Transnational Environmental Law, 11:3 (2022), pp. 603–628
doi:10.1017/S204710252200022X

ARTICLE

Are Banks Responsible for Animal Welfare and Climate Disruption? A Critical Review of Australian Banks' Due Diligence Policies for Agribusiness Lending

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First published online 26 August 2022

Abstract
This article argues that banks should adopt animal welfare policies in the light of the growing acceptance of the need for 'responsible banking', which incorporates environmental, social, and governance analysis into credit risk and due diligence processes. The responsibility of banks for animal welfare is underscored by the drive towards greater investment in animal agribusiness, and the vicious cycle through which animal agribusiness can both contribute to, and be impacted by, climate disruption. The article evaluates, through a desktop review, how leading Australian retail banks and agribusiness lenders are addressing animal welfare and climate disruption in animal agribusiness lending. We find that although most banks have made a commitment to animal welfare and climate policies, these often amount to little more than greenwashing. We call for an ecosystem of industry, regulatory, and civil society action to address this danger.

Keywords: Sustainable finance, Agriculture, Environmental social governance, Responsible investment, Factory farming, Responsible banking

1. INTRODUCTION

In November 2019, the National Australia Bank (NAB) became the first of Australia's four major banks to develop a set of 'Animal Welfare Principles'.[1] According to NAB,

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We are grateful to Lev Bromberg for comments on a draft of this article; to Paul Ali, Laura Boehm, Fiona Haines, Megan Bowman, Leslie-Anne Duvic-Paoli, Cam Holley and others for comments and assistance; and to Cam Holley for organizing the workshop where this paper was first presented.

[1] National Australia Bank (NAB), 'Animal Welfare Principles', 2020, available at: https://www.nab.com.au/content/dam/nabrwd/documents/reports/corporate/animal-welfare-principles.pdf.

'[t]he Principles define good animal welfare practices and outline our expectations that customers will meet required animal welfare regulations, standards and conventions' and set out 'the animal-related activities we will not finance'.[2] This announcement was welcomed by many: one agribusiness consultant was quoted as saying that the Principles 'provided good sensible lending guidelines' appropriate to 'risk-averse' institutions like banks.[3] Australian Greens Senator Mehreen Faruqui and two animal advocacy organizations – the Royal Society for the Prevention of Cruelty to Animals (RSPCA) and Animals Australia – issued press releases supporting the announcement and calling on other banks to follow suit.[4] However, spokespersons for the meat and livestock export industry criticized NAB and other banks for their increasing attention to animal welfare and climate implications of animal agriculture as a 'hyper-sensitive' overreaction to activist groups.[5]

We argue in this article that it is appropriate and desirable for banks to address and ameliorate the harmful impacts of animal agribusiness on animal welfare through 'responsible banking' policies. This is especially urgent given the trend towards greater investment in, and intensification of, animal agribusiness. Moreover, animal welfare cannot be addressed in isolation; banks must go on to address the vicious cycle by which animal agribusiness can both contribute to, and be impacted by, climate disruption.[6]

Section 2 of the article introduces and defines responsible banking (2.1). We set out three compelling rationales for banks to adopt responsible banking: (i) managing credit risks, (ii) managing reputational risks, and (iii) promoting social and environmental values (2.2); and show that banks should incorporate animal welfare and climate issues related to animal agribusiness under all three rationales (2.3).

Section 3 reports the findings of a desktop review of seven major Australian banks, all with heavy involvement in lending to Australia's large domestic animal agribusiness industry. These findings show that these banks have adopted only cursory credit risk assessment and due diligence policies concerning animal welfare and climate disruption

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2 NAB, 'Sustainability Report 2019', 2020, pp. 43–4, available at: https://www.nab.com.au/content/dam/nabrwd/documents/reports/corporate/2019-sustainability-report-pdf.pdf.

3 J. Daly, 'National Australia Bank Will No Longer Lend to Businesses Breaching Animal Welfare Standards', *ABC News Online*, 20 Nov. 2019, available at: https://www.abc.net.au/news/rural/2019-11-20/national-australia-bank-no-loans-for-animal-welfare-breaches/11721524.

4 M. Faruqi, 'Green Senator Calls on Banks to Join NAB in Animal Welfare Standards', The Greens, Media Release, 19 Nov. 2019, available at: https://mehreen-faruqi.greensmps.org.au/articles/greens-senator-calls-banks-join-nab-animal-welfare-standards; RSPCA, 'RSPCA Commends NAB as the First of the "Big Four" Banks to Commit to an Animal Welfare Lending Policy', Media Release, 15 Nov. 2019, available at: https://www.rspca.org.au/media-centre/news/2019/rspca-commends-nab-first-%E2%80%98big-four%E2%80%99-banks-commit-animal-welfare-lending; Animals Australia, 'Big Four Big Win: NAB Announces Animal Welfare Policy!', Media Release, 25 Nov. 2019, available at: https://animalsaustralia.org/latest-news/nab-announces-animal-welfare-policy.

5 E.g., Australian Livestock Exporters Council (ALEC), 'Submission to the Inquiry into the Prudential Regulation of Investment in Australia's Export Industries', p. 1, available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Joint_Standing_Committee_on_Trade_and_Investment_Growth/ExportIndustries/Submissions?main_0_content_1_RadGrid1ChangePage=4_20; N. Kotsios, 'State Farming Lobbies Join Forces to Condemn Banks' "Discriminatory" Behaviour', *The Weekly Times*, 29 Apr. 2020.

6 See Section 2.3 below.

in animal agribusiness. We describe our methods and data (3.1); examine what the banks are saying about animals (3.2); and consider how they address animal agriculture within any broader policies on climate change (3.3).

Section 4 concludes that the self-regulatory approach of banks to responsible banking in relation to animal agribusiness is an inadequate response to the 'ecosystem' of interacting challenges posed by animal welfare, the rapidly changing climate, and the sensitivity of community values to these concerns.

2. RESPONSIBLE BANKING AND ANIMAL AGRIBUSINESS

2.1. *Responsible Banking*

'Responsible banking' refers to the incorporation of environmental, social and governance (ESG) issues into banks' credit risk assessment and due diligence processes. The expectation that banks will incorporate ESG considerations into their credit risk assessment and due diligence policies is gradually seeping into regulatory, self-regulatory, and quasi-legal standards.

More than 185 banks have signed up to the Principles for Responsible Banking (PRB), launched by the United Nations Environmental Programme Finance Initiative (UNEP FI) in 2019.[7] The signatories to the PRB have committed to a set of voluntary principles, which include aligning their business strategies to the UN Sustainable Development Goals (SDGs),[8] the Paris Agreement on climate change,[9] and other relevant national and regional frameworks such as the UN Guiding Principles on Business and Human Rights.[10] They also commit to 'continuously increas[ing] our positive impacts while reducing the negative impacts on … people and the environment', and working with clients and customers 'to encourage sustainable practices and enable economic activities that create shared prosperity for current and future generations'.[11] All four of Australia's major retail banks – ANZ, Commonwealth Bank of Australia (CBA), NAB and Westpac – have committed to the PRB.[12] In addition, all companies listed in Australia, including the 'big four' retail banks, must comply with the Australian Securities Exchange Corporate Governance Principles, which require

7 UNEP FI, 'Principles for Responsible Banking: Signature Document', 2019 (PRB), available at: https://www.unepfi.org/wordpress/wp-content/uploads/2019/07/FINAL-PRB-Signature-Document-2-Interactive-22-07-19.pdf.

8 UNGA Resolution 70/1, 'Transforming Our World: The 2030 Agenda for Sustainable Development', 25 Sept. 2015, UN Doc. A/RES/70/1, available at: https://sdgs.un.org/2030agenda.

9 Paris (France), 12 Dec. 2015, in force 4 Nov. 2016, available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

10 UN Office of the High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', 16 June 2011, UN Doc. HR/PUB/11/04, available at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

11 PRB, n. 7 above. See also the 'Equator Principles', a narrower precursor to the PRB, first launched in 2003 and most recently updated in 2020, available at: https://equator-principles.com.

12 Source: https://www.unepfi.org/banking/bankingprinciplets/signatories.

them to disclose whether they have 'any material exposure to environmental or social risks, and, if it does, how it manages or intends to manage those risks'.[13]

ESG concerns relating to animal agribusiness increasingly are being integrated into regulatory and quasi-regulatory standards for responsible banking, a development which we argue is appropriate and desirable. For example, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multi National Enterprises[14] – which apply to all companies (including banks) headquartered in OECD countries – explicitly, albeit briefly, reference animal welfare and the climate impacts of animal agribusiness in their guidance material for banks.[15] Australian financial regulators are currently taking steps to further elaborate regulatory requirements and guidance for companies, banks and other financial institutions to manage climate risks, and report how they are doing so in line with global standards.[16] Australian banks have already been targeted in private litigation for their part in contributing to climate change by funding fossil fuel-intensive industries and projects.[17] Bank lending to animal agribusiness is also likely to become a contentious issue as the regulatory responsibilities of banks to report and manage climate risks become more detailed and more enforceable.[18]

2.2. *Rationales for Responsible Banking in Credit Risk Assessment and Due Diligence*

Corporate lending and underwriting – the issuing of loans and credit facilities to new and existing business clients – is a core business for banks and requires a due diligence process to identify and assess any reputational, legal, and financial risks to the bank. A responsible banking approach requires an enhanced due diligence approach aimed at preventing or mitigating the negative impact of a broad range of ESG risks and enhancing positive ESG values.[19]

Some commentators have argued that the integration of 'extraneous' ESG considerations into business decision making may detract from the duties of company directors

[13] ASX Corporate Governance Council, 'Corporate Governance Principles and Recommendations', 4th edn, Feb. 2019, Recommendation 7.4, available at: https://www.asx.com.au/documents/regulation/cgc-principles-and-recommendations-fourth-edn.pdf.

[14] OECD, 'OECD Guidelines for Multinational Enterprises', 29 Sept. 2011, available at: http://dx.doi.org/10.1787/9789264115415-en.

[15] OECD, 'Due Diligence for Responsible Corporate Lending and Securities Underwriting', 29 Oct. 2019, p. 29 n. 18 (incorporating reference to guidance on responsible agricultural supply chains), available at: https://www.oecd.org/investment/due-diligence-for-responsible-corporate-lending-and-securities-underwriting.htm.

[16] See D. Sinclair, 'Speak Loudly and Carry a Small Stick: Prudential Regulation and the Climate, Energy, and Finance Nexus' (2019) 59(2) *Jurimetrics*, pp. 141–66.

[17] In *Abrahams* v. *Commonwealth Bank of Australia* (2017) (unreported) shareholders sued CBA for failing to disclose climate change-related risks in its annual report.

[18] See the 2021 inquiry of the Senate Joint Standing Committee on Trade and Investment Growth into whether prudential regulation and banks are hampering Australia's coal and livestock export: Parliament of Australia, Inquiry into the Prudential Regulation of Investment in Australia's Export Industries, available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Joint_Standing_Committee_on_Trade_and_Investment_Growth/ExportIndustries.

[19] D. Schoenmaker & W. Schramade, *Principles of Sustainable Finance* (Oxford University Press, 2019), p. 282.

of loyalty and care to maximize profits for the company and its shareholders.[20] If this were the case, then responsible banking could breach directors' duties as major banks generally are listed companies, and hence are subject to directors' statutory and common law duties of loyalty and care.

On the contrary, we argue that banks should incorporate ESG analysis into credit risk analysis and due diligence for three (overlapping and mutually consistent) reasons: firstly, the shorter-term financial interests of banks and their shareholders in managing credit risk; secondly, the interest of banks in managing their reputational risk in the short to medium term and, thirdly, in ensuring the long-term sustainability of the financial system, its agribusiness customers, and the social and ecological systems in which they are embedded.

Managing credit risk

ESG analysis can enhance due diligence and help banks in deciding whether to lend to a particular project or client and, if so, under what conditions. It is now accepted that company directors should consider the material risks of climate change in the form of physical transition, and liability risks as part of their duties of care and diligence.[21] Climate policy and action by other businesses and customers may cause a change in the valuation of assets.[22] For example, Sumitomo Corporation, which owns a 50% share in the Bluewaters power station in Collie, Western Australia,[23] was unable to refinance loans on the coal plant and has since written down the value of the asset to zero, causing a loss of AU$ 250 million in equity.[24]

All four of the major Australian retail banks, as well as the two major rural bank lenders operating in Australia (Bendigo and Adelaide Bank (BEN) and Netherlands-based Rabobank), have committed to climate action and decided not to fund further fossil-fuel projects partly because of the risk of them becoming stranded assets.[25] All have adopted some version of the UN Framework Convention on

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20 See B. McDonnell et al, 'Green Boardrooms?' (2020) 53(2) *Connecticut Law Review*, pp. 335–409, at 342–7; The Generation Foundation, 'Fiduciary Duty in the 21st Century: Australia Roadmap', 19 Dec. 2016, available at: https://www.unpri.org/fiduciary-duty/fiduciary-duty-in-the-21st-century-australia-roadmap/258.article.

21 N. Hutley & S. Hartford-Davis, 'Centre for Policy Development, Future Business Council – Climate Change and Directors' Duties: Memorandum of Opinion', Minter Ellison Solicitors, 7 Oct. 2016, available at: https://cpd.org.au/wp-content/uploads/2016/10/Legal-Opinion-on-Climate-Change-and-Directors-Duties.pdf; S. Venuti & M. Wilder, 'Obligations on Australian Companies to Address Climate Change' (2018) 92 *Australian Law Journal*, pp. 789–98; McDonnell et al., n. 20 above, pp. 393–8.

22 S. Barker, 'Directors' Liability and Climate Risk: Australia – Country Paper', Apr. 2018, Commonwealth Climate and Law Initiative, p. 7, available at: https://www.smithschool.ox.ac.uk/sites/default/files/2022-04/CCLI-Australia-Paper-Final.pdf.

23 Sumitomo Corporation, 'Power Investment and Operation', available at: https://www.sumitomocorp.com/en/asia-oceania/sapl/keyindustrialarea/Power_Investment_Operation.

24 D. Mercer, 'Bluewaters Coal-fired Power Station Written Off as Worthless as Renewables Rise, *ABC News Online*, 17 Dec. 2020, available at: https://www.abc.net.au/news/2020-12-17/bluewaters-coal-fired-power-station-written-off-books/12990532.

25 Sources on file with the first author and detailed in online Appendix Table A1. See also M. Bowman, 'The Role of the Banking Industry in Facilitating Climate Change Mitigation and the Transition to a

Climate Change (UNFCCC)[26] 'We Mean Business' Pledge of 2016.[27] All except Bank Australia are members of the Carbon Disclosure Project, which requires businesses to measure and report on their environmental impact, risks and opportunities, investments, and strategies.[28] All except BEN also claim to align themselves with the UN SDGs.[29]

The logic of enhanced due diligence with regard to ESG factors applies not just to the lending decision, but also to subsequent monitoring and advice. ESG due diligence by banks of business clients may motivate businesses to adopt more sustainable practices and catalyze action on challenges such as climate change.[30]

Reputational risk management

Banks can use responsible banking in their own long-term business interests, to protect their own reputation and improve relationships with stakeholders (such as institutional investors who themselves are concerned about ESG factors),[31] or with existing customers, employees and civil society groups. This can be referred to variously as corporate social responsibility (CSR), social licence to operate, or reputational risk management.

Proponents of CSR argue that responsible banking can build long-term value and profitability for banks based on stakeholder reciprocity: that is, stakeholders will benefit the company if the company seeks to benefit them, which ultimately will enhance profit.[32] Developing a good reputation can also enhance goodwill, which can operate akin to insurance in bolstering a company against unpredictable events.[33] Megan Bowman has shown that Australian banks adopted climate-related self-regulation because of the business case for establishing and upholding a good reputation and enhancing goodwill.[34]

On the other hand, in 2019, civil society groups levelled criticism at the PRB as 'yet another greenwashing tool that masks the destruction of the planet'.[35] This reflects

Low-carbon Global Economy' (2010) 27(6) *Environment and Planning Law Journal*, pp. 448–68, at 454.

26 New York, NY (US), 9 May 1992, in force 21 Mar. 1994, available at: https://unfccc.int/resource/docs/convkp/conveng.pdf (signatories shown on website).

27 See UN Global Compact, 'Business Ambition for 1.5°C', available at: https://www.unglobalcompact.org/take-action/events/climate-action-summit-2019/business-ambition.

28 See CDP Disclosure Insight Action, available at: https://www.cdp.net/en (signatories available on website).

29 Sources are on file with the first author.

30 Bowman, n. 25 above, p. 462.

31 Schoenmaker & Schramade, n. 19 above, p. 103.

32 F. Neitzert & M. Petras, 'Corporate Social Responsibility and Bank Risk', 19 Sept. 2019, p. 4, available at: https://ssrn.com/abstract=3456754.

33 M. Soana, 'The Relationship between Corporate Social Performance and Corporate Financial Performance in the Banking Sector' (2011) 104 *Journal of Business Ethics*, pp. 133–48, at 135.

34 M. Bowman, 'Corporate "Care" and Climate Change: Implications for Bank Practice and Government Policy in the United States and Australia' (2013) 19(1) *Stanford Journal of Law, Business & Finance*, pp. 1–31.

35 Rainforest Action Network et al., 'No More Greenwashing: Principles Must Have Consequences – Civil Society Statement on New Principles for Responsible Banking', Sept. 2019, available at: https://www.ran.org/wp-content/uploads/2019/09/Joint_Statement_Principles_for_Responsible_Banking.pdf.

broader criticism of CSR and self-regulation initiatives as mere 'managerial opportunism' – actions which are not genuinely altruistic but rather seek to capitalize on marketing opportunities, such as attracting conscious consumers.[36] On this view the reputational rationale for responsible banking is a tool for corporations to position themselves as socially and environmentally responsible actors without making substantive changes to their business practices.[37] Corporate responses to both climate change and animal welfare have often been exposed as inadequate greenwashing.[38] This is why it is important to evaluate critically the adoption and implementation of responsible banking policies in practice, as we do in Section 3 of this article.

Promoting social and environmental values

In a more idealistic vein, responsible banking may reflect a commitment by banks to leverage their influence over their business clients, to promote socially and environmentally sustainable business practices and to discourage harmful activities.[39] This third rationale for responsible banking assumes that banks as deposit institutions have an interest in their funds being used in a way that is environmentally and socially sustainable. They should be responsible for promoting the stability and sustainability of the financial system (and the financial wellbeing of depositors and clients) by showing care for the ecological and social systems within which depositors, business clients, and the financial system itself are embedded.[40]

Some banks have explicitly aligned themselves to the mission of using 'finance to deliver sustainable, social and environmental development' through an 'alternative model of banking' promoted by the Global Alliance for Banking on Values (GABV).[41] The GABV goes beyond the PRB by committing its members to creating positive economic, social, and environmental value, not just avoiding ESG risk. For example, Bank Australia is a member of the GABV and is also registered as a 'benefit corporation', a company that is committed to pursuing profit only in line with social and environmental responsibilities. It advertises itself as a place where customers can ensure that their money is doing good, not harm, for people and the planet.[42] This can occur via impact investment in positive projects, avoiding or 'redlining' investment in industries or projects that are assessed as socially and environmentally harmful, or

36 Bowman, n. 34 above, p. 31.

37 P. Vishwanathan et al., 'Strategic CSR: A Concept Building Meta-Analysis' (2019) 57(2) *Journal of Management Studies*, pp. 314–50, at 319; C. Parker, *The Open Corporation* (Cambridge University Press, 2002) pp. 156–64.

38 E.g., C. Wright & D. Nyberg, 'An Inconvenient Truth: How Organizations Translate Climate Change into Business as Usual (2017) 60(5) *Academy of Management Journal*, pp. 1633–61; C. Parker, R. Carey & G. Scrinis, 'The Consumer Labelling Turn in Farmed Animal Welfare Politics', in M. Phillipov & K. Kirkwood (eds), *Alternative Food Politics* (Routledge, 2018), pp. 193–215, available at: https://ssrn.com/abstract=3137331.

39 Bowman, n. 34 above; M. MacLeod & J. Park, 'Financial Activism and Global Climate Change' (2011) 11(2) *Global Environmental Politics*, pp. 54–74.

40 C. Parker, F. Haines & L. Boehm, 'The Promise of Ecological Regulation: The Case of Intensive Meat' (2018) 58(1) *Jurimetrics*, pp. 15–42; OECD, n. 15 above, p. 15.

41 See: http://www.gabv.org.

42 See: https://www.bankaust.com.au.

advising and incentivizing business clients to adopt socially and environmentally responsible practices. One of Australia's major retail banks, CBA, recently announced that it had agreed on a loan to a cattle company at a reduced rate of interest provided that the company met certain standards of animal welfare, emissions reduction, and workplace safety innovations.[43]

2.3. *Animal Welfare and Climate Disruption in Australian Agribusiness*

Agribusiness in Australia, as in many other countries, is particularly dependent on loans (as opposed to equity) for finance.[44] In 2017, total rural debt in Australia was AU$ 71.7 billion, 96% of which was held by banks.[45] Banks, therefore, constitute an essential support for the agribusiness sector but, as we argue in the following sections, are also exposed to any risks that flow from it, including both animal welfare and climate change. Therefore, animal welfare and climate disruption issues for animal agribusiness should be included in responsible banking policies.

Animal welfare as a credit risk

The welfare of non-human animals used in food and textile production is a matter of compliance with legislated regulatory responsibilities, various voluntary 'beyond compliance' standards promulgated by industry, retailers or animal welfare bodies, civil society activism and public concern. Non-compliance with legal, voluntary, and community standards is a credit risk as it is a threat to reputation, profitability and, in some cases, supply contracts.

Government agencies often do not, or only sporadically, monitor and enforce animal welfare compliance.[46] This means that compliance scandals can suddenly erupt when whistleblowers or undercover investigations expose non-compliance, as has occurred with the periodic surfacing of reports and video footage of appalling conditions on board live sheep and cattle export vessels and of cruel handling and slaughter of animals at their destination.[47] The public outcry over the poor treatment of livestock in the export trade to Indonesia was so significant that it led to the suspension of trade and the (temporary) cancellation of licences while regulation and compliance were improved.[48] It is

[43] CBA, 'Australia's First Sustainability-linked Loan for Agriculture', 22 July 2021, available at: https://www.commbank.com.au/articles/newsroom/2021/07/sustainability-linked-loan-for-agriculture.html.

[44] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, 'Background Paper 16: Some Features of Finance in the Agriculture, Forest and Fishing Industry', 2018, pp. 16–20, available at: https://financialservices.royalcommission.gov.au/publications/Documents/fsrc-paper-16.pdf.

[45] Ibid., p. 3.

[46] J. Goodfellow, 'Regulatory Capture and the Welfare of Farm Animals in Australia', in D. Cao & S. White (eds), *Animal Law and Welfare: International Perspectives* (Springer Press, 2016), pp. 195–235.

[47] P. Moss, 'Review of the Regulatory Capability and Culture of the Department of Agriculture and Water Resources in the Regulation of Live Animal Exports', 27 Sept. 2018, available at: https://apo.org.au/sites/default/files/resource-files/2018-10/apo-nid200241_5.pdf; S. White, 'Compassion, Animals and the Law' (2018) 43(4) *Alternative Law Journal*, p. 237.

[48] Associated Press, 'Australia Suspends Cattle Export to Indonesian Abattoirs', *The Guardian*, 31 May 2011, available at: https://www.theguardian.com/world/2011/may/31/australia-suspends-cattle-export-indonesia.

therefore wise for banks to conduct their own due diligence to assure themselves that businesses involved in animal agribusiness have adequate welfare compliance arrangements in place, to avoid credit risk through business disruption. Failure to have an effective animal welfare compliance system may also be an indicator of other governance problems in the business, which create other credit risks.[49]

In addition to minimum legal requirements, supermarkets and food service companies (such as fast-food chains) often require, as a contractual condition, that their meat, dairy and egg suppliers comply with 'beyond compliance' or 'higher animal welfare' assurance standards. For example, Australia's two major supermarkets (who together control 80% of the market) require (i) suppliers of chicken meat to comply with the 'RSPCA Approved' higher animal welfare assurance standard; (ii) suppliers of pork and ham products not to use sow stalls and to be certified under the Australian Pork Limited quality assurance standards, which include additional animal welfare and environmental conditions beyond compliance; and (iii) free range egg producers to meet standards higher than those imposed by law.[50] Failure to comply could lead to loss of access by animal agribusiness producers to their most significant retail market in Australia. Banking due diligence should therefore include assessment of the risk of non-compliance with significant 'beyond compliance' animal welfare standards required by business customers.

Some countries with which Australia trades, such as the United Kingdom (UK) and the European Union (EU), have higher legislated animal welfare standards than those of Australia, which means that animal welfare breaches may cause loss of market access for producers exporting to these countries. Moreover, many supermarkets and food service businesses based in the United States (US) and EU also have higher standards than those legislated in Australia, or imposed by Australian retailers and food service companies.[51] The World Organisation for Animal Health (OIE), which has nearly 200 member countries, has adopted basic animal welfare standards that countries are entitled to enforce in international trade.[52] The OIE animal welfare standards recognize the 'five freedoms' that are generally accepted as the minimum principles of animal welfare regulation all over the world (freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; freedom from fear and distress).[53] At a minimum, banks' due diligence

49 See Centre for Applied Economic Research (CAER), 'Intensive Animal Farming and Live Animal Export: Exposure of ASX Listed Companies', 2017 (on file with the first author).

50 C. Parker & G. Scrinis, 'Out of the Cage and into the Barn: Supermarket Power, Food System Governance and the Regulation of Free Range Eggs' (2014) 23(2) *Griffith Law Review*, pp. 318–34.

51 P. Jones & D. Comfort, 'A Review of Fast-Food Companies' Approaches to Animal Welfare' (2020) 5(1) *Journal of Hospitality & Tourism Insights*, pp. 32–44; G. Scrinis, C. Parker & R. Carey, 'The Caged Chicken or the Free-range Egg? The Regulatory and Market Dynamics of Layer-hen Welfare in the UK, Australia and the USA' (2017) 30(6) *Journal of Agricultural and Environmental Ethics*, pp. 783–808.

52 Available at: https://www.oie.int; see also K. Sykes, 'Globalization and the Animal Turn: How International Trade Law Contributes to Global Norms of Animal Protection' (2016) 5(1) *Transnational Environmental Law*, pp. 55–79, at 63.

53 See: https://www.oie.int/animal-welfare; C. McCausland, 'The Five Freedoms of Animal Welfare Are Rights' (2014) 27(4) *Journal of Agricultural and Environmental Ethics*, pp. 649–62.

https://doi.org/10.1017/S204710252200022X Published online by Cambridge University Press

with regard to animal welfare compliance could incorporate regard for the 'five freedoms', or even the more up-to-date and expansive 'five domains' model of animal welfare (nutrition, environment, health, behavioural interactions, mental state).[54]

Animal welfare as reputational risk management

There are many practices which are lawfully used in intensive animal agribusiness production systems,[55] but which are inherently incompatible with even the most minimal interpretation of the five freedoms. For example, battery hens will spend their entire lives in a metal cage with four to seven other hens, each hen provided with space equivalent to the size of an A4 piece of paper.[56] Other such practices include surgical procedures (such as tail docking, dehorning, and mulesing) without pain relief,[57] long transport by land or sea of live animals, and inadequate or no stunning before slaughter.

Concern about such practices has led to consumer boycotts. As a result, many retailers and food service companies have committed to phasing out animal farming practices that are seen as cruel (such as cage egg production) in the future, with the result that agribusinesses that continue to rely on such practices may lose business and attract scandal. Responsible banks should consider managing their own credit and reputational risk, at a minimum, by adopting similar standards as the major supermarkets, such as requiring evidence of commitment to voluntary animal welfare assurance standards that go beyond compliance.

Animals Australia, an animal advocacy group in Australia, has recently campaigned for banks to adopt animal welfare policies.[58] This is reported to be one of the reasons that NAB adopted its animal welfare principles.[59] In Europe, a campaign by Fair Finance International in Europe contributed to Rabobank and other Dutch banks adopting comprehensive animal welfare policies.[60]

Animal welfare and values-based banking

Responsible banking should recognize that animal welfare is now a basic community value that is likely to be reflected in community and civil society campaigns calling for the ratcheting up of laws and standards. Legislated standards have not kept up

[54] D. Mellor et al., 'The 2020 Five Domains Model: Including Human–Animal Interactions in Assessments of Animal Welfare' (2020) 10(10) *Animals*, article 1870.

[55] CAER & AMP Capital, 'Is Factory Farming Making Us Sick? Antibiotic Use in Agriculture', Apr. 2017, p. 4 (on file with the first author).

[56] Voiceless, 'Unscrambled: The Hidden Truth of Hen Welfare in the Australian Egg Industry', May 2017, p. 3, available at: https://voiceless.org.au/unscrambled-the-hidden-truth-of-hen-welfare.

[57] L. Bromberg, 'Numbing the Pain or Diffusing the Pressure? The Co-optation of PETA's "Naming and Shaming" Campaign against Mulesing' (2021) 45(3) *Law & Policy*, pp. 285–313.

[58] See Animals Australia, 'How Does Your Bank Measure Up when It Comes to Animal Welfare?', 6 Feb. 2020, available at: https://www.animalsaustralia.org/features/bank-measure-up-animal-welfare.php.

[59] See nn. 1–5 above and accompanying text.

[60] See nn. 99–100 below and accompanying text. See also Feedback, 'Butchering the Planet: The Big-Name Financiers Bankrolling Livestock Corporations and Climate Change', July 2020, available at: https://feedbackglobal.org/wp-content/uploads/2020/07/FeedbackReport-ButcheringPlanet- Jul20-HighRes.pdf.

with broader community understanding of what these five freedoms mean in practice.[61] Recent high-quality quantitative and qualitative research on community values, commissioned by Australia's Department of Agriculture and Water Resources, found that there was a gap between societal expectations of animal welfare and the perceived regulatory reality. Almost all Australians (96%) now believe farm animals to be sentient – that is, capable of suffering – and a large majority (75%) believe that farm-animal welfare regulation must be reformed.[62]

Recognizing animal welfare as a community value does not necessarily involve the banks adopting the strong 'animal rights'-type approach of some animal advocates. An animal rights approach argues that any use of animals by business is unethical and should cease.[63] Some banks (such as Bank Australia, as discussed below) do seek to appeal to individuals with a strong ethical position on animals by avoiding the financing of any use of animals by business at all (including any form of animal farming, use in racing, and so on). However, a bank does not have to adopt this strong position to adopt a values-based approach to animal welfare.

Most Australians adopt an 'animal welfare' approach to the use of animals; that is, they consider that it is appropriate to use animals for food and textiles, but only if they are well treated.[64] This is reflected in Australian policy and legislation, which implicitly or explicitly recognizes that animals are sentient and can suffer, and therefore animal welfare protection is necessary.[65] This means that certain uses of animals may be judged by the community as either unnecessary (such as testing of cosmetics on animals) or inherently so likely to cause suffering that they should not be supported (for example, cage farming of layer hens, or live export of sheep via ship from Australia to the Middle East in the hot summer months).

Banks and agribusiness should thus expect legal, industry, and community standards on animal welfare to continue to raise credit and reputational risks.[66] Some ESG analysts argue that wherever there is a mismatch with demonstrated community values, law and policy will inevitably catch up. This has been labelled the 'inevitable policy response'.[67] A values-based approach to animal welfare is one way for banks to keep ahead of such changes.

Impact of climate change on animal agribusiness and animal welfare

In Australia, periodic drought impacts heavily on stocking numbers of animals, capital costs (for feed and irrigation), and ultimately the health and welfare of the animals

[61] C. Parker et al., 'A Public Appetite for Poultry Welfare Regulation Reform: Why Higher Welfare Labelling is Not Enough' (2018) 43(4) *Alternative Law Journal*, pp. 238–43.

[62] Futureye, 'Australia's Shifting Mindset on Farm Animal Welfare', 2018 (on file with the first author).

[63] A. Bruce, *Animal Law in Australia: An Integrated Approach* (LexisNexis Butterworths, 2012), pp. 35–72.

[64] Futureye, n. 62 above.

[65] J. Kotzmann, 'Recognising the Sentience of Animals in Law: A Justification and Framework for Australian States and Territories' (2020) 42(3) *Sydney Law Review*, pp. 281–310.

[66] J. Hampton, B. Jones & P. McGreevy, 'Social License and Animal Welfare: Developments from the Past Decade in Australia' (2020) 10(12) *Animals*, article 2237.

[67] PRI, 'What is the Inevitable Policy Response?', available at: https://www.unpri.org/what-is-the-inevitable-policy-response/4787.article.

https://doi.org/10.1017/S204710252200022X Published online by Cambridge University Press

themselves, as well as the livelihoods of those who farm them. Climate change is exacerbating this risk.[68] Climate disruption is already having a direct impact on animal welfare through increasingly severe and frequent floods and fire, which affect farmed animals particularly.[69] For banks these factors represent a credit risk.

The livestock industry is positioning itself to respond to concerns about both greenhouse gas (GHG) emissions from animal production and climate disruption impacts on animal production through investment in new technologies and management practices.[70] However, such measures may also raise new welfare questions, such as through enhanced confinement and control measures.[71] For example, in order to avoid heat stress, dairy cows may be kept indoors rather than ranging on pasture, while pigs and chickens may be kept in sealed and automatically controlled facilities that capture all emissions to recycle as energy.[72] Climate disruption therefore adds urgency to the need to consider animal welfare, whether as a result of the impacts of climate disruption itself on animal production and animal welfare, or because of the mitigation measures applied to animal production, which may have an impact on welfare.

Impact of animal agribusiness on climate change

By 2019, agriculture contributed globally to approximately 23% of anthropogenic carbon dioxide (CO_2), methane (CH_4) and nitrous oxide (N_2O) GHG emissions.[73] Intensive animal agriculture is a major contributor to these emissions.[74] Through clearing and use of land for grazing and housing of stock, growing cereals for feeding, and the use of water and energy to maintain the entire system from farm to fork, these systems are extractive and resource heavy.[75] In Australia, as drought limits the availability of grazing land and feed crop productivity, farmers will turn to putting animals in feedlots for the last part of their life before slaughter, potentially relying on imported

[68] Climate Council of Australia, 'Feeding a Hungry Nation: Climate Change, Food and Farming in Australia', 19 Oct. 2015, p. 35, available at: https://www.climatecouncil.org.au/resources/foodsecurityreport2015.

[69] E. Stoddard & A. Hovorka, 'Animals, Vulnerability and Global Environmental Change' (2019) 100 *Geoforum*, pp. 153–65.

[70] S. Bray et al., 'Climate Clever Beef: Options to Improve Business Performance and Reduce Greenhouse Gas Emissions in Northern Australia' (2016) 38(3) *The Rangeland Journal*, pp. 207–18; D. Mayberry, 'Pathways to Carbon-Neutrality for the Australian Red Meat Sector' (2019) 175 *Agricultural Systems*, pp. 13–21.

[71] Stoddard & Hovorka, n. 69 above; R. Eckard & H. Clark, 'Potential Solutions to the Major Greenhouse Gas Issues Facing Australasian Dairy Farming' (2020 60(1) *Journal of Animal Production Science*, pp. 10–6.

[72] Parker, Haines & Boehm, n. 40 above.

[73] G. Jia et al., 'Land–Climate Interactions', in P.R. Shukla et al. (eds), *Climate Change and Land: An IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems* (Intergovernmental Panel on Climate Change, 2020), pp. 131–247, at 133.

[74] IPCC 2019, 'Summary for Policymakers', in Shukla et al., n. 73 above, pp. 1–36, at 24, para. B7; W. Ripple et al., 'World Scientists' Warning of a Climate Emergency' (2020) 70(1) *BioScience*, pp. 8–12, at 11.

[75] S. Kraham, 'Environmental Impacts of Industrial Livestock Production', in G. Steiner & K. Patel (eds), *International Farm Animal, Wildlife & Food Safety Law* (Springer, 2017) pp. 3–40, at 20; Parker, Haines & Boehm, n. 40 above, pp. 16, 19–23.

feed.[76] This leads to increased land clearing in endangered forests globally, increased GHG emissions through transport, and new animal welfare risks through increased confinement and intensification. Intergovernmental authorities recommend an overall reduction in the intensive production of animals globally as an essential part of climate mitigation.[77]

Responsible banking commitments should therefore address a range of transitional risks of climate change on animal agribusiness. These may include the potential for stranded assets, investment in emissions-reduction technologies, and rapidly changing regulation (such as the imposition of climate taxes on meat) and market contexts (such as a consumer preference for alternative protein sources with low climate impact).[78]

Further intensification and financialization of animal agribusiness

Although agriculture has generally been considered a risky investment in Australia, particularly in view of Australia's highly variable climatic conditions,[79] both government and industry are positioning Australian agriculture as a credible market for greater investment from both domestic and foreign investors.[80] This would mean greater capital (equity) investment and further consolidation and transformation of traditional, privately owned and family run agribusiness structures.[81]

Australia is consistently one of the world's largest exporters of meat and dairy, with livestock and livestock products generating AU$ 30 billion of Australia's export revenue.[82] Agricultural production and exports are supported by strong population growth within Australia and the westernization of diets in Asia,[83] which both support the shift to highly industrialized, intensive production methods,[84] and therefore

76 Australian Government, Department of Agriculture (ABARES), 'Agricultural Commodities: Forecasts and Outlook – December Quarter 2019', p. 9, available at: https://www.awe.gov.au/sites/default/files/documents/Agricultural-Commodities-December-2019.pdf.

77 K. Sievert et al., 'Understanding the Political Challenge of Red and Processed Meat Reduction for Healthy and Sustainable Food Systems: A Narrative Review of the Literature' (2020) 10 *International Journal of Health Policy & Management*, pp. 793–808.

78 CAER, n. 49 above; FAIRR, 'Coller FAIRR Protein Producer Index 2020', available at: https://www.fairr.org/index; Feedback, n. 60 above; A. Kubeneck et al., 'Investors Bring Home the Cruelty-Free Bacon: The True Cost of Factory Farming', Institutional Shareholder Services, 21 Oct. 2020, available at: https://insights.issgovernance.com/posts/investors-bring-home-the-cruelty-free-bacon-the-true-cost-of-factory-farming.

79 Parliament of Australia, House of Representatives Standing Committee on Agriculture and Water Resources, 'Super-charging Australian Agriculture: Inquiry into Superannuation Fund Investment in Agriculture', Dec. 2018, pp. 1–4, available at: https://www.aph.gov.au/Parliamentary_Business/Committees/House/Former_Committees/Standing_Committee_on_Agriculture_and_Water_Resources/superfundinvestment/Report_1.

80 Parliament of Australia, ibid; Australian Farm Institute, 'Farm Funding Models and Business Structures in Australia', 5 Sept. 2016, available at: https://grdc.com.au/resources-and-publications/grdc-update-papers/tab-content/grdc-update-papers/2016/09/farm-funding-models-and-business-structures-in-australia.

81 Australian Farm Institute, ibid.; N. Larder, S.R. Sippel & N. Argent, 'The Redefined Role of Finance in Australian Agriculture' (2018) 49(3) *Australian Geographer*, pp. 397–418.

82 M. Howden & K. Zammit, 'Australian Agricultural Overview' (2018) 8(3) *Agricultural Commodities*, pp. 5–12.

83 ABARES, n. 76 above, p. 11.

84 Kraham, n. 75 above, p. 19.

https://doi.org/10.1017/S204710252200022X Published online by Cambridge University Press

investment.[85] The uptake of further free-trade agreements, which lower barriers for entry into new markets and increase competition, financialization, and intensification of animal agribusiness systems, is likely to increase.[86]

The Australian government and its agribusiness industry promote a vision of Australian agricultural exports as an important contribution to global food security.[87] This will create greater financial opportunities for banks to lend to agribusiness and underwrite securities offers. However, growth and financialization will also lead to increased intensification of animal farming and live exports, heightening the ESG risks of animal agribusiness. This makes it more urgent for banks (and other financial institutions) to seriously consider, and act to mitigate and prevent, ESG risks of animal agribusiness.

3. DESKTOP REVIEW OF AUSTRALIAN BANKS

3.1. *Samples, Data and Method*

In this part, we critically examine how Australian banks address ESG issues in animal agribusiness in the light of the animal welfare and climate change issues reviewed above. Our sample consists of seven banks (see Table 1): ANZ, NAB, Westpac and CBA (the four largest Australian retail banks by market share); Netherlands-based Rabobank (one of the three largest agribusiness lenders in Australia, along with NAB and ANZ); Bank Australia (included for comparative purposes; although focused mainly on individual customers and unlikely to lend to agribusiness, it is the largest Australian retail bank with an explicit values-based mission); and BEN (one of the largest rural and regional banks with an important agribusiness financing arm).

Data was sourced from the banks' publicly disclosed information online, as at 31 December 2020. This includes Financial Annual Reports, sustainability policies or statements, business strategies and explanatory material. All sources and material relied on are available on file from the first author. Titles and year of each document are referenced below and, in the interests of space, URLs are provided in the online Appendix (Table A3), where still available online. Keyword searches were used to identify relevant information. Terms used in the searches are available in the online Appendix (Table A4).

Information for animal welfare policies was captured and evaluated by reference to an adapted version of the internationally recognized criteria set out in the Business Benchmark for Farm Animal Welfare (BBFAW).[88] The BBFAW is a programme

[85] Parliament of Australia, n. 79 above, pp. 1–4

[86] S. Sharma, 'Milking the Planet: How Big Dairy Is Heating up the Planet and Hollowing Rural Communities', Institute for Agriculture and Trade Policy, 15 June 2020, p. 8, available at: https://www.iatp.org/milking-planet.

[87] N. Larder, S.R. Sippel & G. Lawrence, 'Finance Capital, Food Security Narratives and Australian Agricultural Land' (2015) 15(4) *Journal of Agrarian Change*, pp. 592–603; B. Evans & H. Johnson, 'Responding to the Problem of "Food Security" in Animal Cruelty Policy Debates' (2020) 37(1) *Agriculture & Human Values*, pp. 161–74.

[88] N. Amos et al., 'The Business Benchmark on Farm Animal Welfare Methodology Report 2019', available at: https://www.bbfaw.com/about-us.

Table 1 Summary of Banks Reviewed[a]

Bank [Ranking in agribusiness lending = 1–7][b]	Market Share in Australia	Employees in Australia (approx.)	Operations	Exposure to Credit Risk for Agriculture, Forestry, Fishing and Mining Sectors in 2020
[3] ANZ	11.7%	39,060	Australian owned; operating in 33 markets globally, including New Zealand, Asia-Pacific, Europe, and North America.	AU$ 54.7 billion; approx. 4.2% of total exposure.
[7] Bank Australia	Unknown	386	Australia's first customer-owned bank; operates only in Australia, primarily Victoria and New South Wales; mutual company limited by shares; amalgamation of 73 cooperatives and credit unions.	AU$ 8.4 million; approx. 2.3% of total exposure.
[6] BEN	Unknown	4,530	Operates only in Australia; specialized agribusiness division, Rural Bank, which provides financial services to approximately one in ten Australian farmers, and to the Federal Regional Investment Corporation.	AU$ 6.8 billion; approx. 7.3% of total exposure
[5] CBA	17.4%	45,170	Australian owned; branches in Asia, Europe, New Zealand, and North America.	AU$ 11.9 billion; approx. 1.2% of total exposure.
[1] NAB	15.1%	34,300	Largest agribusiness bank in Australia; in 2018, was banking for one in three farmers.	AU$ 54.6 billion; approx. 6.2% of total exposure.
[2] Rabobank	Unknown	43,822 (across 40 countries) 1,153 average employees	Owned by Cooperative Rabobank UA, a Netherlands-based finance provider; main markets for rural banking are Australia, New Zealand, US and Brazil.	Specialist agribusiness lender with loan portfolio in Australia of €11 billion in total; specific credit exposure to agriculture not provided.
[4] Westpac	15.6%	33,288	Specialize in Australia and New Zealand, which frames their global operations in North America, Europe, and Asia.	AU$ 12.4 billion; approx. 1.3% of total exposure.

Notes
[a] Information for each bank was drawn from company websites, annual reports and IBISWorld reports; see online Appendix, Table A1 for a version of this table with full details of all sources.
[b] In Australia (based on information in far-right column).

established by animal welfare-oriented civil society organizations, Compassion in World Farming, and World Animal Protection, to score food services businesses (that is, users of animal source ingredients in food processing and retail) on their animal welfare practices. It is designed to align with the way in which companies report on other ESG issues. The BBFAW evaluates four pillars: (i) management commitment, (ii) governance and management, (iii) leadership and innovation, (iv) performance reporting and impact. It currently includes 37 separate criteria (divided among the four pillars). Our initial testing of the application of the BBFAW to the Australian banks indicated that they had addressed only the first two pillars.

The adapted version of the criteria we applied in our analysis focuses on the first two pillars. The first pillar concerns whether banks made a public statement of management commitment to animal welfare; whether they defined a specific scope for that commitment (in terms of species and place); and whether they addressed major issues in intensive animal agriculture, particularly issues of confinement (for example, caged hens) and live export. The second pillar evaluates the extent to which the banks published information on how they govern and implement their animal welfare policies in practice (for example, assignment of responsibility to particular staff members, the Board, or Board committees), and what measures were in place to monitor and enforce the policy (for example, exiting loan relationships with customers who do not comply). The second pillar also considers whether the banks commit to complying with voluntary standards and assurance schemes either for themselves or as a requirement for loan customers. These schemes would ensure compliance with the law and/or go beyond compliance with 'higher' animal welfare standards more in line with community expectations. The criteria used in our review are shown in Table 2.

Table 3 summarizes the results of this analysis – that is, whether each of the seven banks addressed each criterion and, if so, whether their stated approach was 'strong', 'weak' or 'medium'. The BBFAW incorporates a scoring system for each element. This scoring was used to create the ratings shown in Table 3 and inform interpretation. The full scoring system is provided in the online Appendix (Table A4). The maximum score that could be obtained would be 85 under our adjusted version. The summary results (overall score) we obtained were: Bank Australia (52); Rabobank (45); NAB (32); BEN (21); ANZ (17); Westpac (13); CBA (4). Full details of the scoring of each bank is available from the first author upon request. In this article we draw on detailed qualitative analysis of each criterion to analyze and evaluate the relative animal welfare position of each bank. We then evaluate whether animal agribusiness is considered in their overall climate change policies.

A significant challenge was finding and comparing data. Banks do not disclose relevant information in a standardized manner; therefore, the documents on which we relied in this desktop research contained different key objectives, qualitative information, target audiences and presentation formats. Sometimes these differed not only between the various banks, but also between different disclosures for different purposes by the same bank. Moreover, most of the banks' policies were not sufficiently specific. These findings are supported by other studies which show that the financial sector has not, to date, effectively provided standardized information regarding climate change.[89]

[89] Australian Sustainable Finance Initiative, 'Progress Report 2019', p. 29, available at: https://www.sustainablefinance.org.au.

Table 2 Criteria for Evaluating the Animal Welfare Policies of Australian Banks based on the BBFAW Framework

Pillar 1: Management Commitment to Animal Welfare Policy	
1	Has the bank identified animal welfare as a relevant business issue?
2	Does the bank publish an overarching policy on animal welfare?
3	Does the policy define its scope in terms of geography or species?
4	Does the policy address close confinement and intensive systems?
5	Does the bank have a position on long-distance live transport?
Pillar 2: Governance and Management of Implementation of Animal Welfare Policy	
6	Has the bank assigned management responsibility of animal welfare to particular employees?
7	Has the bank assigned management responsibility of animal welfare to the Board or senior management?
8	Does the bank publish information on employee training to effectively implement its animal welfare policy?
9	Does the bank provide for action to be taken in the event of non-compliance with its animal welfare policy (e.g., contractual clause allowing exiting of credit relationship with customer)?
10	Does the bank commit to implementing relevant assurance schemes and/or standards of good animal welfare above and beyond minimum legal requirements?
11	Does the bank promote higher animal welfare to customers and the general community through education and/or awareness-raising activities?

This highlights that disclosure does not equal transparency and underlines the need for better regulatory requirements and guidance in this area.

An additional challenge is establishing whether the information disclosed is an accurate and complete representation of the banks' policies and practices in action. For this study we relied only on publicly available information and did not delve into the implementation of the banks' policies, whether they acted according to their own policies and, if so, what impact it had. Nor did we investigate what regulatory governance measures might be more effective in ensuring that all businesses take more seriously responsibilities to animals, animal welfare and climate change. These are matters for further research.

3.2. *Findings: Animal Agribusiness and Animal Welfare*

All seven banks make some sort of statement of management policy and commitment to animal welfare. However, most lack substantive detail about the scope of the policy, and to what species, business activities and in what regions it applies. Moreover, detail is generally vague or lacking as to the governance and management of implementation of the policies. Rabobank, the specialist agribusiness lender based in Europe with an Australian subsidiary, has the most comprehensive policy statement, followed by NAB. However, the red-line approach of Bank Australia is much stronger than any of these as it commits to not funding intensive animal agriculture and live export at all. In both 2019 and 2020, ANZ promised to publish a comprehensive policy clarifying its 'existing principles' in the following year but had not done so by the end of 2021. CBA and Westpac have general but vague statements of commitment to animal welfare.

Bank Australia takes a values-based banking approach that is highly responsive to its customer and employee stakeholders, enabled by its corporate structure (customer-owned, benefit corporation). This is evident in how soon after animal welfare was on

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Table 3 Summary Evaluation of the Animal Welfare Policies of Australian Banks

	Management Commitment					Governance and Management of Implementation					
Name of Bank	Q1 Identified issue	Q2 Published policy	Q3 Defined scope	Q4 Close confinement	Q5 Live transport	Q6 Employees responsible	Q7 Board/ Senior management responsible	Q8 Training	Q9 Non-compliance action	Q10 Assurance standards	Q11 Awareness raising
ANZ	S	–	–	–	–	–	W	M	–	–	–
Bank Australia*	S	S	M- S	–	S	–	S	M	–	–	S
BEN	S	M	–	–	–	W	W	–	W	W	–
CBA	–	–	–	–	–	–	W	–	W	–	–
NAB	S	M	S	W**	–	M	M	–	M	W	–
Rabobank	S	S	S	–	M	S	M	–	S	–	–
Westpac	S	–	–	–	–	–	–	–	M	W	–

Key: – = Not addressed at all; W = weakly addressed; M = medium; S = strongly addressed

Notes

* Bank Australia does not score on Q4 (close confinement), Q6 (responsible employees), Q9 (non-compliance action) and Q10 (assurance standards) because its policy is to not lend to any animal agriculture at all.

** NAB makes a commitment to the five freedoms but does not explicitly consider what these mean for close confinement and live export.

its agenda a strong policy position was outlined. In 2018, Bank Australia reported that it had received customer feedback that stakeholders did not want the bank to lend to organizations involved in live export and intensive farming.[90] By 2019, it announced that this had been implemented as a 'red-line' (no lending) policy.[91]

However, Bank Australia is not an agribusiness lender. It lends mainly to individual retail customers rather than business, and not at all to agribusiness.[92] Its highly responsive policy position is aimed, therefore, at bolstering its reputation to attract customers and employees who share its values-based approach, rather than managing credit risk and due diligence with any existing customers. Bank Australia's 2015 strategic plan, for example, sought to rebrand the company and attract 'professionals, socially aware people, community and public sector organizations and small business'.[93] Animal welfare has become part of its heavily promoted 'Clean Money' campaign, launched in 2018 and highlighted on the landing page of its main customer-oriented website.[94] This campaign highlights that Bank Australia does not lend customer money to 'harmful' industries, as other banks may: it seeks to 'influence … positive change' through targeting bad industry practice.[95] Bank Australia does promote animal welfare through public campaigning aimed at building solidarity for social norms,[96] but does not have the opportunity or strategy to improve animal welfare practices in agribusiness through its responsible banking strategy.

The bank with the most extensive policy is Netherlands-based Rabobank, a specialist agribusiness lender with an extensive portfolio of agribusiness loans in over 40 countries, and the second largest lender to agribusiness in Australia. Rabobank adopted a comprehensive 'Sustainability Framework Policy' in 2016; this includes detailed animal welfare policies as a major theme, a detailed component on the livestock sector, and a sector-specific policy on livestock farming, fishery and forestry.[97] Rabobank's extensive policy is designed to meet best practice standards, above and beyond compliance with the Netherlands' relatively strong farm animal welfare regulation. As such, it appears to be aimed at reputational risk management. A Dutch coalition of civil society groups has regularly monitored and criticized major banks for their impact on animal welfare.[98]

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90 Bank Australia, 2018 Corporate Report, p. 20. Note that URLs for this and all the other corporate documents used as data sources for this section are available in the online Appendix, where still available online. Name of bank, title, year and page number (where relevant) are provided in this article. All are also on file with the first author.

91 Bank Australia, 2019 Impact Report, p. 18.

92 Commercial lending makes up 7% of its overall loan book: Bank Australia, 2020 Impact Report, pp. 77–8.

93 Bank Australia, 2015 Corporate Report, p. 8.

94 Available at: https://www.bankaust.com.au. See also Bank Australia, 'Responsible Banking', available at: https://www.bankaust.com.au/responsible-banking/what-we-do-and-dont-lend-to/live-export-and-intensive-animal-farming.

95 'Clean Money Brand Strategy', Bank Australia, 2019 Impact Report, p. 5.

96 E.g., Bank Australia hosted a public speaking event in June 2019, which featured guests from advocacy groups such as Animals Australia: 2019 Impact Report, p. 23.

97 Rabobank, Sustainability Policy Framework (2016), pp. 37–44, 67–8.

98 Fair Bank Guide, 'Risking Animal Welfare: Case Study on Investments in Chicken and Pig Meat Production', 28 Feb. 2018, available at: https://fairfinanceguide.org/ff-international/case-studies/2018/

Rabobank describes itself as motivated to 'grow' its financing of animal agribusiness and contribute to a livestock sector that is 'environmentally and economically sustainable and has broad public support'.[99] As Rabobank explains:

> Rabobank uses a comprehensive framework for the assessment of animal welfare based on scientific knowledge and leading and globally accepted best practice and standards … Clients are expected to comply with, among others, the good practices as outlined by the International Finance Corporation's (IFC) Good Practice Note Animal Welfare in Livestock Operations, and with the terrestrial and aquatic animal health codes of the World Organisation of Animal Health (OIE).[100]

Rabobank's animal welfare principles exhort agribusiness clients to provide positive experiences for animals especially in terms of housing design and minimizing pain wherever possible, among other values. However, they do not adopt an explicit policy of discouraging intense and highly confined housing systems, nor explicitly require pain relief when undertaking painful procedures.[101] Rabobank's livestock policy suggests that its role is 'supporting clients in making the right choices and in facilitating them as they develop towards a more sustainable business operation'.[102] However, unlike supermarkets and fast-food chains in Europe, the US and Australia, Rabobank does not commit to having its clients adopt 'beyond compliance' animal welfare standards.

In 2019, NAB identified animal welfare as a key ESG risk management activity that falls within its substantial agribusiness portfolio.[103] NAB's animal welfare position is the most comprehensive of the major Australian banks, and focuses strongly on ensuring the success of the agricultural sector. The preamble to the bank's Animal Welfare Principles statement (the Principles) gives insight into its motivation:

> NAB finances one in every three dollars lent to agribusinesses in Australia and one in every four dollars lent to agribusinesses in New Zealand. We have exposure to a wide range of businesses involved in agri-business sub-sectors – both pre- and post-farmgate. We, alongside our customers, care about the welfare of animals. We believe the integrity of agribusiness is critical to ensure its sustainability. Animal welfare is an important issue, as reflected in various legislative instruments, international conventions and treaties, industry codes and standards and community expectations.[104]

NAB has earmarked animal welfare since 2017 as an area of interest under 'stakeholder engagement' with community partners.[105] It identifies animal welfare principles as relevant to the integrity of the agribusiness sector as seen in the preamble to its Principles. The 12 Principles apply to 'all dealings with customers engaged in any form of business

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risking-animal-welfare. Rabobank's response is available at: https://www.rabobank.com/en/about-rabobank/background-stories/food-agribusiness/rabobank-focuses-explicitly-on-sustainability-in-livestock-farming.html.

99 Rabobank, Sustainability Policy Framework, p. 67.

100 Ibid., p. 17.

101 Ibid., pp. 37–40.

102 Ibid., p. 67.

103 NAB, 2019 Annual Review, p. 31.

104 NAB, Animal Welfare Principles, 'Preamble', p. 1.

105 NAB, 2017 Sustainability Report, p. 80.

involving animals'.[106] The language used is non-committal, with NAB being 'encouraging' and 'supportive' of good animal welfare practices by customers.[107] NAB does not allocate responsibility to a committee or individual for animal welfare issues. More generally, and similar to the other banks, responsibility for ESG risk assessment is allocated to a variety of management groups: the Executive Risk Committee, the Group Credit and Market Risk Committee, and the Group Non-Financial Risk Committee.[108]

BEN, the Australian rural and regional bank, has also made a broad commitment to farm-animal welfare in its 'Animal Welfare and Livestock Policy'.[109] Much like Rabobank, BEN specializes in agribusiness (through a subsidiary, Rural Bank). BEN identifies animal welfare and livestock as a business sustainability issue for its clients,[110] and allocates the implementation of the policy to 'all Bendigo and Adelaide Bank staff, and in particular Rural Bank staff', with responsibility for identifying and responding to animal welfare challenges on-farm being allocated to 'relationship managers'.[111] This suggests a lack of management commitment to policies that mandate the assessment and promotion of good animal welfare during comprehensive and proactive due diligence and credit risk assessment processes, but rather individual staff responsibility to react when an animal welfare scandal or regulatory breach occurs. Overall, the policy is high level and, being only one page, does not canvass specific animal welfare issues in detail. For example, even in the wake of the live export scandal, BEN's policy states only that it 'expects customers to provide their animals with appropriate handling', which includes during transportation.[112]

ANZ has no animal welfare policy, but in 2020 did commit to developing a set of principles in response to a campaign by animal advocacy group Animals Australia (AA). ANZ reported in its 2020 ESG Supplement that it had 'received over 2,000 emails … supporting AA's position'.[113] As a result, ANZ reported that it had 'met with AA and Royal Society for the Prevention of Cruelty to Animals (RSPCA) to understand what these organisations – and their supporters – expect from the bank'.[114] It went on to report that '[a]s a result of these discussions with AA and RSPCA, our customers and other stakeholders, we are committing to develop and publish a set of principles on animal welfare that reflect our existing approach and to clarify our expectations of customers'.[115] These principles – originally promised for 2020 – were delayed, presumably as a result of the global pandemic. This suggests that civil society organizations may need to put pressure on some banks to keep animal welfare

[106] NAB, Animal Welfare Principles, p. 1.
[107] Ibid.
[108] NAB, 2020 Sustainability Report.
[109] BEN, 2019 Annual Report, p. 32.
[110] BEN, 2020 Annual Review, p. 32.
[111] Ibid.
[112] BEN, 2020 Animal Welfare and Livestock Farming Policy, p. 1.
[113] ANZ, 2020 ESG Supplement, p. 38.
[114] Ibid.
[115] Ibid.

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on the business risk agenda. They were eventually published in November 2021 after the research for this article was completed.[116]

CBA does not have a stand-alone animal welfare policy but does broadly address animal welfare in agriculture, forests and fishery (especially beef and fish farming) under its Environmental and Social Framework.[117] The Framework states that the bank will 'encourage' its clients 'to keep abreast of advances in industry sustainability standards, certifications and schemes, improving awareness in the production and processing of soft commodities'.[118] As mentioned above, CBA recently (after the analysis for this article was largely complete) announced publicly that it had issued a sustainability loan to a beef producer with a discounted interest rate as long as certain animal welfare, sustainability metrics and worker safety metrics were met.[119] While a promising move, at this stage it remains a one-off instance. It is unclear whether it will be applied more widely, or whether the animal welfare standards adopted and their monitoring and enforcement will be made publicly available.

Westpac requires compliance with specific best-practice industry standards (for example, Forest Stewardship Council for timber, pulp and paper products) and takes a 'zero tolerance' approach to certain practices that are already illegal – which include land grabbing, shark finning and commercial whaling practices – but does not provide specific requirements in relation to farm-animal welfare. In 2019, Westpac reported that 'customers and [non-governmental organizations] … raised concerns regarding animal welfare and the live animal export industry in Australia'.[120] Despite this, Westpac did not see animal welfare as sufficiently material to publish a policy, although the issue has 'informed'[121] the bank's Agribusiness Position Statement (which is updated annually and 'outlines the principles which [Westpac]… apply when providing finance to customers in agribusiness'[122]).

Similar to the approach of CBA, Westpac is non-committal and equivocal in 'seek[ing] to develop relationships with customers that: … [treat] livestock with due care, in compliance with relevant jurisdictional animal welfare regulations in line with industry best practices'.[123] Westpac's Financing Agribusiness Position goes further than that of CBA, stating that:

> [W]e may make the decision not to on-board customers where, in our opinion, they do not adhere to the requirements of this position statement. With respect to existing customer relationships, we may look to exit this relationship in circumstances where we do not believe that they are prepared to address any identified issues responsibly.[124]

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116 ANZ, 2021 ESG Supplement, p. 48.

117 CBA, 2020 Environmental and Social Framework, p. 10.

118 Ibid.

119 CBA, n. 43 above.

120 Westpac, 2019 Sustainability Performance Report, p. 53.

121 Ibid.

122 Westpac, 2019 Financing Agribusiness, p. 1.

123 Ibid.

124 Westpac Group, Financing Agribusiness (2019), p. 5. However, the previous 2014 Financing Agribusiness statement added: 'For all agricultural commodities sectors, we will follow up on credible allegations that customers do not meet our standards and take action as appropriate'. The 2020 version has omitted the statement.

However, no specific commitments are made.

3.3. *Findings: Animal Agribusiness and Climate Change*

The banks in our review have all adopted voluntary initiatives to address climate change. All seven banks have also made public statements recognizing the relevance of climate change considerations to agribusiness in general.

Westpac directly links climate change to agriculture, reporting on the risks posed by climate change to the food system in various ways across different reporting years since at least 2014. Westpac's Climate Change Position and Action Plan both address climate change in relation to the agribusiness sector specifically. In the most recent Plan, Westpac states that, in line with its Financing Agribusiness position statement, it will:

> [a]ssist customers to meet the challenge of both transition and physical risks associated with climate change, and to maximise opportunities to reduce greenhouse gas emissions arising from the adoption of new technologies and farming techniques; and
>
> Undertake further analysis to build on our understanding of the short, medium and long-term climate change risks and opportunities in our major agribusiness portfolios, and how we can continue to support our customers to respond.[125]

CBA has a relatively strong history of considering climate change issues as a credit risk in general,[126] but it was only in 2019 that the bank extended climate scenario analysis to agribusiness lending.[127] CBA now states that agribusiness will be directly affected by climate change through the physical risks posed by changing weather patterns.[128] The bank also identifies agribusiness as a transition risk as the most emissions-intensive sector in its portfolio.

Vague commitments to sustainable agriculture are common. For example, ANZ has pledged AU$ 50 billion to fund and facilitate 'sustainable solutions by 2025', which include 'reforestation, sustainable forestry and agricultural practices'.[129] ANZ discusses the link between climate change and agriculture under the 'risk management' heading of climate risk reporting, specifically discussing risks stemming from rainfall variability and water scarcity.[130] The bank also goes some way towards recognizing that animal agribusiness strategies that rely on an increase in numbers and intensity of animals farmed for export may not be sustainable in the longer term. One report acknowledges the challenges of drought for farming and the need to consider business strategies for beef production for the future: specifically 'whether to market Australian

[125] Westpac, 2023 Climate Change Position Statement and Action Plan, p. 7.
[126] In 2013, CBA stated that the Carbon Solutions Team was formed as a direct response to both the direct and indirect effects of climate change on the Group: CBA, 2013 Annual Report, p. 32.
[127] CBA, 2019 Annual Report, pp. 53, 55–60.
[128] Ibid., p. 58.
[129] ANZ, 2020 ESG Supplement, p. 100.
[130] ANZ, 2020 Annual Report, p. 35.

https://doi.org/10.1017/S204710252200022X Published online by Cambridge University Press

beef as a bulk commodity, or whether to continue to enhance the "brand Australia" concept underpinned by the perceptions of quality and food safety'.[131]

In its 2019 Annual Review, ANZ discusses how it will 'encourage and support 100 of our largest customers in the energy, transport, building and food, beverage and agricultural sectors to establish, and where appropriate, strengthen existing low carbon transition plans, by 2021'.[132] The bank's research has found that most of these customers are dealing with such risks by committing to reduce or remove deforestation from their operations and supply chains.[133] There is no further information reported on these activities.

Similarly in 2018, NAB identified the agricultural sector as a 'key focus in our Natural Value and Climate Change Strategies'.[134] NAB links the effects of climate change to agriculture and water as emerging risks in the external environment.[135] The bank's Natural Value Strategy 'seeks to factor how farmers manage natural capital like water, land and soil into credit risk assessments'.[136] To achieve this, NAB has partnered with a number of environmental organizations such as ClimateWorks and peak bodies, including Dairy Australia and Agforce Queensland.[137]

BEN also has a general but vague commitment. It has a climate change policy which commits the bank to 'build climate mitigation and adaption into our business and work to assist our customers and their communities to build climate resilience into their futures'.[138] Within this policy, BEN notes that, with regard to its lending activity, 'we are working to understand and reduce the emissions intensity of our asset portfolio by working with our business, farming and residential customers to reduce their emissions'.[139]

As discussed above, Bank Australia has a different approach from the other banks. As Bank Australia is primarily a retail bank based in urban Victoria and New South Wales,[140] it has little credit exposure to agriculture, forestry and fishing.[141] Bank Australia reports that it manages the risk of climate change to the planet and its business by 'not lending to climate exposed industries … and by reducing the environmental impact of our operations by offsetting carbon emissions, purchasing and generating renewable electricity, and owning the Bank Australia Conservation Reserve'.[142] The other banks all recognize that agribusiness, including animal agribusiness, is at risk one way or another as a result of climate change transitions and the physical risks of

131 ANZ, The Track Ahead: Insight Report (2018), p. 22.
132 ANZ, 2019 Annual Review, ESG Supplement, 'Environmental Sustainability Targets', p. 13.
133 ANZ, 2019 Annual Review, p. 48.
134 NAB, 2018 Sustainability Report, p. 36.
135 Ibid., p. 7.
136 NAB, 2019 Sustainability Report, p. 21.
137 NAB, 2018 Sustainability Report, p. 27; 2019 Sustainability Report, p. 25.
138 BEN, 2020 Climate Change Policy, p. 1.
139 BEN, 2020 Annual Review, p. 31.
140 Bank Australia, 2020 Financial Report, p. 49.
141 Bank Australia, 2020 Impact Report, p. 78.
142 Bank Australia, Corporate Report 2016, pp. 15, 30; 2017 Corporate Report, p. 29.

climate disruption itself, but they largely signal the intention to keep lending to (and profiting from) animal agribusiness, without contemplating the significant changes to production and the associated welfare of animals that are likely to come as the climate changes.

4. CONCLUSION

Responsible banking has emerged as a widely accepted paradigm for banks in considering transnational environmental issues in credit risk assessment and due diligence lending processes. This article, however, has argued that the current focus of responsible banking on climate change risks arising from lending to fossil-fuel business is too narrow. Responsible banking frameworks and guidance could, and indeed should, evolve in order to address and ameliorate the harmful impacts of animal agribusiness on animal welfare and the climate.

The article examines what this might mean for banking practice in Australia, a country with a relatively large and significant domestic and export animal agribusiness industry. All seven banks reviewed have started to integrate animal welfare into their ESG policies, although some have done so more comprehensively than others. However, their policies and practices are inadequate when considering the significant suffering of animals in intensive animal agribusiness and the impact on animals and production being wrought from rapidly deteriorating climatic conditions. The banks' attention to redressing the impact of animal agribusiness on the climate is embryonic at best.

When banks do address animal use, the policies largely encourage and collaborate with customers to abide by the relevant legal and industry standards; Bank Australia is the exception to this rule and red-lines any lending to animal agribusiness. This status quo is problematic. The banking sector continues to rely on ineffective and deficient government standards to do the work of setting out its animal welfare objectives, being too slow to act on the cycle of connection between animal agribusiness and climate change, and largely ignoring the fact that further investment in animal agribusiness will raise further and greater challenges on both fronts.

Both the climate and animal welfare approaches taken by the banks reflect a management-focused form of self-regulation in which no great attempt is taken to make themselves accountable to stakeholders. NAB and ANZ mentioned consultations with animal welfare groups and other stakeholders, which resulted in the decision to create an animal welfare policy (not yet acted on, in the case of ANZ), but there is no ongoing plan for accountability to measurable goals. The danger is that the banks are using (fairly vague, generic) animal welfare policies as a way of creating a veneer of legitimacy and garnering public support for further investment and expansion of the animal agriculture sector, rather than addressing the hard challenges of climate disruption, food and water insecurity, and animal suffering. This reflects a deeper and more general problem of 'greenwashing' and symbolic action via self-regulatory policies and principles that simply reinforce the status quo. The exception is Bank Australia's business model, which is highly responsive to customer (and employee) concerns and values. However, Bank Australia has little exposure to agribusiness, so commitments to avoid doing business with intensive animal agriculture is an easy win that can be heavily promoted at no great cost.

From an ecological governance perspective, the self-regulatory efforts of the banks are not enough. Banks certainly should adopt and strengthen responsible banking policies that address the intertwined animal welfare and climate disruption dimensions of animal agribusiness, as a bare minimum of responsibility towards animals, community values, and the climatic and other ecological crises that human and non-human animals all must endure. Yet, the political dominance of the animal agribusiness industry, and the lack of adequate laws, regulatory standards, independent benchmarks, and monitoring hamper the accountability and ambition of banking policies concerning animal welfare, and the climate impacts of animal agribusiness. National and international intergovernmental action is necessary to motivate and guide responsible banking policies, and to hold banks accountable when they fail. International and national financial regulators and climate agencies could impose more extensive requirements on banks to disclose and report on climate risks and, importantly, to set emissions reduction targets that include not just fossil fuels but also agribusiness emissions and climate impacts.

Greater ESG reporting requirements to cover animal welfare and other environmental and social impacts of agribusiness would also assist in bringing issues to public attention and helping civil society organizations and regulatory agencies to hold banks accountable. Responsible banking would be effective only where it is supported and buttressed by an 'ecology' of substantial and substantive national and international regulations that places strict rules around animal welfare (how non-human animals may and may not be used, and how they must be cared for if and when they are used) and climate justice (achieving net-zero emissions, while repairing ecological and social harm).

SUPPLEMENTARY MATERIAL

The supplementary material for this article can be found at: https://doi.org/10.1017/S204710252200022X.