

## NOTICE OF FILING

### Details of Filing

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File Title: AUSTRALIAN PARENTS FOR CLIMATE ACTION LTD (ACN 637 293  
746) v ENERGYAUSTRALIA PTY LTD (ACN 086 014 968)  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



## Reply

No. NSD833 of 2023

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations NPA  
Regulator and Consumer Protection Sub-area

### **Australian Parents for Climate Action Ltd (ACN 637 293 746)**

Applicant

### **EnergyAustralia Pty Ltd (ACN 086 014 968)**

Respondent

1. The Applicant joins issue with each of the allegations in the Defence dated 20 October 2023, save as to the admissions therein and the matters set out below (adopting the defined terms in the Amended Statement of Claim):
2. In response to sub-paragraphs 18(c) and 19(d) of the Defence, the Applicant:
  - a. denies the sub-paragraphs; and
  - b. says that the statements made in the Go Neutral Material, including the Go Neutral Product Representations and the Go Neutral Impact Representations, were expressed, and would reasonably have been understood by the Relevant Class, as statements of objective fact.
3. In the alternative to paragraph 2 above, the Applicant says that to the extent the Go Neutral Product Representations and the Go Neutral Impact Representations were expressed, or would reasonably have been understood, as expressions of opinion (which is denied), then:
  - a. by making those representations, EnergyAustralia conveyed to a reasonable member of the Relevant Class that the opinions were honestly held and based on reasonable grounds;

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Filed on behalf of (name & role of party) Australian Parents for Climate Action Pty Ltd, Applicant  
Prepared by (name of person/lawyer) David Barnden  
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(include state and postcode)

b. in the premises, by making the representations, EnergyAustralia engaged and continues to engage in misleading or deceptive conduct in contravention of section 18 of the *Australian Consumer Law*, as:

- i. EnergyAustralia's opinions were not based on reasonable grounds; and/or

**Particulars**

- A. *The Applicant relies on the matters pleaded at paragraphs 38 to 41 and paragraph 44 of the Amended Statement of Claim, which matters were either known or ought reasonably to have been known by EnergyAustralia at the time it made the representations.*
- B. *EnergyAustralia has not identified the reasonable grounds on which the alleged expressions of opinion were based.*
- C. *Further particulars may be provided following discovery.*

- ii. EnergyAustralia misstated the facts on which the opinion was based.

**Particulars**

*The Go Neutral Material misstated the basis on which EnergyAustralia was making its carbon neutrality claims, including by stating that when customers opted into the 'Go Neutral' Program, EnergyAustralia would calculate the emissions associated with their energy use and purchase carbon offsets to "cancel out" or "fully offset" the emissions (Annexures B and C of the Amended Statement of Claim).*

Date: 3 November 2023



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Signed by David Barnden  
Lawyer for the Applicant

This pleading was prepared by Robert Dick SC and Jerome Entwisle, counsel for the Applicant.

**Certificate of lawyer**

I David Barnden certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 3 November 2023

A handwritten signature in black ink, appearing to read 'DBO', with a horizontal line extending to the right from the end of the signature.

Signed by David Barnden  
Lawyer for the Applicant