

# SUPPLEMENTARY REPORT BY LABOR

## MEMBERS

### Introduction

1.1 The role of the corporation in modern society is changing. Today's corporations are larger, own more assets and are more influential than at any time since the corporate form was founded. The influence of corporations now extends well beyond economics and wealth creation and includes significant social, cultural, environmental and political impacts. The pervasive growth of business and international trade make the external impacts of corporations greater than ever, and with this has come costs as well as benefits to society.

1.2 It is also significant then that at a time when corporate influence is so great, that a number of critical environmental and social conditions are emerging as significant threats. Climate change, reduction of biodiversity, intensifying resource constraints, changing population demographics, international population growth, intergenerational poverty and social exclusion are but some of the more pressing issues. Each one of these issues either directly or indirectly affects Australian business.

1.3 Corporations are not to blame for these growing environmental and social challenges, but as significant and critical contributors to our prosperity and development, they must be part of any effective response. Knowing what we now know about these impacts, corporations and those working within them are uniquely placed to have a direct influence on how these issues are now managed.

1.4 The Labor members consider that corporate responsibility is fundamentally an issue of sustainability. Corporate responsibility is not primarily about charity or company philanthropy. The World Business Council on Sustainable Development provides a useful definition:

"Corporate [social] responsibility is the commitment of business to contribute to sustainable development, working with employees, their families, the local community and society at large to improve their quality of life."<sup>1</sup>

1.5 In this vein, Labor firmly believes that business must be part of the solution in dealing with emerging sustainability challenges. Positive social and environmental outcomes are no longer the sole domain of government or community groups, and business along with the various stakeholders in business activities are becoming aware

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1 World Business Council of Sustainable Development, [www.wbcsd.org](http://www.wbcsd.org)

of this fact. As recently stated by Lord Browne, BP Group Chief Executive, in a speech at the Massachusetts Institute of Technology:

Good, successful business is part of society, and exists to meet society's needs. That is the purpose of business at the highest level.<sup>2</sup>

1.6 It is from this perspective that understanding and taking ownership of the environmental and social impacts of business is becoming a critical aspect of responsible corporate activity.

1.7 Furthermore, in business and government today there is an awareness of the need not to stifle economic growth with regulation that can overly constrain entrepreneurial, innovative and growth oriented forces of business. Put simply, it is not considered good economic policy to overly constrain business. This has led to a lessening of government constraints on business activities in a number of areas.

1.8 At the same time that markets and business activities are further de-regulated, there is a growing gap and urgency in ensuring social and environmental outcomes are achieved. This is a gap in which business and finance sector leaders must assume greater responsibilities. This is no easy task and the pressures of achieving profitability and growth in the short term cannot be underestimated for businesses. None-the-less, business leaders must introduce a systematic approach to managing and improving the consequential social and environmental outcomes of their business operations. If we are to continue achieving economic growth and want to ensure that this growth is sustainable, business will be called on to better integrate sustainable behaviours into its operations.

1.9 The question as to how this balancing act of maintaining growth in the short to medium term and adequately investing in long term growth can be managed is one that requires a more active and engaged response from the business and government sectors. Labor initiated the current parliamentary inquiry into corporate responsibility to develop responses to this question.

### ***Background to the Inquiry***

1.10 Labor initiated the Inquiry into Corporate Responsibility for three reasons:

- Parts of the business community in Australia were actively engaged in the re-emerging debate about the role and responsibilities of the corporation in society but government was not.
- Progress by Australian business on the whole regarding integration of corporate responsibility approaches appeared fragmented and lagged behind that of comparable international economies and trading partners.

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2 Speech by Lord Browne, BP Group Chief Executive, at the Massachusetts Institute of Technology (MIT), Boston (2 May 2006)

- Widespread progress by Australian businesses in the integration of sustainable business practices is expected to lead to greater social and environmental benefits, equip those businesses to better manage impending non-financial business threats, and prepare them to seize emerging market opportunities.

1.11 The evidence from many distinguished members of the Australian business, legal and non-government sectors is that they consider their duties to a company's best interests should encompass consideration of stakeholder needs. To give effect to this view and to catch up to the practices of many of our trading partners, more directors should be taking an engaged, long term perspective on their business operations and impacts.

1.12 While recognising that a number of Australian companies have renewed their approach to sustainable, responsible business, evidence to the committee indicates that these companies number in the minority. This leads Labor members to the view that more needs to be done to encourage, support and set direction for companies on sustainability and corporate responsibility issues.

1.13 It is the view of the Labor members that in order to increase the number of corporate, non-government and government organisations that deeply integrate sustainable and responsible activities over the medium term (five to ten years), government must play a more engaged and strategic role now.

1.14 The Labor members believe the main committee recommendations do not promote an adequately coherent and coordinated direction from government to accelerate the take-up of sustainable and responsible approaches in Australia. Accordingly the Labor members have prepared a supplementary report on the Inquiry.

### ***Strategic direction and engagement from government***

1.15 In contributing to the future of corporate responsibility, the Labor members recognise the importance of not mandating particular responses by companies and not developing 'one size fits all' regulation. Rather, the objective of government should be to resource companies and provide useful support for business change. It should also help to prepare Australian business for developments that are likely to form de facto mandatory standards in the area of corporate responsibility performance and reporting.

1.16 As indicated by the recent emergence of the Business Roundtable on Climate Change in Australia, non-financial threats, such as climate change, are already altering our business environment and our way of life. As sought by the Roundtable members, clear direction and policy responses from government on sustainability threats such as that posed by climate change, are exactly the kinds of response that responsible business wants from government.

1.17 Labor therefore suggests a framework for **strategic direction and engagement** from government with the primary objective of encouraging more companies to integrate sustainable, responsible business practices into their operations

over the medium term. This framework requires six key objectives to advance corporate responsibility responses. The six key objectives are:

- Better coordinate government initiatives
- Demonstration of sustainable, responsible behaviours by government agencies
- Monitor consideration of legitimate environmental and social impacts by directors and trustees
- Support and resource business
- Improve business sustainability reporting
- Better engage the investment sector

1.18 The report below outlines a number of measures and initiatives to support achievement of the key objectives. Developing a full range of measures will require further consultation with the business sector and Labor will continue to do this.

### **Better coordinate government initiatives**

1.19 The Labor committee members believe that in playing a more strategic role, government must provide clear policy direction and ensure that programs related to corporate responsibility are delivered to business in a coordinated and consistent way. It is relatively ineffective for government to develop and deliver policy on corporate responsibility from multiple non-business oriented government departments.

1.20 Additionally, given that many of the initiatives within the framework of corporate responsibility fall within a model of achieving economic, social and environmental sustainability, it is critical for government and the business sector that clear direction is set on the sustainability challenges and risks that face Australia.

1.21 In order to deliver a government approach that is appropriately strategic and coordinated, recommendations are made in the following areas:

- Coordinate management of government corporate responsibility programmes into a Corporate Responsibility and Sustainability Unit in a business oriented government department, for example Treasury or the Department of Industry, Tourism and Resources.
- Establish a National Sustainability Council to define national sustainability objectives.

### ***Coordinated management of government corporate responsibility programmes***

1.22 The main committee report referred to evidence that recognised that the current delivery of government corporate responsibility programs occurs in a seemingly uncoordinated fashion amongst a number of government departments. In this regard the Labor members reiterate two quotes from the main report. The Insurance Australia Group submitted:

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Currently, a limited number of government agencies have specific agendas to drive some [corporate responsibility] and related activities. In the Commonwealth, examples include the Department of Environment and Heritage, the Department of Family and Community Services and the Australian Greenhouse Office, which all deliver a variety of programs aimed at providing incentives for corporate responsibility activity.<sup>3</sup>

1.23 A similar comment was made by the Australian Centre for Corporate Social Responsibility:

The Australian Government may have numerous ways in which it encourages corporate social responsibility, but a lack of coherence and focus of initiatives and policies makes this difficult to ascertain.<sup>4</sup>

1.24 The Labor committee members consider that this fragmented approach from government is inadequate for effective policy formulation and delivery. The Labor committee members believe that an approach such as that taken in the United Kingdom, which has consolidated the government's sustainability initiatives within the Department of Trade and Industry, would be more effective.

1.25 The initiatives outlined in Labor's Supplementary Report, those identified in the main committee report and existing Australian Government programmes would benefit in their development and delivery if consolidated, coordinated and delivered from a cohesive Corporate Responsibility Unit, in a single, business-oriented government department.

1.26 The Labor members note the recommendation in the main committee report regarding a whole-of-government approach, but believe that integration of the policy development and government delivery of corporate responsibility initiatives would best occur within a single department. This is an important part of combining the social (Department of Families, Community Services and Indigenous Affairs (FaCSIA)) and environmental (Department of the Environment and Heritage (DEH) and Australian Greenhouse Office) aspects of policy development as they relate to corporate responsibility with any emerging initiatives in the area of industry and resources as these inevitably develop.

1.27 It is in the interests of business that corporate responsibility initiatives are considered as part of business policy making, and this should occur within a business-oriented government department.

## **Recommendation 1**

**The Labor committee members recommend that the Australian Government's various corporate responsibility programs be consolidated in a single, Corporate Responsibility Unit within a business-oriented Australian Government**

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3 Insurance Australia Group, *Submission 29*, p. 24.

4 Australian Centre for Corporate Social Responsibility, *Submission 63*, p. 6.

**department, for example either the Treasury or the Department of Industry, Tourism and Resources.**

### ***A National Sustainability Council***

1.28 In the Labor committee members' view, one aspect that was lacking from the corporate responsibility inquiry discussions was any clearly enunciated sustainability targets for Australia. Several submitters also suggested that there should be targets for the level of sustainability reporting, but an official from the Department of the Environment and Heritage indicated that despite lagging other comparable countries the Government has no specific targets.<sup>5</sup>

1.29 It is also necessary to develop policy initiatives and consult closely with the business sector in a regular and open manner. This must occur in a way that enables business and government to openly discuss, identify and contribute to thought leadership in sustainability policy and the formulation of government policy responses. It is the view of the Labor members that a body which draws together business, government and external expertise can best perform these roles.

1.30 In March 2006, the Leader of the Opposition, the Honorable Kim C. Beazley MP, committed a future Labor government to establishing a National Sustainability Council (NSC). One purpose of the NSC would be to recommend Australian sustainability targets to government and then monitor Australia's performance against these targets. The Council could also be responsible for approval of suitable research projects into sustainability and corporate responsibility in Australia.<sup>6</sup>

### **Recommendation 2**

**The Labor committee members recommend that the Australian Government establish a National Sustainability Council the roles of which would include:**

- **the recommendation of public and private, voluntary Australian sustainability targets and;**
- **monitoring performance levels against these targets.**

### **Sustainable, responsible government activities**

1.31 In order for government to play a strategic leadership role in advancing corporate responsibility, there is a need to strengthen the sustainability performance and reporting framework within government. To date, performance on sustainability objectives has not been demonstrated as a priority of the Howard Government.

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5 Mr Gene McGlynn, Assistant Secretary, Department of the Environment and Heritage, *Committee Hansard*, 27 March 2006, p. 41.

6 This is discussed further below.

1.32 Government agencies are significant users of resources and have a significant impact on the market by virtue of their procurement activities. If governments expect the corporate and non-government sectors to take sustainability objectives more seriously, they must first show leadership.

1.33 The Labor members make an additional recommendation: that mandatory sustainability reporting be performed by government agencies against sustainability targets.

### ***Governments' sustainability practices and performance***

1.34 The committee regularly heard that the government should be taking a more active leadership role in order to set a strong example for corporate Australia with its own sustainable and responsible activities. This sentiment is reflected in comments such as the following from the Australian Centre for Corporate Social Responsibility:

The Australian Federal Government provides endorsement for one aspect of corporate social responsibility through the Prime Minister's Community Business Partnership Awards, and facilitates information about other aspects of corporate social responsibility through the OECD national contact point and some initiatives within the [Department of the Environment and Heritage]. However, these efforts, though laudable, are not sufficient. Further, the Government sends conflicting signals to business about CSR when it supports these activities while at the same time voting against the appointment of a United Nations Special Representative on human rights. The Government must do more to support CSR, and apply a consistent approach.<sup>7</sup>

1.35 During the inquiry the committee explored with DEH officials the sustainability performance of government departments. Several aspects were discussed including procurement practices and environmental management systems.

### ***Government sustainability reporting***

1.36 The main committee report found that despite the improved operational performance of the two departments, DEH and FaCSIA, that have voluntarily undertaken sustainability reporting, the rate within government departments is significantly lower than corporate Australia: 3 per cent compared to 23 per cent. DEH officials explained that departments are not influenced by the market to undertake sustainability reporting in the way that corporations are. However, despite this reality, the fact that so few government departments choose to prepare sustainability reports provides a very weak leadership signal to corporate Australia. As an official from DEH acknowledged this diminishes the position of government departments in advocating sustainability reporting:

...if we cannot demonstrate that we are acting in a way that is aligned with the position we are taking in the public policy debate our role as policy

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7 Australian Centre for Corporate Social Responsibility, *Submission 63*, p. 2.

developers, program developers, program implementers and advocates is weakened—and that is something that is acknowledged.<sup>8</sup>

1.37 The Labor members recognise that public sector agencies are still working towards an appropriate, standardised reporting framework, and one that takes account of the multiple disclosures that government departments already make. However, the need not to rush into standardised full sustainability reporting ought be balanced against the need for government agencies to increase their level of reporting and display a leadership role to corporate Australia on reporting practices.

1.38 Rather than recommend mandatory full sustainability reporting by all government agencies, the Labor committee members recommend that the government make agency reporting against the sustainability targets set by the National Sustainability Council a mandatory requirement.

### **Recommendation 3**

**The Labor committee members recommend that the Australian Government make reporting against sustainability targets mandatory for Australian government agencies. This reporting should include:**

- **Performance against sustainability targets set by the National Sustainability Council regarding water, energy, waste, vehicles, general procurement and any other applicable targets; and**
- **Progress achieved on meeting the targets if they are not met and strategies to enable the meeting of targets in future.**

### **Monitor consideration of legitimate environmental and social impacts by directors and trustees**

1.39 Numerous submitters to the Inquiry stated directors' duties are sufficiently broad to consider the legitimate interests of company stakeholders as well as shareholders. A number of submitters went further to say that it was clearly a requirement for directors to consider legitimate stakeholder interests in the carriage of their duties as directors in Australia.<sup>9</sup> The Labor members note and accept this evidence.

1.40 The Labor members also noted evidence regarding the duties of investment managers and superannuation trustees and their capacity to have regard for environmental and social impacts of their mainstream investment decisions.

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8 Dr Paul Starr, Senior Policy Officer, *Committee Hansard*, 27 March 2006, p. 39.

9 Australian Bankers Association, *Submission 106a*, p. 2

See also: Association of Certified Chartered Accountants, *Submission 32*, p. 4, for UK perspective



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1.41 It is with consideration of these issues that additional recommendations are made in the following areas:

- Government to monitor directors' response to their own interpretation of their duties; and
- the Australian Prudential Regulation Authority (APRA) to clarify the scope of the sole purpose test with regard to non-financial risk considerations in all investment decisions.

### ***Directors' duties***

1.42 During the Inquiry, company directors and other business representatives clearly stated that responsible directors and executives should have due regard to the impacts of their business operations on stakeholders including communities and the environment. The Labor members endorse this view.

1.43 Much of the discussion about directors' duties in the Inquiry resulted from public comments by the executives of James Hardie Industries and their perception of the scope of directors' duties.<sup>10</sup> These comments portrayed a limited and constrained view of the scope for company directors to consider the interests of stakeholders other than shareholders.

1.44 The interpretation of directors' duties offered by James Hardie executives prompted significant public debate and evidence to the committee. Most of this evidence included a clear rejection of the notion that directors' duties under Australian law prevent directors from taking into account and addressing the social and environmental impacts of their business as long as this consideration is undertaken in the interests of the corporation.

1.45 This has in effect been an emphatic endorsement of the 'enlightened self interest' interpretation of directors' duties which is outlined in the main committee report. While this committee cannot make a definitive determination as to the legal parameters of existing directors' duties in practice, Labor welcomes the 'enlightened self interest' interpretation of directors' duties put forward by a range of business and legal witnesses. We hope such an interpretation is representative of the understanding and practical exercise of directors' duties in future.

1.46 Labor members also note that business leaders and business lawyers, having stated their position on the scope of directors' duties have a responsibility to put this interpretation into action in coming years. If there was to be a recurrence of the view from the business sector that directors' duties prevented attention to legitimate stakeholder interests, government would be forced to immediately review the articulation of directors' duties and ensure that no such misunderstanding were possible.

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10 Fiona Buffini, 'Calls to protect corporate conscience', *Australian Financial Review*, 23 November 2005, p. 4.

1.47 Therefore it is the view of Labor members, given the evidence to the committee regarding directors' duties and in the absence of any clear, recent court interpretation of directors' duties with regard to stakeholder interests, that there is no need to vary those duties in the short term. Director duties are already broad enough and include an obligation to consider stakeholder and non-financial risk issues when acting in the best interests of the company.

#### **Recommendation 4**

**The Labor committee members do not recommend any alternative to the current formulation of directors' duties. However, if legal barriers to the consideration of legitimate environmental and social issues by directors are subsequently raised, either by judicial interpretation or in practice, this matter would require reconsideration by government.**

#### *Sole purpose test*

1.48 The main committee report refers to evidence of the Financial Services Institute of Australasia (Finsia) regarding the sole purpose test with respect to Sustainable Responsible Investments (SRI), and makes Recommendation 2 with regard to APRA guidance on the scope of the sole purpose test.

1.49 There was some debate during the Inquiry about whether the sole purpose test for investment trustees and fund managers was broad enough to allow them to consider non-financial risks, or so called Environment, Social and Governance risks (ESG) in investment decisions. Evidence from Finsia to the Inquiry was that the sole purpose test is broad enough to allow consideration of non-financial risk issues in investment decisions as long as the strategy is employed as means to maximise the retirement funds of members, and not pursued as an end in itself.<sup>11</sup>

1.50 While the evidence from Finsia identifies that fund managers and trustees may consider SRI type investments as part of this strategy, it does not suggest that fund managers and trustees may only exercise this approach via SRI funds. As such the recommendation of the main committee which focuses on only SRI funds, fails to grasp the issue relating to ESG based investment decisions.

1.51 If the sole purpose test is broad enough to allow consideration of ESG risks, it ought to permit considerations of these risks in the context of all mainstream investment decisions considered appropriate by the trustee or fund manager. Consideration of non-financial risk is fundamentally relevant to execution of the fiduciary duty.

1.52 Linking the sole purpose test solely with the allocation of funds to SRIs represents a fundamental misunderstanding of the need for investment managers to consider sustainability factors in **all** investment decisions.

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<sup>11</sup> Financial Services Institute of Australasia, *Submission 146*, p. 9.

1.53 Labor members believe an alternative formulation of Recommendation 2 from the main committee report is necessary. APRA should provide clarification to superannuation trustees that they may consider environmental, social and governance factors as potential risks to investment returns which are consistent with the making of all investment decisions under the sole purpose test. Clarification of this in detailed guidelines on the sole purpose test by APRA is warranted.

## **Recommendation 5**

**The Labor committee members recommend that the Australian Prudential and Regulation Authority issue detailed guidelines on the sole purpose test to clarify the ability of superannuation trustees and fund managers to evaluate non-financial risk and return in all investment decisions.**

### **Support and resource business**

1.54 An effective strategic leadership role requires that government focus on its own organisational strengths to advance corporate responsibility in Australia. Strengths of government include policy development, research and design and resourcing of programmes. For this reason, government should focus on these roles in facilitating greater uptake of sustainable business.

1.55 The Labor members advocate for the improvement of sustainability performance and reporting via the provision of support mechanisms and resources to businesses. The Labor members note a number of constructive recommendations from the main committee, including the establishment of the Australian Corporate Responsibility Network, which should provide an effective mechanism to complement and coordinate where necessary, the efforts of businesses to execute on their corporate responsibility and sustainability strategies.

1.56 Beyond the main committee recommendations, the Labor members note that several witnesses to the Inquiry identified the importance of allowing for innovation and individual responses to the question of how best to integrate corporate responsibility approaches. Labor members accept this feedback and make recommendations that will build capacity of corporate staff and encourage the development of individual responses. Accordingly, the Labor committee members make several additional recommendations in the following areas:

- Provide capacity building tools to companies;
- Remove government barriers to responsible corporate behaviour; and
- Endorse and provide guidance on international initiatives.

### ***Capacity building tools for companies***

1.57 Evidence to the committee indicated that the Global Reporting Initiative is considered by many in business to be a significant undertaking and that getting started on implementing corporate responsibility frameworks and reporting within a business was a difficult step.

1.58 The Labor members recognise it can be difficult for companies when starting to integrate sustainable practices and suggest there should be a clear and relatively manageable interim step for companies to take.

1.59 The committee noted the importance of the Credit Union CSR Toolkit developed by the Credit Union Foundation Australia (CUFA). This tool is an accessible and cost effective instrument to allow credit unions to more effectively plan and report on their CSR activities. It can also be used by other small to medium enterprises.

1.60 The committee also noted the *Arcturus* corporate responsibility risk assessment and behavioural inventory assessment tool developed by the Caux Round Table (CRT), and supported its further examination. With forty-nine assessment criteria, *Arcturus* is said to be sufficiently flexible to apply to companies across the diverse Australian market. It could be a low cost mechanism to encourage first time participants to engage in the voluntary adoption of good governance and corporate responsibility practices and to benchmark their performance against sector or industry-wide benchmarks.

1.61 Labor believes that either the CUFA initiative or CRT's *Arcturus*, could be used as a capacity building tool with widespread application. In the case of the CUFA initiative, it could be used as a model for use in other sectors. There may also be other tools already in use that were not brought to the committee's attention.

1.62 Labor supports the development of a flexible sector-specific tool to enable different industries to plan and adopt corporate responsibility activities. Such a tool should be low cost and compatible with international initiatives such as the GRI Framework. Labor believes that the government should play a coordinating role to set up a standard framework and then to assist various sectors to modify the framework to suit their own needs. Any framework should be developed with a view to meeting the needs of financial analysts so that the sustainability information produced can be easily used by financial markets.

## **Recommendation 6**

**The Labor committee members recommend that the Australian Government, in consultation with industry and using an existing tool as a model if appropriate, develop a widely applicable corporate responsibility capacity building tool to provide an interim step for companies wanting to integrate corporate responsibility activities into their operations.**

### ***Remove government barriers to responsible corporate behaviour***

1.63 The main committee report recognises that submitters raised various financial incentives and regulation that either encourage or discourage corporate responsibility. The committee report provides the example of the capital gains tax arrangements applying to the sale of shares and mentions the fringe benefits tax on fleet vehicles. Other disincentives cited in evidence include the:

- tax treatment of providing child care<sup>12</sup>
- insurance and OH&S issues for corporate volunteering<sup>13</sup>
- tax treatment of superannuation which encourages those nearing retirement age not to extend their life of work<sup>14</sup>
- tax treatment of plant maintenance versus new capital investment<sup>15</sup>
- subsidies that encourage the use of fossil fuels<sup>16</sup>

1.64 Submitters also referred to new incentives including:

- Promoting research and development into innovative corporate responsibility partnerships<sup>17</sup>
- a carbon tax or an emissions trading scheme<sup>18</sup>
- a fee on plastic bags<sup>19</sup> and
- container deposit legislation<sup>20</sup>

1.65 Several submitters suggested a review of existing government regulations as well as tax and spending policies, with the aim of enabling and encouraging greater social investment and investigation of their environmental and social consequences.<sup>21</sup>

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- 12 Mr Steven Muchenberg, Business Council of Australia, *Committee Hansard*, 23 February 2006, pp 104–105.
- 13 Mr Steven Muchenberg, Business Council of Australia, *Committee Hansard*, 23 February 2006, p. 105.
- 14 Ms Sam Mostyn, Group Executive, Culture and Reputation, Insurance Australia Group, *Committee Hansard*, 9 March 2006, p. 18.
- 15 Mr Charles Berger, Legal Adviser, Australian Conservation Foundation, *Committee Hansard*, 24 February 2006, p. 83.
- 16 Mr Charles Berger, Legal Adviser, Australian Conservation Foundation, *Committee Hansard*, 24 February 2006, p. 84.
- 17 The Body Shop, *Submission 42*, p. 5.
- 18 Mr Wayne Gumley, Senior Lecturer, Department of Business Law and Taxation, Monash University, *Committee Hansard*, 24 February 2006, p. 60; and Mr Murray Hogarth, Senior Associate, Ecos Corporation, *Committee Hansard*, 9 March 2006, p. 71.
- 19 Mr Wayne Gumley, Senior Lecturer, Department of Business Law and Taxation, Monash University, *Committee Hansard*, 24 February 2006, p. 60.
- 20 Mr Murray Hogarth, Senior Associate, Ecos Corporation, *Committee Hansard*, 9 March 2006, p. 71.
- 21 For example Mr Steven Muchenberg, Business Council of Australia, *Committee Hansard*, 23 February 2006, p. 105; Insurance Australia Group, *Supplementary Submission 29a*, p. 3; Mr Charles Berger, Australian Conservation Foundation, *Committee Hansard*, 24 February 2006, p. 84; and Philanthropy Australia, *Submission 23*, p. 4.

1.66 Labor members believe that a thorough investigation of policy arrangements is necessary and recommend that an audit of policies and regulations affecting sustainability and corporate responsibility activities by business be conducted.

1.67 The Labor members also support an investigation of possible regulatory relief for companies that display committed performance on sustainability targets and corporate responsibility. This suggestion was raised in evidence to the committee and referred to in the main committee report.

### **Recommendation 7**

**The Labor committee members recommend that the Australian Government undertake an audit of government regulations and financial arrangements that encourage or discourage sustainable business practices.**

#### *Endorse and provide guidance on international initiatives*

1.68 The Labor committee members support the committee's recommendations regarding the Global Reporting Initiative and the UN Principles for Responsible Investment and the Global Compact. The Labor members would also like to pay particular attention to the OECD Guidelines on Multinational Enterprises and the OECD Anti-Bribery Convention.

#### *OECD multinational enterprises guidelines*

1.69 The Labor committee members support the OECD Guidelines for Multinational Enterprises. Although this policy instrument has, until recently, not been used in Australia, the example cited in the main committee report of the mediated outcome involving Global Solutions Limited Australia, demonstrates its potential effectiveness if it were to be used more frequently.

1.70 As referred to in the main committee report, the 'specific instance mechanism' under the OECD Guidelines is one that allows corporations and stakeholder groups an avenue for mediated resolution of disputes relating to a multinational company's performance under the OECD guidelines. This is a process that can be constructive for both multi-national enterprises and stakeholder groups.

1.71 The Labor committee members reiterate the evidence of the Treasury referred to in the main committee report: "...governments adhering to the OECD guidelines are committed [...] to promoting the guidelines..."<sup>22</sup> In the Labor committee members' view, the fact that the 'specific instance' review has only been successfully used once in Australia, demonstrates that the government's promotion of these guidelines has been of limited effect. The specific instance mechanism is a constructive model for engagement between stakeholders and companies and should be utilised by these groups whenever necessary.

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22 Department of the Treasury, *Submission 134*, p. 11.

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## Recommendation 8

**The Labor committee members recommend that the Australian Government more actively promote the OECD Multinational Enterprises Guidelines to Australian corporations.**

### *OECD Anti-Bribery Convention*

1.72 The main committee report identified that the proportion of corporate codes of conduct on bribery and corruption in Australia was much lower than the United States and the United Kingdom. For example the Centre for Australian Ethical Research recently found that only 51 of the top 100 companies in Australia had policies in place to prohibit the payment and receipt of bribes, which compares with 92 per cent in the UK, 80 per cent in the US and 91 per cent in Europe.<sup>23</sup>

1.73 This may indicate a lower level of awareness of the effects that supporting corruption and the payment of bribes in particular can cause for societies, including undermining democracy and the rule of law, distorting markets, impeding international trade and the facilitation of organised crime.<sup>24</sup>

1.74 Australian companies have obligations under Australian law regarding the giving and receiving of bribes. Australia's *Bribery of Foreign Public Officials Act 1999* enacts many of our obligations under the OECD Anti-Bribery Convention. However the OECD has expressed a number of concerns regarding Australia's implementation of the Anti-Bribery Convention. The Howard Government's approach has left gaps in Australia's Criminal Code which in turn lowers the behaviour benchmark for Australian companies operating internationally. The option to classify a payment to a foreign official as a facilitation payment is one such example that the OECD points to in its January 2006 recommendations to Australia.

1.75 The Labor members are of the view that it is desirable for more Australian companies operating overseas to develop their own codes of conduct on corruption and bribery. Greater promotion of Australia's obligations under the UN Convention Against Corruption, and the OECD Anti-Bribery Convention would help in this regard.

1.76 The Labor members note recent public comments by the Minister for Justice and Customs, Mr Chris Ellison MP, regarding bribery of overseas officials, and encourage the government to continue this overdue promotion of Anti-Bribery laws.

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23 Centre for Australian Ethical Research, *Just how is business done? A review of Australian business' approach to bribery and corruption*, March 2006, p.3

24 United Nations Convention Against Corruption, (New York, 31 October 2003) [2003] ATNIF 21.

## Recommendation 9

**The Labor committee members recommend that the Australian Government widely promote the terms and Australia's obligations under the UN Convention Against Corruption and the OECD Anti-Bribery Convention, and encourage more Australian companies to develop their own codes of conduct against bribery and corruption.**

### Improve business sustainability reporting

1.77 The Labor members believe that adequate and appropriate reporting on sustainability issues and non-financial risk is a key element of improving sustainability performance.

1.78 Given that there are currently serious deficiencies in the quality of material non-financial information being provided to investors, encouraging improved sustainability reporting should be a key government objective.

1.79 The Labor members accept that there is a steady process to be followed by companies as they build the capacity to identify, report on and act on sustainability information within a business. Rather than requiring all companies to perform detailed sustainability reporting in the short term, it is therefore necessary to allow companies to follow this process at their own pace.

1.80 It is also important that all large companies start on the process of collecting and using information on the sustainability performance of their businesses. As such, the Labor members consider that a minimum of non-financial risk or sustainability reporting should eventually be performed by every company that is a 'large' company under the *Corporations Act 2001*. This recommendation is discussed further below.

1.81 Beyond any mandatory minimum requirement, it is also important that for listed companies, the level and depth of non-financial risk assessment and disclosure by companies increase over the medium term.

1.82 Additional recommendations to those in the main report are made in the following areas to improve sustainability reporting by business:

- Ensure a flexible, mandatory minimum of sustainability reporting by all large and listed companies;
- Set targets for rates of detailed sustainability reporting by listed companies; and
- ASIC to monitor the quality and usefulness of sustainability disclosures by listed companies under the Operating and Financial Review.

1.83 Before detailing these specific areas where the Labor members believe the main committee report should have gone further, some general comments are made on sustainability reporting.



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### ***The need for non-financial reporting***

1.84 Evidence to the committee clearly identified a need to increase the quality and quantity of reporting on non-financial risks, with some submitters identifying areas for mandatory reporting by companies. For example AMP Capital Investors identified a need for companies to report the main trends and factors they were likely to address in future development, as well as information about non-compliance with the law, occupational health and safety performance, greenhouse gas emissions and political donations.<sup>25</sup>

1.85 The Association of Certified Chartered Accountants (ACCA) noted the global trend toward increased management commentary or narrative reporting, including discussion of business risks including climate change, human rights, supply chain management and bribery and corruption.<sup>26</sup> ACCA also noted the current move to modify international accounting standards to include such reporting obligations. Given these trends Labor members are of the view that the capacity to interpret, prepare organisational data and report on sustainability challenges and non-financial risks is of critical importance to Australian business.

### ***Forward looking information***

1.86 Sustainability reports will often have a forward looking aspect as well as outlining past company performance. The indicators used in sustainability reporting are often referred to as "lead indicators" as compared with the "lag indicator" contained in quarterly financial reports. For this reason some companies and observers suggest that reporting against sustainability indicators provides a better picture than financial results of how a company will perform in the future. In its recent report on sustainability reporting, the Centre for Australian Ethical Research gave the following example:

An executive of one of Australia's largest companies stated recently, in an article directed at CFOs, that a company's financial results are "lag indicators", reflecting what the company has done over the past reporting period, while the items generally reported under "sustainability" are the "leading indicators" of how well the company is dealing with its future risks. "I'd like to see the language change so that CFOs think differently about what is a lead indicator and what is a lag indicator. Anyone relying purely on a 12-month financial report is making a judgement without fully considering the quality of the company's management. Sustainability reporting is more complex, and so if it is done successfully, it shows how well the company is being run."<sup>27</sup>

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25 AMP Capital Investors, *Submission 30*, p. 2

26 Association of Certified Chartered Accountants, *Submission 32*, p. 9

27 Centre for Australian Ethical Research, *The State of Sustainability Reporting in Australia 2005*, March 2006, p. 7.

1.87 The GRI Guidelines for example encourage reporting organisations to highlight future trends by presenting:

...information for all performance indicators in a manner that enables users to understand current and future trends. At a minimum, reporting organisations should present data for the current reporting period (e.g., one year) and at least two previous periods, as well as future targets where they have been established.<sup>28</sup>

1.88 Labor notes evidence received by the committee about the potential risks to directors of litigation from making forward looking statements about the company's prospects.<sup>29</sup> While recognising that some directors may have these concerns, the Labor members also note that there is not a history of litigation in Australia against company directors in relation to corporate disclosures. There is certainly an obligation to report in good faith under directors duties but there is no clear liability for being incorrect, so long as disclosures are made in good faith.

1.89 None-the-less, considering the evidence received by the committee and concerns about the prospect of directors being exposed to litigation, the Labor members take the view that if there proved to be a material risk resulting from the provision of forward looking, non-financial information to the market, the parliament would rightly enact appropriate protection from liability for company directors. This is a situation that should be monitored by the parliament and business groups to ensure that no undue pressure or misinterpretation of the duties of company directors develops to deter directors from making adequate disclosures under the *Corporations Act 2001* or other mechanisms.

### ***A mandatory minimum of reporting on non-financial risk***

1.90 The Labor committee members support Recommendation 10 in the main committee report, concerning the identification and disclosure of the material non-financial aspects of the risk profile of large listed companies by disclosure of their top five sustainability risks, and providing information on the strategies to manage such risks.

1.91 However in the view of Labor committee members it is appropriate and in the public interest for this recommendation to apply beyond large listed public companies. The principle that disclosure requirements should apply more broadly was shared by submitters such as the Commercial Law Association and the Australian Conservation Foundation.<sup>30</sup> It should apply to all large companies operating in Australia whose activities have significant environmental or social impacts, regardless of their

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28 Global Reporting Initiative, *Sustainability Reporting Guidelines*, 2002, p. 34.

29 Australian Bankers Association, *Submission 106 a*, p. 2.

30 Mr Daren Armstrong, Secretary, Legislative Review Task Force, Commercial Law Association of Australia Limited, *Committee Hansard*, 23 November 2005, p. 13; and Australian Conservation Foundation, *Submission 21*, p. 34.

corporate categorisation. That is it should apply to all large listed public, unlisted public, and private companies.

1.92 As this broader recommendation is beyond the purview of the Australian Stock Exchange (ASX), it is more appropriate to be introduced as an amendment to the *Corporations Act 2001*. However, in keeping with the flexibility provided by the ASX Council Recommendations it should be introduced using the 'if not, why not' reporting mechanism. Suitable arrangements should be made to ensure that disclosures made by unlisted companies are made publicly available.

1.93 Furthermore, a transitional company size threshold should be set. This would ensure a focus on those companies with typically the greatest financial and resource capacity, and potentially those with the greatest social and environmental impacts.

1.94 The Labor members note the current dialogue between the business sector and government regarding appropriate thresholds for the definition of 'large company' under the Corporations Act. It is the view of the Labor members that current thresholds identifying companies as large under the Corporations Act may be too low for this to be the threshold for this proposed reporting requirement. However an increase in the thresholds would address this situation. Labor will monitor developments in this area.

1.95 For listed companies, it may be appropriate for this requirement to be addressed within section 299A of the *Corporations Act 2001*, while for non-listed large companies, a further provision would be necessary. It may also be necessary to provide guidance to non-listed companies on the range of non-financial or sustainability issues they should consider, such as water use, waste, emissions, on an if-not, why not basis. Guidance from the Treasury would be necessary on the most appropriate way to create this provision in the *Corporations Act 2001*.

## **Recommendation 10**

**The Labor committee members recommend an amendment to the *Corporations Act 2001* to require all public and private companies, operating in Australia and above a specified size threshold, to publicly disclose their top five sustainability risks and their strategies to manage such risks. This provision should be subject to an 'if not, why not' flexibility mechanism modelled on that contained in the Australian Stock Exchange Corporate Governance Council's Principles of Good Corporate Governance.**

### ***Sustainability reporting targets***

1.96 Beyond the proposed flexible, mandatory minimum disclosure of sustainability risks for all large companies, the Labor members believe it is desirable to increase the rate of detailed sustainability reporting by large companies and especially large listed companies.

1.97 The committee heard from officials from the Department of the Environment and Heritage that despite the low rate of sustainability reporting in Australia (around half the OECD average) the Government has:

No specific targets. There is a comparison with other countries and by implication there is an indication that we are not at a level as high as those in many of those other countries. But there is no specific target...

...I think there is a general sense that the take-up of reporting and the quality of reporting in Australia is not at the level that we would like to see...<sup>31</sup>

1.98 The Labor committee members believe that without a clear government and business agreement regarding expectations for the level of sustainability reporting it is not unsurprising that the rate in Australia is low.

1.99 The Labor committee members are concerned that it is expected to take until 2035 for all of the top 500 companies to be preparing sustainability information, as suggested in the main committee report. In the Labor members' view this is disappointingly slow. If Australia is to take advantage of future financial opportunities that will increasingly flow from improved social and environmental performance, the rate of engagement and disclosure in this area needs to be higher.

1.100 The Labor members would like to see the rate of reporting in Australia's largest companies increase dramatically over the next five to ten years. The Labor committee members have already recommended the development of a capacity building framework which should make it easier for companies to plan and undertake sustainability reporting for the first time.

1.101 The Labor committee members would expect that the rate of detailed sustainability reporting in Australia will improve dramatically with these initiatives. Labor members support a phased approach similar to that suggested by Corporate ResponseAbility.<sup>32</sup> Labor members believe a realistic timeframe, but one that should be negotiated and agreed with business representatives is:

- 90 per cent of ASX 100 companies by 2010;
- 90 per cent of ASX 200 companies by 2012;
- 90 per cent of ASX 300 companies by 2014; and
- 90 per cent of ASX 500 companies by 2016.

1.102 The Labor committee members believe that with the level of support and resourcing being proposed in Labor's recommendations, and with the transitional period indicated, these targets should be achievable. Corporations will also have a

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31 Mr Gene McGlynn, Assistant Secretary, Department of the Environment and Heritage, *Committee Hansard*, 27 March 2006, p. 41.

32 Corporate ResponseAbility, *Submission 93*, p. 8.

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reasonable period of time to integrate principles of corporate responsibility into their core operations. If by these timeframes sustainability reporting is not reaching, or is not near these levels, the Labor committee members believe that other policy alternatives including the question of mandatory sustainability reporting should be considered.

### **Recommendation 11**

**The Labor committee members recommend that the Australian Government make a clear policy statement setting out stepped targets with clear timelines for the uptake of detailed sustainability reporting in Australia.**

#### *Utilising the Operations and Financial Review*

1.103 There are various existing regulatory and market-based arrangements that were recognised in the main committee report as having the potential to accommodate non-financial disclosures including the 'Additional general requirements for listed public companies' in the annual directors' report, which is set out in section 299A of the *Corporations Act 2001*. This is sometimes called the Operations and Financial Review or OFR.

1.104 The main committee report recognised the significant potential of the OFR to promote material non-financial disclosures. The Labor members note that it may be appropriate for listed companies to use this section to disclose their top five sustainability risks and their strategies to mitigate them.

1.105 The Labor committee members believe the non-financial disclosures that result from the OFR should be closely monitored to ensure the disclosures are meeting the evolving needs of shareholders and the wider capital market to assess and value material non-financial performance and risk management strategies. In its role as disclosure regulator, the Australian Securities and Investment Commission (ASIC) is the appropriate organisation to undertake such monitoring.

1.106 Labor committee members note that the OFR only applies to listed public companies, and that disclosures made under section 299A may in future exceed the minimum mandatory requirement to disclose the company's top five sustainability risks.

1.107 The Labor members also note and agree with the main committee's report for auditors to review the non-financial disclosures in the OFR and to make recommendations to the company board about the adequacy of these disclosures. But given that OFR disclosures are still developing as a framework for non-financial disclosures and that Labor members have recommended a flexible, mandatory minimum disclosure of the top five sustainability risks under the corporations law, it is appropriate for ASIC to play an oversight role on the adequacy and usefulness of disclosures made therein.

1.108 The Labor members make a recommendation to that effect, complementary to the recommendation in the main report regarding the role of company auditors and the oversight of disclosures under the OFR.

### **Recommendation 12**

**The Labor committee members recommend that on an annual basis the Australian Securities and Investment Commission:**

- **review the extent to which companies are making non-financial disclosures in their report on Operations and Financial Review;**
- **make recommendations to the Australian Government regarding the adequacy of the disclosures to meet the evolving needs of shareholders, and the wider capital market to assess and value material non-financial performance, risk profile and risk management strategies; and**
- **present a copy of the review and recommendations to parliament.**

### **Better engage the investment sector**

1.109 Labor has consistently taken the view that active engagement by institutional investors and fund managers in the governance of investee companies is a critical mechanism for ensuring good oversight and governance of those companies. This is because the modern reality is that intermediaries now control the ownership rights of most shareholders and if a passive approach to exercising these is taken, companies can lose touch with the expectations and interests of their individual owners and the public. Following a passive investment approach is clearly contrary to the broader objective of ensuring greater consideration of stakeholder needs.

1.110 This view on the role of fiduciaries was very effectively articulated by Justice Neville Owen in Chapter 6.3 of the HIH Royal Commission report:

Shareholder apathy can play a part in undesirable corporate governance. If shareholders as owners are unwilling or unable to exercise their powers or make themselves heard, directors and management will lack guidance or constraint from those whose interests they are supposed to serve. Shareholders have an interest in seeing that a board is properly constituted and in holding it to account for the company's performance.

There is an opportunity for institutions and especially managed funds to take a lead.<sup>33</sup>

1.111 In consideration of non-financial risks in investment decisions, there is a clear need for the investment sector to more actively seek useful non-financial reporting information from investee companies. If there is to be significant progress in the area

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33 Report of the HIH Royal Commission, Chapter 6.3

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of sustainable business performance, the requirements of investors, ‘pulling through’ the non-financial data they require will be a critically important driver of change.

1.112 The committee heard evidence of the progress being made internationally from Amanda McCluskey from Portfolio Partners;

Internationally, we have seen the formation of the enhanced analytics initiative. This is an initiative with a number of UK and European based fund managers that have committed to allocate five per cent of their brokerage to brokers who produce research that adds value over the long term, especially on areas relating to sustainability. [...] That has seen the formation of ESG units in brokerage houses including Goldman Sachs, Credit Suisse First Boston and UBS Warburg. These are not your typical fringe green, fluffy type names. These are mainstream investment banks that have employed people specifically to look at sustainability issues and how they impact on company performance.<sup>34</sup>

1.113 To the Labor members, this approach from fund managers and the brokerage houses that serve them appears to be an innovative response to the challenge of ensuring useful non-financial data is available, and is one that is instructive for Australian companies.

1.114 Regarding progress in Australia, the Labor members wish to recognise the submission of Finsia to the Inquiry regarding the integration of Environmental, Social and Governance (ESG) considerations into investment decisions. This type of research fills an important gap in the policy making landscape in Australia on how to encourage and enable investors to actively assess non-financial risk. Extension of this research programme would provide a further constructive contribution to the development of non-financial reporting and analysis in Australia.

1.115 It is clear to the Labor members that at this stage the value given to and use of non-financial data by traditional market analysts and fund managers is too low. Labor believes that the National Sustainability Council referred to in earlier recommendations could successfully auspice further research or education activities and engage with industry groups such as Finsia as they perform their own further research. The necessary funding from government for such research is referred to in the main committee report at Recommendation 23.

1.116 The Labor members also note and support the main committee’s endorsement of the UN Guidelines on Responsible Investment and would encourage Australian investment institutions to formally endorse the principles as well.

### **Recommendation 13**

**The Labor committee members recommend that the National Sustainability Council engage with the investment sector to identify areas of research,**

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34 Ms Amanda McCluskey, Portfolio Partners, *Committee Hansard*, 5 April 2006, p.69

**education and reporting needs that would assist institutional investors and trustees to better identify and assess non-financial risks and investment opportunities.**

**Ms Anna Burke MP**

**Deputy Chair**

**Mr Chris Bowen MP**

**Senator Nick Sherry**

**Senator Penny Wong**



## **Appendix 1: Summary of Labor members' recommendations**

### **Recommendation 1**

The Labor committee members recommend that the Australian Government's various corporate responsibility programs be consolidated in a single, Corporate Responsibility Unit within a business oriented Australian Government department, for example either the Treasury or the Department of Industry, Tourism and Resources.

### **Recommendation 2**

The Labor committee members recommend that the Australian Government establish a National Sustainability Council the roles of which would include:

- The recommendation of public and private, voluntary Australian sustainability targets
- Monitoring performance levels against these targets

### **Recommendation 3**

The Labor committee members recommend that the Australian Government make reporting against sustainability targets mandatory for Australian government agencies. This reporting should include:

- Performance against sustainability targets set by the National Sustainability Council regarding water, energy, waste, vehicles, general procurement and any other applicable targets
- Progress achieved on meeting the targets if they are not met and strategies to enable the meeting of targets in future

### **Recommendation 4**

The Labor committee members do not recommend any alternative to the current formulation of directors' duties. However, if legal barriers to the consideration of legitimate environmental and social issues by directors are subsequently raised, either by judicial interpretation or in practice, this matter would require reconsideration by government.

### **Recommendation 5**

The Labor committee members recommend that the Australian Prudential and Regulation Authority issue detailed guidelines on the sole purpose test to clarify

for superannuation trustees and fund managers their position in relation to allocating member funds in all investment decisions.

#### **Recommendation 6**

The Labor committee members recommend that the Australian Government, in consultation with industry and using an existing tool as a model if appropriate, develop a widely applicable corporate responsibility capacity building tool to provide an interim step for companies wanting to integrate corporate responsibility activities into their operations.

#### **Recommendation 7**

The Labor committee members recommend that the Australian Government undertake an audit of government regulations and financial arrangements that encourage or discourage corporate responsibility activities.

#### **Recommendation 8**

The Labor committee members recommend that the Australian Government more actively promote the OECD Multinational Enterprises Guidelines to Australian corporations.

#### **Recommendation 9**

The Labor committee members recommend that the Australian Government widely promote the terms and Australia's obligations under the UN Convention Against Corruption and the OECD Anti-Bribery Convention, and encourage more Australian companies to develop their own codes of conduct against bribery and corruption.

#### **Recommendation 10**

The Labor committee members recommend an amendment to the *Corporations Act 2001* to require all public and private companies, operating in Australia and above a specified size threshold, to publicly disclose their top five sustainability risks and their strategies to manage such risks. This provision should be subject to an 'if not, why not' flexibility mechanism modelled on that contained in the Australian Stock Exchange Corporate Governance Council's Principles of Good Corporate Governance.

#### **Recommendation 11**

The Labor committee members recommend that the Australian Government make a clear policy statement setting out stepped targets with clear timelines for the uptake of detailed sustainability reporting in Australia.

**Recommendation 12**

**The Labor committee members recommend that on an annual basis, the Australian Securities and Investment Commission:**

- **Review the extent to which companies are making non-financial disclosures in their report on Operations and Financial Review**
- **Make recommendations to the Australian Government regarding the adequacy of the disclosures to meet the evolving needs of shareholders, and the wider capital market to assess and value material non-financial performance, risk profile and risk management strategies**
- **Present a copy of the review and recommendations to parliament**

**Recommendation 13**

**The Labor committee members recommend that the National Sustainability Council engage with the investment sector to identify areas of research, education and reporting needs that would assist institutional investors and trustees to better identify and assess non-financial risks and investment opportunities.**

## Appendix 2: Labor position on main committee recommendations

Main committee recommendation	Labor members' position
Recommendation 1	
The committee finds that the <i>Corporations Act 2001</i> permits directors to have regard for the interests of stakeholders other than shareholders, and recommends that amendment to the directors' duties provisions within the Corporations Act is not required.	Agree in principle. See Labor recommendation 4.
Recommendation 2	
That the Australian Prudential Regulation Authority issue detailed guidelines on the sole purpose test to clarify for superannuation trustees their position in relation to allocating investments to sustainable responsible investment fund managers.	Disagree. Evidence to the committee also considered mainstream investment decisions. See Labor recommendation 5.
Recommendation 3	
The committee recommends that institutional investors in Australia seriously consider becoming signatories to the United Nations Principles for Responsible Investment.	Agree.
Recommendation 4	
The committee recommends that the Future Fund should become a signatory to the United Nations Principles for Responsible Investment.	Agree.
Recommendation 5	
The committee recommends that sustainability reporting in Australia should remain voluntary.	Agree in part. All companies passing the large company test should in time, provide a minimum mandatory level of reporting on their key sustainability risks. See Labor recommendation 10.

Recommendation 6	
<p>The committee recommends that the Australian Government, through the Joint Environment Protection and Heritage Council / Ministerial Council on Energy Policy Working Group process, seek to rationalise Australia's greenhouse and energy reporting requirements into a national framework.</p>	Agree
Recommendation 7	
<p>The committee recommends that government and industry should liaise on developing a mechanism for setting sectoral benchmarks for greenhouse and energy performance.</p>	<p>Agree in principle. The Labor members believe the National Sustainability Council should perform this role and should also set other sustainability targets as necessary. See Labor recommendation 2.</p>
Recommendation 8	
<p>The committee recommends that each company auditor on an annual basis:</p> <ul style="list-style-type: none"> <li>• review the extent to which companies are making non-financial disclosures in their Operating and Financial Reviews; and</li> <li>• make recommendations to the company Board regarding the adequacy of the disclosures to meet the evolving needs of shareholders, and the wider capital market in order to assess and value material non financial performance, risk profile and risk management strategies.</li> </ul>	<p>Agree in principle. Labor members believe it is also important for ASIC to play a role in monitoring non-financial disclosures and especially those included in the OFR. See Labor recommendation 12.</p>
Recommendation 9	
<p>The committee recommends that:</p> <ul style="list-style-type: none"> <li>• it is premature to adopt the Global Reporting Initiative Framework as the voluntary Australian sustainability reporting framework; and</li> <li>• that the Australian Government continue to monitor the acceptance and uptake of the Global Reporting Initiative Framework, both nationally and internationally, with a view to its suitability as the, or a basis for a, voluntary Australian</li> </ul>	Agree.

sustainability reporting framework.	
Recommendation 10	
The committee recommends that the Australian Stock Exchange Corporate Governance Council (ASX Council) provide further guidance to Principle 7 of the ASX Council's <i>Principles of Good Corporate Governance and Best Practice Recommendations</i> to the effect that companies should inform investors of the material non-financial aspects of a company's risk profile by disclosing their top five sustainability risks; and providing information on the strategies to manage such risks.	Disagree. Labor recommends there be a flexible mandatory minimum reporting requirement under the <i>Corporations Act</i> on a company's top five sustainability risks. See Labor recommendation 10.
Recommendation 11	
The committee recommends that the ASX Council undertake industry consultation to determine whether there are areas where companies, investors, and other stakeholders believe further guidance is necessary in relation to the non-financial disclosure requirements under the ASX Council's <i>Principles of Good Corporate Governance and Best Practice Recommendations</i> .	Agree.
Recommendation 12	
The committee recommends that the Australian Securities and Investments Commission revise the <i>Section 1013DA disclosure guidelines</i> to be relevant to mainstream fund managers rather than simply to the more limited pool of ethical investment funds.	Agree.
Recommendation 13	
The committee recommends that the Australian Government provide seed funding to establish an organisation, the Australian Corporate Responsibility Network, to be modelled on the United Kingdom initiative Business in the Community.	<p>Agree. Support for this type of organisation should recognise the many initiatives that exist in Australia and provide a mechanism to coordinate and where necessary, compliment these initiatives.</p> <p>The Australian Corporate Responsibility Network could also contribute to and help business to execute sustainability objectives</p>

	defined by the National Sustainability Council.
Recommendation 14	
The committee recommends that investors, stakeholders and relevant business associations should encourage companies to include long term and corporate responsibility performance measures as part of the remuneration packages of company directors, executive officers and managers.	Agree.
Recommendation 15	
The committee recommends that industry associations and peak bodies proactively promote to their members the benefits of corporate responsibility, and encourage greater engagement by their members.	Agree. Government or the Australian Corporate Responsibility Network must be capable of providing best practice and other information on corporate responsibility to peak organisations intending to develop their capacity in this area.
Recommendation 16	
The committee recommends that the Australian Stock Exchange, in consultation with companies, institutional investors and rating agencies, establish and operate a central web-based tool for the dissemination of sustainability information, based on the London Stock Exchange's Corporate Responsibility Exchange. The Australian Government should consider whether seed funding is required to establish such a service.	Agree.
Recommendation 17	
The committee recommends that the proposed Australian Corporate Responsibility Network publicise and promote best practice examples across the spectrum of corporate responsibility activities and across industry sectors.	Agree.
Recommendation 18	
The committee recommends that the not-for-profit sector should endeavour to meet the same standards as the for-profit sector in	Agree.

considering the interests of stakeholders.	
Recommendation 19	
<p>The committee recommends that the Prime Minister's Community Business Partnership continue to move beyond its initial focus on philanthropy, towards a broader sustainability framework.</p>	<p>Agree in principle. The current Business Community partnerships program should develop new categories of award to recognise the full spectrum of corporate responsibility activities, and should be incorporated into the corporate responsibility unit within a single business oriented government department. See Labor recommendation 1.</p>
Recommendation 20	
<p>The committee recommends that, in order to show greater leadership and to encourage more agencies to disclose their sustainability performance, the Australian Government establish:</p> <ul style="list-style-type: none"> <li>• voluntary sustainability reporting targets for government agencies</li> <li>• voluntary targets for government agency procurement in areas such as water, waste, energy, vehicles, equipment and consumables, and;</li> <li>• a requirement for each government agency to disclose such targets and to detail progress towards achieving these in its annual report</li> </ul>	<p>Disagree. Labor believes that current voluntary programs initiated by the government have not encouraged departments to take sustainability reporting seriously. This level of commitment must be increased with a mandatory reporting requirement against sustainability targets. See Labor recommendation 3.</p>
Recommendation 21	
<p>The committee recommends that the Australian Government's various corporate responsibility programs be co-ordinated through a whole-of-government approach.</p>	<p>Disagree. Labor members believe that government's corporate responsibility related programmes should be developed and delivered through a Corporate Responsibility Unit in a single, business related government department. See Labor</p>



	recommendation 1.
Recommendation 22	
<p>The committee recommends that the Australian Government, in consultation with the investment community, develop educational material;</p> <ul style="list-style-type: none"> <li>• regarding materiality of non-financial risks, for use by institutional investors and fund managers and;</li> <li>• to promote the United Nations Principles for Responsible Investment to institutional investors and fund managers.</li> </ul>	Agree in principle. Engagement with the investment community must extend to engagement on emerging sustainability risks and how to define and value those risks. See Labor Supplementary Report section – Better engage the investment sector.
Recommendation 23	
The committee recommends that the Australian Government, in consultation with relevant sections of the business community, undertake research into quantifying the benefits of corporate responsibility and sustainability reporting.	Agree in principle. Labor recommends that the National Sustainability Council should contribute to and auspice this research
Recommendation 24	
Although recommending that it is premature to adopt the Global Reporting Initiative Framework, the committee recommends that in addition to the continued monitoring of its uptake, the Australian Government provide guidance to the business community, including the small business community, on how to apply the Global Reporting Initiative Framework.	Agree.
Recommendation 25	
The committee recommends that the Australian Government develop educational material to promote the UN Global Compact and to encourage Australian companies to become signatories where it is appropriate for them.	Agree.
Recommendation 26	
To protect Australia's interests, the committee recommends that where appropriate, the Australian Government facilitate and	Agree.

coordinate the participation of Australian corporations in international corporate responsibility initiatives.	
Recommendation 27	
The committee recommends that the Australian Government in collaboration with relevant not-for-profit organisations, develop educational materials for not-for-profit organisations to promote the benefits of corporate responsibility within their own organisations.	Agree.
Recommendation 28	
The committee recommends that as a way of facilitating greater uptake of sustainability reporting, the Australian Government should examine the feasibility of introducing inflated write-off arrangements for the year-one costs of initiating sustainability reports, to assist companies that commence sustainability reporting for the first time.	Agree.
Recommendation 29	
The committee recommends that the Australian Government consider options for providing regulatory relief to corporations which voluntarily undertake specified corporate responsibility activities.	Agree. Labor recommends a full audit of regulatory incentives and disincentives to adoption of corporate responsibility measures. See Labor recommendation 7.