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Climate Disclosure Unit
Climate & Energy Division
Treasury

Lodged electronically

To whom it may concern,

Climateworks Centre submission on climate-related financial disclosure: Exposure draft legislation

Climateworks Centre welcomes the opportunity to respond to the exposure draft legislation for climate-related financial disclosure. Climateworks bridges the gap between research and climate action, operating as an independent not-for-profit within Monash University. Climateworks develops specialist knowledge to accelerate emissions reduction, in line with the global 1.5 degrees Celsius temperature goal, across Australia, Southeast Asia and the Pacific.

Climateworks responded to the first two rounds of consultation on this topic, drawing on our extensive work with corporations and business associations to encourage effective business reporting on climate risks, opportunities and credible transition plans. Our work has included developing frameworks for meeting Task Force on Climate-Related Financial Disclosure guidance and advising on and assisting with delivering climate scenarios and emissions reduction actions. In 2022, Climateworks supported the Australian Council of Superannuation Investors (ACSI) to assess transition planning and climate risk in ASX200 companies (ACSI 2022).

Climateworks is engaging with leading Australian corporations, other stakeholders, and international initiatives involved in developing and assessing credible net zero emissions transition plan frameworks to investigate how they will operate in Australia. Climateworks supports the expansion and improvement of sustainable finance as a key lever to decarbonise the economy. Climateworks' CEO, Anna Skarbek, is a member of the Advisory Committee of the Australian Sustainable Finance Initiative, the Glasgow Financial Alliance for Net Zero's Asia-Pacific Advisory Board, and the Net Zero Economy Agency Advisory Board.

Submission summary

Overall, Climateworks supports the framework introduced in the exposure draft legislation. However, we recommend the legislation be strengthened to ensure Australia uses mandatory climate risk disclosure to the best effect. Climateworks supports the Australian Government expectation set out in the Policy Statement that corporate scenario analysis must include a 1.5 degree-aligned scenario.

Climateworks recommends:

- Entities with a non-material risk should be required to present why they should be exempted from reporting.
- Government explicitly defines what is included in the proposed legislation review to ensure

- that mandatory disclosure is fit-for-purpose, and brings forward the review to 2027–28.
- Government or its agencies monitor the impact of the proposed flexibility mechanisms on emissions and investment.
 - In line with Government expectations, auditing and assurance should be mandatory for scope 1 and 2 emissions a year after emissions reporting becomes mandatory for the relevant group. Climateworks recommends that Scope 3 emissions reporting should also be subject to auditing and assurance a year after mandatory reporting commences for the relevant group.
 - Treasury maintains oversight of scope 3 emissions until reporting is required and ensures assurance on scope 3 emissions is not delayed until July 2030.
 - During the limited liability period, the Australian Securities and Investments Commission (ASIC) should be tasked to work with entities to ensure they are building capabilities in scope 3 disclosure, scenario analysis and sustainability reporting, and help identify issues that require further guidance.
 - The climate-related financial disclosure legislation should include a signal that there will be a future requirement for credible transition plans.
 - Government provides greater clarity on how it will be self-reporting in line with mandatory disclosure.

Scenarios, options, monitoring and review

Recommendation 1: Climateworks supports Treasury expectations that scenario analysis for mandatory reporting must include a 1.5°C-aligned scenario.

Climateworks supports the Treasury's expectation on scenario analysis, specifically regarding the inclusion of at least one 1.5°C-aligned scenario which aligns with the Climate Change Act 2022. Climateworks, like many leading climate organisations and institutions, regards limiting warming to 1.5°C as vital to preserving a safe and prosperous planet. Climateworks believes it is best practice to use a 1.5°C-aligned scenario as part of mandatory financial climate-risk disclosure and therefore should be encouraged by Government. The use of a 1.5°C-aligned scenario is also in line with GFANZ and other international expectations.

Recommendation 2: Entities with a non-material risk should be required to present why they should be exempted from reporting.

We are concerned about the flexibility introduced through Option 1a. Climateworks suggests that rather than allowing Group 3 entities to opt-out if they consider their emissions to be non-material, an 'if not, why not' approach should be taken. The entity would be required to present why they should be exempted from reporting.

Recommendation 3: Government explicitly defines what will be included in the proposed legislation review to ensure that mandatory disclosure is fit-for-purpose, and brings forward the review to 2027–28.

Climateworks welcomes the proposed legislative review but suggests this be more clearly defined to ensure the legislation and AASB¹ and AUASB² standards introduced are fit-for-purpose in line with the Government expectations set out in the Policy Statement.

The review should consider:

- the limited liabilities arrangement, particularly any unintended consequences these provisions may create
- standards for climate-related disclosure and reporting
- the pathway for assurance and auditing
- an introduction to the broader sustainability reporting requirements emerging internationally as part of the International Sustainability Standards Board (ISSB) Standards.

¹ Australian Accounting Standards Board

² Auditing and Assurance Standards Board

We also recommend the review be brought forward one year to 2027–28. This follows the third year of reporting of Group 1 entities and will ensure the review and any required changes happen in a timely manner.

Recommendation 4: Government or its agencies monitor the impact of the proposed flexibility mechanisms on emissions and investment.

We recommend monitoring to increase transparency and reduce the risk that these mechanisms have unintended consequences. Monitoring would help ensure the legislative review is robust.

We suggest monitoring focuses on the impact of:

- proposed delays in reporting scope 3 emissions
- the proposed multi-year delay to scope 3 assurance and auditing
- the limited liability period
- credibility and ambition of scenarios.

This monitoring is important to ensure that delegating powers and responsibility to AASB and AUASB remains in line with Government expectations set out in the Policy Statement and international best practice.

Measurement and auditing

Recommendation 5: In line with Government expectations, auditing and assurance should be mandatory for scope 1 and 2 emissions a year after emissions reporting becomes mandatory for the relevant group. Climateworks recommends that Scope 3 emissions reporting should also be subject to auditing and assurance a year after mandatory reporting commences for the relevant group.

Recommendation 6: Treasury maintains oversight of scope 3 emissions until reporting is required and ensures assurance on scope 3 emissions is not delayed until July 2030.

Climateworks welcomes the proposed inclusion of mandatory scope 3 disclosures as part of the exposure draft legislation. Scope 3 emissions represent the largest source of emissions for most companies. These emissions might be beyond an entity's direct control, but rapid progress towards system-wide transparency can be achieved by including scope 3 emissions in mandatory reporting. This will also encourage collaborative ways of working across supply chains, which are required to rapidly and comprehensively reduce emissions.

In the exposure draft legislation, Government expectations are that scope 3 emissions will be reported from an entity's second reporting year onwards. Climateworks understands that stakeholders have expressed feedback on the challenges of reporting scope 3 emissions due to reporting being relatively novel and complex.

The Policy Statement clearly outlines Government expectations on the importance of reporting on scope 3 emissions. Given their significance, any delay in mandating scope 3 reporting risks locking in emissions-intensive activities. Treasury should, therefore, maintain oversight of scope 3 emissions until reporting is required. The proposed review point should be used to evaluate Treasury's approach.

We are concerned that the proposals and expectations outlined in the consultation papers would delay assurance on scope 3 emissions until July 2030. In Climateworks' view, this is not in line with international best practice, market expectations for investments, or the rapid pace at which market capability will improve.

Limited liability arrangements

Recommendation 7: During the limited liability period, ASIC should be tasked to work with entities to ensure they are building capabilities in scope 3 disclosure, scenario analysis and sustainability reporting, and help identify issues that require further guidance.

Climateworks understands the importance of the limited liability, or ‘safe harbour’, arrangements for corporations. These arrangements grant limited immunity for statements in new sustainability reporting for disclosures relating to scope 3 emissions and certain climate-related forward-looking statements. In addition, the remedies available to the regulator will be limited to only injunctions and declarations.

These arrangements, however, could be vulnerable to misuse. They will, therefore, require oversight to avoid potential greenwashing as companies grow their disclosure capabilities and capacity with the flexibility these arrangements provide. This is particularly relevant for organisations that already voluntarily report their emissions and, therefore, possess the skills and knowledge for accurate reporting. Furthermore, limited liabilities may indirectly allow near-term investment in high-emitting activities, therefore ‘locking in’ emissions by enabling business-as-usual activity. In addition, Climateworks is concerned that the current draft legislation excessively limits ASIC’s powers during the limited liability period. We consider this would be counterproductive.

To circumvent this, Climateworks recommends ASIC is tasked with working with entities to ensure they are building their capabilities for scope 3 disclosure and scenario analysis during the ‘safe harbour’ period.

Transition plan disclosures

Recommendation 8: The climate-related financial disclosure legislation should include a signal that there will be a future requirement for credible transition plans.

Mandated climate-related financial disclosures support a better understanding of corporate and financial institution’s contribution to emissions reductions, ensuring needed economic transformation occurs across the economy.

Climateworks encourages Treasury to mandate and provide clear guidelines for disclosure of credible transition plans as part of future steps in the sustainable finance strategy. These plans help ensure entities are not only reporting on emissions but also working to reduce them, by outlining the actions an entity will take to address its climate-related risks and opportunities. There is growing recognition (nationally and internationally) that credible transition plans reinforce the reliability and rigour of climate-related financial disclosures. Transition plans can be described as ‘credible’ when developed alongside a consistent framework to enable comparability and decision-making, and by ensuring actions are credible to mitigate potential greenwashing risk.

Credible transition plans will provide Australians and investors with greater transparency and accountability about the financial risks and opportunities of corporate entities.

As shared in our submission to the Government’s Sustainable Finance Strategy consultation, Climateworks recommends that Treasury aligns expectations and frameworks with international best practices, including that of the Transition Plan Taskforce (Climateworks Centre 2023b).

ISSB requires that a transition plan is disclosed but does not provide detailed guidance about its format, structure or content. We recommend that the legislation incorporates the requirement for ‘credible’ transition plans with criteria that follow global best practices. More details on the ‘credible transition plans’ criteria are provided in Climateworks’ response to the Climate Change Authority consultation (Climateworks Centre 2023a).

Recommendation 9: Government provides greater clarity on how it will be self-reporting in line with mandatory disclosure.

Climateworks welcomes the announcement from the Minister for Finance in November 2023 that Government will develop and implement public sector climate disclosure requirements for some Commonwealth entities. However, following best practice standards, we recommend this process be accelerated. Greenhouse gas emissions reporting and transition plans from Commonwealth entities and Commonwealth companies – including non-corporate Commonwealth entities, corporate Commonwealth entities and smaller Commonwealth companies – which are comparable or ahead of the requirements for corporate financial disclosures, allow Government to demonstrate leadership while ensuring credibility.

Thank you for taking the time to consider our submission. We would welcome an opportunity to brief your team if you would like to explore our responses in further detail.

Yours sincerely,

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References

ACSI (2022) *Chasing 1.5°C The ASX200 – on the right trajectory?*,
<https://acsi.org.au/wp-content/uploads/2022/11/ACSI-Chasing-1.5C-PUBLIC-FINAL.pdf>.

Climateworks Centre (2023a) *Submission to the Climate Change Authority's consultation on setting, tracking and achieving Australia's emissions reduction targets*, Climateworks Centre,
<https://www.climateworkscentre.org/resource/submission-to-the-climate-change-authoritys-consultation-on-setting-tracking-and-achieving-australias-emissions-reduction-targets/>, accessed 21 July 2023.

— (2023b) *Submission to Treasury on the Australian Government's Sustainable Finance Strategy*, Climateworks Centre,
<https://www.climateworkscentre.org/resource/submission-to-treasury-on-the-the-australian-governments-sustainable-finance-strategy/>, accessed 31 January 2024.