Statement by Mrs Catherine Rossiter following discontinuance of her preliminary discovery application against ANZ Group Holdings Limited

Federal Court of Australia | NSD1315/2023

I make this statement following the discontinuance of my preliminary discovery application against ANZ Group Holdings Limited.

By way of background, my siblings and I all shared in the inheritance from our mother (who had held ANZ shares for many years) of a parcel of ANZ shares. My father was a businessman, and he banked with ANZ all his life, and I also have an ANZ credit card.

I am very concerned about the fast developing impacts of global warming and the ongoing damage that is being done to our environment, so I am also concerned to ensure that any organisation with which I am associated takes seriously its responsibilities to address these risks.

I think that there are many shareholders like me who care about the decisions that organisations make on our behalf. Further, and again like many customers and investors, I require transparency in order to make informed decisions. But better visibility of risks isn't enough on its own – action is required to reduce these risks.

It is clear from the ANZ Annual Report for 2023 that the bank will now treat climate change as a stand-alone material risk. I think this is entirely appropriate given the threat posed by the changing climate not just to ANZ, but also to our environment, to our economy and to billions of people around the world. In that context, I note the fact that the last time atmospheric CO2 amounts were 300ppm was more than 3 million years ago, when sea levels were around 5 metres higher than today. In 1911 we breached 300ppm and the last time they were 420ppm (the current figure) was over 14 million years ago when global temperatures were about 5°C warmer than they are now.

Temperatures are already around 1.5°C higher than in the pre-industrial era, and, despite international efforts to reduce greenhouse gas emissions, the world is still on track to reach more than 3°C in the next 70 years. If that happens, we can say with confidence that it will result in non-stop extreme weather events, massive famines, the breakdown of many societies and billions of refugees – not a scenario that anyone would wish on future generations.

Climate change and financial risks

Ultimately, climate change has the potential to become a systemic risk to our entire financial system, with grave consequences for our economy, environment and society. We only need to recall the Global Financial Crisis to appreciate how even relatively minor disruptions to our financial system cause massive social and economic harm.

Banks will be heavily affected by risks due to climate change, so they won't be able to continue with business as usual. Banks should be lending and investing in a way that is consistent with limiting global warming as close as possible to 1.5°C, as a key risk mitigation strategy for their own operations, as well as that of the financial system as a whole.

One of ANZ's key business operations is the provision of mortgages for housing, a vital service if all Australians are going to be able to have access to shelter. Unfortunately, much of Australia's housing stock, both new and established, is located in areas at high risk of extreme weather events such as bushfires, floods, cyclones and storm surges. Access to insurance is becoming more and more difficult in these areas, and simply unaffordable for many. This is likely to have increasing risk implications for mortgage providers such as ANZ and I expect this to be dealt with in ANZ's climate vulnerability assessment.

On another note, the issue of carbon offsets is a very fraught one, with enormous uncertainties and huge risks for investors, lenders and regulators. I hope and trust that ANZ does not include offsets in its funding decision-making processes.

Bank lending to fossil fuel expansion

In spite of the clear scientific consensus on the urgent need to phase out the use of coal, oil and fossil gas as quickly as possible, Australian banks have lent tens of billions to expand coal, oil and gas supply since the Paris Agreement was signed in 2015. I struggle to comprehend this wilful blindness to a fast-arriving catastrophe.

Let's be very clear. Bank lending to fossil fuel expansion drives climate change and, therefore, exacerbates climate (and environmental) risks. These lending decisions are a big reputational and financial risk for ANZ.

Shortly after I discontinued the proceeding, I was encouraged to see ANZ's announcement in May 2024 that it will no longer provide project finance to new or expanded oil and gas projects,[1] ruling out its involvement with the disastrous proposed Exxon/Santos/TotalEnergies LNG project in Papua New Guinea (known as Papua LNG).[2]

Despite this positive step, ANZ has been one of the slowest banks to move away from fossil fuel lending and I remain concerned that ANZ does not seem to have a policy that rules out providing corporate finance that will be used for new coal, oil and gas projects. I question whether ANZ is trying to send a message to the fossil fuel producers that its commitment to net zero is very conditional. I also question why ANZ doesn't seem to require fossil fuel companies to include Paris aligned Scope 3 emissions targets in their financial proposals and transition plans. It doesn't matter where the product is burnt, whether here or overseas, the impact on the atmosphere and people is the same.

Many of the projects that ANZ has been or is currently involved with relate to the exploitation of gas, often on the rationale that it is required by our trading partners or as a transition fuel.[3] Despite the rhetoric, gas is just as important as a greenhouse gas as the burning of coal, largely due to the fugitive emissions that result from the extraction process and the energy requirements involved in liquifying the gas for export purposes - in addition to the emissions from burning the product for energy.

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1 https://www.afr.com/policy/energy-and-climate/anz-hardens-policy-against-bankrolling-oil-and-gas-projects-20240508-p5hbu4

2 https://www.reuters.com/business/energy/papua-new-guinea-advanced-talks-with-chinese-banks-fund-its-stakes-lng-2023-12-11/

3 For example, see ANZ Climate Change Commitment, p2: https://www.anz.com.au/content/dam/anzcomau/about-us/anz-climate-change-commitment-nov-2023-accessible.pdf

It seems to me that if Australia keeps selling gas to Japan and Korea, for instance, these countries have very little incentive to bring forward their own plans for a fossil fuel-free economy.

The argument for gas as a transition fuel was a legitimate one twenty years ago, but it no longer holds true. Advances in the design, construction and distribution of renewable power sources have greatly reduced the requirement for gas across the Australian network. While there is a recognition that gas may be needed to assist the electricity network as the availability of coal-fired power diminishes, this is likely to be a small short-term requirement only.

The electricity network no longer relies on the concept of baseload power (eg from coal-fired or gas-fired power stations). Instead, any fuel source coming into the market must follow the load and meet the minimum price on offer, which is usually that from renewable sources.

And of course, across Australia, many communities are moving to all electric sources for heating, cooling and industry, as well as transport. So gas as a network fuel in its own right is fast diminishing in importance.

And while we keep exploiting gas from wells and from fracking, the damage to our environment continues to grow. For instance, the proposed fracking projects in the Pilliga Forest and in the Beetaloo Basin both pose serious risks to the local ecosystems and to the quantity and quality of water in the water table. The Pilliga Forest is the most important recharge zone for the Great Artesian Basin, a vital resource for most of the farms in northern Australia. To damage these vital ecosystems for the sake of a short-term profit should be totally condemned and should be completely off the table for reputable funding organisations.

Contingent liability risks

It is already clear that fossil fuel exploitation and consumption is facing stricter regulation and an increase in litigation around the world. Already, some states in the USA are introducing charges for the climate loss and damage that fossil fuel companies have wrought, and legal cases against fossil fuel companies are beginning to appear in other parts of the world.

The implications for the financial underwriters of these companies are not difficult to identify. One Australian gas company alone produces 0.2% of the world's emissions and could have a loss and damage contingent liability of hundreds of billions of dollars even in a world just 2°C warmer.

Australian banks benefit from strong government regulation, which guarantees the funds of deposit-holders and allows the banks to market themselves as having an increased level of security. From this privileged position, some of them are choosing to keep investing in the expansion of fossil fuels, contributing to harmful climate change and threatening this protective regulatory framework.

Every investment in fossil fuel expansion is a diversion and delay from the necessary transition of our entire economy, and undermines Australia's decarbonisation. Instead, all financial institutions – including ANZ – need to be encouraging and enabling zero-emission solutions at speed and scale. To do otherwise is damaging to an organisation's reputation and puts at risk its social licence.

Reducing ANZ's own emissions

I understand that ANZ is taking steps to improve its own environmental footprint and to reduce its own emissions. While these are clearly steps in the right direction, in my view there is an even more effective way for ANZ to demonstrate its commitment to managing its own emissions.

As a large organisation, and as the ACT Government has done, ANZ could fund renewable energy projects that would supply sufficient electricity to meet its energy needs across the country, by either paying directly for the units of electricity and the accompanying Renewable Energy Certificates, or contributing to capital payments to build a facility. ANZ would then surrender the Renewable Energy Certificates to the Clean Energy Regulator, with a view to enabling ANZ to demonstrate that all of its offices (wherever they are located) are entirely emissions free. An added bonus is that ANZ may well find, as the ACT Government did, that this method actually delivers cheaper electricity to the organisation.

A pathway forward

Now that ANZ's Board has recognised climate change as a standalone key material risk, the Board must have appropriate policies and procedures in place to assess and mitigate that risk.[4] In light of the above I would expect that ANZ's policies and procedures will:

a. mean no new project or corporate finance for new coal, oil or gas projects;
b. require larger emitters to have transition plans aligned with the goals of the Paris Agreement;
c. mean that ANZ will no longer be the worst performing Australian bank for fossil fuel lending;[5]
d. incorporate the full range of climate change risks into its climate vulnerability assessments.

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[4] Prudential Standard CPS 220 *Risk Management*, paragraph [35]
[5] https://www.marketforces.org.au/campaigns/banks/anz/ ; https://www.marketforces.org.au/campaigns/banks/banking-climate-failure-2023/