

Greenwashing Inquiry Submission

Greenpeace Australia Pacific

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Summary

Greenwashing can seriously hinder progress on climate action and environmental protection by misleading consumers and shareholders into supporting a corporation or institution that is perpetuating environmental harm rather than reducing or eliminating it. While Australia has broad provisions under Federal corporate and consumer law to guard against misleading and deceptive claims and conduct, as well as continuous disclosure rules for listed companies, these do not go far enough to properly protect consumers and shareholders. Australia has seen only low levels of public enforcement, with fines given for breaches sometimes very minor.¹ Further, given contraventions may not give rise to obvious compensable losses, private enforcement for greenwashing has been very limited, underscoring the need for effective public enforcement.

There is an urgent need for further strengthening of Australia's regulatory framework to address greenwashing. A critical first step is to adopt some of the greenwashing standards currently being considered by the European Parliament.

Furthermore, while Greenpeace welcomes the recent focus of the Australian Securities and Investment Commission (ASIC), the Australian Prudential Regulatory Authority (APRA) and the Australian Competition and Consumer Commission (ACCC) on targeting greenwashing, those regulators need to make good on their rhetoric and follow through with prosecutions and penalties, including against large corporations, such as those referred to below. And as public regulators they need to provide good quality information to the public about the progress of their actions on greenwashing, as ASIC has recently done.²

Below we provide three examples of greenwashing in the Australian context. We present these examples to illustrate how greenwashing obstructs Australia's ongoing action on climate change, and the subsequent urgent need for regulatory reform. The first two - Toyota and Woodside - are major companies operating in Australia that persistently and vastly overstate their sustainability credentials. This negatively impacts both consumers and shareholders. The third example is Climate Active, the Federal Government's problematic own certification scheme, which has become a significant tool for greenwashing by corporations.

In general terms, **Greenpeace calls for the Australian Parliament to ensure:**

¹ For example ASIC only brought its first greenwashing action in 2022, resulting in a fine of \$53,280 to a company with a market capitalisation of \$30m:

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-294mr-asic-acts-against-greenwashing-by-energy-company/>

² <https://download.asic.gov.au/media/ao0lz0id/rep763-published-10-may-2023.pdf>

- **Stronger, holistic and more specific regulations** to address greenwashing, including
 - stronger regulatory powers for ASIC, the ACCC and APRA, and,
 - adoption of elements of the European standards which stipulate explicit and stronger greenwashing-specific legislation; and
- **An overhaul of Climate Active.**

While we do not offer detailed legislative or regulatory amendments, we strongly recommend that these be developed as a matter of priority by the relevant and responsible agencies.

What is greenwashing?

Greenwashing refers to the false, misleading and deceptive practice of organisations which overstate their sustainability and environmental credentials in order to gain economic, social and/or political benefits or power. Greenwashing is highly prevalent, and has been a significant contributing factor in both thwarting action to reduce greenhouse gas emissions in Australia and enabling large polluters to avoid greater public and stakeholder criticism.

Common methods of greenwashing by organisations include:

- The use of environmentally friendly rhetoric including in policies, slogans and taglines;
- The use of language, imagery and pictures that suggest care for the environment;
- The promotion of their participation in schemes or initiatives, that will achieve comparatively minor environmental outcomes and will do little towards solving major environmental problems;
- Statements suggesting organisational alignment with environmental standards or certification programs that in reality contain no binding commitments;
- Sponsorship and/or promotion of community environmental initiatives that have a negligible environmental impact compared to the environmental harm caused by the organisation in question;
- Heavily promoting very minor commitments to resolving major environmental issues; and
- Participating in schemes or initiatives that shift the focus away from the cause of environmental problems to the symptoms, or to individual end users.

Greenpeace has for decades sought to expose and call out these practices globally and here in Australia. Most recently, we published a report - *Hero to zero: uncovering the truth of corporate Australia's climate action claims* - which examines greenwashing practices in relation to corporate "net zero" and "carbon neutral" commitments.³ The report found that while over half of Australia's 80 top emitting ASX200 companies had set net zero or carbon neutral targets, just 16 companies had committed to reducing emissions from their operations by switching to 100% renewable electricity, which is a key step for most companies to take to reduce emissions.

Much of Greenpeace Australia Pacific's work involves challenging the climate-damaging practices and policies of major corporations, including of Toyota and Woodside. These are explored in the case studies below.

³ https://www.greenpeace.org.au/wp/wp-content/uploads/2021/09/Hero_to_Zero2021_FF_Digital.pdf

Stronger regulation against greenwashing needed

Australia has broad provisions under the *Corporations Act 2001*, the *Australian Securities and Investments Commission Act 2001* and the *Australian Consumer Law (ACL)* to guard against misleading and deceptive claims and conduct, and additional regulations regarding disclosure in the *Australian Prudential Regulation Authority Act 1998* and ASX Corporate Governance Principles and Recommendations.

Enforcement is overseen by the Australian Securities and Investment Commission (ASIC), the Australian Prudential Regulatory Authority (APRA), the Australian Competition and Consumer Commission (ACCC) and the Australian Securities Exchange (ASX). Most of these organisations are currently targeting greenwashing in their focus and investigations, which is a welcome move. However, they are constrained by the lack of specific regulations concerning greenwashing and limitations on the scale of fines for breaches.

Some jurisdictions around the world are moving to explicitly ban or enforce strict guidelines around common greenwashing terms. For example, the European Parliament is seeking to ban misleading ads and generic environmental claims. Specifically, they are considering legislation that involves:

“...banning the use of general environmental claims like “environmentally friendly”, “natural”, “biodegradable”, “climate neutral” or “eco” if these do not come with detailed evidence. It also aims to ban environmental claims that are based solely on carbon offsetting schemes. Other misleading practices such as making claims about the whole product if the claim is true only for one part of it, or saying that a product will last a certain amount of time or can be used at a certain level of intensity if that is not true, will also be forbidden”⁴

Greenpeace Australia Pacific strongly recommends that the Australian Parliament should consider ways to incorporate these much more explicit and stronger kinds of regulations into the Australian suite of legislation and regulations governing greenwashing.

Greenwashing example 1: Toyota’s sustainability claims

Toyota Motor Corporation Australia (referred to as Toyota herein) is a clear example of a major company that engages in extensive greenwashing. Greenpeace Australia Pacific has recently asked the ACCC to investigate whether environmental claims by Toyota are misleading or deceptive because we believe the car-buying public has a right to know the truth and must be empowered to make effective green choices.⁵ Greenpeace Australia Pacific is also actively challenging the greenwashing claims of Toyota in the public realm.⁶

Greenpeace Australia Pacific considers that Toyota engages in a wide range of deceptive greenwashing practices by vastly overstating the sustainability of its cars and its commitment to clean transport. For example, Toyota’s advertising suggests to consumers that:

⁴<https://www.europarl.europa.eu/news/en/press-room/20230505IPR85011/parliament-backs-new-rules-for-sustainable-durable-products-and-no-greenwashing>

⁵ <https://www.greenpeace.org.au/news/greenpeace-files-accg-greenwashing-complaint-against-toyota/>

⁶ <https://acthubspot.greenpeace.org.au/toyota-files>

- Toyota has clear plans to transition to a company that is net zero;
- Toyota is an eco-friendly car trailblazer – leading the way on environmentally friendly vehicles;
- Toyota’s hybrid vehicles are good for the environment and produce few greenhouse gas emissions (GHGs);
- Toyota’s petrol and hybrid vehicles are interchangeable in terms of their use of petrol and their CO₂ output;
- Hydrogen cars are emissions free, while suggesting hydrogen is a green or renewable fuel and therefore good for the environment and climate;
- Toyota’s vehicles (particularly the ones named) are fuel efficient when driven in real world conditions; and
- Hybrid batteries are self-charging and need no external fuel source to operate.

But the reality is that:

- Toyota’s net zero plans are potentially misleading and contradict their actions in terms of the production of new cars;
- Toyota is not seeking a rapid transition to eco-friendly cars and has actively lobbied to halt, weaken or delay emissions standards around the world;
- Hybrids, hydrogen, and electric vehicles (EVs) are vastly different in their environmental impact and their consistency with zero emissions;
- The extent to which emissions reductions can be achieved in a petrol vehicle are significantly less than those that can be achieved by switching to hybrids;
- The Toyota Mirai hydrogen models are unlikely to be powered by green hydrogen in Australia and therefore cannot be considered “low emission” vehicles;
- Toyota’s vehicles do not meet emission standards in real world use as opposed to test conditions; and
- Hybrids require fuel to power the electric battery.

For more details please see the Greenpeace Australia Pacific complaint to the ACCC, made by the Environmental Defenders Office.⁷

Toyota is a clear case of a company that should be heavily regulated for greenwashing and should receive substantial fines for breaches of any regulations.

Greenwashing example 2: Woodside’s sustainability claims

Woodside Energy (referred to as Woodside herein) is another major company that Greenpeace Australia Pacific considers engages in extensive greenwashing. Greenpeace Australia Pacific is actively challenging the greenwashing claims of Woodside in the public realm.⁸

Similarly to Toyota, Woodside vastly overstates the company’s commitment to addressing climate change in its marketing and investor materials. Woodside’s materials suggest that:

⁷<https://www.greenpeace.org.au/wp/wp-content/uploads/2023/03/ACCC-Toyota-complaint-FINAL-February-2023-1.pdf>

⁸ <https://act.greenpeace.org.au/woodside>

- Woodside’s own massive expansion of new gas fields is compatible with limiting global heating to 1.5 degrees above pre-industrial levels; and
- That likewise ongoing and increased gas use globally is compatible with limiting global heating to 1.5 degrees above pre-industrial levels.

But the reality is that:

- The International Energy Agency (IEA) is clear that new gas fields cannot be built if we are to have any chance of maintaining global heating to 1.5 degrees, and that this is based on the “most technically feasible, cost-effective and socially acceptable” pathway to net zero by 2050;⁹ and
- Woodside’s claim that a global increase in gas use to 2050 is somehow compatible with 1.5 degrees is based on a superseded International Panel on Climate Change (IPCC) AR6 report scenario from 2018.¹⁰ This assumes extraordinarily high levels of carbon capture and storage that would require capturing 8.8 gigatonnes of CO₂e every year from now until 2100. Across the world only 0.04 gigatonnes of CO₂e is currently captured every year - this figure is 220 times less than required under that scenario.¹¹ The most recent, 2023 IPCC AR6 report gives a maximum feasibility of carbon capture and storage in 2030 of 0.5 Gt CO₂e per year, noting that even existing fossil fuel infrastructure risks exceeding the remaining carbon budget for 1.5 degrees.¹²

Woodside is another clear case of a company that should be heavily regulated for greenwashing and should receive substantial fines for breaches of any regulations.

Greenwashing example 3: Climate Active

Carbon offsets, including Australian Carbon Credit Units (ACCU) are increasingly being used as a tool for greenwashing in Australia. That is, they are purchased to make claims of “net zero”, “climate neutral”, “carbon neutral” and other broader climate and sustainability claims in circumstances where they cannot deliver what is promised. This pervasive greenwashing via offsets applies directly also to the Federal Government’s Climate Active certification being used widely in corporate Australia as a marketing tool.¹³

This is becoming increasingly problematic in sectors where there are existing technological solutions enabling rapid decarbonisation—such as the energy sector. It is also problematic for the fossil fuel sector where, according to the International Energy Agency, we can longer open up new coal, oil and gas mines.¹⁴ Yet fossil fuel corporations continue to engage in egregious claims regarding their climate credentials. For example, Ampol, a major oil company, has “carbon neutral” petrol and diesel certified by Climate Active. AGL, Alinta, Energy Australia and Origin all have “carbon neutral” electricity

⁹https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf

¹⁰ <https://www.ipcc.ch/sr15/chapter/spm/>

¹¹ <https://www.iea.org/fuels-and-technologies/carbon-capture-utilisation-and-storage>

¹² https://report.ipcc.ch/ar6syr/pdf/IPCC_AR6_SYR_SPM.pdf

¹³ <https://www.climateactive.org.au/>

¹⁴ [International Energy Agency. 2021. Net Zero by 2050 Pathway.](https://www.iea.org/reports/net-zero-by-2050)

certified by Climate Active but all are major climate polluters due to operating large coal-burning power stations.

Climate Active risks further eroding public confidence and trust in the overall offset market already beset with integrity problems. As a solution, the Climate Active certification should be awarded only to non fossil-fuel companies and institutions who have published clear 1.5 degree-aligned business plans and targets and have purchased only 100% high-integrity ACCUs (rather than voluntary offsets in international markets where integrity is even more questionable). This Inquiry should recommend this change to this scheme.

About Greenpeace

Greenpeace is a global environmental network dedicated to the mission of securing a world capable of nurturing life in all of its magnificent diversity. We are fully independent, accepting no funding from any government, business or political party anywhere in the world. Greenpeace Australia Pacific is an autonomous entity headquartered in Sydney with more than 1.2 million people participating in our network.