

The Economics of Deception: Greenwashing as a rational market Strategy

Supplementary submission to the
Senate inquiry into Greenwashing

Greenwashing in Australia is a symptom of deeper regulatory and economic failures—primarily, the failure to require, enable, and reward genuine emissions reductions and environmental protection.

Without structural reform that mandates and incentivises environmental performance, greenwashing will remain a rational, government-enabled market strategy.

Polly Hemming
September 2025

The Australia Institute - Research that matters

Established in 1994, The Australia Institute is an independent public policy think tank based in Canberra that provides intellectual and policy leadership across a broad range of economic, social and environmental topics. We conduct research that drives the public debate and secures policy outcomes that make Australia better – research that matters.

The Australia Institute is funded by donations from philanthropic trusts and individuals, as well as grants and commissioned research from business, unions and non-government organisations. We do not accept donations or commissioned work from political parties. With no formal political or commercial ties, the Institute maintains its independence while advancing a vision for a fairer Australia.

Donations to our Research Fund are tax deductible, and can be made via our website or by calling the Institute:

Tel: (02) 6130 0530

Email: mail@australiainstitute.org.au

Website: www.australiainstitute.org.au

PO Box 3839

Manuka

ACT 2603

Acknowledgement of Country

The Australia Institute recognises the ancestral connections and custodianship of Traditional Owners throughout Australia. We pay respect to Aboriginal and Torres Strait Islander cultures and to Elders past and present.

Contents

Summary	1
Introduction	3
The Current Context.....	4
Greenwashing in Australia: A rational business response	4
Widespread confusion about key climate claims.....	5
Public understanding of carbon neutrality.....	6
Public understanding of carbon offsets	7
Public understanding of “Net Zero”	8
Consequences and public expectations	9
The persistence of state-sponsored greenwash in Australia	10
the safeguard mechanism	11
Climate Active	12
Businesses leaving the scheme	12
ACCC concerns about Climate Active	13
Climate Active review delayed indefinitely	14
The Australian Government continues to defend Climate Active.....	15
Climate-related financial disclosure: Immunity without accountability	16
Disclosure without decarbonisation.....	16
A moratorium on greenwashing enforcement.....	17
Greenwashing as policy design	18
Greenwashing will persist while governments underwrite pollution	19
Creating structural change in a system designed to resist it.....	19
International pressure may finally force action	20
Conclusion	22
Appendix – Previous Submission to the Senate inquiry into Greenwashing.....	23

Summary

The Australia Institute welcomes the opportunity to provide a further submission to the Senate Inquiry into Greenwashing.

Greenwashing takes many forms, including misleading claims about human rights, labour standards, biodiversity protection, and waste management. While these are all critical issues, this submission focuses specifically on climate-related greenwashing.

This supplementary submission builds on the Institute's original contribution and provides updated analysis of how greenwashing practices—particularly by government—have persisted and, in some respects, intensified since the Inquiry was initiated.

While much public attention has focused on misleading environmental claims made by private companies, this submission emphasises the critical role of the Australian Government in setting the terms, incentives, and policy frameworks that shape those claims. It highlights how official communications, voluntary certification schemes, and emissions accounting rules continue to promote the appearance of climate action while permitting ongoing environmental harm.

The Australia Institute's updated analysis shows that government-enabled greenwashing is not an incidental issue—it is embedded in the structure of Australia's climate and energy policy architecture. The mechanisms that allow it to occur have not only remained in place, but have been reinforced through policies that subsidise fossil fuels, promote reputational certification over real-world decarbonisation, and reward branding over performance.

We reiterate that greenwashing in Australia is not simply the result of poor disclosure or inadequate consumer education, but of a policy environment that makes misleading claims more profitable than meaningful decarbonisation. Reform efforts must move beyond technical fixes and confront the central problem: a government architecture that actively rewards spin, subsidises pollution, and shields deception from liability. Until these structural conditions change, greenwashing will remain a rational strategy—and a systemic barrier to adequate climate action and environmental protection.

Polling from the Australia Institute's Climate of the Nation 2024 highlights the extent of community confusion and its implications for consumer protection, investor confidence, and democratic accountability. The widespread use of vague or misleading language—particularly when backed by government-endorsed schemes or compliance frameworks—raises serious concerns about informed consent, transparency, and regulatory adequacy.

Structural reform begins by identifying the root cause: greenwashing in Australia is not merely a product of private sector misconduct, but a systemic outcome of government policy. The first step is to ensure that the public understands the problem is not that

particular corporations have failed, but that institutional design choices permit and promote deception. The second step is to leverage international legal and diplomatic developments—such as the recent advisory opinion of the International Court of Justice—which increase the legal and reputational risks for governments that enable misleading climate conduct. These two developments can create new avenues for accountability and increase the likelihood that the Commonwealth will be forced to align its policies with its stated climate commitments.

Introduction

The Australia Institute welcomes the opportunity to provide a further submission to the Senate Inquiry into Greenwashing.

Our original submission highlighted the growing prevalence of misleading climate and environmental claims in Australia, the inadequacy of current regulatory frameworks, and the Australian Government's role in enabling and legitimising corporate greenwashing—particularly through its Climate Active certification scheme and Safeguard Mechanism emissions framework.¹

This supplementary submission outlines key developments since our first submission, including updates to Climate Active and the broader policy environment. It emphasises that greenwashing in Australia is not simply a failure of oversight, but a rational response to a system that rewards misrepresentation over decarbonisation.

While greenwashing spans a wide range of issues—including biodiversity, waste, and human rights—this submission focuses specifically on climate-related greenwashing: the misrepresentation of emissions performance, climate risk, and decarbonisation efforts. It addresses how government policy and regulatory design—not just corporate behaviour—enable and reward this form of deception, and argues that meaningful reform must target the systemic drivers of climate-related greenwashing at their source.

We commend this inquiry as one of the few public forums willing to confront the systemic nature of greenwashing. Its work has helped expose how misleading claims stem not just from isolated actors, but from the broader architecture of government policy—where pollution is subsidised, accountability is weak, and appearance is prioritised over substance.

Rather than proposing minor technical reforms, this submission examines the structural drivers of greenwashing. It begins by identifying the incentive structures that sustain it, then examines how government policy and certification schemes actively enable it. Finally, it considers recent international legal developments that may see state accountability—including for greenwashing.

¹ Hemming & Denniss (2023) *Submission: Senate inquiry into greenwashing*, <https://australiainstitute.org.au/report/submission-senate-inquiry-into-greenwashing/>

The Current Context

Greenwashing in Australia, particularly as it pertains to climate, is not the result of isolated corporate misconduct or poor communication. It is the predictable outcome of a policy environment that rewards appearance over substance, and of public narratives that rely on vague or poorly understood terminology.

This section outlines the conditions that have enabled greenwashing to flourish: a regulatory and fiscal landscape in which deceptive claims are more profitable than decarbonisation, and a communications environment in which key climate terms like “carbon neutral” and “Net Zero” are routinely misunderstood. Together, these dynamics have created a situation in which misleading conduct is both rational and largely unchecked. This poses serious risks to consumer protection, investor confidence, and democratic accountability.

GREENWASHING IN AUSTRALIA: A RATIONAL BUSINESS RESPONSE

Greenwashing is often treated as a communications or consumer protection issue. But fundamentally, it is a symptom of deeper regulatory and economic failures, particularly the failure to require, enable, and reward genuine emissions reductions and environmental protection.

Rather than removing barriers to emissions reductions, or regulating high-emitting sectors, the Australian Government continues to approve new coal and gas projects, maintains subsidies that lower the cost of fossil fuel production, and refuses to implement binding decarbonisation standards for major polluters. At the same time, it provides tools such as carbon offsets, carbon neutral certification, and regulatory accounting frameworks that allow companies to appear climate-aligned while they continue to emit at high levels. In other words, Australia’s policy and regulatory environment makes genuine decarbonisation harder, and greenwashing easier.

These policies do not just fail to support decarbonisation, they actively undermine it. When fossil fuel projects are publicly funded, and clean industry support is delayed or uncertain, emissions reductions become harder, more expensive, and less commercially viable.

Australia’s fossil fuel subsidies are greater than subsidies and tax incentives for green manufacturing and renewables. Australia’s Future Made in Australia policy allocates \$22.7 billion to incentivise green manufacturing, predominantly in future tax credits rather than direct public spending. Notably, the \$22.7 billion in potential support is spread out over at

least *ten* years (versus the \$12 billion in fossil fuel subsidies in a single year) and many of the measures don't start until 2027.^{2 3} While the headline figure for clean industry support may appear larger, the scale, timing, and certainty of fossil fuel subsidies send a far stronger investment signal.

This environment creates a clear commercial logic: it is cheaper, easier, and more profitable to greenwash than to genuinely reduce emissions. The private sector is not behaving irrationally—it is responding to the incentives the government has created. By subsidising fossil fuel expansion and providing the tools to disguise those emissions, the government has made genuine decarbonisation difficult—and *greenwashing the rational market strategy*.

Greenwashing is not a failure of individual ethics. It is a rational response to a system that rewards appearances, shields polluters, and imposes few consequences for deception. Until that system changes, misleading climate claims will remain the default strategy, and a persistent obstacle to real climate progress.

Until this balance is reversed and absolute emissions reductions are cheaper, easier, and more reputationally valuable than greenwashing, misleading claims will persist. No amount of regulatory scrutiny of private actors can substitute for the absence of credible, science-aligned climate policy that makes decarbonisation the most economically rational course of action.

Strategies to eliminate greenwashing will only be effective if they mandate and reward environmental performance—not performance marketing.

WIDESPREAD CONFUSION ABOUT KEY CLIMATE CLAIMS

The central concepts underpinning climate and environmental claims in Australia—“carbon neutral”, “Net Zero”, and “carbon offsets”—are now routinely used by both governments and corporations to signal environmental performance, integrity, or ambition. These terms form the basis of a wide array of policies, branding strategies, investment decisions, and public messaging. This includes the Commonwealth Government’s promotion of “carbon neutral” brands through its Climate Active scheme; corporations that market themselves as “Net Zero” to investors, and regulators or ministers who use carbon offsets to claim progress toward national “Net Zero” targets.

² Commonwealth of Australia (2024) Budget 2024-25, Budget Measures: Budget Paper no. 2, https://budget.gov.au/content/bp2/download/bp2_2024-25.pdf

³ Commonwealth of Australia (2025) Budget 2025-26, Budget Measures: Budget Paper no. 1 https://budget.gov.au/content/bp1/download/bp1_2025-26.pdf

While these terms serve as the currency of climate credibility in Australia, most Australians do not understand what they mean.

Polling from the Australia Institute's 2024 Climate of the Nation confirms that there is widespread confusion and misunderstanding surrounding these core terms, even as they play a growing role in shaping consumer choices, investor behaviour, and voting decisions.

This is not a minor communications challenge. This confusion has serious legal, regulatory, and democratic implications, including that:

- Consumers may be misled about the environmental impact of the products and services they purchase.
- Investors may be misled about a company's emissions profile or alignment with climate risk frameworks.
- Voters may be misled about the credibility and effectiveness of government climate policy.

In a context where these terms are used to justify reputational claims, access funding, comply with regulatory obligations, and influence public support, their lack of legal clarity and public understanding constitutes a structural vulnerability. It enables greenwashing, distorts accountability, and undermines informed public and market decision-making.

PUBLIC UNDERSTANDING OF CARBON NEUTRALITY

A “carbon neutral” claim typically implies that a business has “neutralised” its greenhouse gas emissions and thus has no net climate impact. In practice, this claim is usually based on the purchase of carbon offsets, not on actual emissions reductions.

However, polling by the Australia Institute shows that Australians attribute a *range* of meanings to the term “carbon neutral”, and this demonstrates widespread confusion. For example:

- 42% of Australians think “carbon neutral” means emissions are released but cancelled out by other activities, such as buying offsets.
- 21% of Australians say they do not know what the term “carbon neutral” means.
- 37% associate the term “carbon neutral” with a range of other definitions, including:
 - That no carbon emissions are released at all;
 - That companies are reducing emissions in some areas of their operations;
 - That companies pay a tax on their emissions;
 - That companies do not care if they release emissions.⁴

⁴ Morison, Hemming, Gottschalk & Wright Gittins (2024) *Climate of the nation 2024*, p31, <https://australiainstitute.org.au/report/climate-of-the-nation-2024/>

The fact that one in five Australians doesn't know what the term "carbon neutral" means—and that others attach different interpretations to it—shows that current labelling and certification practices lack the clarity needed to support informed decision-making. That confusion is compounded when such claims are endorsed by official government programs, giving them a veneer of legitimacy while masking ongoing environmental harm.

PUBLIC UNDERSTANDING OF CARBON OFFSETS

Carbon offsets allow companies and governments to compensate for their emissions by paying for activities that are claimed to reduce or avoid emissions elsewhere. Rather than directly reducing their own emissions, businesses can purchase carbon offsets that allow them to claim to be "carbon neutral" or "Net Zero" while they continue emitting.

In theory, each offset represents one tonne of carbon dioxide equivalent avoided or removed from the atmosphere. In practice, many offsets are based on assumptions, modelling, or counterfactual scenarios about what "would have" happened without the project. This creates substantial uncertainty around the actual climate impact of offsets.

Again, the concept of carbon offsets is not widely understood by Australians:

- 37% of Australians are not at all confident they know what a carbon offset is.
- Less than half (46%) say they feel confident they know what a carbon offset is.
- Among those who claim to understand carbon offsets, assumed definitions vary widely and include:
 - Paying someone else to reduce emissions;
 - Promising not to cut down trees;
 - Storing emissions underground.

Australians are similarly uncertain about the climate impact of offsetting:

- 25% say they don't know or aren't sure what is achieved when emissions are offset.
- 21% believe carbon offsetting results in fewer emissions in the atmosphere.
- 36% believe carbon offsetting results in the same amount of emissions remaining in the atmosphere.
- 18% believe carbon offsetting results in more emissions overall.⁵

In Australia, carbon offsets are classified as financial products under the Corporations Act. Because carbon offsets are financial products, their use in climate claims carries legal and democratic weight. Yet public understanding of offsets is poor. Even well-intended claims

⁵ Morison, Hemming, Gottschalk & Wright Gittins (2024) *Climate of the nation 2024*, p34

may mislead voters, consumers, or investors simply because most people do not understand what offsets actually do.

PUBLIC UNDERSTANDING OF “NET ZERO”

Like “carbon neutral,” the term “Net Zero” is used widely by governments and corporations to signal alignment with climate goals. However, the term is not consistently defined, regulated, or enforced, and public understanding reflects this inconsistency. Polling by the Australia Institute shows that:

- 21% of Australians say they don’t know what the term “Net Zero” means.
- 29% of Australians believe that “Net Zero” means no greenhouse gas emissions are released into the atmosphere at all.
- 28% understand “net zero” to mean emissions are released but offset by other activities.
- 23% of Australians attribute the term “Net Zero” to one of the following concepts:
 - Companies reducing greenhouse gas emissions in some parts of their business.
 - Companies paying a tax on their greenhouse gas emissions.
 - Companies having to show how they are reducing their greenhouse gas emissions.⁶

This confusion is especially concerning because terms like “Net Zero” are routinely used by governments to describe progress toward national emissions targets and by corporations—including fossil fuel producers—in investor communications, ESG disclosures, and ASX filings.

Publicly listed companies are subject to the *Corporations Act 2001*, which prohibits misleading or deceptive conduct in relation to financial products.⁷ If a company promotes itself as “Net Zero” to investors, but the underlying basis for that claim is poorly understood by the public, or misrepresents the company’s actual emissions trajectory, it may be in breach of its disclosure obligations. The fact that investors misunderstand these claims is not a defence. It increases the likelihood that they are misleading in effect, even if not in intent.

⁶ Morison, Hemming, Gottschalk & Wright Gittins (2024) *Climate of the nation 2024*, p31

⁷ Section 1041H of the Corporations Act 2001

CONSEQUENCES AND PUBLIC EXPECTATIONS

While there is widespread confusion around key climate terms like “carbon neutral” and “Net Zero”, Australians appear to hold clear expectations about what such claims *should* mean.

For example, 55% of Australians believe that companies that have increased or plan to increase their emissions should not be allowed to market themselves as “carbon neutral” or “Net Zero.”⁸

Yet under the Australian Government’s Climate Active scheme, the Safeguard Mechanism, and voluntary ESG reporting, companies can and do make “Net Zero” or “carbon neutral” claims while their actual emissions continue to rise. These claims may be legally permissible, but they are clearly at odds with public understanding and expectation.

This disconnect presents a growing risk that:

- Consumers may be misled in their purchasing decisions, believing they are supporting genuinely lower-emissions businesses;
- Investors may misjudge climate risk and company performance based on incomplete or inflated sustainability credentials;
- Voters may support political candidates or policies based on inaccurate representations of climate progress.

Unless structural reform prioritises actual emissions reductions—and ensures that claims align with outcomes—greenwashing will continue to distort markets, mislead the public, and erode trust in climate governance.

⁸ Morison, Hemming, Gottschalk & Wright Gittins (2024) *Climate of the nation 2024*, p35

The persistence of state-sponsored greenwash in Australia

Confusion around climate claims such as “carbon neutral” and “Net Zero” is the predictable outcome of a policy and regulatory environment deliberately designed to accommodate—and in many cases, encourage—misleading language, opaque accounting, and reputational greenwashing. Far from being a passive enabler of these practices, the Australian Government is now a central participant in them. It has adopted the same language, uses the same loopholes, and benefits from the same public confusion as the industries it regulates.

State-sponsored greenwashing has not only persisted since our original submission, it has deepened and evolved. Despite repeated commitments from regulatory agencies such as ASIC and the ACCC to address misleading environmental claims, the Australian Government continues to adopt, promote, and legitimise practices that obscure the true climate impact of high-emitting industries.⁹

Rather than confront the structural drivers of emissions — such as continued fossil fuel expansion, weak sectoral standards, and inadequate support for decarbonisation — the Australian Government continues to approve new coal and gas projects, subsidise fossil fuel production and infrastructure, and incentivise polluting vehicles and fuel use. At the same time, it has developed a suite of tools—including the Australian Carbon Credit Unit (ACCU) scheme, the voluntary Climate Active program, and flexible emissions accounting frameworks—that allow these policy contradictions to be concealed behind ambiguous terminology and offset-based compliance.

These tools are not failing, they are functioning precisely as intended: to create an entire policy framework of greenwashing that shields polluters from scrutiny, delays structural change, and creates the appearance of climate action. A clear example is the Safeguard Mechanism, Australia’s primary regulatory framework for limiting industrial emissions discussed below.

Further detail on how the Australian Government misrepresents its own climate progress—particularly by greenwashing fossil fuel expansion, emissions projections, and compliance

⁹ Longo (2024) “Greenwashing: A view from the regulator”, <https://www.asic.gov.au/about-asic/news-centre/speeches/greenwashing-a-view-from-the-regulator/>; ACCC (2023) “Greenwashing by businesses in Australia – findings of ACCC’s internet sweep”, <https://www.accc.gov.au/about-us/publications/greenwashing-by-businesses-in-australia-findings-of-acccs-internet-sweep>; Hemming, Campbell & Venkatasubramanian (2022) *State-sponsored Greenwash*, <https://australiainstitute.org.au/report/state-sponsored-greenwash/>

frameworks—is provided in the Australia Institute’s submission to the House of Representatives Standing Committee on Climate Change, Energy, Environment and Water’s Inquiry into Greenwashing of Environmental and Sustainability Claims.¹⁰ That submission (unpublished at the time of writing) outlines how official emissions accounting, communications, and policy instruments are used not only to conceal the extent of fossil fuel subsidies and pollution, but to falsely portray Australia’s climate trajectory as science-aligned. We refer the Committee to that submission for additional analysis of how government conduct contributes directly to the persistence and credibility of private sector greenwashing.

In this context it is unclear why the Australian Government would demand integrity from the private sector when it benefits from the very same systems that enable greenwashing. There is little structural motivation to expose or constrain practices by industry that the government itself designed and engages in. Until these systemic contradictions are resolved, greenwashing will remain the most commercially rational strategy.

The following sections provide specific examples of how the Australian Government continues to enable and incentivise greenwashing by the private sector by amplifying public confusion, shielding major emitters from scrutiny, and reinforcing a policy environment in which misleading climate claims remain more commercially rational than genuine decarbonisation.

THE SAFEGUARD MECHANISM

As outlined in our original submission, if the Safeguard Mechanism were a private company’s approach to “Net Zero”, it would fail every major international test for credibility. It permits unlimited offsetting, places no binding constraints on fossil fuel expansion, and lacks even the most basic criteria for integrity under frameworks such as the Science Based Targets initiative (SBTi) Net-zero standard, ISO Net Zero Guidelines, or the High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities.

The Safeguard Mechanism functions more as a licence for fossil fuel expansion than a climate policy. In 2022–23, facilities covered by the Safeguard Mechanism reported 139 Mt CO₂-e in operational emissions. In 2023–24, “net” emissions declined to 128 Mt CO₂-e, but actual onsite emissions remained virtually unchanged—at around 137 Mt CO₂-e, including 76 Mt from fossil fuel extraction alone. The apparent decline was driven almost entirely by the surrender of offsets.¹¹

¹⁰ Hemming (2025) *Lies of Emission: Submission to the Select Committee on Information Integrity on Climate Change and Energy*. Unpublished

¹¹ Clean Energy Regulator (2025) 2023–24 baselines and emissions data, <https://cer.gov.au/markets/reports-and-data/safeguard-data/2023-24-baselines-and-emissions-data#baselines-and-emissions-table>

Chevron's Gorgon gas facility exemplifies how Australia's Safeguard Mechanism not only enables rising emissions but financially rewards them. In 2023–24, Gorgon's direct emissions increased from 8.1 to 8.8 million tonnes of CO₂-e, yet its government-assigned emissions baseline also rose—from 8.3 to 9.2 million tonnes. Because Gorgon's actual emissions remained below this elevated baseline, Gorgon was awarded 388,803 Safeguard Mechanism Credits (SMCs), which it can sell to other polluters at a market value of over \$30 per credit—amounting to a windfall exceeding \$10 million. This occurred despite Gorgon's failure to deliver on promised carbon capture and storage outcomes, and its expanding pollution footprint.¹²

Climate and Energy Minister Chris Bowen has openly acknowledged that, in Australia, gas companies can keep expanding production and still meet their climate obligations — as long as they buy carbon offsets. Minister Bowen has also claimed that the Safeguard Mechanism is “working as intended.”^{13 14} Taken together, the comments suggest that the scheme is delivering exactly what it was designed to: offer major polluters a way to appear compliant while continuing to pollute.

CLIMATE ACTIVE

Climate Active remains a stark example of state-sponsored greenwashing. Despite sustained criticism from independent experts, civil society, and even scheme participants, Climate Active has continued to receive endorsement at the ministerial level.

Since the Australia Institute's original submission to the senate inquiry into greenwashing, the following developments relating to the Climate Active scheme have occurred:

Businesses leaving the scheme

Over 100 business have voluntarily withdrawn from Climate Active, citing reputational concerns and a lack of credibility.¹⁵ Most notably, EnergyAustralia, one of Australia's largest fossil fuel retailers and a one of the longest-standing Climate Active members, publicly

¹² Joshi (2025) “The Safeguard Mechanism's pro-fossil flaws – explained”, <https://australiainstitute.org.au/post/the-safeguard-mechanisms-pro-fossil-flaws-explained/>

¹³ Visentin et al (2023) *Mission to quell Japanese fears over Albanese government's gas plans*, <https://www.smh.com.au/politics/federal/mission-to-quell-japanese-fears-over-albanese-government-s-gas-plans-20231005-p5e9zh.html>

¹⁴ Lowrey (2025) “Australia's key climate policy faces an uncertain future”, <https://www.abc.net.au/news/2025-03-03/safeguard-mechanism-climate-policy-uncertain/104996022>

¹⁵ Bachelard (2025), “One hundred ‘carbon-neutral’ corporates quit government scheme over integrity concerns”, <https://www.smh.com.au/environment/climate-change/one-hundred-carbon-neutral-corporates-quit-government-scheme-over-integrity-concerns-20250114-p5l45m.html>; Climate Active (n.d.) “Past Certified Brands”, <https://www.climateactive.org.au/past-certified-brands>

acknowledged that carbon offsets do not undo the environmental damage caused by fossil fuel use.¹⁶ This admission directly undermines the central premise of Climate Active: that purchasing offsets justifies carbon neutral claims.

At the 2025 AFR ESG Summit, a consultant from Schneider Electric noted that companies he worked with had almost completely abandoned the Climate Active program, suggesting declining confidence in its value or relevance.¹⁷

ACCC concerns about Climate Active

Throughout 2024, the Australian Competition and Consumer Commission (ACCC) raised a series of concerns about the Climate Active scheme during Senate Estimates and the Senate Inquiry into Greenwashing. These include:

Lack of Certification

The Climate Active certification trademark has never been officially certified by the ACCC. Despite being widely used on products and company materials, the ACCC confirmed in April 2024 that it paused the certification process due to repeated concerns over the scheme's unclear and cross-referencing rules. Despite the lack of formal approval, the trademark is still in use.¹⁸

The ACCC confirmed that Climate Active continues to issue "carbon neutral" certifications even while its own review is underway—and despite the unresolved clarity issues raised by the regulator.

Confusing for Consumers

The ACCC has said it is concerned that consumers may not properly understand what they are getting when purchasing a product bearing the Climate Active logo. In senate estimates, ACCC Chair Gina Cass-Gottlieb stated that the scheme's rules were not "sufficiently clear"

¹⁶ Equity Generation Lawyers (2025) "Parents for Climate v EnergyAustralia (Offsets Greenwashing)", <https://equitygenerationlawyers.com/case/ap4ca-v-energyaustralia/>

¹⁷ Cropp (2025) "Corporates go cold on carbon neutral scheme", <https://www.afr.com/companies/energy/corporates-go-cold-on-carbon-neutral-scheme-20250616-p5m7sh>

¹⁸ Australian Competition and Consumer Commission (2023) "Answers to Questions on Notice", Question SBE008, A0008_Economics_SupplementaryBudgetestimates_Treasury.pdf ; Australian Competition and Consumer Commission (2023) "Answers to Questions on Notice", Question SBE007, A0007_Economics_SupplementaryBudgetestimates_Treasury.pdf; McCallum (2024), Public Hearing for the Environment and Communications References Committee inquiry into Greenwashing, Monday 22 April, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommse%2F27925%2F0001;query=Id%3A%22committees%2Fcommsen%2F27925%2F0000%22>

and that the trademark was “confusing”.¹⁹

Risk of Misleading Claims

In response to direct questioning in the senate inquiry into greenwashing, the ACCC acknowledged that the term “carbon neutral” may be misleading—particularly when used without context or explanation. If a product simply bears the “carbon neutral” logo without further clarification, “it could well be misleading”.²⁰

When asked why the ACCC uses the term “confusing” rather than “misleading” to describe the Climate Active trademark, ACCC officials explained that “misleading” carries specific legal implications and can only be ultimately determined by a court. However, they did not deny that the term “misleading” could apply, stating that “in one context it might be; in another it may not be”.²¹

Together, these developments make it clear that the Climate Active trademark lacks both legal certainty and consumer clarity. The ACCC’s repeated concerns directly validate criticism that the scheme facilitates greenwashing through vague language, limited transparency, and an overreliance on offsets rather than actual emissions reductions.

Climate Active review delayed indefinitely

Despite the Albanese government’s commitments to reform the Climate Active scheme, the promised internal review has stalled indefinitely.²² There has been no public update on the review’s terms of reference, consultation process, or expected completion date, despite mounting criticism from regulators, companies, and the public over the scheme’s credibility and effectiveness.

The absence of progress, despite clear awareness of the scheme’s flaws, raises serious questions about the Government’s commitment to reform. Rather than addressing these issues with transparency and urgency, the Government appears to be delaying scrutiny while continuing to operate the scheme as usual. Climate Active is still certifying businesses

¹⁹ Cass-Gottlieb (2024) Senate Economics Legislation Committee Estimates (Public) WEDNESDAY, 14 FEBRUARY, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Festimate%2F27714%2F0008;query=id%3A%22committees%2Festimate%2F27714%2F0000%22>

²⁰ McCallum (2024), Public Hearing for the Environment and Communications References Committee inquiry into Greenwashing, Monday 22 April

²¹ McCallum (2024), Public Hearing for the Environment and Communications References Committee inquiry into Greenwashing, Monday 22 April

²² Climate Active (2024) “Climate Active consultation update”, <https://www.climateactive.org.au/what-climate-active/news/climate-active-consultation-update>

as “carbon neutral” and charging licence fees for use of a certification trademark that the ACCC itself has described as “confusing” and potentially unclear to consumers.

The Australian Government continues to defend Climate Active

What has become even clearer since the Australia Institute’s initial submission is that the Australian Government is not passively or accidentally tolerating a misleading scheme—it is actively legitimising and promoting it, despite being fully aware of its flaws.

Rather than acknowledge Climate Active’s systemic failures, the government has instead taken steps to entrench the scheme. Deputy Climate Minister Josh Wilson has assured the carbon offset industry that there are “no plans to dismantle Climate Active.”²³ He made these comments after the ACCC publicly raised concerns, and after EnergyAustralia, conceded that carbon offsets do not undo the environmental harm caused by fossil fuels.

The Australian Government is effectively signalling their support for a program that misleads consumers, undermines legitimate decarbonisation efforts, and entrenches reputational greenwashing across high-emitting sectors.

These developments reinforce the central point of our submission: Climate Active is not simply a passive or outdated tool, it is a government-endorsed mechanism for greenwashing. The scheme certifies fossil fuel companies as carbon neutral, awards sustainability credentials based on unverifiable offset purchases, and promotes the idea that responsibility for emissions can be outsourced or paid away. It applies no due diligence to verify whether participating businesses are genuinely “climate active”, does not audit the integrity of purchased offsets, and allows participants to increase their actual emissions year-on-year while continuing to display a carbon neutral ecolabel.

Moreover, Climate Active incentivises businesses to purchase goods and services from other certified participants in order to maintain their own certification, and this raises serious concerns about third-line forcing, market distortion, and a closed-loop system of self-verification that undermines both independence and credibility. By refusing to recognise them in its certification, Climate Active effectively excludes the procurement of products and services that may have been certified under other carbon neutral schemes. Conversely, Climate Active members can purchase other Climate Active-certified products and services

²³ Williams (2025) “Trust in Climate Active eroded, industry heavyweights demand carbon scheme reform”, <https://www.theaustralian.com.au/business/renewable-energy-economy/trust-in-climate-active-eroded-industry-heavyweights-demand-carbon-scheme-reform/news-story/8ee77ebca197cd09824f739c095711b7>

to lower their carbon footprint and license fee.²⁴ This disadvantages other non-Climate Active carbon neutral certification schemes and is potentially in breach of Section 47 of the *Competition and Consumer Act 2010*.²⁵

CLIMATE-RELATED FINANCIAL DISCLOSURE: IMMUNITY WITHOUT ACCOUNTABILITY

A major policy development since the Australia Institute's original submission to the Senate Inquiry into Greenwashing is the introduction of legislation to establish a mandatory climate-related financial disclosure regime in Australia.

On 27 March 2024, the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 was tabled in the House of Representatives. Schedule 4 of the Bill amends the *Corporations Act 2001* to require Australia's largest companies to disclose climate-related financial risks and produce an annual sustainability statement. While this reform has been broadly welcomed, the legislation introduces significant weaknesses that risk reinforcing greenwashing rather than addressing it.²⁶

Two issues are particular cause for concern: disclosure will not incentivise decarbonisation; and a moratorium will grant companies the right greenwash with immunity for three more years.

Disclosure without decarbonisation

The core premise behind the Government's proposed climate-related financial disclosure laws is that transparency will drive change—that if companies are required to disclose their climate risks, they will be incentivised to reduce them. But disclosure does not equal decarbonisation. The Act includes no requirement to reduce emissions, no obligation to shift business models away from fossil fuels, and no limits on the use of offsets.

KPMG's own submission to Treasury highlights the flaw in this logic: more than 76% of ASX100 companies already report against the Taskforce on Climate-related Financial

²⁴ Climate Active (2022) "Climate Active Carbon Neutral Standard for Organisations", <https://www.climateactive.org.au/be-climate-active/tools-and-resources/climate-active-carbon-neutral-standard-organisations>

²⁵ Competition and Consumer Act 2010, Volume 1 Chapter 3 Division 2 Section 47, <https://www.legislation.gov.au/C2004A00109/latest/text>

²⁶ Barnden & Ferguson (2024) "Australia's energy transition market faces imminent integrity risks", <https://equitygenerationlawyers.com/wp/wp-content/uploads/2024/08/Australias-energy-transition-market-faces-imminent-integrity-risks-August-2024.pdf>

Disclosures (TCFD)—including Scope 3 emissions and climate scenarios.²⁷ Yet there is no strong evidence that these voluntary disclosures have driven meaningful emissions cuts. If Australia's largest and most well-resourced companies have not shifted course under voluntary reporting, there is little reason to believe that disclosure alone will deliver the systemic changes required.

In practice, the proposed regime risks turning disclosure into an end in itself. Companies can continue to expand fossil fuel production, delay credible transition planning, and rely on offsets of questionable integrity and still satisfy formal requirements. Public-facing reports may create the appearance of robust emissions management, but emissions may continue to rise.

A moratorium on greenwashing enforcement

This risk is compounded by a second feature of the legislation: a three-year moratorium on civil enforcement of greenwashing claims. During this time, sustainability statements made under the legislation are shielded from most civil litigation. Unless an action is criminal in nature, only ASIC may pursue enforcement.²⁸

These exclusions include:

- A three-year immunity from civil litigation from parties other than ASIC for certain misleading climate-related statements;²⁹
- A clause extending the immunity to legally required secondary uses of these statements—for example, in product disclosure statements or financial reports;³⁰
- A transitional clause allowing directors to state they took "reasonable steps," rather than declare full legal compliance.³¹

²⁷ KPMG (2023) "Climate-related financial disclosure", <https://assets.kpmg.com/content/dam/kpmgsites/au/pdf/2023/climate-related-financial-disclosure.pdf.coredownload.inline.pdf>; Barnden (2024) Economics Legislation Committee Inquiry on Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024, 23 April, https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=committees/commsen/27947&sid=0003

²⁸ Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024, Schedule 4 Part 4 subsection 1707D, p282

²⁹ Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024, Schedule 4 Part 4 subsection 1707D, pp282-283

³⁰ Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024, Schedule 4 Part 4 subsection 1707D, pp282-283

³¹ Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024, Schedule 2 Part 9 subsection 1707C, p282

These protections will apply to companies like Santos and Woodside, which are expanding gas production while claiming to meet climate obligations.³² Such statements, once protected, can now be reproduced across multiple investor documents without concern for civil litigation by a party other than ASIC.

The rationale offered by government and ASIC is that businesses need time to adjust. During the Senate inquiry into greenwashing, ASIC indicated that its decision to provide regulatory immunity for certain misleading climate claims was driven by industry concerns—specifically, that companies needed time to adjust to mandatory disclosure.³³ Yet this is not a novel framework: the TCFD has been widely promoted for years, and the Albanese Government has flagged these reforms since 2022.³⁴ That ASIC’s response was to delay enforcement, rather than uphold standards, speaks volumes.

Even more concerning is that these policy decisions were made after the Senate Inquiry had already exposed the scale of corporate greenwashing, and after the Government and ASIC had both committed to cracking down on misleading climate claims. Rather than strengthen enforcement, they have deferred it.

This sets a dangerous precedent. It is difficult to identify any other area of financial reporting in which misleading claims are granted immunity for three years. The moratorium diminishes accountability, undermines public trust, and provides comfort to companies already misusing climate credentials.

Greenwashing as policy design

These developments reinforce a central argument of the Australia Institute: greenwashing is not just a problem of corporate communications, it is the outcome of deliberate policy design. When governments prioritise appearance over outcome, and insulate polluters from legal risk, they enable deception, delay genuine transition, and erode regulatory integrity.

Australia’s climate disclosure laws must be more than reporting frameworks. They must create accountability. Emissions do not fall when companies publish new reports. Emissions fall when governments make them.

³² Macdonald-Smith (2024) “Series of speculations: Santos climate targets under attack”, <https://www.afr.com/policy/energy-and-climate/series-of-speculations-santos-climate-targets-under-attack-20241025-p5kld0>;

ACCR (2025) “Investor Bulletin: Woodside’s 2024 Annual Report and Climate Update”, https://www.accr.org.au/downloads/250225_woodside%20%99s-2024-annual-report.pdf

³³ McCallum (2024), Public Hearing for the Environment and Communications References Committee inquiry into Greenwashing, Monday 22 April

³⁴ Bowen (2022) “Address to the IGCC 2022 Climate Change Investment and Finance Summit”, <https://www.minister.industry.gov.au/ministers/bowen/speeches/address-igcc-2022-climate-change-investment-and-finance-summit>

GREENWASHING WILL PERSIST WHILE GOVERNMENTS UNDERWRITE POLLUTION

Greenwashing will persist for as long as it remains more cost-effective to *pretend* to reduce emissions than *actually* reduce emissions. As this submission has outlined, greenwashing is not merely a failure of corporate ethics or marketing oversight—it is a rational market response to a policy environment that rewards appearance over action.

Efforts to eliminate greenwashing must begin with acknowledging the government's own role in it. So long as the Commonwealth continues to subsidise fossil fuel production, promote offset-based compliance, certify major polluters as “carbon neutral,” and allocate more public funding to incentivising pollution than incentivising decarbonisation, the private sector will continue to respond accordingly. Greenwashing is not irrational. It is a logical response to a set of incentives that make misrepresentation more profitable than genuine emissions reductions.

This inquiry has played a vital role in exposing how greenwashing is embedded not only in corporate communications, but in the broader architecture of Australian climate policy. While reforms to disclosure obligations, enforcement mechanisms and consumer protection measures are important, they are insufficient. The systemic causes must be addressed.

Greenwashing is a structural feature of Australia's current climate policy landscape. Addressing it will require more than technical reform. It demands political will, structural realignment of incentives, and a credible commitment to emissions reduction that makes genuine decarbonisation—not deception—the most commercially rational course of action.

Creating structural change in a system designed to resist it

The first step to structurally addressing greenwashing in Australia is to expose the problem for what it is. Public debates still largely frame greenwashing as a failure of corporate ethics, marketing excess, or insufficient consumer protection. But this framing obscures the deeper, structural reality.

To effectively tackle greenwashing in Australia, accountability efforts must shift from treating greenwashing as a communications failure to confronting it as a systemic policy failure. That requires identifying where the true power lies and where pressure is most likely to drive change. This inquiry, along with community litigation, public campaigns, and

targeted pressure on companies exploiting government-backed frameworks, is already helping to reframe the conversation.^{35 36}

By naming the state as an active participant in Australia's greenwashing problem—not just a passive regulator—these efforts make it harder for governments to deflect responsibility, and easier to direct public scrutiny where it matters most. Exposing this dynamic is not an end in itself, but a necessary first step toward dismantling the policy architecture that sustains greenwashing and prevents real decarbonisation.

International pressure may finally force action

The second pathway to structural change may come from outside Australia's borders. As international legal and financial standards evolve, the Australian Government may soon be forced to confront the contradictions in its approach.

One major development since our last submission is the delivery of the International Court of Justice (ICJ) advisory opinion on states' legal obligations to address climate change. Requested by the United Nations General Assembly in 2023 and co-sponsored by Australia, the ICJ has now confirmed that governments not only have a duty to mitigate climate change, but also an obligation to regulate private actors and prevent foreseeable harm.³⁷

This ruling significantly raises the stakes for governments that continue to underwrite fossil fuel expansion, ignore expert guidance on offsets, or enable misleading climate claims. By clearly linking climate inaction to international legal obligations—including human rights and environmental protection—the ICJ has laid the groundwork for future litigation and diplomatic pressure.

In this context, government-sanctioned greenwashing can no longer be dismissed as a policy failure or regulatory gap—it may constitute an act of harm under international law.

Australia's ongoing certification of fossil fuel companies as "carbon neutral," its support for offset-based accounting, and its repeated exemptions for misleading climate claims now risk breaching international norms. This legal process has the potential to reframe greenwashing as a breach of international law—especially where state policies enable misleading conduct, delay mitigation, or expose communities to escalating climate harm.

Crucially, the ICJ opinion is not a symbolic gesture—it is a legal precedent that redefines the responsibilities of states. It creates a powerful tool for future litigation, raises the threshold

³⁵ Equity Generation Lawyers (2025) "Parents for Climate v EnergyAustralia (Offsets Greenwashing)"

³⁶ Wootton (2024) "Companies at risk of 'state-sponsored greenwashing', Senate told", <https://www.afr.com/politics/federal/companies-at-risk-of-state-sponsored-greenwashing-senate-told-20240422-p5flp5>

³⁷ ICJ (2025) "Advisory Opinion on the Obligations of States in Respect of Climate Change", <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

for acceptable government conduct, and exposes countries like Australia to heightened scrutiny on the international stage. As legal scholars and civil society actors increasingly draw on the ruling to challenge both public and private greenwashing, the message is clear: governments can no longer claim climate leadership while enabling deception. The era of impunity is ending.

Conclusion

The Australia Institute's original submission to the Senate Inquiry into Greenwashing warned that Australia's climate policy framework was not simply failing to prevent greenwashing—it was enabling it. Since then, that concern has been validated.

Government policy continues to reward the appearance of climate action over actual decarbonisation. Climate Active still certifies major polluters as "carbon neutral." The Safeguard Mechanism continues to permit rising emissions so long as they are offset. Financial disclosure reforms prioritise optics over accountability. And a moratorium now shields climate claims from legal scrutiny. In each case, the Government has not closed the door on greenwashing—it has built a hallway through it.

This is not the failure of individual actors. It is the result of a system that makes greenwashing the cheapest, safest, and most rational path for businesses to follow. As long as the Commonwealth continues to underwrite pollution while subsidising credibility, the private sector will behave accordingly.

This submission does not argue against reform, but it urges the Senate to understand reform in its proper context. The problem is not just lack of oversight or transparency. The problem is a policy environment designed to prioritise reputation over results, and branding over baseline emissions cuts.

This committee has played a critical role in exposing the mechanics of greenwashing and shining a spotlight on both public and private accountability. But genuine progress requires shifting the weight of scrutiny away from "bad actors" in the market and onto the structures that allow them to thrive. It requires pressure not just on companies, but on government systems that continue to promote the illusion of action.

Greenwashing will only end when misleading claims are no longer cheaper than genuine environmental and social responsibility—when compliance with climate, nature, and human rights obligations demands transformation, not marketing.

The role of government is not to compete with industry in selling sustainability—it is to make truth cheaper than deception, decarbonisation more attractive than delay, and climate integrity the basis for both trust and transition.

Appendix - Previous Submission to the Senate inquiry into Greenwashing