

A huge week in the world of Australian climate law

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While we were all transfixed on how the US election might affect the fate of the world, some game changing climate law developments were taking place in our own backyard. Here's a wrap up of what they are and what they might mean for you.

1. McVeigh v Rest

After more than two years of litigation superannuation fund Rest declared on 2 November 2020 that '*climate change is a material, direct and current financial risk to [its] superannuation fund*'. But what may seem to be a relatively simple statement of an acknowledged scientific risk, will have a very significant impact on Rest's investments and fund management.

That is because all superannuation fund trustees have a duty to act with care and diligence. The first step in satisfying that duty is to properly identify and understand the risks to the fund. Once a risk is identified (as Rest has now done), the trustees must act prudently to mitigate and manage that risk.

Rest has already confirmed it will be reviewing its portfolio and individual assets in light of the now accepted climate change risks. The likely consequence is that some assets will be sold, and those with either lower inherent climate risk or positive impacts on Paris Agreement goals, will be more desirable. It is early days, but we can't see the investment landscape remaining the same.

2. Climate Act introduced to Federal Parliament

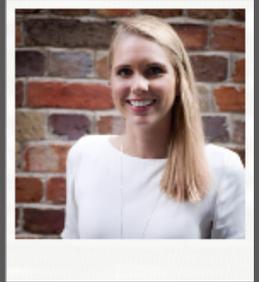
On 9 November 2020, Zali Steggall tabled her Climate Change Bill in the House of Representatives (we wrote about an earlier draft of the Bill [here](#)). This will hopefully kick off some much-needed parliamentary discussion at Federal level about the need for a clear and certain approach to reducing Australia's climate emissions. The Bill seeks to enshrine in statute a target of net zero emissions by 2050 – the target supported by most developed nations and increasingly, big business.

If passed, the Bill will create a national framework to put all levels of government and private enterprise on the same page about how the net zero target can be achieved.

3. NSW Land and Environment Court to hear expert evidence about climate change

The Bushfire Survivors for Climate Action group (**BCSA**) emerged after the tragic 2019/20 bushfire season. It has taken the NSW Environmental Protection Agency to court for failing to develop policies which ensure environment protection, including by measuring and regulating NSW's greenhouse gas emissions.

The case is ongoing, but in a big interim decision on 9 November 2020, the BCSA will be allowed to put before the Court an expert report detailing the impact of greenhouse gas emissions on the NSW fire season and environment generally. The report will also consider whether the EPA's policies and guidelines properly deal with the threat posed by emissions.



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4. NSW government announces \$32 billion renewable energy goal

We've previously written about the difficulties in stimulating renewable energy investment in Australia amidst an overly complex (and outdated) regulatory landscape. NSW's plan to drive investment in the sector comes as a very welcome relief to those who've long been struggling to build the appetite for investment.

We would still welcome federal reform to the regulation minefield, but this is a great localised first step.

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