AUGUST 2025 ESG POLICY UPDATE—AUSTRALIA

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Australia Environmental, Social, and Governance (ESG) Alert

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AUSTRALIAN UPDATE

Australia's Construction Waste: Transformation Through Circular Design

A recent report "Australia's Waste[d] Opportunity 2025" (AWO Report) has identified that Australia's construction industry stands as the nation's largest source of waste, which reportedly contributes to a staggering 29% of Australia's total waste.

The AWO Report describes "waste" as a valuable material which stakeholders have failed to value. It observes that the average building project discards 141kg of material per square metre, which amounts to AU$384 per square metre on wasted materials. The top three categories of wasted materials are "Mixed Concrete, Masonry and Tile", "Soil, Sand and Rubble Fines" and "Timber".

The AWO Report makes recommendations which are intended to drive accountability and circularity in construction. Importantly, it notes that design decisions play an important role in setting the circular direction and recommends practices such as setting clear objectives and targets for design, construction, operation and end of life stages to reduce waste through the building's life cycle.

It also recommends that construction and lease contracts can include on-site material management, the obligation to report against material benchmarks, and/or setting out de-fit or deconstruction responsibilities.

At a policy level, the AWO Report suggests embedding circular targets into national policies and ensuring national building regulations prioritise circular principles. It recommends that State governments can also introduce financial incentives and dedicated grants.

Unless changes are made, the AWO Report warns that Australia is expected to waste up to $64 million in construction materials over the next five years.

Australia's Low-Carbon Liquid Fuel Opportunity

Clean Energy Finance Corporation (CEFC) and Deloitte recently released a report "Refined Ambitions: Exploring Australia's Low Carbon Fuel Potential" (Refined Ambitions Report). It identifies that Australia may have the potential to build a low-carbon liquid fuel (LCLF) industry which could have a AU$36 billion market opportunity by 2050.

LCLFs are renewable alternatives to traditional fossil-based liquid fuels. Common examples include sustainable aviation fuel, renewable diesel and synthetic e-fuels.

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The Refined Ambitions Report identifies that Australia is a major user of liquid fuels, which is central to the energy demands of 11 major sectors of the nation's economy. However, as the world decarbonises, Australia's dependence on imported liquid fuels will leave these sectors exposed to international volatility.

It is anticipated that Australia will still require 30 billion litres of liquid fuels, predominantly in the mining, aviation and long-haul freight sectors. The Refined Ambitions Report anticipates that among other benefits, an LCLF industry:

- Will enhance the nation's fuel security by developing sovereign capability and resilience;
- Is critical to ensuring the long-term competitiveness of these industries; and
- Can deliver significant economic benefit to Australian farmers and fuel producers.

Consultation Paper: Climate-Related Transition Planning Guidance

The Treasury is developing guidance for climate-related transition planning and is inviting feedback on the direction and design of the guidance. The consultation period started on 15 August and will end on 24 September 2025.

The objective of the guidance is to support organisations to address climate risks and opportunities, and to enhance overall financial market resilience. In practice, this means supporting organisations to plan for climate risks and seize opportunities, while meeting expectations of transition plans from investors, lenders and other stakeholders. Accessible, clear, and robust transition plans can help investors and lenders understand the long-term business strategy of organisations, price risk and make capital allocation decisions.

The Consultation Paper is divided in two parts:

- Part A - Outlines the role of transition planning and proposed design approach; and
- Part B - Provides illustrative draft guidance aligned with the proposed approach.

Appendix A to the Consultation Paper includes a list of relevant materials consulted by the Treasury, including the Transition Planning Guide of the Australian Institute of Company Directors published in July 2025.

The main objectives of the guidance are to:

- Support international alignment to make it easier to compare transition plans;
- Outline domestic policy and regulatory considerations;
- Balance encouraging high ambition with providing flexibility; and
- Take a "climate first but not only" approach.

The Australian Government committed to publishing the guidance by the end of 2025. This is one of the priorities under the Sustainable Finance Roadmap.

Productivity Roundtable: Reforming Federal Environmental Laws

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The federal government convened the Productivity Roundtable from 19 to 21 August 2025 in Canberra. The event built on propositions to improve Australia's productivity, economic resilience and strengthen budget sustainability, as proposed by stakeholders during the public consultation period held in June and July of this year.

Among the key topics discussed was the need to reform and expedite approvals required under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC). The proposed reforms aim to streamline the approvals process by removing duplication between state and federal processes and will introduce strong national environmental standards that will set minimum expectations for a project. The discussions also highlighted the need for an independent regulator to be held to account for the speed and quality of its decisions.

The revised EPBC is expected to be proposed by the end of the year, which is six months ahead of schedule.

VIEW FROM ABROAD

US State Officials Warn Major Investment Firms Against Considering Sustainability Factors in Investments

On or around 29 July 2025, a coalition of 26 Republican state finance officials sent letters to various major investment firms to warn them against using "long-term risk mitigation" strategies that involve "speculative assumptions about the future" such as climate change.

The letters emphasise the importance of investment firms' traditional fiduciary duty, which is said to act as a safeguard to facilitate "efficient capital allocation" based on financial, not political considerations. The letter requests investment firms to take the following steps to confirm their commitment to their traditional fiduciary duty:

- Stop framing "deterministic future outcomes as long-term risks" to justify "immediate ideological interventions" through utilising corporate engagement or proxy voting, with climate change being an example of this issue;
- Commit not to use "passive investment vehicles for activist proxy voting or corporate engagement";
- Commit not to embed international political agendas into "default investment strategies and corporate engagement", citing net-zero climate mandates and EU's Corporate Sustainability Reporting Directive as examples;
- Have "clear and transparent proxy voting guidelines and stewardship practices" that focus on shareholder value, not environmental or social goals; and
- Provide full disclosure about all of its affiliations and collaborative initiatives that may influence its investment strategy or priorities, citing Climate Action 100+ as an example.

The letters invite investment firms to respond and provide detailed evidence that the firms' practices align with traditional fiduciary standards.

ICJ Advisory Opinion on States' Climate Change Obligations

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The International Court of Justice (ICJ) has released its Advisory Opinion on the "Obligations of States in respect of Climate Change". The ICJ that the consequences of climate change are "severe and far-reaching" and pose an "urgent and existential threat".

In summary, the ICJ reinforces that states have an obligation to reduce greenhouse gas (GHG) emissions under international law. The failure to do so may constitute "an internationally wrongful act" which is attributable to that state.

This follows the UN General Assembly's 2023 request for an advisory opinion outlining state obligations related to environmental protection, including any legal consequences for states causing significant climate harm.

The ICJ opines that all state parties to the United Nations Framework Convention on Climate Change (UNFCCC) are obliged to implement measures to mitigate GHG emissions and adapt to the adverse impacts of climate change. There is a further obligation imposed on developed countries to lead the charge in combating climate change by limiting their GHG emissions and enhancing their GHG sinks and reservoirs.

This ICJ opinion is not legally binding, however the obligations that it identifies are under international law. The ICJ notes that states are obliged to regulate the activities of private actors which impact climate change, sustainability and human rights.

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