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Sustainability Quarterly

Trailblazer in Energy Spotlight

Leading the balance between reliability and sustainability at Horizon Power

Geo-politics of critical minerals

Views from Australia, Asia, China, the UK and Europe

What are the right decisions in the Energy Transition?

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City West Housing

SUSTAINABILITY
IN OUR SECTORS



SEPTEMBER 2023

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HFW is a leading global law firm with deep, sector-focused expertise, that is committed to promoting sustainability in its sectors.

Welcome to the latest HFW Sustainability Quarterly.

In this edition of Sustainability Quarterly we shine a spotlight on the women who are at the forefront of the energy transition. I had the pleasure of speaking with **Stephanie Unwin**, the Chief Executive Officer of Horizon Power, which has the world's largest regional energy service area under transition.

We also spoke to women from diverse fields - from the leader of Australia's government science agency to the leaders working towards the potential of green ammonia - who are united in striving towards achieving the energy transition.

Continuing with the theme of energy transition, **Michael Maxwell, Peter Zaman, Christopher Ong** and **Lea Hiltenkamp** consider some of the key policy challenges, such as when (or when not) it's ok to use offsets, how geo-political moves can shake up energy alliances and how to ensure that the transition isn't fuelling modern slavery.

Dan Perera, Brinton Scott, Jie Wang, Sarah Taylor, and I also provide a global update on the critical minerals fuelling the transition, covering the latest developments in Australia, Singapore, China, the UK and Europe.

Finally, we hear from **Lisa Sorrentino**, Head of Development at Sydney-based affordable housing provider City West Housing.

As usual, we also include an interesting mix of various ESG perspectives and initiatives, such as the launch of the Australian Proud network, which is fostering support and allyship across our diverse workforce.

Thank you to all the authors and behind-the-scenes team who have contributed their time and energy to pull the edition together.

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If you would like to share feedback on this publication, or be involved in future editions, please contact:



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Legal Updates

Edited by Bree Haigh, HFW Knowledge Counsel

European Supervisory Authorities focus on greenwashing in the financial sector

The European Supervisory Authorities (European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority, together the ESAs) have responsibility for the European banking, insurance, pensions and financial markets. In June 2023, they published reports on greenwashing in their sector, with an agreed, high-level understanding of greenwashing applicable to market participants. They described greenwashing as “a practice where sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services. This practice may be misleading to consumers, investors, or other market participants.”

The National Competent Authorities and the ESAs are working to meet stakeholders’ expectations that they ensure consumer and investor protection, support market integrity and maintain a trusted environment for sustainable finance. The ESAs are taking a coordinated approach, with plans to publish final reports in May 2024 and to consider recommendations, including possible changes to the EU regulatory framework.



AMANDA RATHBONE
Knowledge Counsel
(Commodities), London

Ship Recycling Back in the Spotlight

In June 2023 Bangladesh and Liberia ratified the Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (the HKC), causing it to finally come into force in June 2025. This seminal moment for shipping comes 14 years after the HKC was agreed and will bring ship recycling into starker focus as the industry prepares for a huge wave of recycling in response to the widespread technological obsolescence anticipated.

The HKC aims to ensure ships are recycled without posing unnecessary risk to human health, safety or the environment. However, it comes into force in an increasingly complex ship recycling environment, subject to overlapping (sometimes contradictory) regulation, under scrutiny of increasingly powerful NGOs and environmentalists and with competent authorities in a range of jurisdictions growing bolder in their application of the law. Its impact will depend heavily on how it is enforced, which we anticipate will be patchy, and the degree to which it becomes the global ship recycling regulation or otherwise plays second fiddle to the Basel Convention 1989 and other local regulations, such as the EU’s Waste Shipment Regulation and Ship Recycling Regulation. It is a complex environment with real consequences for those who get it wrong. Anyone considering recycling a vessel or offshore asset should secure appropriate legal and practical support well ahead of committing to recycling. Learn more via HFW’s recent briefing [here](#) and [BIMCO’s ship recycling webinar](#) “Welcoming the Hong Kong Convention: what happens now?” where HFW’s Will MacLachlan spoke on the panel.



WILLIAM MACLACHLAN
Partner, London

Tighter controls on sustainability claims in airline advertising

Having reached something of a high-water mark, it seems likely that airlines will be limited in the extent to which they can use efforts to improve sustainability as a marketing tool. The District Court of Amsterdam recently granted permission for an environmental group to proceed with a challenge to KLM’s “Fly Responsibly” ad campaign. The activists claim “the only manner to fly sustainably is not to not fly or to fly less. Anything that KLM says differently... misleads consumers.” In California, Delta Airlines faces a class action suit which alleges the airline’s carbon neutrality claims are based on the “replete” carbon offset market and are therefore unreliable and misleading.

These developments follow closely on the heels of a ruling by the UK Advertising Standards Authority against Etihad which held that any sustainability initiative which would only deliver tangible results years in the future must not be used to sell their flights as “sustainable aviation” in the present. Etihad’s argument that “sustainable aviation” was understood in the aviation industry as a long-term, multifaceted goal, which included their aspiration to reach “net zero” carbon emissions by 2050, fell on deaf ears. The decision echoes moves in France to ban sustainability-related language in advertising without auditable scientific evidence in support, on pain of criminal prosecution.



ASHLEIGH OVLAND
Knowledge Counsel
(Aerospace), London

Challenges, Risks and Disputes in the Australian energy transition

The urgent need for energy transition projects in Australia has grown significantly in the past quarter, with the global liquified natural gas market, proposed amendments to the Australian Domestic Gas Security Mechanism, gas price reviews and the Australian Government’s proposed Gas Market Code all having an impact. This has occurred alongside an increase in complex disputes highlighting the need to consider community interests, a marked rise in “greenwashing” enforcement cases brought by the Australian Securities and Investments Commission and analogous rise in climate change litigation on both a global and a domestic scale. Further details are in HFW’s article in Global Arbitration Review’s The Asia-Pacific Arbitration Review 2024 [here](#).

Co-authors: *Jo Garland, Dan Perera and Peter Sadler*



JO DELANEY
Partner, Sydney

Maritime transport in the EU Emissions Trading System (EU ETS) – HFW factsheet

As anticipated, on 16 May 2023 the inclusion of maritime transport in the EU ETS was formally adopted under EU law, via amendments to both the EU ETS Directive (2003/87/EC) and the Monitoring, Reporting and Verification (MRV) Regulation (2015/757). With the overarching legislative framework now in place, HFW has prepared a factsheet which analyses the key features of the EU ETS, along with the potential implications and challenges facing the maritime transport sector. However, it is important to emphasise that the amended ETS Directive and

MRV Regulation do not provide all the answers regarding the practical operation of the EU ETS for maritime transport, so continued vigilance remains necessary. Access the factsheet [here](#).



JOSEPH MALPAS
Associate, London

The IPCC AR6 Synthesis Report: Comments on Agriculture

The Intergovernmental Panel on Climate Change (IPCC) finalised the [AR6 Synthesis Report: Climate Change 2023 \(Report\)](#) in March. The Report summarises the impact of climate change on global food and water security, noting that although overall global agricultural productivity has increased, economic impacts from climate change have slowed growth. Whilst the Report paints a sobering picture, it also highlights effective adaptations being implemented, including on-farm water management, soil moisture conservation, farm/landscape level diversification, and crop/grassland management. Such mitigation strategies are becoming more cost-effective and receiving increased public support. However, further co-operation between governments, the private sector and individuals will be critical in accelerating the requisite shift towards climate-risk mitigation in agriculture.



KATE FISHER
Senior Associate,
Melbourne





Trailblazer in energy spotlight

Leading the balance between reliability and sustainability at Horizon Power

Stephanie Unwin, a lawyer turned energy trailblazer, has embarked on an extraordinary career journey with leadership roles across the energy and research sectors. Not only does she sit on a number of Boards, including Australian Renewable Energy Agency (ARENA), Energy Networks Australia and the Energy Advisory Group for CSIRO, she is also CEO of Horizon Power.

As leader of Western Australia's regional and remote energy provider (the world's largest service territory!), Stephanie faces the complex task of balancing the demand for affordable and reliable power with a commitment to cleaner, greener solutions. Guided by a deep sense of responsibility, unwavering innovation and a drive for positive impact, Stephanie and her teams work hard to ensure everyone can have access to the benefits of renewable energy, wherever they live in WA.

I've been in the CEO role for four years and I really do love my job. There's a real sense of purpose that drives and connects us to our customers and the community every day. Yes, we've been asked to deliver safe and reliable energy – but it's our commitment to making it cleaner and greener that energises us. And at heart, I'm an energy transition nerd, so I get to play in a role that brings me joy every day.

I'm proud of many projects. One milestone that stands out is my involvement in the first solar farm in the Southern Hemisphere a decade ago. It was 10 megawatts – this seems so small now – but it marked a turning point and set the stage for the sector's growth.

Energy equity, no matter where you live

I'm passionate about energy equity. Transitioning to renewable sources – and the savings achieved – shouldn't just be for those who have their own rooftops to install solar. It creates

a barrier for renters and those in social housing. Our team developed a product that allows renters and hardship customers to tap into a centralised solar farm subscription. It's about to be launched and will bring tangible benefits to those who need it most. We would like to take it further and apply it to remote communities like in the Dampier Peninsula and hope customers can experience energy bill savings of around 10%.

Innovation for a renewable nation

At Horizon, we strive daily for a balance between reliability and sustainability. It's relatively easy to provide reliable energy with centralised energy systems when demand is constant and predictable. Challenges arise when managing multi-directional systems with many contributing energy sources. We bring everything together in a distributed energy management system, using weather forecasts and available generation, big and small. It's not always perfect, but it's pretty good and is only getting better. That's how we achieve energy transition – using our smarts so every source can contribute and play its role.

Fuelling the future with hydrogen

We recently commissioned a demo plant for green hydrogen in Denham. Globally, there are loads of plans but not many have been developed. So, to build it has been exciting. The location is close to our operating depot, so we can experiment and play with it. We've built

an oversized solar farm that supplies green energy for electrolysis. Then we compress it, store it and distribute it when needed.

We need to resolve storage for successful transition – it's a challenge everywhere. Lithium ion batteries are excellent for short-term storage. But we need to explore other technologies to address days of storage and intermittency. We believe hydrogen can be one of the answers.

A sensible – and swift – move to power

I'm proud of the electrification work in Esperance. When the incumbent gas company could no longer provide commercial supply – and gave customers exactly six months warning – the State Government asked us to help the community transition to an alternative energy source. Through a human-centered design process, we engaged customers, worked with trades, covered costs and made the transition happen for the effected customers.

A full knowledge sharing report will be made available later this year, including case studies with bill and emissions savings.

This is a great example for others wanting to move away from gas sensibly, carefully and alongside gas and energy experts. With the added bonus of dollars savings for customers.



Powering diversity with gender, disability and cultural focuses

Diversity is vital in our sector, and we have made progress in attracting women engineers and apprentices who align with our clean and green values and purpose. I'm pleased to see the number of women joining our ranks.

I'm focused too on how we now look to people with disabilities across all aspects of our business. Creating opportunities for a diverse workforce to contribute to and thrive in our amazing workforce is a priority.

Our First Nations people drive all our decisions and projects. We've worked hard to unlock changes within our business that draws on cultural intelligence, partnerships, employment opportunities and community initiatives. It's important our workforce intimately understands the land we walk on. Around 15 per cent of our customers are Aboriginal

and, in some communities, its closer to 100 per cent. It's our responsibility to contribute to all our communities respectfully and positively.

Cultural awareness and landscape stewards

Australia's vast landscapes present unique opportunities for wind and solar energy production at scale. However, we need to be mindful of the impact on our precious flora, fauna and biodiversity.

We must be careful guardians of our landscapes, and we can do that with R&D. Getting better efficiencies from our solar panels, for instance, could see us using a third of the footprint with greater the output. Look at the technology around concentrated solar thermal. If we can get it at scale, we'll get more and store it longer. This is how we can be less invasive on our landscapes and achieve our climate change targets.



“Skills in energy transition have evolved significantly. Sometimes you can feel things move slowly and then suddenly change is upon us and you need to brace yourself.”

Essential skills for a sustainable, successful future

Skills in energy transition have evolved significantly. Sometimes you can feel things move slowly and then suddenly change is upon us and you need to brace yourself.

Engineering is no longer about static systems. Instead, it's orchestrating many parts of a diverse and dynamic framework. Adaptability, being comfortable with ambiguity and uncertainty, and the willingness to take leaps of faith have become crucial qualities. We need people who understand how to integrate different energy sources, set protection settings and ensure reliability in the face of changing conditions. Take batteries for instance –How can we scale it? How do we integrate it? What happens if it's too hot? What other conditions should we try? We need those who can implement protection systems, spot issues and work out plans before they happen.

Hydrogen is its own skillset and we've invented it along the way. It combines understanding, practical integration, navigating complex regulatory environments, spotting the risks and navigating around them.

We also need experts in data and cyber. Those that can unlock the power of data we have and translate them into actionable insights to drive decisions. Disasters will inevitably occur, but our ability to recover and bounce back is crucial.

I look forward to supporting and seeing how we step up our innovation. We're such a smart country and have so much we can harness for a global impact. Look at green iron and green steel. We export the ore, but there are opportunities to value add to it even more. By using the tech we have and deploying it at scale using hydrogen, we can move a bunch of carbon economy roles to the new economy. As a country, we'll be unstoppable.

Geo-politics of critical minerals

HFW Partners,
Jo Garland, Dan Perera, Brinton Scott, Sarah Taylor and Associate Jie Wang give views from Australia, Asia, China, the UK and Europe



Australia

Jo Garland

Australia is fortunate enough to be home to the world's largest deposits of titanium, zirconium and tantalum. It also ranks in the top 5 producers of lithium, cobalt and manganese.¹ These minerals are the foundation for most, if not all, clean energy technologies that underpin the energy transition. This includes batteries, electric vehicles, wind turbines, solar photovoltaic cells and hydrogen electrolyzers.²

Australia recognises that it has the opportunity to be a leading supplier of critical minerals, but questions are being asked whether the existing “dig and ship” mentality is the best approach. This is because the energy transition and exponentially growing demand for clean energy technologies presents a unique opportunity for Australia to ramp up its role in the critical minerals supply chain.

Commentators are calling for Australia to build up its refining and even manufacturing capabilities to harness the benefits of its critical minerals

¹ See: [Critical minerals | Department of Industry, Science and Resources](#)
² See: [Australia's Critical Minerals Strategy: Discussion Paper \(storage.googleapis.com\)](#)



wealth.³ The benefits of doing so include increasing domestic jobs in both refining and manufacturing, as well as the potential for a green premium on exports given Australian has stronger ESG performance than many other countries.

The Federal Government's *National Battery Strategy* proposes the development of domestic battery manufacturing, including lithium-ion, sodium-ion and vanadium flow batteries⁴. The Federal Government wants to position Australia to capture the growing market for electric vehicles, residential and community scale energy storage and grid energy storage, particularly by building on Australia's mining strength and critical minerals riches. Australia recently announced a critical minerals and clean energy transformation agreement with the United States.⁵ Under this agreement, both countries will engage with its critical minerals industries to identify and address financial and non-financial barriers to expanding the deployment of clean energy technologies that are powered by critical minerals.

Questions have been asked whether Australia will be able to build up the capabilities in the short timeframe necessary to meet the demands of the energy transition. Proponents need to ensure proper stakeholder engagement, including with Aboriginal and Torres Strait Islander people, given that mining of critical minerals is likely to affect their traditional lands.⁶

These issues have been addressed, at least at a high level, by the Federal

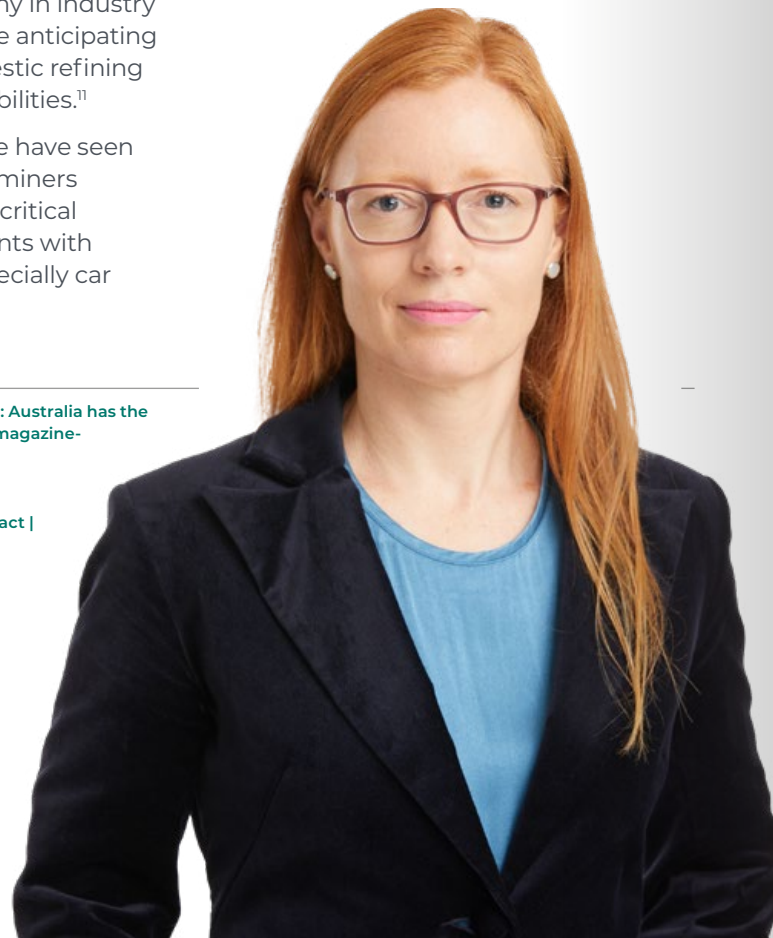
Government's recently released 2023 Critical Mineral Strategy (**CM Strategy**). The CM Strategy commits \$500 million from the Northern Australia Infrastructure Facility (**NAIF**) to kickstart the downstream processing and manufacturing of critical minerals in Australia.⁷ Commentators have suggested that there will be no restrictions on the investment of the \$500 million as long as it aligns with the CM Strategy.⁸ However, the investment may be guided by the Government's proposed analysis of the type, volume and timing of mineral requirements for Australia's processing and manufacturing sector, which is a further key action in the CM Strategy.

The CM strategy has also set out key action items for First Nations engagement, such as working with organisations to consider how to build First Nations capacity that will allow them to engage effectively with critical minerals proponents.⁹

The timing of the CM Strategy release was crucial following the 2023/24 Federal Budget which received mixed responses from the critical minerals industry. This is because while the budget provided \$57.1 million "to develop Critical Minerals International Partnerships"¹⁰, it left many in industry underwhelmed who were anticipating greater support for domestic refining and manufacturing capabilities.¹¹

The general trend that we have seen to date is that Australian miners were entering into direct critical mineral offtake agreements with overseas companies, especially car

manufacturers, rather than refining the minerals onshore. However, there are pioneering Australian companies such as Austvolt who are poised to be a key domestic manufacturer of cathode precursor material in the lithium battery supply chain and also Ultra Power Systems who manufacture Western Australia's first Vanadium Redox Flow Battery. The additional funding through the NAIF could potentially see further growth in Australia's downstream capabilities.



3 See: [Accelerating Australia's critical minerals opportunity | PwC Australia](#); 'Huge subsidy fest': Australia has the critical materials, but can it compete in the manufacturing race? - pv magazine Australia ([pv-magazine-australia.com](#)); Mining Summit: Glimpse of gold in path to critical mineral processing ([afr.com](#))

4 See: [national-battery-strategy-issues-paper.pdf](#) ([storage.googleapis.com](#))

5 See: [Australia-United States Climate, Critical Minerals and Clean Energy Transformation Compact | Prime Minister of Australia](#) ([pm.gov.au](#))

6 See: [Australia's Critical Minerals Strategy: Discussion Paper](#) ([storage.googleapis.com](#))

7 See: <https://www.industry.gov.au/publications/critical-minerals-strategy-2023-2030>

8 See: <https://www.afr.com/companies/energy/australia-racing-to-become-global-critical-minerals-superpower-20230619-p5dhnq9>

9 See: <https://www.industry.gov.au/publications/critical-minerals-strategy-2023-2030/our-focus-areas/3-first-nations-engagement-and-benefit-sharing>

10 See: [Growing the economy | Budget 2023-24](#)

11 See: [Federal budget 2023: 'Significant handicap' for critical minerals amid budget neglect, warns Chris Ellison](#) ([afr.com](#))



Asia Dan Perera

Critical minerals in Asia have been the subject of much interest of late. Matters of resource security, which came to the fore during the midst of the COVID pandemic, have continued to remain highly relevant, partly due to the pervasive overlay of geopolitical tensions in the region.

In Asia, critical minerals issues tend to divide themselves along the lines of consumers vs producers. Many of the countries in the region are resource-rich. Indonesia is said to hold the world's largest reserves of nickel, which is both a blessing and a curse. Environmental challenges arising from 'dirty' nickel mining in pristine areas of forest, where much of the nickel is located, are becoming increasingly important at a national level, with resistance from local indigenous communities, and with the levels of carbon dioxide produced in this mining process sitting somewhat uneasily against the intended goal of clean energy through electrification. A similar story is playing out in other resource-rich countries across Asia.

On the consumption side, much of what is being produced is destined for the PRC, whose own recent diplomatic spats with the US and Australia have driven China to seek a greater degree of resource independence, with regard to their sourcing of both critical minerals, and bulk minerals such as iron ore, and also of energy. Despite it being a major producer and exporter of many rare earth and critical minerals used in the technology sector, much of the mining of critical minerals across the Asian region is ultimately controlled by the PRC, and the mined products are destined for their shores.

As ever, Singapore plays an important role in the trading, sale and purchase of mined product, being a hub for the contracting for such product, as well as utilising some in its own domestic production of semiconductors – one of the island nation's limited important exports, and accounting for up to 7% of its GDP¹². A number of traders and financiers have seen issues relating to critical minerals traded out of Singapore over the last few years, including in respect of a number of instances of physical metals cargo fraud in relation to metals in storage in warehouses, and documentary fraud relating to product allegedly being shipped across the world. There have been instances of phantom cargoes and multiple financing of the same product. Critical minerals have a relatively high value to volume ratio, which unfortunately renders them rather attractive to fraudsters and susceptible to both physical and documentary cargo fraud, given the most common method of transportation of such minerals being by shipping container, evidenced by easily forgeable bills of lading. As ever, Singapore does not wish to sit idly by and permit this state of affairs to persist, and is actively working with traders and financiers to mitigate risks of future incidents.



12 See: <https://asia.nikkei.com/Business/Tech/Semiconductors/Chip-industry-doubles-down-on-Singapore-as-production-hub>



China

Brinton Scott and Jie Wang

Generally, critical minerals refer to those minerals which are important to a nation's economy and security, have no viable substitutes, yet face potential disruption in supply, such as copper, lithium, nickel, cobalt and rare earth elements, etc. So far, China does not have an official list or a clear definition of "critical minerals".

In 2016, China released the National Mineral Resources Plan (2016-2020)¹³ which listed 24 kinds of minerals as "strategic minerals" for the first time. The list of strategic minerals has a considerable overlap of the list of critical minerals¹⁴ published and updated by the U.S. Department of the Interior. For example, minerals like aluminium, nickel, tungsten, cobalt, etc. appeared on both lists of China and the U.S.

In China, critical minerals are playing more and more important roles in new energy industries. Different minerals are used in different sectors depending on their properties. For example, the lithium and cobalt that China imports from other countries is commonly used for producing lithium batteries which can be used in electric vehicles. Copper has good conductivity, therefore it is commonly used for making cables and electronic components. In fact, according to the International Energy Agency, copper is the most commonly used mineral in offshore and onshore wind technology, as well as solar technology.¹⁵

In terms of supply, on the one hand, China has rich reserves of various kinds of minerals, such as tungsten, molybdenum and gallium, which can meet domestic demands and can be supplied to other countries. On the

other hand, China is also short of certain kinds of minerals and heavily relies on importing them from other countries. For example, China imports more than 80% of cobalt from Democratic Republic of the Congo and imports lithium mainly from Australia.¹⁶

The critical mineral production process includes concentrating, refining and smelting. China maintains a firm grip on the processing of several critical minerals. For instance, China approximately refines 90% of the world's rare earth elements, along with 50% to 70% of lithium and cobalt, according to the International Energy Agency.¹⁷

In recent years, China has gradually placed more importance on the research of critical minerals and continuously increased investment in the development and utilization of critical minerals. China has provided special fund for many critical mineral research projects. For example, the 2022 Funding Plan of the National Natural Science Foundation of China provided funds for five projects which will conduct research around several core scientific issues of critical minerals.¹⁸ Nowadays, critical minerals have become a hot topic in the academic community

and an important target for mineral exploration.

Critical minerals have the characteristics of high levels of concentration and unbalanced geographical distribution, which cause competition, conflict and great geopolitical risks. Suppliers of critical minerals could gain geopolitical leverage by cutting off supply to other countries. China's Ministry of Commerce recently announced that from 1 August, it would introduce export controls on two rare elements essential for manufacturing semiconductors, gallium (of which China is the world's biggest producer) and germanium. It is suggested by many scientific specialists that China should speed up the process of formulating a list of critical minerals¹⁹ which should take into account the minerals' economic and technological importance and supply risks. In addition, it is also crucial for China to form strategies to ensure the security of the supply chain.



13 See: https://www.ndrc.gov.cn/fggz/fzzlgh/gjjzxgh/201705/t20170511_1196755.html

14 See: [U.S. Geological Survey Releases 2022 List of Critical Minerals | U.S. Geological Survey \(usgs.gov\)](https://www.usgs.gov/press-release/2022/02/20220201)

15 See: [Executive summary – The Role of Critical Minerals in Clean Energy Transitions – Analysis - IEA](https://www.iea.org/reports/critical-minerals-clean-energy)

16 See: [U.S. Geological Survey Releases 2022 List of Critical Minerals | U.S. Geological Survey \(usgs.gov\)](https://www.usgs.gov/press-release/2022/02/20220201)

17 See: [Executive summary – The Role of Critical Minerals in Clean Energy Transitions – Analysis - IEA](https://www.iea.org/reports/critical-minerals-clean-energy)

18 See: <https://www.nsf.gov/publish/portal0/tab1106/info86452.htm>

19 See: https://www.cgs.gov.cn/gzdt/dzhy/202012/t20201223_660862.html



UK and Europe

Sarah Taylor

In recent months, the UK and Europe have enacted legislation and entered into trade deals with the aim of catching up on jurisdictions such as China and the USA.

When introducing the EU's Critical Raw Minerals Act, Ursula von der Leyen stressed the need for the EU to increase production in addition to diversification of supply. The UK's Critical Minerals Strategy, published in July 2022 and refreshed in March 2023, includes a "Task and Finish" Group whose aim is to assess the UK's need for critical minerals now and in the future and to secure the necessary supply chains.

Partly with this in mind, the UK has also sought to negotiate access to the benefits of the US Inflation Reduction Act by way of a trade deal with the USA and is promoting collaboration with Canada and South Africa.

These actions (or reactions) come on the back of disruption in the metals markets and the increasing need for sustainable and green supply chain models. The nickel chaos on the LME in March 2022 has been attributed in part to the Russian invasion of Ukraine and associated sanctions. Those measures continue in force alongside China's policy of protecting its renewable resources. Other isolationary measures include Chile's move in May 2023 to take state control over lithium projects within the country. The UK's exit from the EU provides for opportunity for individual trade deals, such as with the USA, but also increases the pressure to secure international supply given limited domestic resources.

The metals market also has to be seen in the face of the energy crisis presently gripping the UK and Europe. Sanctioning of Russian oil and coal has pushed domestic energy prices to levels not previously seen, something which is factoring into sustained high inflation levels in the UK, together with rising interest rates. This is a backdrop against which financing for new projects is increasingly difficult to secure, even with London continuing as a centre of commodity trading and finance. The UK Government has committed to various funds to support business, including £15 million to support supply chain elements of rare earth elements including recycling critical minerals. However, this is small scale in comparison to the investment initiatives in both the US and the EU.

It is, however, difficult not to conclude that the central pillar of both the EU Critical Raw Minerals Act and the UK's Critical Minerals Strategy follows the path of China and the USA in seeking to protect and support individual countries' supply of critical minerals, something which will inevitably impact the global supply chain. Estimates suggest that current global production capacity need to increase significantly – possibly by as much as 450% – to meet net zero targets governments have signed up to. Without true international cooperation and financing commitments it is difficult to see how this can be achieved.





What are the right decisions in the Energy Transition?

Navigating key challenges

JO GARLAND, PETER ZAMAN, MICHAEL MAXWELL, LEA HILTENKAMP, CHRISTOPHER ONG

The transition to clean, sustainable sources of energy is well underway but ever evolving. In the race to decarbonise businesses will face choices that have no clear “right” answer or that result in an ethical weighing up. We have unpacked three key crossroad issues that businesses commonly come across in their energy transition journey – geopolitics, carbon offsetting and the whole of life big picture issues, such as modern slavery.



Geo-politics of the energy transition

Geo-politics of the energy transition is reshaping the role of countries in energy security and the provision of energy. Energy geo-politics is now more diverse than it was in the oil and gas dominated era, with local production of renewable energy inputs, availability and processing of critical minerals, technology development and new clean energy pacts reshaping alliances, dominance and investment flows.

In the race to attract clean energy talent, resources and investment, the United States (US) decided that it wants to be the winner by setting aside US\$520 billion worth of programs, tax credits and funding for decarbonisation and clean energy in the US under the *Inflation Reduction Act of 2022 (IRA)*. The US announced the IRA in late 2022, attracting significant investment away from other countries and into the US. Funding is only available to companies that manufacture clean energy technology in the US (or are deemed to be “local” by evolving pacts with favoured nations such as Australia). This raises the question whether from a global perspective, there is a good climate outcome if the US is seeking to claim the lions share of investment and associated benefits.

On the one hand, the US should be applauded for the IRA and the significant benefits it will have for the development of clean energy technologies and reduction of carbon emissions. However, on the other hand, the preferential treatment of US manufacturing and snubbing or long-established trade partners also means that the IRA has been labelled as green protectionism” and a global “clean energy arms race”.¹

An area where this is playing out particularly clearly is in the

manufacturing of electric vehicles (**EVs**). Under the IRA, tax credits will only apply to EVs that have been assembled in the US. Critical minerals required for EV batteries are also required to be bought from the US, a country with which the US has a preferential trade agreement and specifically seeks to avoid minerals from ‘foreign entities of concern’ such as China.

It’s clear that the IRA is a global, game-changing initiative that has the potential to leave countries behind that do not or cannot respond with similar funding and policy initiatives. Already, some major players in the energy transition sector have responded to the IRA, including:

- the European Commission with the proposed *European Green Deal Industrial Plan* that will provide \$272 billion for the energy transition;²
- South Korea announcing US\$5.3 billion in support for Korea battery makers³; and
- countries such as Japan, Germany and Australia and making pacts with the US to cooperate on critical minerals, hydrogen and EVs, which may allow them to access tax credits under the IRA.⁴

There is no clear cut answer on whether the IRA (and other following green investment schemes) is a positive climate initiative or spurring a global “clean energy arms race”. Some commentators note that Europe is not an innocent by-stander. This is because the EU is planning to implement a carbon border adjustment mechanism on imports produced in countries with higher CO₂ emissions, including the US.⁵

However, what is clear is that major global economies are viewing the energy transition as one of the major economic opportunities of

this decade. Bold initiatives such as the IRA are triggering the faster roll out of funding, policy initiatives and strategies that countries may otherwise have delayed. However, developing nations may be left behind, and even well-heeled developed countries such as Australia are struggling to secure resources as they divert to the US. Picking winning countries, winning places of manufacture or even winning technologies could be a dangerous game when the end goal ultimately needed is a significant reduction (and potentially capture) of carbon emissions. However, significant Government support is crucial to the decarbonisation at the scale and the pace we need.

Carbon credits and distinction between reduction and removals

Carbon credits are a much discussed but often necessary means of reaching net zero on current technology. Companies are grappling with the distinction between carbon reductions and carbon removals – which is better and what it means practically.

At the outset, we would like to clarify that the Science Based Targets initiative (**SBTi**) does not permit the use of carbon credits towards meeting a company’s declared science-based targets. For the substantial number of SBTi-aligned companies, only greenhouse gas (**GHG**) mitigation activities occurring within their value chain or operations can count towards meeting their science-based targets.

Distinction between reduction and removal credits: In essence, a carbon dioxide removal credit is a unit representing human activity that removes carbon dioxide from the atmosphere and durably stores it.⁶ A reduction credit represents a human

1 Media reaction: US Inflation Reduction Act and the global ‘clean-energy arms race’ - Carbon Brief

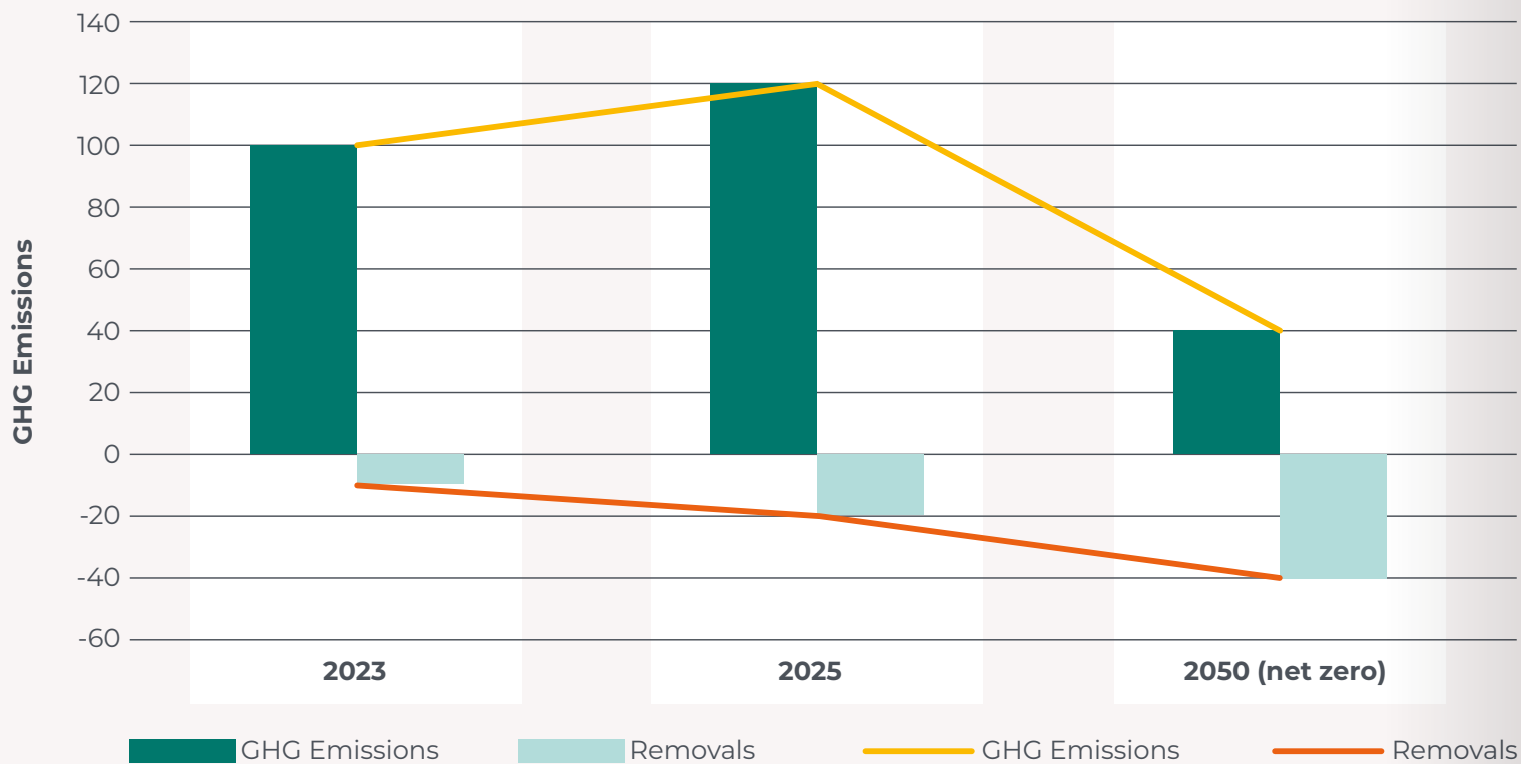
2 EU’s response to the US Inflation Reduction Act (IRA) (europa.eu)

3 Korea to offer 7 trillion won of support to battery makers in response to IRA (joins.com)

4 Japan, US in pact for critical minerals supply chain; Tokyo expects EV tax benefits | S&P Global Commodity Insights (spglobal.com)

5 Media reaction: US Inflation Reduction Act and the global ‘clean-energy arms race’ - Carbon Brief

6 Adapted from the definition of “carbon dioxide removal” in the IPCC Glossary, <https://apps.ipcc.ch/glossary/>.



activity that leads to a unit representing a decrease in the emission of GHG into the atmosphere.⁷ The key distinction is that a removal credit is a subtraction of GHG from the atmosphere while a reduction credit simply decreases the amount of GHG added to the atmosphere (i.e. it avoids the occurrence of a GHG emission).

Necessity of both reductions and removals: There has been a surge of interest in removal credits, with a group of mostly technology companies recently announcing a budget of over USD 1 billion for such removal credits.⁸

However, the Intergovernmental Panel on Climate Change (IPCC) has clearly stated⁹ that both reductions and removals will be needed to achieve the Paris Agreement goal of “pursuing

efforts to limit the temperature increase to 1.5°C above pre-industrial levels”.¹⁰ This is illustrated by the diagram above.

While both reduction and removal credits have their place on the journey to net-zero, they are most relevant at different points in time. To meet the 1.5°C target, the IPCC states that global GHG emissions would have to peak at the latest by 2025 and be followed by rapid and deep reductions.¹¹ Reduction credits are therefore a short and mid-term priority.

By contrast, removal methods are currently at varying stages of development and are also generally costlier than reduction methods.¹² Thus, they are better suited to a long-term role in counterbalancing residual

emissions that are difficult to reduce. Such a role is consistent with the fact that the Paris Agreement¹³ does not require GHG emissions to be reduced to zero. Rather, it requires “a **balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases**”.

Tunnel vision: What are the other big picture issues to watch out for?

In the rush to grasp opportunities to advance a sustainable energy transition it can be hard to strike the right balance and properly engage with big picture sustainability issues. True sustainability in operations and outcomes is not about quick fixes or being perfect. It is about being sophisticated and

proactive, which includes actively engaging with big picture issues and how they might reasonably be mitigated.

The natural tendency is often to focus on the sustainability credentials of the energy transition objective. Non-legal ESG audits also provide general insight and some protection, but they can be a “tick a box” approach and often miss critical risks.

In that context, we are increasingly seeing big picture issues arise within supply chains, particularly those located in challenging overseas jurisdictions. There has also been a rapid increase in the regulatory scrutiny and public concern on these issues, which can obviously have severe reputational and commercial implications.

- One illustrative example is the recent public scrutiny on alleged forced Uyghur labour and related human rights issues in Xinjiang province in China that affects about 45% of the world’s polysilicon supply for solar panels.
- Legal obligations to combat modern slavery globally are evolving but in some jurisdictions remain largely a reputational risk with a focus on reporting and continuous improvement.
- Other big picture issues can also raise severe financial and personal risks, such as foreign bribery with possible fines in the millions and even imprisonment.

Where the record demonstrates genuine engagement on such matters and there is substance to back it up, a business can generally be confident that it is best placed to maintain control over the narrative and show that it is doing everything it reasonably can to operate truly sustainably. Standards and public expectation is an area that is constantly evolving and needs to be closely monitored.

“In the rush to grasp opportunities to advance a sustainable energy transition it can be hard to strike the right balance and properly engage with big picture sustainability issues.”



7 “Reduction” is not a defined term in the IPCC Glossary. This definition is based on the way in which the term is used in IPCC reports generally
 8 <https://www.cnbc.com/2023/04/12/jpmorgan-hm-workday-join-frontier-co2-removal-program.html>
 9 See the Synthesis Report of The IPCC Sixth Assessment Report (AR6), Section 3.3.2, https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf
 10 See Article 2(1)(a) of the Paris Agreement, https://unfccc.int/sites/default/files/english_paris_agreement.pdf
 11 See the Summary for Policymakers of The IPCC Sixth Assessment Report (AR6), Section B.6.1, https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf
 12 See the Synthesis Report of The IPCC Sixth Assessment Report (AR6), Section 3.3.3, https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf
 13 https://unfccc.int/sites/default/files/english_paris_agreement.pdf.



Women leading the energy transition

Australia's bright future

Top 7 takeaways from our leadership report

It is no coincidence that so many women are doing remarkable things in energy transition. It's because of these diverse perspectives, inclusive mindsets and different lenses that we are seeing great successes in this sector.

Below are 7 of our top takeaways from our *Women leading the energy transition – Australia's bright future* report – where we interview senior female leaders at the forefront of the energy transition about pushing boundaries and innovation, making long-lasting change, and why diversity is crucial in reaching net zero.

[Read the full report here](#)



Stephanie Unwin
Chief Executive Officer at Horizon Power

Essential skills for a sustainable, successful future

Skills in energy transition have evolved significantly. Sometimes you can feel things move slowly and then suddenly change is upon us and you need to brace yourself.

Engineering is no longer about static systems. Instead, it's orchestrating many parts of a diverse and dynamic framework. Adaptability, being comfortable with ambiguity and uncertainty, and the willingness to take leaps of faith have become crucial qualities. We need people who understand how to integrate different energy sources, set protection settings and ensure reliability in the face of changing conditions. Take batteries for instance – How can we scale it? How do we integrate it? What happens if it's too hot? What other conditions should we try? We need those who can implement protection systems, spot issues and work out plans before they happen.



Natalie Drew
Legal and Commercial Manager at Yara Pilbara

Safeguarding risk when pushing boundaries

Being a lawyer in an innovative business is interesting. It's a complex and global landscape to navigate. Yara International has set ambitious, voluntary climate targets and, in Australia, we have the Safeguard Mechanism reforms that has just come into force. This will require large industrial facilities like ours to control and reduce greenhouse gas emissions.

There are some other developments that are yet to be finalised – like the certification of low and no carbon products. The market outlook for green and blue ammonia and other products is also difficult to predict. While we wait, these uncertainties can create commercial risk.

However, when weighing this all up – the risk, the regulation, the targets – the greater risk is not embracing decarbonisation. Conventional ammonia production relies on natural gas as its primary feedstock, whereas green ammonia production utilises renewables. Moving away from a reliance on fossil fuels would mitigate our climate impact, and also improve our energy (and importantly food) security. It's complex but we need to forge ahead – the risk is too great if we don't.



Surena Ho
Senior Commercial Manager at Osaka Gas

The role of e-methane for resilient energy transitions

Perhaps not a lot is known about e-methane and why we see e-methane as part of our transition path. E-methane is synthetic methane and combines existing or recycled CO2 and hydrogen.

Our 150-year-old infrastructure heavily relies on fossil fuels. So, a transition to a hydrogen-ready gas network in the immediate future is difficult. For us to maintain the same product we need to change the upstream side, rather than extracting fossil fuels or drilling for gas. This benefits both our infrastructure and customers' infrastructure. Our customers don't need to make any changes to accommodate for our changed product but are still able to participate in decarbonising their operations.

Seeing e-methane as a transitional step, we keep the possibility open for a future switch to hydrogen if it becomes more cost-effective and the infrastructure aligns. We're not saying e-methane is the solution, but part of it.



Kirsten Rose
Executive Director: Future Industries at CSIRO

Revolutionary ideas inspired by nature's wonders

We [CSIRO] always have a broad outlook for ideas, including for energy storage solutions. One team is looking at – believe it or not – eel batteries. It's part of our horizon projects – those that are possible, but still a bit out of the box.

The electric eel has a remarkable capability for storing and releasing energy. The team is looking at how we can mimic this natural system for bio-batteries. Can we replicate with 3D printing, or lab-grown technologies? We intersect diverse fields and explore unconventional avenues.





Brigette McDowell

Chief Executive Officer
at Cheeditha Energy

From renewables to regeneration

Having been involved in renewables for almost a decade, I now have this grandiose vision. I've moved beyond renewables and now look towards the ultimate goal of regeneration.

Whenever we embark on a renewables project, I consider its outcomes at the end of its life cycle. Will there be opportunities for recycling? What will the condition of the land be? Will the biodiversity remain unspoiled, or will rehabilitation be needed? Can we optimise land usage by tweaking panel spacing or raising them?

This is why a 1000-year outlook is so important.



Gina Bozinovski

Managing Director
at LINE Hydrogen

Hydrogen – the power of energy carrying

Hydrogen is often misunderstood. It's not an energy source itself – it's an energy carrier, with the fundamental role of diesel fuel replacement. By capturing renewable energy in hydrogen, we can power various vehicles and machinery that currently rely on diesel or other fuels. Take heavy vehicles – the transport industry contributes around 20 per cent of our greenhouse gas emissions. Each litre of diesel releases 2.68 kilos of CO2 directly into the atmosphere. Match that with Australians' use of 84 million litres of diesel per day, and the contribution to green house gases is substantial. We're focused on hydrogen adoption for heavy vehicles, and our George Town project in Tasmania is a testament to its success. The production of 1.6 tonnes of green hydrogen per day is equivalent to powering around 22 heavy vehicles on a standard 24/7 operation. The potential for wider applications is enormous.



Antonia Peart

Investment Director
at C-Quest Capital

Reaching our global climate goals with boldness

Figures like Elon Musk – whether you love or hate him – remind us that we must be ambitious and, at times, extreme in order to achieve our goals. The enormity of the energy transition and climate challenge can often seem overwhelming, leaving us wondering how to make significant changes.

When I joined C-Quest Capital, the task of deploying millions of cookstoves in some of the most remote and rural areas of the world seemed daunting. Yet, through a shared vision and resolve, we were able to achieve it.

We must keep thinking big and dreaming big – and attract high-quality capital to help solve the issues. By adopting this approach, we can really start tackling the challenges in front of us.

Download the full *Women leading the energy transition* report [here](#).





Charity partner focus

City West Housing

We spoke to Lisa Sorrentino, Head of Development at Sydney-based affordable housing provider City West Housing. In conversation, HFW heard that sustainability is critical in both old and new developments, how community engagement is at the heart of the organisation, and why social housing must be open for all.

Please tell us about your role at City West Housing

I'm responsible for the whole development life cycle through from acquisitions, development, planning, construction, defects, handover and resolution. I started out in luxury build to rent, so this is my first role in the community housing space.

What prompted the move into the social side of the industry?

It was a natural shift. I realised the corporate world wasn't aligning with my values any more. When the Australian company I worked for stopped doing apartment development and moved me into their retirement living division I was uncomfortable with the product offering. Then I worked for the state government for a few years covering renewals, where I quickly discovered I wasn't a government employee either. I ultimately found City West Housing was a good mix of using the skills I had built for a good purpose.

What is that purpose at City West Housing?

Sydney is one of the world's most unaffordable cities. Our purpose is to build stronger communities and improve people's lives by providing affordable housing. We're a developer

with heart and we understand how fundamental a home is for people's health, well being, resilience and opportunities.

Why is this particularly important today?

Affordable Housing is an essential type of social infrastructure. Increasing housing affordability has brought the topic of Affordable Housing to the forefront of Australia's politicians agendas. We've always had housing supply issues, but affordability has generally been focused on first homebuyers and home-ownership rather than social and affordable rental housing. There hasn't been the investment, rather a historical lack of funding. The government has been reluctant to put its hands in its pocket, and there's also been backlash from the private sector and developers when it comes to land development and nimbyism. We're currently seeing an artificial increase in supply, but the long term supply of affordable housing is actually dwindling, despite growth in demand putting pressure on our local economies.

Do you feel positive about the potential for change?

There's a lot of talk, but there hasn't been a lot of change - yet. Affordable



CITY WEST
HOUSING



“Sustainability goes further than just the building itself. We have some great partnerships, such as one with a furniture company which donates its unwanted furniture to our residents for free.”

housing wasn't always a familiar term so it has been an education process. For communities, consultants, local councils and government politicians. It's a learning curve for everybody. However, the rising cost of construction costs (doubling in the last eight years) worries me as the gap between costs and rents only grows rapidly. New South Wales has some of the strictest requirements for constructing and developing apartments in Australia, which leads to increased costs.

How far does sustainability play a role in your developments?

As an organisation, we have made a really conscious effort in this respect. New South Wales has some of the strictest requirements for constructing and developing apartments in Australia, which leads to increased cost. We have sustainability requirements when it comes to electricity and water usage, as well as thermal comfort, and the bar has been raised for measures that need to be met. It's fairly easy to meet these measures in a single family dwelling. But once you get into denser developments it's much more difficult to do things like harvesting rainwater for reuse in toilets, because you don't have as much roof space in relation to the number of occupants. But we don't look at it as a short term play. We're not just developing and selling on, we're also managing and owning. We look carefully at how we reduce our residents' bills which has led to retrofitting some of our existing buildings, such as putting in solar panels to power common areas and residents' apartments. We have also made a commitment to go all electric to reduce operating costs and our carbon footprint. We're not

for profit, but we're very much about value for money and making sure our developments are fit for purpose.

How have you thought creatively about sustainability measures for your residents?

Sustainability goes further than just the building itself. We have some great partnerships, such as one with a furniture company which donates its unwanted furniture to our residents for free. Their biggest cost was disposing of their old stock, so we used one of our buildings which had vacant commercial tenancy, sent notices out to our residents and had a free garage sale for all this beautiful furniture. We have people that are escaping situations like domestic violence, and come with nothing. We have a styling company we work with – we give them a little bio of the resident and they furnish the apartment for free. It's a great sustainability initiative because that stock would have gone to landfill. We also have a relationship with a car share company to encourage green travel plans. So we are thinking on a big scale about emissions, but also on a very individual basis.

Community engagement is central to your work. Why is this so significant?

It's a necessity. As society has evolved in working styles we've lost touch with what community means. A lot of our residents have vulnerabilities, have faced discrimination and hardship, medical issues or domestic violence. We want to give them a safe community forum. Its essential people don't feel like they're stigmatised because they're in affordable apartments and that barriers are removed. We have community awards

where residents nominate a neighbour for doing something good. It's amazing to see positive moves happening across all sorts of backgrounds, ages and household compositions, all melding together. All we can do is foster that environment, we can't force it. We have community engagement activities, such as resident forums. But sometimes housing isn't enough. So this year, in partnership with one of our maintenance contractors, we created Aspire Scholarships for high school students. It means vulnerable families can access resources like uniforms, tutoring, and extra curricular activities such as dance. The hope is that by encouraging kids to continue with education they can be productive community members, and you never know, make the next scientific breakthrough!

Some of your residents are from the indigenous population. Can you tell us about your Reconciliation Action Plan and resident resources?

At the moment 12 percent of our residents identify as Aboriginal and Torres Strait Islanders. Indigenous people have faced a number of difficulties and hardships. So we are trying to do things very genuinely in our approach. Indigenous households tend to have a more difficult time sustaining their tenancies. There is a wide range of views, education and understanding here. So we have hired a local indigenous woman to act as our Aboriginal engagement officer. She's there to help with language and nuances such as cultural cues that we must understand and respect, and has facilitated activities such as traditional yarning circles which offer an opportunity to discuss things

in an informal way. There's a lot of diversity within the Aboriginal people in terms of language, culture and customs. To make a building successful it's important to understand and therefore avoid potential conflicts. We're partnering with another up and coming community housing provider that supports Aboriginal housing, working with them on design and other complexities that take culture into account. We're not just doing it to meet targets, we're doing it in genuine, sustainable ways.

How did your partnership with HFW come about?

I worked with Ian Gordon [Head of HFW's Perth office], when I first came to Australia. When I started at City West Housing I had a construction contract that I had an issue with. He was the first person I called. Since then he has acted on a number of matters for us. He's advised on a lot of different negotiations of settlements and defect issues and just recently we've had a builder that's gone into administration. It's the full gamut of construction issues. He's been a constant across our portfolio for construction advice. The partnership is a valuable resource as Ian is a very practical lawyer. The law isn't always black and white, and he is adept at putting a commercial lens on resolution, weighing out the risk without sugar coating, as well as being very patient with junior staff members. It's one thing to have somebody who has those technical and soft skills but putting them into an affordable housing framework is something extra. Ian has always understood what we've been trying to achieve. He doesn't lose sight that we're managing affordable housing often for vulnerable people and that we're in it for the long term.





HFW Sustainability News



New Australia Proud Network

HFW's work on improving diversity continues to gain momentum with the launch of our new Proud (LGBTQ+) employee network in Australia. The launch event featured an insightful and passionate speech by the Honourable Michael Kirby AC CMG, a former Justice of the High Court. Justice Kirby is also known for being openly gay, including during his High Court tenure. He is a prominent advocate for LGBTQ+ rights. He shared many pearls of wisdom with attendees across the Sydney, Perth and Melbourne offices about how the Proud Network and can make and sustain positive change on LGBTQ+ issues. This exciting step forward by the network be hosting three further events this year including two educational seminars about allyship and unconscious bias in the workplace, as well as a panel discussion about the importance of Pride and diverse groups in the workplace.



Walking for Justice

In the last few months colleagues in our Perth and London offices took part in fundraising walks for local legal charities. On 16 May, 10 colleagues in Perth took part in the Walk for Justice fundraiser in support of the Law Access Foundation, an organisation that facilitates access to pro bono legal assistance for disadvantaged members of the community who cannot afford representation. In London, 13 colleagues (and family members) braved the heat and represented HFW on Tuesday 13 June for the 2023 London Legal Walk. The London Legal Walk is the UK's largest fundraising event in the legal calendar, raising valuable funds for over 100 different charities providing free legal advice and support for some of the most vulnerable people in London and the Southeast of England.

New HFW Scholarship

HFW is delighted to announce the recent launch of a new scholarship scheme. HFW is offering 2 scholarships of £3000 per year to law students who are the first generation in their family to attend university, and who attended a state (non-fee paying) school or college in the UK. This is a key new initiative in our work to support social mobility into the legal profession in the UK.

Save the Date
6 December 2023

**HFW COP28
Sustainability Seminar**

Dubai

More details to follow in the next issue of Sustainability Quarterly

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