environmental impacts.
- Consider the economic benefit for all procurements above \$4 million dollars.

Compliance with the new rules must be made mandatory for any federal funding to states governments.⁸⁸

Under 'Subcontractors':

Implementation of all of the Senate Economics Committee's recommendations in their report on insolvency in the construction industry.

⁸⁶ Centre Alliance (n.d.) *Superannuation*, <https://centrealliance.org.au/policies/superannuation/>

⁸⁷ Centre Alliance (n.d.) *Superannuation*, <https://centrealliance.org.au/policies/superannuation/>

⁸⁸ Centre Alliance (n.d.) *Government Procurement*, <https://centrealliance.org.au/policies/government-procurement/>

National legislation for a security of payment regime, and rapid adjudication processes in the commercial construction industry, in line with the recommendations from the review conducted by Mr John Murray AM.

Close the legal loopholes that allow phoenixing activity to take place.⁸⁹

OTHER GOVERNANCE POLICIES AND ACTIONS

Lowering disclosure thresholds

Rebekha Sharkie introduced amendments to reduce the disclosure threshold for political donations from the then threshold of \$13,800 to \$1,000 make the public aware of vested interests at play.⁹⁰

Federal anti-corruption body

In 2019, the Centre Alliance joined Jacquie Lambie, Labour and the Greens to pass the Bill introduced into the Senate by the Greens to establish a powerful national integrity body. It was not introduced into the House by the Coalition Government.⁹¹ In 2021, they criticised the Coalition Government's 'flawed' proposal.⁹²

Proxy advisers

In mid-2021, Treasurer Josh Frydenberg announced increased controls on the activities of proxy advisers, allegedly in response to a firm that said it would advise superannuation funds to vote against directors who were not taking sufficient action against climate change.⁹³ The rules would have required advisers to provide companies with advice they propose to give their clients five days in advance. Three days after the regulations came into effect, they were disallowed in the Senate when the Labor Opposition, Centre Alliance and

⁸⁹ Centre Alliance (n.d.) *Subcontractors*, <https://centrealliance.org.au/policies/subcontractors/>

⁹⁰ Gredley (2019) *Disclose political donations over \$1k: MP*, <https://www.canberratimes.com.au/story/6521086/disclose-political-donations-over-1k-mp/>

⁹¹ Martin (2019) *Senate passes Greens bill to create federal Icac*, <https://www.theguardian.com/australia-news/2019/sep/09/senate-passes-greens-bill-to-create-federal-icac>

⁹² Burgess (2021) 'Same rules for everybody': MPs urged to cross floor over integrity commission

⁹³ Butler (2021) *Frydenberg's proposed crackdown on proxy advisers dismissed as 'Trumpian brainfart'*, <https://www.theguardian.com/australia-news/2021/may/04/frydenbergs-proposed-crackdown-on-proxy-advisers-dismissed-as-trumpian-brainfart>

the remainder of the Senate crossbench voted to support a motion from independent Senator Rex Patrick.⁹⁴

⁹⁴ Wright, Duke and Grieve (2022) Frydenberg's proxy adviser laws shot down in the Senate

Other parties

KATTER'S AUSTRALIAN PARTY

Katter's Australian Party has one federal representative: Bob Katter MP.

Katter's Australian Party publish their policies on their website, grouping state and federal policies together.⁹⁵

Nothing explicitly on corporate democracy or corporate governance was found in the party's policies.

Federal anti-corruption body

Bob Katter has supported the need for a national integrity commission but warned that it can be a 'two edged sword' if innocent people are not protected.⁹⁶ In 2021, he criticised the Coalition Government's 'flawed' proposal.⁹⁷

UNITED AUSTRALIA PARTY

The United Australia Party has one federal representative: Senator Ralph Babet.

The United Australia Party publish their national policy on their website.⁹⁸

Under 'Lobbyists':

A United Australia Party team will legislate to restrict the role of lobbyists in directing political parties.

⁹⁵ Katter's Australian Party (n.d.) *KAP policies*, <https://kap.org.au/policies/>

⁹⁶ Katter (2018) *Katter supports National Integrity Commission but warns it is a 'two edged sword'*, <https://kap.org.au/katter-supports-national-integrity-commission-but-warns-it-is-a-two-edged-sword/>

⁹⁷ Burgess (2021) 'Same rules for everybody': MPs urged to cross floor over integrity commission

⁹⁸ United Australia Party (n.d.) *United Australia Party national policy*, https://www.unitedaustraliaparty.org.au/national_policy/

Missing elements in party platforms

Overall, the policy platforms of Australia’s political parties have few corporate governance policies, and those that exist are usually fairly limited in scope. Policies rarely refer to the experience of other countries with similar legal frameworks dealing with similar problems to those faced by Australia. In addition, much of the focus is on topical issues rather than underlying legal design.

Neglected corporate governance issues include:

Ease of incorporation

In recent years there has been a rapid growth in the actual number of companies, including the number of “businesses” using multiple companies to make scrutiny by the public, regulators, potential and actual creditors and debtors more difficult. The number of companies in Australia more than doubled between 1994–95 and 2019–20 (from 495,000 to 1,083,000) (latest available year) while the population increased by 43% over the same period (from 17.9 million to 25.5 million).⁹⁹

Balancing the private benefits of incorporation against public obligations

In Australian discourse, incorporation is often presented as a right with minimal associated responsibility. The doctrine of *ultra vires*,¹⁰⁰ which requires organisations to have and abide by stated aims, has not applied to corporations since 1983.¹⁰¹ Conversely, many not-for-profit organisations are still required to have specified charitable purposes, and the board is

⁹⁹ ATO (2017) *Taxation statistics 1994–95 to 2008–09*, table C10, <https://data.gov.au/dataset/ds-dga-67265383-0ecc-4523-8ffd-02790297a65a/details?q=table>; ATO (2022) *Company statistics*, <https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2019-20/?anchor=Companystatistics>; ABS (2019) *Historical population*, <https://www.abs.gov.au/statistics/people/population/historical-population/2016>; ABS (2020) *National, state and territory population, December 2019*, <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/dec-2019>

¹⁰⁰ This doctrine required companies to have aims which at first were included in statute and then could only be altered with the approval of the court. See Ford, Austin and Ramsay (1997) *Ford’s Principles of Corporations Law (8th Edition)*, Butterworths, p 562.

¹⁰¹ Egert (1986) *The doctrine of ultra vires: Recent developments*, <http://classic.austlii.edu.au/au/journals/QITLawJl/1986/7.html>; the statutory abandonment of the doctrine of *ultra vires* is now effected by *Corporations Act 2001* (Cth), ss 124, 125; *Lion Nathan Australia v Coopers Brewery* [2006] FCAFC, <https://iknow.cch.com.au/document/atagUio919405sl49232284/lion-nathan-australia-pty-ltd-v-coopers-brewery-ltd>

required to act for those purposes.¹⁰² The consequence is that those banding together with for-profit aims often have freer rein than many banding together for environmental, social and charitable purposes.

Extent of shareholder scrutiny of board decisions

Australia is unusual among Anglophone companies in the extent of restrictions it places on shareholder resolutions. In the UK, public company shareholders can submit and then vote at a meeting of shareholders on both directive and advisory resolutions. In the US, the Securities and Exchange Commission (SEC) facilitates shareholders lodging advisory resolutions. In Australia, in general, neither directive nor advisory resolutions lodged by shareholders for consideration at meetings of shareholders are permissible.¹⁰³

Use of company money for political purposes without any reference to shareholders

In Australia companies rarely seek shareholder approval for corporate political donations.¹⁰⁴

A number of the party platforms assessed in this report have policies that would address the consequences of corporate political contributions (for example by recommending disclosure requirements or donation caps).

However, they do not tend to contemplate introducing shareholder control over political contributions. This is distinct from the UK, where political use of corporate funds is a matter for shareholders not boards or executives.¹⁰⁵ This simple change in corporate governance significantly reduced the problems associated with corporate political expenditure.

In the US – because of the arrangements described above – disclosure of, or restrictions on, corporate political expenditure is a frequent topic of shareholder resolutions.¹⁰⁶

¹⁰² See for example ACNC (n.d.) *Governance standard 5: Duties of responsible people*, <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/5-duties-responsible-people>

¹⁰³ Pender and Sheppard (2014) *Shareholder resolutions at listed public companies in major English-speaking countries: comparative arrangements*, https://www.accr.org.au/downloads/ACCR_intl_cf_sh_res_final.pdf; Sheehan (2017) *Shareholder resolutions in Australia: Is there a better way?* pp 5–6, <https://acsi.org.au/research-reports/shareholder-resolutions-in-australia/>

¹⁰⁴ More details in an upcoming report, *Corporate political expenditure in Australia*.

¹⁰⁵ Watson and McKenzie (2022) *Shareholders' rights in private and public companies in the UK: Overview*, “Issues to be approved at an AGM”, <https://uk.practicallaw.thomsonreuters.com/5-613-3685>

¹⁰⁶ See Pender (2016) *Corporate Political Expenditure in Australia*, https://www.accr.org.au/downloads/ACCR_Corporate_Political_Expenditure.pdf

Arrangements for indemnity of directors by companies

Such arrangements have a significant impact on director's conduct. In Australia the board itself concludes arrangements for indemnity of board members without reference to shareholders.¹⁰⁷ By contrast, Swedish law requires a vote at the annual general meeting by the shareholders to discharge liability of board members for the previous year. Under Swedish law if more than 10% of shareholders vote against the discharge of liability, it is not granted.¹⁰⁸

¹⁰⁷ This is a consequence of the combination of the inclusion in the typical Australian constitution of an indemnity clause, providing a power to the company to grant indemnity to officers and the reservation of all powers to the board unless expressly required by law or the constitution to be exercised by the shareholders in general meeting. So, commonly, each director will be a party to a 'deed of indemnity and insurance' executed by another director on behalf of the company indemnifying the first director to the maximum extent permitted by law.

¹⁰⁸ Svernlöv (2007) *Discharge from liability in the Swedish listed company*, http://www.corporategovernanceboard.se/UserFiles/Archive/535/discharge_from_liability_in_the_swedish_listed_company_by_carl_svernlöv.pdf

Conclusion

Corporate ESG policies, outcomes and risks have increasingly come into focus for shareholders, and the public more generally. Despite this, corporate governance receives little attention in the policy platforms of some major political parties, and incomplete coverage in others. Integrity issues more generally are more prominent, and these can include the outsized influence exercised by companies.

The Labor Party, Greens and Centre Alliance have extensive – but not exhaustive – coverage of corporate governance issues, but the same cannot be said for other parties with federal representation. If corporations are going to remain major players in Australian politics, political parties must reckon with how they are constituted and regulated.