

# NSW Government Submission to the Australian Government on the Sustainable Finance Strategy: Consultation Paper

## Summary

### NSW Government position

The NSW Government welcomes the opportunity to provide feedback on the Australian Government's Sustainable Finance Strategy Consultation Paper (the Strategy).

The NSW Government recognises the importance of sustainable finance in supporting a resilient and prosperous economy in which our communities thrive. By integrating environmental, social and governance (ESG) considerations into its economic and financial decision making, the NSW Government continues to mitigate ESG risks and realise related opportunities for the lasting benefit of the state.

The NSW Government recognises the central role governments have in sustainable finance; as an enabler, authority and (market) participant. The NSW Government is committed to addressing climate change, nature loss and social equity, while focusing on supporting the community to meet the challenges associated with the increasing cost of living while also improving the delivery of essential services and infrastructure.

Some of the more recent NSW policies and initiatives which will contribute to a number of the Strategy's priorities are detailed below.

- The Net Zero Plan Stage 1: 2020–2030 is the foundation for the NSW Government's action on climate change and sets out how it will deliver on emissions reduction targets over the next decade.
- The NSW Government has reinforced its commitment to address climate change by legislating Climate Change (Net Zero Future) Bill 2023<sup>1</sup> the NSW's net greenhouse gas emissions reduction targets – net zero emissions by 2050 and at least a 50% reduction on 2005 net emissions levels by 2030. Under this legislation the NSW Government will also set an objective for NSW to be more resilient to a changing climate, and establish an independent Net Zero Commission to monitor, review and report on progress towards the 2030 and 2050 targets and the objective.
- In 2023 the Electricity Supply and Reliability Check Up<sup>2</sup>, an independent review of the Electricity Infrastructure Roadmap, was conducted to identify any additional steps required to ensure a reliable supply of clean, affordable energy. The review made key recommendations relating to the establishment of the NSW Energy Security Corporation and enhancing social outcomes.
- A statutory review of the Biodiversity Conservation Act 2016<sup>3</sup> was conducted in 2023 to determine whether the policy objectives of the Act remain valid and whether the terms remain appropriate for securing those objectives.

### Summary of NSW Government feedback

The NSW Government recognises the importance of sustainable finance and welcomes the Strategy. The NSW Government:

- Supports the efforts of the Australian Government in climate-related disclosures and welcomes the adoption of a climate first but not climate only approach and the proposed phased approach where larger entities disclose first.

<sup>1</sup> See the Climate Change (Net Zero Future) Bill 2023, <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18510>

<sup>2</sup> See the Electricity Supply and Reliability Check Up, 2023, <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/electricity-supply-and-reliability-check>

<sup>3</sup> See the Statutory review of the Biodiversity Conservation Act 2016, 2023 <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform/statutory-review-of-the-biodiversity-conservation-act-2016>

- Recognises the important role taxonomies play, within an ecosystem of complimentary regulations, disclosures and standards, to credibly and transparently support the flow of capital to investable sustainable activities which directly contribute to the achievement of local and global sustainability targets and goals.
- Recognises the urgency in providing transition planning support and guidance for industry (inclusive of disclosure requirements) to help meet net zero targets and to achieve an orderly transition.
- Supports the development of more standardised labelling arrangements to mitigate greenwashing<sup>4</sup> concerns and notes the challenge of formulating a single metric (label). To capture broader ESG objectives, labelling may need to consider the need for a suite metrics.
- Supports greater consistency and transparency to address misconduct in sustainable finance markets through ESG ratings regulation, however ESG ratings and associated regulation need to be designed and implemented in a manner to avoid unintended consequences like “greenhushing”<sup>5</sup>.
- Encourages the Australian Government to consider that economy-wide climate-risk assessments are undertaken, where climate and transition scenarios selected are agreed by jurisdictions.
- Recommends that specific data needs of governments, investors and industry across the key sustainability thematic areas (including climate physical and transition risks and nature/natural capital) should be identified first, prior to any additional data promulgation.
- Supports the proposal to extend the performance test lookback period from eight to ten years to encourage long-term investment approaches, particularly in the context that longer-term investment is key for transition planning and net zero.
- Supports the first green bond issuance occurring during calendar year 2024 and recommends establishing a program framework and administration of the asset pool consistent with market leading practice. This will ensure credibility of the program, which can be enhanced by minimising frequency of refinancing and limiting the lookback period. A clear linkage to government policy or policy announcements also enhances additionality.
- Supports the expanded role for Clean Energy Finance Corporation (CEFC) to increase flexibility and the range of products to unlock investment opportunities and renewable energy development but cautions that including nature/biodiversity co-benefits could add additional complexity/cost to financial products.
- Suggests Australia can build credibility through developing robust sustainable finance methods, tools and standards in collaboration with government and industry to attract investment. National Australian Built Environment Rating System (NABERS) is an example of a methodology developed by Australian governments, in collaboration with industry, where Australia can develop equivalents for the residential sector, transition activities by sector and for nature-related assets.

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<sup>4</sup> Greenwashing is the practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical, <https://asic.gov.au/regulatory-resources/financial-services/how-to-avoid-greenwashing-when-offering-or-promoting-sustainability-related-products/>

<sup>5</sup> Greenhushing is when organisations take steps to stay quiet about their climate strategies. They do this through avoidance or refusal. See [What is greenhushing? - The Corporate Governance Institute](#)

## NSW Government feedback on the Sustainable Finance Strategy

### Pillar 1: Improve transparency on climate and sustainability

#### Priority 1: Establish a framework for sustainability-related financial disclosures

*What are the opportunities for Government, regulators and industry to support companies to develop the required skills, resources and capabilities to make climate disclosures under the proposed new obligations?*

*How should the Government, regulators and industry prepare for global developments in sustainability-related financial disclosure frameworks and standards, including the TNFD?*

The NSW Government welcomes the adoption of a climate first, but not climate only, approach to sustainability disclosures and acknowledges that a credible disclosure needs to be built on robust processes and consistent or comparable information over time. The NSW Government also recognises that entities and industries need to lift capability in preparing sustainability disclosures. We therefore support the proposed phased approach where larger entities disclose first. Until the quantitative frameworks are available to measure and disclose consistently, the Australian Government may also consider providing flexibility for entities to start with more succinct and qualitative disclosures.

We see merit in government providing guidance, training programs and a data repository that helps companies develop the required skills and capabilities to identify, manage and disclose climate matters. Suggested priority areas for support include transition planning, climate scenario analysis, preparing for assurance of disclosures and scope 3 emissions measurement and reporting.

It is also recommended that the Australian Government and regulators consider how to balance the costs and benefits associated with climate-related disclosures in designing the associated legal and regulatory frameworks.

In determining what future disclosure priorities should be, the NSW Government suggests the Australian Government adopts the International Sustainability Standards Board's (ISSB's) forward agenda priorities and support programs, tailored to Australian circumstances. Mindful of the recommendations to prioritise future disclosures in line with ISSB, the NSW Government also suggests the Australian Government take the following into account, to inform additional considerations in preparing for developments in sustainability-related disclosures:

- There may be merit in reassessing the adoption of 'double materiality'<sup>6</sup> disclosures once Australian reporting entities have undergone a transition period to build their capabilities, resources and data for climate-related or other types of sustainability disclosures. The NSW Government notes the potentially greater demand for relevant capabilities, resources and skills given the more extensive scope of disclosures under the double materiality concept. Australia may also benefit from learning from the EU's move to double materiality in its directives related to sustainability reporting. The International Public Sector Accounting Standards Board (IPSASB) is progressing a project of advancing public sector sustainability reporting. Noting the broader range of user groups for public sector reporting, the IPSASB has proposed to focus on materiality as one priority area for future guidance development.<sup>7</sup>
- Nature is being considered by ISSB as the likely next disclosure priority area. Nature-related risks are location specific and thus present unique challenges for a standardised, comparable approach across companies and geographies. Therefore, the NSW Government recommends that the Australian Government considers taking a lead on and encouraging the following in the short-term; dependency mapping; voluntary nature-related disclosures, clarifying standard metrics and considering how to internalise the value where applicable.

<sup>6</sup> 'Double materiality' means that a disclosure is material if it is material from an "impact" perspective (e.g. affects employees, customers, vendors, environment), a financial perspective (e.g. investors, creditors) or a combination of both. See ISSB update at the [Global Preparers Forum meeting, March 2023](#)

<sup>7</sup> See 'Advance Public Sector Sustainability Reporting', IPSASB, May 2022, <https://www.ipsasb.org/publications/consultation-paper-advancing-public-sector-sustainability-reporting>

## Priority 2: Develop a Sustainable Finance Taxonomy

*What are the most important policy priorities and use cases for an Australian sustainable finance taxonomy? What are the key insights from international experience to date?*

*What are priorities for expanding taxonomy coverage after the initial focus on climate mitigation objectives in key sectors?*

*What are appropriate long-term governance arrangements to ensure that the taxonomy is effectively embedded in Australia's financial and regulatory architecture?*

The NSW Government recognises the important role taxonomies play. Within an ecosystem of complimentary regulations and disclosures and standards, taxonomies credibly and transparently support the flow of capital to investable sustainable activities. The NSW Government also appreciates that the implementation of green/sustainable finance taxonomies are still in their infancy globally and that even the more mature and robust taxonomies (the EU for example) have significant challenges in their development and limited uptake by investors. There is therefore a need to learn from international experience in the design and implementation of the Australian taxonomy.

The NSW Government supports the proposed coverage of the taxonomy to focus on climate mitigation activities. Caution is recommended regarding any specific recommendations on future coverage of the taxonomy given the significant difference between the maturity of investable climate mitigation activities and potential investable activities associated with, for example, nature positive activities. Even for climate mitigation activities, there are still significant challenges in defining transition-related activities for a taxonomy. Therefore, the NSW Government suggests that the taxonomy would be best informed by ensuring consistency with any sectoral transition pathway modelling and planning guidance being developed by Australian and state governments.

Whilst the principle of "do no significant harm" has been adopted in the EU taxonomy, it is very challenging to define and apply consistently. The NSW Government recommends that a clear definition and reporting guidance is developed to support reporting by companies with diversified business activities and impacts.

The NSW Government supports the development of a taxonomy to classify eligible green or transition activities that underpin green or transition-aligned financial instruments including bonds and loans.

The NSW Government supports the suggested permanent governance arrangement (overseen and maintained by a government agency/entity) proposed in the Strategy, and consideration of options to embed relevant aspects of the taxonomy into regulatory arrangements. The NSW Government recommends that Australian Government agencies and jurisdictions contribute to the technical development of the taxonomy from the start directly via the Council on Federal Financial Relations (CFFR) and the Council of Financial Regulators (CFR).

### Priority 3: Support credible net zero transition planning

*What are key gaps in Australian capability and practice, including relative to 'gold standard' approaches to transition planning developed through the TPT and other frameworks?*

*To what extent will ISSB-aligned corporate disclosure requirements improve the transparency and credibility of corporate transition planning? What additional transition disclosure requirements or guidance would be most useful in the medium-term?*

*Are there related priorities and opportunities for supporting enhanced target setting and transition planning for nature and other sustainability issues?*

The NSW Government supports the Australian Government's efforts to enhance firm-level transition planning. While it is important to consider the Australian context, the NSW Government cautions against going beyond ISSB-aligned disclosure requirements and standards, for the following reasons:

- Net zero transition planning should not be dominated by guidance on disclosure but should provide practical guidance for firms on what transition should comprise, how to achieve transition and how to measure it.
- Minimise disclosure burden and ensure cross-jurisdictional alignment.

The NSW Government recognises the urgency in providing transition planning support and guidance for industry (inclusive of disclosure requirements) to help meet net zero targets and to achieve an orderly transition. The Australian Government may consider requesting the Australian Accounting Standards Board (AASB) to develop guidance on transition planning in the context of Australian Sustainability Reporting Standards (once released).

The NSW Government recently collaborated with the Australian Treasury on a series of net zero transition planning workshops with representatives from government jurisdictions, industry, the financial sector and regulators. These workshops aimed to facilitate discussions on a nationally consistent approach to transition planning in Australia, what guidance would assist entities and how efforts can be best coordinated.

The NSW Government has also worked with 56 organisations to develop their net zero pathways. This engagement with organisations highlighted diverse approaches and significant knowledge gaps<sup>8</sup>. Recognising the need for best practice tools and guidance and aiming to support an economy-wide transition to net zero, NSW developed firm-level operational guidance. We invite the Australian Government to build upon our work to make this practical guidance available to organisations nationwide.

Our experience has highlighted the need to identify which types of firms are expected to be materially impacted by transition risk and need to be targeted so that they adopt transition planning. These companies need to be supported to develop their skills to enable them to prepare meaningful and credible plans (support needs to be at the activity level and consider varying sizes and sectors of companies). Noting the proposed intention to require transition plans to be disclosed, this support needs to ensure transition planning is more than a 'tick-box' exercise and constitutes a meaningful pathway to emissions reductions (and net zero) for entities.

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<sup>8</sup> DPIE 2021, NSW Net Zero Pathways Pilot: lessons learned and next steps, [https://www.energy.nsw.gov.au/sites/default/files/2022-08/DPIE\\_NSW\\_202111\\_NET\\_ZERO\\_PATHWAYS\\_PILOT.pdf](https://www.energy.nsw.gov.au/sites/default/files/2022-08/DPIE_NSW_202111_NET_ZERO_PATHWAYS_PILOT.pdf)



#### Priority 4: Develop a labelling system for investment products marketed as sustainable

*What should be the key considerations for the design of a sustainable investment product labelling regime?*

*How can an Australian model build off existing domestic approaches and reflect key developments in other markets?*

The NSW Government supports the development of more standardised, consistent and clearer labelling arrangements to mitigate greenwashing concerns. The proposed approach suggests that investment funds without an explicit sustainability objective would not qualify for a label. Prudent considerations should be given to imposition of specific requirements for this kind of labelling. For example, a fund or investment product may focus on transitioning carbon intensive assets to a lower carbon future. This objective may not be perceived as responsible investment by some investors. However, this objective may help meet net zero targets over the longer-term. We need to manage the risk of any unintended consequences from sending inappropriate signals to market in labelling investment products. We therefore support the proposed exclusion of funds that integrate sustainability into their investment products from requiring a label, provided an alternative approach is available, such as:

- Requiring the market to disclose their approach to ESG integrations within their product disclosure statements or equivalent.
- Establishing a requirement under an Australian Stewardship Code, similar to the UK's Stewardship Code<sup>9</sup>.

The NSW Government recognises there is a significant challenge with distilling complex messaging into a single metric (label). To capture broader ESG objectives, labelling could consider the need for a set of metrics for specific products where measurement is still evolving (for example, natural capital/biodiversity loss).

The NSW Government recommends that there needs to be a joint government and industry led approach to ensure that the labelling system is adaptable to market conditions while providing a simple basis on which to compare financial products.

### **Pillar 2: Financial system capabilities**

#### Priority 5: Enhancing market supervision and enforcement

*Are Australia's existing corporations and financial services laws sufficiently flexible to address greenwashing? What are the priorities for addressing greenwashing?*

*Is there a case for regulating ESG ratings as financial services?*

The NSW Government considers that greenwashing can seriously undermine consumer confidence in the environmental credentials of products or industries. As part of this submission, please consider the NSW EPA's submission (no. 59) to the Australian Government Senate Inquiry into Greenwashing.<sup>10</sup>

The NSW Government is supportive of greater consistency and transparency to address misconduct in sustainable finance markets through ESG ratings regulation. At the same time ESG ratings and associated regulation need to be designed and implemented in a manner to avoid unintended consequences like "green hushing". We have learnt through our engagement with the financial sector that there is a need to develop more frameworks and guidance for banks and advisors on green/sustainable financial products (for example, with products supporting the built environment and nature).

<sup>9</sup> See Principle 7 of the UK Stewardship Code, 2020, [The UK Stewardship Code 2020.pdf \(frc.org.uk\)](https://www.frc.org.uk/The-UK-Stewardship-Code-2020.pdf)

<sup>10</sup> NSW EPA's submission (no. 59) to the Australian Government Senate Inquiry into Greenwashing<sup>10</sup>: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Greenwashing/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Greenwashing/Submissions)

## Priority 6: Identifying and responding to potential systemic financial risks

*Are there specific areas where the Government or regulators could further contribute to market-wide understanding of systemic sustainability-related risks, including climate-related financial risks?*

The NSW Government encourages the Australian Government to consider that economy-wide climate-risk assessments are undertaken, where climate and transition scenarios selected are agreed by jurisdictions.

One potential focus area recommended for consideration is to issue guidance on transmission channels that explain how climate risk drivers may impact entities or markets directly and indirectly through counterparties, assets, and the economy in which they operate<sup>11</sup>. Greater clarity and awareness of transmission channels can help enhance the market-wide understanding of sustainability-related risks. Examples of transmission channels which could be considered include damaged and stranded assets through household and business balance sheets.

The NSW Government also suggests that the Strategy could benefit from including the investment-related impacts of social licence-related risks to the transition to net zero. The NSW Electricity Supply and Reliability Check Up, an independent review of the Electricity Infrastructure Roadmap,<sup>12</sup> identified several social licence-related risks.

The Strategy might also benefit from the inclusion of highlighting how an equitable transition is enabled and resources available for industry and communities to be able to employ. The NSW Electricity Supply and Reliability Check Up also included recommendations relating to enhancing social outcomes.

## Priority 7: Addressing data and analytical challenges

*What are the priorities for ensuring that data-related initiatives already underway are tailored to meet the needs of firms and investors?*

*What key sustainability data gaps or uncertainties faced by financial institutions in Australia should be prioritised by the CFR?*

The NSW Government recommends that specific data needs of governments, investors and industry should be identified first, prior to any additional data promulgation. Excessive and/or misaligned data will exacerbate market barriers and thus impede achievement of policy objectives.

Examples of data issues include:

- Smaller solar photo voltaic systems and other distributed energy sources (DERs) currently do not have any cyber security standards to follow and are usually connected by their owners to the internet for monitoring and control purposes. This means that electricity produced is not recognised on the national electricity grid because the data is not available. Regulatory approaches to assessing and managing associated cyber security risks should be developed to mitigate the risks and allow small-scale solar to contribute to the country's electricity supply.
- A standardised approach to developing metrics and methods for measuring adaptation risk is needed, particularly when considering climate risk to housing, other property and infrastructure.
- Credible nature-related industry benchmarks and meaningful targets do not exist.
- Carbon is the only ecosystem service typically valued. Additional ecosystem services need to be valued, with agreed metrics.
- Across the housing sector, there is a need to access credible, reliable, comparable, and affordable data that can be used to

<sup>11</sup> See Bank for International Settlements, 2021, [Climate related risk drivers and their transmission channels \(bis.org\)](https://www.bis.org/crdr/crdr.htm)

<sup>12</sup> See the Electricity Supply and Reliability Check Up, 2023, <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/electricity-supply-and-reliability-check>

- Across the housing sector, there is a need for credible, reliable, comparable, and affordable data that can be used to change energy use and energy efficiency related household behaviour.

The NSW Government supports “Strengthening the measurement of natural capital, including as part of the National Strategy for Environmental Economic Accounting”, and recommends that any sustainable finance nature-related references highlight the importance of terrestrial and marine context and applicability.

#### Priority 8: Ensuring fit for purpose regulatory frameworks

*Do you agree that existing regulatory and governance frameworks and practices have adapted well to support better integration of sustainability-related issues in financial decision making? Are there barriers or challenges that require further consideration? This may include:*

- *Corporate governance obligations, including directors’ duties*
- *Prudential frameworks and oversight, including in relation to banks and insurers*
- *Regulation of the superannuation system and managed investment schemes*

*What steps could the Government or regulators take to support effective investor stewardship?*

The NSW Government supports the proposal to extend the performance test lookback period from eight to ten years to encourage long-term investment approaches, particularly noting that longer-term investment is key for transition planning and net zero. Clarification may be required to support superannuation trustees embedding sustainability considerations into their investments. This clarification can help guide how trustees oversee the performance of superannuation funds in the event of potential trade-offs between sustainability considerations and financial performance of the funds.

### Pillar 3: Australian Government leadership and engagement

#### Priority 9: Issuing Australian sovereign green bonds

*What are the key expectations of the market around issuance of, and reporting against, sovereign green bonds? What lessons can be learned from comparable schemes in other jurisdictions?*

*What other measures can the Government take to support the continued development of green capital markets in Australia?*

The NSW Government is supportive of the first green bond issuance occurring during calendar year 2024. Australian sovereign green bond issuances will enhance credibility of the ESG market in Australia, given the Australian Office of Financial Management’s (AOFM) broader investor base and profile as the country’s largest issuer. This will provide an ongoing benefit to the domestic green bond market, specifically the Semi Government sector.

The NSW Government recommends establishing a program framework and administration of the asset pool consistent with market leading practice. In NSW, we ensure that our Sustainability Bond Programme is aligned with market leading practice globally for procedures, governance and operations. We would advocate for the AOFM to take a similar approach. Consistency with market leading practice enables investors to readily assess the program. Credibility of the AOFM program would support investor’s assessment of Australia as an investment destination from an ESG perspective.

An insight from the NSW Sustainability Bond Programme, is that additionality is important to the credibility of a green bond program. Additionality can be enhanced by limiting the number of times an asset is refinanced through the program and limiting the lookback period, along with a clear linkage to government policies.

NSW Government learnt that investors are increasingly using thematic bond issuance programs (green, social, sustainability) to assess ESG credentials of the issuer. The NSW Government suggests the Australian



Government might want to consider, either as part of or as an additional publication to issuing Green Program Annual Report, preparing an annual whole of Australia sustainability update/report covering Australian Government policies and objectives in each of the ESG pillars. The update/report should outline each policy or objective, how it is measured, its target date and progress towards that target.

#### Priority 10: Catalysing sustainable finance flows and markets

*What role can the CEFC play to support scaling up of sustainable investment in Australia, as part of a more comprehensive and ambitious sustainable finance agenda?*

*What are the key barriers and opportunities for the CEFC to support financing and market development in areas with significant climate co-benefits, including nature and biodiversity?*

The NSW Government supports the expanded role for CEFC to increase flexibility and the range of products to unlock investment opportunities and renewable energy development.

The CEFC mandate to support co-benefits of nature and biodiversity creates challenges as there is no clear value which can be attributed to these co-benefits. Including nature/biodiversity could add additional complexity/cost to financial products. We encourage the sharing of insights by CEFC, as it builds capability across all States and therefore could increase capital allocated to sustainable activities.

#### Priority 12: Position Australia as a global sustainability leader

*What are other key near-term opportunities for Australia to position itself as a global leader in sustainable finance and global climate mitigation and adaptation?*

*What are some longer-term international sustainability goals for Australia where sustainable finance can play a role?*

*What are the key market, regulatory and institutional barriers to increasing private sector engagement in blended financing opportunities? How can these barriers be overcome?*

*What are other means to mobilise private sector finance toward sustainability solutions in the Indo-Pacific region?*

Australia can build credibility through developing robust sustainable finance methods, tools and standards in collaboration with government and industry to attract investment. National Australian Built Environment Rating System (NABERS) is an example of a methodology developed by Australian governments, in collaboration with industry, where Australia can develop equivalents for the residential sector, transition activities by sector and for nature-related assets.

Australia can further develop clean technologies and industries in circular waste to not just reduce our waste but also to generate new jobs and technologies. Importantly, this can eliminate the risk of stockpiled solar cells and wind turbines, enhancing the countries and jurisdictions ESG credentials, to enable sustained investment into the net zero economy.