



Environmental  
Defenders Office

**Submission to the Treasury- Sustainable Investment  
Product Labels**

**August 2025**

## **About EDO**

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

**Successful environmental outcomes using the law.** With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

**Broad environmental expertise.** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

**Independent and accessible services.** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

**[www.edo.org.au](http://www.edo.org.au)**

### **Submitted to:**

[climatereportingconsultation@treasury.gov.au](mailto:climatereportingconsultation@treasury.gov.au)

Director  
Labelling and Disclosure Unit  
Climate and Energy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

### **For further information on this submission, please contact:**

Revel Pointon  
A/g Deputy Director Policy and Law Reform

T: (02) 9262 6989  
E: [rachel.walmsley@edo.org.au](mailto:rachel.walmsley@edo.org.au)

Kirsty Ruddock  
Managing Lawyer- Corporate &  
Commercial

E: [kirsty.ruddock@edo.org.au](mailto:kirsty.ruddock@edo.org.au)

## Acknowledgement of Country

EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

## Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to provide comments on the Sustainable Investment Product Labels consultation.

### Summary of Recommendations

1. The suggested criteria for eligible labels:
  - a. Alignment with the goals of the Paris Agreement.
  - b. Incorporating principles of TNFD into the criteria such as deforestation and destruction of habitat;
  - c. Wholistic approach to sustainable objectives reflecting whole of life cycle of a product. E.g., A financial product must not be labelled "sustainable" if it has the single objective of limiting plastic waste but nevertheless invests in companies involved in fossil fuels or those whose activities cause deforestation.
2. Any involvement in the following activities should render financial products "unsustainable"
  - a. Extraction and production of fossil fuels
  - b. Deforestation

- c. Destruction of natural habitat
  - d. Impacts on First Nations rights or culture
- 3.** Sustainability claims must be verified by an independent third-party regulator
    - a. Verification and assessment must be science-based and align with the abovementioned Paris Goals and SBTi climate targets
  - 4.** Through a science-based approach, these new requirements for financial products will limit greenwashing. Although these measures may appear stringent and dissuade companies seeking to achieve 'sustainable' status, this scheme will provide an accurate representation of the true environmental impact of certain business activities and financial instruments.
  - 5.** Financial products making sustainability claims should divulge any investment in offsets.
  - 6.** A financial product should not qualify for a 'sustainable' label if it uses carbon credits to offset emissions from its primary activities rather than reducing emissions by altering or discontinuing these activities.
  - 7.** Adopt the "robust, evidence-based standard" used in the UK regime as set out above.
  - 8.** Avoid a multi-label system which has the potential to confuse consumers and potentially undermine products that are truly sustainable.
  - 9.** There should be a clear explanation of how sustainability labels are awarded to business (activities) and financial products that is based on rigorous science as outlined above.
  - 10.** An average retail investor should be able to understand what it means for a financial product to be considered sustainable.
  - 11.** The EDO supports the international alignment of sustainable finance frameworks to maximise consistency across jurisdictions but only to the extent that doing so does not import weaker standards into the Australian framework. As such, international alignment should only be prioritised if standards are science based and aligned with Australia's domestic emissions reduction targets and its international obligations under the Paris Agreement and the UN Convention on Biological Diversity.
  - 12.** The consultation paper identifies the most relevant approaches to sustainable labelling which would prevent greenwashing and promote clear communication with consumers. However, there is still a need for clear and specific criteria which an independent assessor could use to evaluate any claims made as to the sustainability of a financial product. Current third-party certifiers do not impose adequate assessment and accountability measures.
  - 13.** Further guidance through a legislative framework or Code is necessary.
  - 14.** This Code should rely on aligned 1.5°C pathways and scientific evidence to establish any labelling, and should be enforced by an independent third party.
  - 15.** The EDO recommends that only companies who make claims regarding the sustainability of their products should be subjected to independent review and required to certify their claims.

16. Further, the prompt review and removal of misleading labels will be essential for the ongoing public confidence in the validity of the labelling system.

17. Once again, the EDO believes that, if the Treasury is committed to rolling out labels that denote the sustainability of a financial product, it should err on the side of rigour and precision. This promotes a system which, although strict, can be fully trusted by public consumers, which should be the ultimate motivation for this scheme.

### Question 1- In the context of existing regulatory settings and disclosure requirements, what is the role for sustainable financial product labels?

1. The term 'sustainable' has been identified as a common broad or unqualified claim used by businesses according to the ACCC's 'Making Environmental Claims' guide.<sup>1</sup> Similarly, according to the EU Directive for the green transition, "the displaying of sustainability labels which are not based on a certification scheme, or which have not been established by public authorities should be prohibited"<sup>2</sup>.<sup>3</sup>
2. Today, consumers who seek to invest in more environmentally responsible products are frequently misled and deceived by corporate greenwashing. On this basis, EDO supports sustainable financial product labels if they are robust, scientifically based and provide investors with the requisite information to understand and compare the sustainability characteristics of financial products. EDO also supports a definition of sustainability that is consistent with the Brundtland report:

*"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."*<sup>4</sup>

3. To meet such a definition, it is important to ensure that scientifically verified evidence is provided in support of any sustainability claim.
4. It is important that investors can contribute to Australia's sustainability goals, particularly emissions reduction and nature protection targets. Rigorous sustainability labelling can ensure that capital flows, as intended by investors, to sustainable products. Such labelling would complement climate related financial disclosures (including disclosure of emissions reduction targets if a company has one), scope 3 emissions and scenario analysis.
5. It is important the standards and certification to support any sustainable labelling are robust and based on the best available science, otherwise sustainable labelling can result in greenwashing.

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<sup>1</sup> ACCC, [Making environmental claims - A guide for business | December 2023](#)

<sup>2</sup> Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024, <https://eur-lex.europa.eu/eli/dir/2024/825/oj/eng>

<sup>3</sup> See Proposed Green Transition Amendments Directive, Amendment 6.

<sup>4</sup> See [Sustainable Development | International Institute for Sustainable Development](#)

- a. For example, some of the sustainable certifications for timber, such as the Responsible Wood certification, have resulted in poor environmental outcomes. Statutory corporations like Forestry Corporation of NSW have been found by Courts to have breached their licence conditions and unlawfully logged,<sup>5</sup> while remaining certified as “Responsible Wood”.
- b. Likewise, there are significant issues with many Net Zero claims made by fossil fuel companies. Research commissioned by Climate Integrity, undertaken by the Institute of Sustainable Futures, examined 10 of Australia’s biggest companies’ Net Zero claims (AGL, Bluescope Steel, Cleanaway, Coles, Origin Energy, Qantas, Rio Tinto, South32, Telstra and Woolworths). It found that half of these companies are counting voluntary credits towards their emissions reduction targets, in place of making real emissions cuts.<sup>6</sup> These types of claims may be misleading, reinforcing the need for clearer guidelines in the form of a sustainable labelling standard.

**Existing regulatory settings and disclosure requirements:**

6. EDO supports the 2024 amendments<sup>7</sup> to the *Corporations Act 2001* that incorporated into ASX reporting obligations, climate disclosures in accordance with relevant standards made by the Australian Accounting Standards Board (currently AASB S2 Climate-related Disclosures). It is important that any further labelling reform is consistent with these requirements.
7. EDO reiterates the recommendations contained in its December 2023 [Submission to Treasury on the Sustainable Finance Strategy Consultation Paper](#) to ensure that sustainability-related issues are better integrated into financial decision making, including through amendments to key legislation including:
  - a. *Superannuation Industry (Supervision) Act 1993* (Cth)
    - i. The Australian superannuation industry has approximately \$3.5 trillion under management. The size of their holdings means that superannuation funds are uniquely positioned to engage with companies and other asset owners to drive the energy transition and deliver long-term investment outcomes. Failure to support the transition to a low-carbon economy could cost Australians billions in retirement savings as the financial risks from climate change increase.
    - ii. Accordingly, the EDO recommends the repeal of the 2021 amendments to s 52(2)(c) of the *Superannuation Industry (Supervision) Act 1993* (Cth) and redefine duties owed by superannuation trustees to explicitly allow for consideration of sustainability related matters.
  - b. *Corporations Act 2001* (Cth)
    - i. Introduce an “environmental judgment rule”, as recommended by the Australian Panel of Experts on Environmental Law,<sup>8</sup> comparable to the business judgment rule contained in s 180(2) of the *Corporations Act*. The rule would

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<sup>5</sup> See, e.g. [FCNSW fined for breaking bushfire harvesting rules | EPA](#); <https://www.theguardian.com/australia-news/article/2024/jul/31/forestry-corporation-of-nsw-has-a-pattern-of-illegally-damaging-the-environment-scathing-judgment-finds>

<sup>6</sup> [Net Zero is a loophole and Australian businesses are exploiting it — Climate Integrity](#)

<sup>7</sup> By the Treasury Laws Amendment (Financial Markets Infrastructure and Other Measures) Bill 2024.

<sup>8</sup> Australian Panel of Experts on Environmental Law, *The Private Sector, Business Law and Environmental Performance* (Technical Paper 7, April 2017) p 25.

shield a director from liability for any alleged breach of the best interests duty in s 181 in circumstances where the director made reasonable decisions to improve their company's environmental performance, despite those decisions not necessarily aligning with the financial interests of the company. This is particularly pertinent in light of "anti-ESG" claims in the US that allege certain duty holders have breached their duties to act in the best interests of an entity by pursuing sustainability-related objectives.

- c. *Public Governance, Performance and Accountability Act 2013 (Cth)*
  - i. Include a public derivative action mechanism modelled on ss 236 and 237 of the Corporations Act and a statutory injunction provision modelled on s 1324 of the Corporations Act, which is available to all members of the public, to ensure that officials (including directors) of government-owned corporations are as accountable as private company directors.

### **The role for sustainable financial product labels**

8. Sustainable financial product labels should apply to the full spectrum of financial products and clearly communicate the status of an investment option as either "sustainable" or "unsustainable".
9. A product's alignment with the temperature goals of the Paris Agreement (**Paris Goals**) should be determinative of its eligibility for a sustainable label. Many companies use terms which invoke assumptions of sustainability such as 'green', 'clean', or 'sustainable', when their activities do not align with the Paris Goals see paragraph 5(b) above.
10. Investment products that invest only in companies whose activities are consistent with the Paris Goals could be labelled "sustainable", while all others should by implication be "unsustainable". Investors cannot be expected to verify the sustainability status of a product and its true alignment with the Paris Goals, so this type of labelling is an important guide. Many companies use terms which invoke assumptions of sustainability such as 'green', 'clean', or 'sustainable', when their activities do not align with the Paris Goals (for example, through continued investment in fossil fuel expansion or reliance on carbon offsets in place of genuine emissions reductions).
11. Australia has also committed to sustainability goals and in 2022 signed the Kunming-Montreal Global Biodiversity Framework (**GBF**). Target 15 of the GBF requires signatories to:

*Take legal, administrative or policy measures to encourage and enable business, and in particular to ensure that large and transnational companies and financial institutions:*

- a. *Regularly monitor, assess, and transparently disclose their risks, dependencies and impacts on biodiversity, including with requirements for all large as well as transnational companies and financial institutions along their operations, supply and value chains, and portfolios;*
- b. *Provide information needed to consumers to promote sustainable consumption patterns;*
- c. *Report on compliance with access and benefit-sharing regulations and measures, as applicable;*

*in order to progressively reduce negative impacts on biodiversity, increase positive impacts, reduce biodiversity-related risks to business and financial institutions, and promote actions to ensure sustainable patterns of production.*

12. It is therefore imperative that sustainable labelling meets these objectives, particularly as there is evidence that all 19 Australian ecosystems have collapsed or are collapsing.<sup>9</sup> However, further amendments are needed to ensure nature disclosures and risks are incorporated into corporate decisions. Adopting the Taskforce on Nature Financial Disclosure (**TNFD**) recommendations into regulatory guidance would be a welcome starting point. However as indicated above, more work is required to ensure companies can make decisions to improve a company's environmental performance even when it is not in their financial interests. This is important because in many cases it is cheaper to make decisions that are less sustainable. For example, financially it is often cheaper for companies to purchase credits to argue they are net zero or comply with the safeguard mechanism than invest in real reductions in emissions.

## Recommendations

1. The suggested criteria for eligible labels:
  - a. Alignment with the goals of the Paris Agreement.
  - b. Incorporating principles of TNFD into the criteria such as deforestation and destruction of habitat;
  - c. Wholistic approach to sustainable objectives reflecting whole of life cycle of a product. E.g., A financial product must not be labelled "sustainable" if it has the single objective of limiting plastic waste but nevertheless invests in companies involved in fossil fuels or those whose activities cause deforestation.
2. Any involvement in the following activities should render financial products "unsustainable"
  - a. Extraction and production of fossil fuels
  - b. Deforestation
  - c. Destruction of natural habitat
  - d. Impacts on First Nations rights or culture

## Question 2- Should any new requirements apply to all financial products that make a claim or state a sustainability or similar objective other than, or in addition to, maximising financial returns?

13. New requirements should apply to all financial products that make a claim that their investment activities are sustainable (**Sustainability Claims**). There should be a duty imposed on issuers of financial products to verify the Sustainability Claims of each holding in their portfolio through an independent third-party certifier. For the reasons set out above, the EDO also recommends

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<sup>9</sup> Dana M. Bergstrom et al., 'Combating ecosystem collapse from the tropics to Antarctica' (2021) 27 *Global Change Biology* 1692, 1694

other amendments to corporations and superannuation laws to clarify that those bodies can explicitly consider sustainability matters and not just financial returns. Failing to consider sustainability, puts a company's long term economic returns at risk, as most companies have some form of nature dependency.

14. The sustainability of financial products should be scrutinised and verified by an independent third-party. In particular, the EDO is concerned that labelling programs such as the Sustainable Finance Taxonomy are being developed by the industry and not independently scientifically verified. The advisory group overseeing the proposed Taxonomy is comprised almost entirely of financial market participants which may not be sufficiently independent to facilitate a robust taxonomy design process and presents a real risk that the definition of "sustainable" will not be based in climate science. The Australian Sustainable Finance Initiative is also funded primarily by industry and financial institutions.
15. Sustainability claims should be consistently monitored and assessed for veracity to ensure investors are not misled. If applied inconsistently, there is a risk that products will falsely achieve a "green" label. It is also important that there is a clear process for enforcement and removal of any claims where issues arise.
16. The goal should be that all financial products should divulge the status of their investments as either sustainable or unsustainable, according to the alignment of the product's investments with the Paris Goals. However as outlined below, the EDO recognises the burden of labelling all products and therefore recommends a clear system for supporting Sustainability Claims as a priority.
17. Products that claim to be sustainable should do so based on best available scientific evidence. For example, mining companies cannot claim to be sustainable if they are clearing important areas of biodiversity and merely undertaking rehabilitation.<sup>10</sup> A strict standard should be applied to any investment in offsets. For example, it is not consistent with the science behind the Paris goals to claim that you can become net zero by only using offsets. Furthermore, programs like the Science Based Targets Initiative (**SBTi**) confirm that carbon credits should not be counted as emission reductions in companies' short or long-term target.<sup>11</sup> Avoidance and reduction offsets are measured against a counterfactual baseline, and do not contribute to halting the accumulation of atmospheric CO<sub>2</sub> and other GHG.
18. Climate science requires sustainable to mean that products are not continuing to expand fossil fuel use. For example, scientific literature states that to meet the Paris goals of limiting warming to 1.5°C requires a rapid shift away from traditional fossil fuel use towards large-scale low-carbon energy supplies, reduced energy use, and carbon-dioxide removal.<sup>12</sup> GHG

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<sup>10</sup> See [US mining giant Alcoa reported for alleged misleading or deceptive conduct - Environmental Defenders Office](#)

<sup>11</sup> Watson et al, 'SBTi Corporate Net-Zero Standard', *Science Based Targets* (Report PDF, October 2021)  
42. <https://files.sciencebasedtargets.org/production/files/Legacy-Net-Zero-Standard-V1.0.pdf>

<sup>12</sup> Rogelj et al, 'Scenarios towards limiting global mean temperature increase below 1.5 C' *Nature Climate Change* 8 (2018) 325-332, <https://www.nature.com/articles/s41558-018-0091-3>

emissions are showing no sign of decline,<sup>13</sup> meaning emissions cuts will need to be even greater. Scientists have also found that to stay within the temperature goals of the Paris agreement, most undeveloped fossil fuel reserves must remain unused.<sup>14</sup> The UN Emissions Gap 2024 report<sup>15</sup> also highlights that greenhouse gas emissions must fall by 42% by 2030, compared with 2019 levels, instead of reaching a new record in 2023.

19. This means that most fossil fuel companies who are continuing to expand - namely Santos, Woodside, BHP, Whitehaven, New Hope and Glencore - could not be categorised as sustainable given their expansions place the Paris Goals at risk. In that regard, we note a recent study which found that production by nearly two-thirds of the world's fossil fuel companies are not aligned with the temperature goals of the Paris Agreement.<sup>16</sup> For this reason, there has been suggestion that rather than promoting "net zero" targets, companies who wish to be sustainable should advocate for "real zero."<sup>17</sup> "Real zero" is a science-based approach to decarbonisation that phases out fossil fuels without reliance on offsetting and has been adopted by leading companies such as Fortescue, IKEA and Lendlease.
20. It is therefore imperative that all sustainability claims be assessed against the UN High-Level Expert Working Group on Net Zero Emissions Commitments of Non-State Entities.<sup>18</sup> According to the Working Group, "net zero" targets should:
  - a. include interim targets (including targets for 2025, 2030 and 2035) and plans to achieve net zero that are consistent with the Intergovernmental Panel on Climate Change (IPCC) or IEA modelled pathways that limit warming to 1.5°C with no or limited overshoot, and with global emissions declining at least 50% by 2030;
  - b. include Scope 1, 2 and 3 emissions across the entities' entire value chain;
  - c. account for all greenhouse gases (i.e., not just carbon dioxide);
  - d. include specific targets to end the use of and/or support for fossil fuels in line with the IPCC and IEA modelled pathways that limit warming to 1.5°C, including no new fossil fuel projects or the expansion of existing projects;
  - e. prioritise urgent and deep emissions reductions; and
  - f. only use carbon credits to offset residual emissions and not count offsets towards interim emissions reductions required by a net zero pathway.

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<sup>13</sup> Jones et al, 'National contributions to climate change due to historical emissions of carbon dioxide, methane and nitrous oxide', *EU Open Research Repository* (Web Page, November 2024). <https://zenodo.org/records/14054503>

<sup>14</sup> Welsby et al, 'Unextractable fossil fuels in a 1.5 C World' *Nature*, 597, 230-234 (2021). <https://www.nature.com/articles/s41586-021-03821-8>

<sup>15</sup> UNEP, 'No more hot air....please! Emissions Gap Report 2024' (Report PDF, 2024). <https://www.unep.org/resources/emissions-gap-report-2024>

<sup>16</sup> Rekker and Belinda Wade, *Nearly two-thirds of the top fossil fuel producers in Australia and the world aren't on track for 1.5 °C* (Website, accessed 23 November 2023) <[Nearly two-thirds of the top fossil fuel producers in Australia and the world aren't on track for 1.5°C climate target \(theconversation.com\)](https://www.theconversation.com/nearly-two-thirds-of-the-top-fossil-fuel-producers-in-australia-and-the-world-arent-on-track-for-1-5-c-climate-target)>

<sup>17</sup> [Fortescue, IKEA and Lendlease named global 'real zero' leaders in new research report — Climate Integrity](https://www.climateintegrity.com/news/fortescue-ikea-lendlease-named-global-real-zero-leaders-in-new-research-report)

<sup>18</sup> United Nations' High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities, *Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions* (Report, November 2022).

21. Similarly, Carbon Capture and Storage (**CCS**), should be used only sparingly, given the evidence is that it is not effective at scale. CCS that uses Enhanced Oil Recovery should also not be considered sustainable given that it increases the production and combustion of fossil fuels.<sup>19</sup> There are also significant risks associated with CCS. The world's largest commercial CCS project at Chevron's Gorgon LNG Project is an instructive example of both disappointing sequestration rates and low sequestration of total greenhouse gas emissions. By July 2021, the project had missed its CO<sub>2</sub> injection target by more than 50%, due to unforeseen engineering challenges.<sup>20</sup> In the 2022-23 financial year, Chevron still only buried a third of the carbon dioxide it committed to annually burying at the project.<sup>21</sup>

**Recommendations:**

3. Sustainability claims must be verified by an independent third-party regulator. Verification and assessment must be science-based and align with the abovementioned Paris Goals and SBTi climate targets.
4. Through a science-based approach, these new requirements for financial products will limit greenwashing. Although these measures may appear stringent and dissuade companies seeking to achieve 'sustainable' status, this scheme will provide an accurate representation of the true environmental impact of certain business activities and financial instruments.
5. Financial products making sustainability claims should divulge any investment in offsets.
6. A financial product should not qualify for a 'sustainable' label if it uses carbon credits to offset emissions from its primary activities rather than reducing emissions by altering or discontinuing these activities.

**Question 3: What aspects of international regimes should the Government consider for Australian application?**

**UK Sustainability Disclosure Requirements:**

22. The UK regime is designed to improve trust and transparency in the market for sustainable investment products by helping consumers identify products that align with their sustainability preferences. The regime applies to both UK asset managers and UK-domiciled products marketed in the UK.

Elements that should be considered:

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<sup>19</sup> Bruce Robertson and Milad Mousavian, *The Carbon Capture Crucial: Lessons Learned* (September 2022) (IEEFA Report), p.32.

<sup>20</sup> Institute for Energy Economics and Financial Analysis, *The Carbon Capture Crucial: Lessons Learned* (Report, September 2022) p 30

<sup>21</sup> Chevron, *Gorgon Gas Development and Jansz Feed Gas Pipeline: Environmental Performance Report 2023* (7 November 2023) pp 63-64.

23. The “robust, evidence-based standard” set out in the UK regime should be applied to both financial products and business activities in Australia:<sup>22</sup>
- a. Systematic; methodologies and approaches should be applied in the same way across all investments,
  - b. Evidence-based; objective and relevant datasets must underpin ESG analyses and methodologies,
  - c. Robust; the methodology should stand up to the scrutiny of a third-party assessor/regulator (however, the UK regime has no explicit reference to the source of this scrutiny), and
  - d. Absolute measure; an asset undergoes a pre-set threshold test and either qualifies as sustainable, or it does not – products should not rely on comparative or relative measures of sustainability.
24. These measures should only be included in the Australian model if there is a 'science-backed' evidentiary standard.

Elements that should be avoided:

25. The UK model is a four-label system that does not require a portfolio or product to be entirely sustainable. To be eligible for a label in the UK system, at least 70% of a product’s assets are to be invested in accordance with the objective(s) of the label, which include:
- a. Sustainability focus; For products aiming to invest mainly (70%) in assets that are environmentally and/or socially sustainable, based on a robust, evidence-based standard,
  - b. Sustainability improvers; For products investing mainly (70%) in assets that have the potential to become more sustainable over time, with an aim to improve their sustainability,
  - c. Sustainability impact; for products aiming to achieve a pre-defined, measurable, positive impact in relation to an environmental and/or social outcome, and
  - d. Sustainability mixed goals; accommodating products that have a sustainability objective to invest across a combination of the objectives of the other three labels.
26. The use of ‘sustainability’ in labelling for products without the requirement that these products are investing in activities are truly sustainable is problematic for the average consumer. The EDO believes that the implementation of a 4-label system increases the likelihood of consumer confusion and potentially erodes the merit of a product which is truly sustainable.
27. The UK regime sets out evidentiary criteria for sustainability claims such as objectives, assets, KPIs, strategies for goal delivery, monitoring, and reporting to ensure compliance. However, the ‘independent assessment’ of the corporation’s sustainability claim can be conducted internally.<sup>23</sup> This could undermine the integrity of the labelling process.

## **EU Sustainable Finance Taxonomy**

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<sup>22</sup> [FG24/3: Finalised non-handbook guidance on the Anti-Greenwashing Rule](#)

<sup>23</sup> <https://www.fca.org.uk/publication/finalised-guidance/fg24-3.pdf>, p. 36.

28. The EDO would not recommend following the EU Sustainable Finance Taxonomy (EU Taxonomy) as it includes investment in natural gas as a transitional activity despite the European Union Platform on Sustainable Finance, the EC’s scientific expert advisory group, recommending that natural gas not be included in this category.<sup>24</sup>

**Recommendations:**

7. Adopt the “robust, evidence-based standard” used in the UK regime as set out above.
8. Avoid a multi-label system which has the potential to confuse consumers and potentially undermine products that are truly sustainable.

**Is there merit in incorporating additional rules around the type of information required to be disclosed to consumers about sustainability characteristics, similar to the UK’s consumer-facing disclosures requirements?**

29. The UK model intends disclosures to be consumer-facing. This is achieved by requirements for a clear sustainability objective, investment approach, and a performance summary based on the outcomes set out in the sustainability objective. There is a focus on accessibility for retail investors, rather than institutional investors.<sup>25</sup> This is an appropriate goal for the Australian labels; however, the Australian scheme should avoid confusion by refining the labelling system. As detailed above, the UK system promotes multiple different labels, some of which allow for investment activities that a reasonable person would assume to be prohibited.<sup>26</sup> The EDO also believes that the 70% threshold for sustainability categories, as occurs in the UK, is low and may mislead consumers.<sup>27</sup>

**Recommendations:**

9. There should be a clear explanation of how sustainability labels are awarded to business (activities) and financial products that is based on rigorous science as outlined above.
10. An average retail investor should be able to understand what it means for a financial product to be considered sustainable.

**Question 4: Is international interoperability important for Australian sustainable investment product labelling?**

30. International interoperability is important for Australian financial products. Alignment with international frameworks avoids regulatory fragmentation, decreasing costs, and facilitates access to international capital markets, attracting investment to Australia. As such, Australia’s

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<sup>24</sup> Platform on Sustainable Finance, *Response to the Complementary Delegated Act* (21 January 2022).

<sup>25</sup> [Cross-trade WG Guidance on SDR CFD - May 2024.pdf](#)

<sup>26</sup> <https://www.investmentweek.co.uk/analysis/4341103/easy-doable-implications-adopting-sdr-label>.

<sup>27</sup> <https://www.stewartinvestors.com/all/insights/proposed-sustainable-disclosure-requirements.html>.

taxonomy aligns in many ways with the EU taxonomy and approach.

31. However, the EDO is concerned that the practicalities of international interoperability in standardised labelling would increase the risk of greenwashing. The rigorous standards – verification of any claims by independent, scientific assessment – which the Australian labels should aim to uphold are likely to be somewhat incompatible with the EU and UK frameworks.

**Recommendation:**

11. The EDO supports the international alignment of sustainable finance frameworks to maximise consistency across jurisdictions but only to the extent that doing so does not import weaker standards into the Australian framework. As such, international alignment should only be prioritised if standards are science based and aligned with Australia’s domestic emissions reduction targets and its international obligations under the Paris Agreement and the UN Convention on Biological Diversity.

**Question 5 – Do the Responsible Investment Approaches (identified in Table A), UNSDG and PRI cover the field for sustainable investment approaches? Are there others that should be considered?**

- a. Are any of these approaches inappropriate? If so why?**
- b. What are the merits and deficiencies of each approach?**
- c. Should the approaches be ranked on their ability to deliver sustainable outcomes?**

32. The “Responsible Investment Approaches”—screening, ESG integration, thematic investing, stewardship, and impact investing—reflect the movement toward globally harmonised definitions and effectively capture the broad spectrum of strategies used in practice.
33. The use of the UNSDGs for alignment and PRIs as a framework and procedural integrity are beneficial in the opinion of the EDO
34. There is a necessity for clear definitions, like those in Table A, to be explicitly defined in legislation to formalise the conditions to be met for investing activities of financial products to be considered sustainable.
35. Third-party certification from the likes of RIAA and B Corp are available to product issuers who seek to affirm their responsible investment practices.
36. Eligibility under the Responsible Investment Association Australasia (**RIAA**) requires companies to offer an investment style that considers environmental, social, governance, or ethical considerations. This includes strict operational and disclosure practices and make publicly available specific details of the service. The process also involves various certifications and assurances including providing evidence of certification and process of using external ESG research databases.
- a. The issue with the RIAA approach is that the industry experts who carry out assessments are not necessarily independent, nor are they experts in the science of sustainability.

- b. RIAA is reliant on either the offending company admitting to breaching the certification or members or clients to raise the issue. RIAA relies heavily on third parties to enforce the standards also rather than having a transparent third-party complaint based system.

37. **B Corp** similarly certifies products according to impacts on community, environment, governance, customers, and workers.<sup>28</sup> The legitimacy of B Corp, namely the scrutiny of clients they accredit (such as Shell and Nestle), has been questioned in the past.<sup>29</sup> The system also appears to be contingent on companies self-reporting.<sup>30</sup> For these reasons, the EDO do not consider B Corp certification as a suitable basis to establish sustainability.

38. For these reasons, the EDO does not believe that an industry-based rating is suitable to determine if a product is sustainable, particularly as it allows for a particular range of funds to be “sustainable” and include non-sustainable components.

#### **PRI**

39. The Principles for Responsible Investment (**PRI**) allow an organisation to demonstrate its commitment to incorporating environmental, social and governance factors into its investment decisions and ownership practices.<sup>31</sup> It is a collaborative, investor led organisation where signatories agree to report on their activities when signing the Principles. There is a minimum requirement that sets out responsible investment policy elements apply to more than 50% of all portfolios they hold. This threshold is not particularly high and therefore more of an aspiration than a rigorous process. For this reason, the EDO would not recommend using this process to determine

#### **Recommendations:**

12. The consultation paper identifies the most relevant approaches to sustainable labelling which would prevent greenwashing and promote clear communication with consumers. However, there is still a need for clear and specific criteria which an independent assessor could use to evaluate any claims made as to the sustainability of a financial product. Current third-party certifiers do not impose adequate assessment and accountability measures.

### **Question 6: Should allowable investment approaches be prescribed in legislation, or left for the industry to define?**

40. The EDO stands by its recommendations in the above sections that industry standards are not sufficiently aligned with the Paris Goals. Thus, the EDO does not support leaving the industry to define labels such as sustainability.

<sup>28</sup> <https://bcorporation.com.au/become-bcorp/guide/overview/>.

<sup>29</sup> <https://www.bbc.com/worklife/article/20240202-has-b-corp-certification-turned-into-corporate-greenwashing>

<sup>30</sup> <https://www.choice.com.au/shopping/packaging-labelling-and-advertising/labelling/articles/b-corps>.

<sup>31</sup> [PRI | Home](#)

41. As discussed under **Question 3**, international regulators have mainly used rules and guidance (not primary legislation) to define label eligibility and guardrails.
42. The Sustainable Finance Taxonomy illustrates that compromises have been made to ensure investability across a wide range of products, rather than to elevate the rigour of sustainability labelling standards. EDO remains concerned that the simplistic criteria adopted in the taxonomy may result in issues in describing projects as green or eligible for transition funding. In particular, the taxonomy does not wholistically assess whether a company is “green” or sustainable. This conflicts with the directions under Australian Consumer Law, being Schedule 2 to the *Competition and Consumer Act 2010* (Cth) as set out in the ACCC’s Making Environmental Claims - A guide for business (the **Guide**)<sup>32</sup>. The Guide uses the term “green” as an example of a broad and unqualified claim which has the risk of misleading consumers.<sup>33</sup> The taxonomy also makes broad claims, as the criteria adopts emissions limits or intensity limits for a particular activity. It does not consider all environmental impacts or whole of life cycle emissions of an activity, before labelling it green. This is inconsistent with the Guide which states that the full lifecycle of products and services, or overall activities, should be considered before making any environmental claims.<sup>34</sup>
43. The EDO in previous submissions on the Taxonomy indicated that it believed it had the potential to mislead in respect of mining, aviation and forestry. We also expressed concerns that the agricultural TSC was not credible as it did not demonstrate how it would align with a 1.5°C pathway. Likewise, the AgroForestry decarbonisation method allows for planting woody perennials over at least 20% of the project area. However, there is no consideration of whether the woody perennials should be native species endemic to the area to more broadly improve the environment. In respect of the TSC concerning afforestation, reforestation and rehabilitation (A4) there is little consideration of the overall impact of forestry in consideration of whether it should be termed “green”. The EDO also noted that multiple forestry TSCs are also reliant on the Program for Endorsement of Forest Certification (PEFC) (A4. Afforestation, Reforestation and Rehabilitation, and A5. Existing Forest Management) which we do not support due to the inadequacies in the PEFC scheme. In Australia, the Responsible Wood certification scheme has been endorsed by PEFC. The Responsible Wood certification rules do not certify ethical or sustainable practices, but rather a forest management system which is based on general criteria developed by Responsible Wood (and endorsed by PEFC). For example, a report from a Responsible Wood certifier BSI Australia found no non-conformance with the Responsible Wood certification trademark in relation to VicForests despite a finding in the Federal Court that VicForests past and proposed logging breached Victorian logging laws (*VicForests v Friends of Leadebeater’s Possum Inc* [2021] FCAFC 66).
44. To achieve certainty this needs to be done through legislation or in the alternative through industry codes under the Australian Consumer Law. This will provide sufficient certainty to both consumers and business of the rules.

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<sup>32</sup> <https://www.accc.gov.au/system/files/greenwashing-guidelines.pdf>

<sup>33</sup> <https://www.accc.gov.au/system/files/greenwashing-guidelines.pdf>, p.24.

<sup>34</sup> <https://www.accc.gov.au/system/files/greenwashing-guidelines.pdf>, p.17.

## Question 7: Which approach can best improve the confidence of Australian investors? Which options best help investors to identify, compare and make informed decisions about sustainable investment products?

45. Due to greenwashing, consumers and investors remain concerned about the labelling of products. The recent decisions of the Federal Court in various cases brought by ASIC against Mercer<sup>35</sup>, Vanguard<sup>36</sup> and LGSS Super (Active Super)<sup>37</sup> illustrate the issues. While there are current laws that enable enforcement to be taken, there are simply too many misleading statements for the regulators to act against them all. For example, the ACCC Sweep in late 2022, that reviewed 247 businesses found that more than half (57%) made misleading or unsubstantiated claims.<sup>38</sup>
46. The confidence of Australian investors is impacted most significantly by:
- The independence and scientific rigour applied in the assessment of a product's alignment with sustainability goals, and
  - The clarity with which the criteria used in assessing the sustainability of a product are communicated to the average retail consumer
47. Although there is a risk that the demands of the labelling criteria appear onerous, it is the only functional way to ensure the trust of Australian investors.

### Recommendations:

13. Further guidance through a legislative framework or Code is necessary.
14. This Code should rely on aligned 1.5°C pathways and scientific evidence to establish any labelling, and should be enforced by an independent third party.

## Question 8: What should determine when product labels apply to a financial product? What are the benefits and costs of:

- Applying labels to all financial products regardless of sustainability claims.
- Applying them only to products that market themselves as sustainable or similar?

48. While the EDO would support guidance on all financial products including those that are unsustainable, the regulatory burden of doing so may outweigh the benefits.

<sup>35</sup> *Australian Securities and Investment Commission v Mercer Superannuation (Australia) Ltd* [2024] FCA 850.

<sup>36</sup> *Australian Securities and Investments Commission v Vanguard Investments Australia Ltd* [2024] FCA 308

<sup>37</sup> *Australian Securities and Investment Commission v LGSS Pty Ltd* [2024] FCA 587

<sup>38</sup> [ACCC 'greenwashing' internet sweep unearths widespread concerning claims | ACCC](#)

49. The EDO supports products that market themselves as sustainable being required to certify their products based on a scientifically based standard. It is also important that breaches of the standard result in the immediate removal of the label from product's marketing. Climate Active labelling is still present on many products that have ceased being credited under that scheme.
- a. For example, MJ Bale represents on its website that "We are officially "Net Zero Now" becoming in 2021 Climate Active-accredited as Australia's first fully carbon neutral fashion brand".<sup>39</sup> MJ Bale withdrew from Climate Active in September 2024. Its last report was submitted to Climate Active in June 2023 and around 21,809 tonnes of CO2 emissions have not been offset.
  - b. Mornington Peninsula Council represents on its website that it has "met the requirements of the Climate Active Carbon Neutral Standard for organisations and is now certified as a carbon neutral business".<sup>40</sup> Mornington Peninsula Council has not submitted a report since 30 June 2021 and ceased to be a member of Climate Active in March 2025 but is still advertising as a member. This is despite the representation on their website stating they are calculating their emissions annually and offsetting residential emissions. The emissions not offset are considerable, at around 95,023 tonnes of CO2 equivalent.

**Recommendations:**

- 15. The EDO recommends that only companies who make claims regarding the sustainability of their products should be subjected to independent review and required to certify their claims.
- 16. Further, the prompt review and removal of misleading labels will be essential for the ongoing public confidence in the validity of the labelling system.

### Question 9: Which approach would best address issues of greenwashing or greenhushing?

50. As outlined above, to ensure less regulatory burden, the EDO suggests that only those companies using the claims should be required to certify them. The fact that certification would be required to base a claim, should then encourage companies to invest in ensuring their product is truly sustainable. It can then be inferred that the lack of sustainable labels that a product is in fact not sustainable.
51. The EDO recognises the significant risk that providers of financial products will consider the requirements too burdensome to justify attempts to achieve a sustainable label. However, there is no practical way in which the duty to provide scientifically accurate and transparent disclosure of a particular product's impact can be lessened without risking large-scale greenwashing.

<sup>39</sup> MJ Bale, 2024, 'About Us', available at <https://www.mjbale.com/pages/about-us>, accessed 22 April 2025.

<sup>40</sup> Mornington Peninsula Shire, 'Carbon Neutral Policy', available at <https://www.mornpen.vic.gov.au/About-Us/Strategies-Plans-Policies/Policy-Listing/Carbon-Neutral-Policy>, accessed 22 April 2025.

## Question 10: What features of a financial product should trigger a labelling requirement?

### a. Should particular words or terms be specified?

52. All generic terms such as use of sustainable, net zero and other such terms should be the basis of a rigorous scientific standard of evidence to justify their use, as set out above.

### b. Should it be based on a threshold such as per cent of a product invested under a sustainable investment approach or objective?

53. The EDO does not support using a threshold for defining sustainability. This could give a misleading impression that the product is sustainable overall. For example, a financial product labelled “sustainable” may have the single objective of limiting plastic waste but nevertheless invest in companies involved in fossil fuels or those whose activities cause deforestation. This has been a common issue with super funds, with many assessing the concept of sustainability or net zero across their portfolio, while still investing in companies who are unsustainable.

#### **Recommendation:**

20. Once again, the EDO believes that, if the Treasury is committed to rolling out labels that denote the sustainability of a financial product, it should err on the side of rigour and precision. This promotes a system which, although strict, can be fully trusted by public consumers, which should be the ultimate motivation for this scheme.

## Question 11: Should evidentiary requirements underpinning labelling be prescriptive, principled or a mixture of both?

54. The EDO believes that the only way to ensure a reduction in greenwashing is to have a regime that is based on the best available science and is clear through prescriptive rules. Principles alone will not provide consumers with sufficient information to base their decisions.

## Question 12: Should evidentiary requirements for investment product labels be linked to other policy initiatives being progressed as part of the Roadmap (such as the taxonomy)?

55. The EDO has expressed key concerns around the development of the Sustainable Finance Taxonomy being led by the industry and not independent experts in the area. As a result, we would not recommend that the labelling scheme be linked with the taxonomy, unless the taxonomy standards are improved to ensure they meet scientific criteria and do not also have transition standards.

## Question 13: What should be the role of independent third party certification?

### a. If third-party certification is required, what criteria should the product be certified against and who should set those criteria?

56. The EDO believes that rigorous third party certification should be used to establish claims. It is important however that as proposed in the EU, the process is independent. The EDO has observed an increasing proliferation of environmental and sustainability claims made in the form of labels. The labels are often in a form of a trust mark, quality mark or equivalent setting apart and promoting a product, service or business with reference to its environmental or sustainable aspects. These labels are sometimes based on certification schemes which certify that a product, service or business meets the requirements set up by the scheme. These also include certification trade marks (**CTMs**), specific trade marks which have rules about how the mark can be used and require ACCC approval prior to registration and for variation of the CTM rules<sup>41</sup> However the real issues with certification were illustrated by the ACCC green claims sweep as a number of claims based on certification schemes did not describe the nature of the certification scheme, or how it applied to their product or business.<sup>42</sup>

57. The various Forestry sustainability marks have shown the difference between the standards. the Responsible Wood CTM, is said to help companies and consumers identify and promote materials from sustainably managed forests.<sup>43</sup> The EDO are concerned that the use of the word “responsible” in the CTM may have the potential to mislead consumers. Contrary to what consumers may expect when they see the words “Responsible Wood” on an end product, the certification rules do not certify ethical practices but, similar to the salmon certification, a sustainable forest management *system* which is based on general criteria developed by Responsible Wood. For example, a report from a Responsible Wood certifier BSI Australia found no nonconformance with the CTM in relation to VicForests despite a finding in the Federal Court that VicForests past and proposed logging breached Victorian logging laws.<sup>44</sup> Forestry Corporation of NSW has also retained its certification despite significant prosecution by the Environmental Protection Agency in recent years, including for breaching conditions of its

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<sup>41</sup> *Trade Marks Act 1995* (Cth), s173. ACCC approval is also required to assign a CTM to a new owner: sections 180, 181.

<sup>42</sup> Greenwashing by businesses in Australia- findings of ACCC's internet sweep' (Final Report, March 2023) <<https://www.accc.gov.au/about-us/publications/greenwashing-by-businesses-in-australia-findings-of-acccs-internet-sweep>>.

<sup>43</sup> We also note the International Consortium of Investigative Journalists' findings that environmental auditing and certification programs intended to promote responsible forestry and other social goals frequently validate products linked to deforestation, logging in conflict zones and other harmful activity. Although the investigation did not include specific findings in relation to Australia, we are concerned that similar issues may also arise.

<sup>44</sup> *VicForests v Friends of Leadebeater's Possum Inc* [2021] FCAFC 66.

integrated forestry operations approval,<sup>45</sup> breaching conditions of a biodiversity licence<sup>46</sup> and breaching conditions of a threatened species licence.<sup>47</sup>

## **b. If third party certification is not required, how can credibility and robustness of labels be ensured?**

58. As mentioned above, the EDO believes certification is required to establish credible labelling. Furthermore, there should be a clear process to remove certification or labels where issues are identified. For example, the issue of salmon labelling showed the terms “responsibly sourced”, ‘responsibly farmed’ and ‘best aquaculture practice’ on salmon or ocean trout packaging and on promotional materials and signage in supermarkets as well as online shopping, which connote that the products on which they appear were farmed in an environmentally and ecologically sustainable manner were misleading. This was because they contained broad and unqualified claims about responsible sourcing of salmon or ocean trout without sufficient disclaimers of the limitations of these claims. The products also farmed in Macquarie Harbour have been shown to have devastating impacts on the endangered Maugean skate and surrounding environment. These claims were loosely based on certifications that didn’t adequately ensure that the environmental impacts of salmon farming in Macquarie harbour and its updates on endangered species was addressed.

*Thank you for the opportunity to make this submission.  
Please do not hesitate to contact our office should you have further enquiries.*

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<sup>45</sup> *Environment Protection Authority v Forestry Corporation of NSW* [2022] NSWLEC 75.

<sup>46</sup> *Environment Protection Authority v Forestry Corporation of NSW* [2022] NSWLEC 70.

<sup>47</sup> *Chief Environmental Regulator of the Environment Protection Authority v The Forestry Corporation of New South Wales* [2017] NSWLEC 132