Jubilee Australia Research Centre
[redacted]

ABN: 78 669 804 328
ACN: 613 858 950

Jubilee Australia Research Centre submission to the Australian Treasury second consultation on climate-related financial disclosure
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Introduction

The Jubilee Australia Research Centre (Jubilee Australia) engages in research and advocacy to promote economic and environmental justice for communities in the Asia-Pacific region and accountability for Australian corporations and government agencies operating there. Jubilee Australia welcomes the opportunity to provide feedback to the Treasury second consultation on climate-related financial disclosure.

Any enquiries related to this submission can be addressed to [redacted], Climate and Environmental Justice Director at [redacted]

This submission aims to encourage Treasury to reconsider its proposed model of climate-related financial disclosures within a broader ecosystem of decision-making. The submission is made up of three sections.

Section one places the Treasury proposals on climate-related financial disclosure in the broader context of the systemic risks of climate change to the Australian economy and the current market-distorting propensity of Australian government policies towards fossil fuels.

Section two examines the gaps and weaknesses in the formation of the International Financial Reporting Standards on Climate-related disclosures (IFRS S2) model — the model on which Treasury's proposed approach to climate-related disclosure is based.

Examples of the weaknesses of the IFRS S2 and Treasury model discussed in this submission include:

- The omission of human rights obligations and grievance lists
- Failing to address double materiality
- The omission of climate-related corporate lobbying disclosures
- Poor inclusion of scope 3 emissions
- An overreliance on aggregated data

The final section briefly discusses questions related to enforcement and liability, and seeks greater clarification on these issues.

I. Systemic risks of climate change and the distortion of markets from current policies

The systemic risks of climate crisis to the Australian economy will be fundamentally directed by the physical realities of the real economy. It is therefore vital that Treasury bases its climate work on the physical realities that will, and already are, impacting the Australian economy, environment and people. The World Meteorological Organization assesses that there is a 66% chance the world will reach 1.5C between 2023 and 2027.[i]

Efforts needed to address systemic risk to the Australian economy from climate change cannot only be approached from an accounting angle, but must also be independently assessed, and endorsed, by climate scientists to ensure that they are aligned with current expertise on the measures needed to keep temperature rise to within 1.5C. This also requires acknowledging the nature of systemic risks to the Australian economy - which can be cumulative, arising from the impacts of many companies undertaking activities that are not financially material to an individual company itself. Treasury should also be mindful that the ultimate stakeholders in how Australia manages the systemic risks of climate change to its economy are not only investors or banks - but the Australian people themselves: first and foremost those on the frontlines of the climate crisis, as well as all those overseas affected by our companies and their emissions.

Jubilee Australia would also encourage Treasury and government more broadly to tackle its own role in distorting markets. The proliferation of fossil fuels not only contributes to the systemic risks to the Australian economy, landscape and people - it also stymies innovation by those cognisant of the types of economies that will thrive in the climate age. Australia is already lagging behind many of its peers.

Some academics have stated that the underlying hypothesis that reporting on climate-related financial risks would drive effective change in financial flows in line with climate objectives such as those linked to the Paris Climate Agreement ‘is unsupported by either theory or evidence’.[ii] At best, this suggests that the benefits are speculative, while the impacts of Australia ending new fossil fuels and phasing out fossil fuels - in line with international advice - would have far reaching impacts.[iii]

In 2022, the international Green Finance Observatory published an open letter from over 100 experts.[iv] This was intended to coincide with the Global Biodiversity Framework negotiations but contains several observations relevant to the Treasury consultation. The letter noted that ‘most often financial regulation for sustainability purposes does not come in addition to appropriate environmental policies but instead of it, as private lobbies are prompt to claim that there is no longer any need to tighten conservation regulations.’ The letter continues: ‘believing that financial regulation would lead to more ambitious results than environmental policies ignores the fact that the same power dynamics are at play in financial and environmental policymaking, leading to the same results.’ Particularly pertinent to the Australian context is the note that ‘it should be remembered that traditional environmental regulations could shift capital flows faster and more comprehensively: any regulation automatically changes the future expected profits of the impacted economic sectors, and as a result private capital flows shift mechanically to adjust to the new future expected returns.’

As of March 2023, it has been reported that Australia has 116 new oil, gas and coal projects in the pipeline.[v] The expansion of new fossil fuel extraction is happening as Australian state and federal governments are continuing to directly intervene in, and construct, markets that incentivise and reward high emitting actors and industries.[vi] These policies not only encourage new fossil gas fields, they also provide tax incentives, fossil fuel subsidies and even direct financing to the tune of AU$11 billion a year, with further commitments for future years.[vii] Added to this are the lost opportunity costs from unrealised alternative uses of these physical and financial resources. Governments put few constraints on company lobbying to influence government policies and laws – the tools which are needed to create real-world liabilities for activities harmful to climate. Influence Map has reported on this further.[viii]

These policies on the proliferation of fossil fuels, particularly new fossil gas fields, contravene the advice of the Intergovernmental Panel on Climate Change on efforts needed to contain global temperatures to within 1.5C and the policy advice of the International Energy Agency in its work on net zero by 2050. In numerous cases, fossil fuels projects are enacted against the wishes of traditional owners and without their Free, Prior and Informed Consent, contravening their rights under international human rights law.

Additionally, Australia has no measures to prevent the use of Official Development Assistance from financing fossil fuels projects. In the years following the Paris Climate Agreement (2016 – 2021) Australia contributed an estimated AU$828 million to overseas fossil fuel projects via its financing to multilateral development banks.[ix] Australia's appointed Executive Directors to the multilateral development banks sit within Treasury.

Efforts by Treasury to encourage the market to better understand, and act on, climate risks are undermined by Australian governments' own market distortions.[x]

The Australia Institute findings: Fossil fuel subsidies cost $11.1 billion in 2022-2023 across state, territory and federal governments

An analysis by The Australia Institute has found that 'fossil fuel subsidies cost $11.1 billion in 2022-23 across all state, territory and federal governments, equivalent to $21,143 per minute.'[xi] They also note that in the forward estimates, the amount expected to be spent on subsidies in the coming years has increased to AU$57.1 billion and list the below examples.

Examples of fossil fuel subsidies in federal, state and territory budgets:
Federal:

- $1.9 billion to assist the Middle Arm petrochemical hub in Darwin.
- $141.1 million over 10 years to assist carbon capture and storage (CCS) projects.
- $129 million on upgrading Hunter Valley coal railways to "secure their long-term reliability and productivity."

Queensland

- $13.6 million to develop the Kogan North Gas Fields in the Darling Downs.
- $45 million to the incident-prone Callide coal-fired power station.
- $21 million to the Meandu Mine.

Western Australia

- $250 million in capital spending planned for Collie and Muja coal-fired power stations.
- $195 million to the Dampier Cargo Wharf Extension project, which will accommodate vessels supporting the offshore oil and gas industry.
- $35 million per year spent on project facilitation, including projects for gas companies Woodside and APA Group.

Northern Territory

- $12 million on business case development for the Middle Arm petrochemical precinct, which will also receive $1.9 billion from the Federal Government.
- Power and Water Corporation's $2.76 billion in purchase commitments and $680 million in gas transport commitments relating to the Blacktip Gas Project.
- $5 million per year for a Gas Taskforce to make the NT "a world class hub for gas production".

Victoria

- $69 million for the program that oversees the CarbonNet CCS project, still not operational 12 years after its establishment.
- Land tax exemptions for coal mining cost $1 million per year.

South Australia

- $30 million for a hydrogen hub in collaboration with gas companies Santos and Origin.
- $60 million to upgrade port facilities used by Santos.

New South Wales

- A $65 million Coal Innovation Fund.
- $200 million per year on a program titled “Mineral and petroleum industries generating prosperity, safely”

II. Due process: The implications of basing government standards on a blueprint written by global corporations, including those financing or engaged in fossil fuels

To the best of our knowledge, prior to its consultation Treasury has not published a comparative analysis of different disclosure standards or an impact assessment of the proposal that models assumptions behind how it is envisaged to translate to shifts in the management of the systemic risks of climate change to the Australian economy. Under Treasury’s proposed timeline, it is feasible that some companies with revenues of over $50 million wouldn’t even begin reporting before the world reached 1.5C. This makes it difficult to assess what, if any, evidence base has been considered and how it aligns with the physical realities of the climate crisis underpinning the systemic risks to Australia’s economy, landscapes and people.

This section seeks to briefly outline examples of gaps in the proposed reporting model. Key to understanding *why* these gaps are present in IFRS S2 is identifying *who* has been involved, and who has been excluded, from its decision-making. Jubilee Australia would strongly urge that Treasury does not appeal to the need for ‘standardisation’ in order to justify overlooking recommendations from whole aspects of society - such as civil society organisations - that had no decision-making power in the International Sustainability Standards Board (ISSB) or Task Force on Climate-related Financial Disclosures (TCFD). More broadly, we would encourage consideration of how similar issues could be addressed in the future, such as exploring the appointment of an independent advisory board including scientists, First Nations’ representatives, academics and civil society experts to advise the Australian Accounting Standards Board (AASB).

The Treasury consultation outlines that the proposed standards to be adopted should be developed by the AASB. This is to be ‘aligned as far as practicable’ to the IFRS S2 climate-related disclosures. As Treasury acknowledges, IFRS S2 is largely based on the TCFD framework. The TCFD is a voluntary initiative designed to be attractive to businesses, whose ultimate decision-making body is a taskforce solely made up of global corporations, including those financing or engaged in fossil fuels.[xii] This represents, at best, an inherent bias in its decisions and at worst, a profound conflict of interest and corporate capture if it is to be written into law. Jubilee Australia holds that it is a poor public policy precedent to set laws based on a blueprint largely written by corporations themselves. This does not align with the basic precepts of sound decision-making - which should incorporate a variety of expertise and perspectives, including those of climate scientists. It also does not represent the breadth and depth of the business sector itself or those involved in driving change in corporate practices - which often extends to frontline communities. While the ISSB board is broader than the TCFD in representation, questions also arise on representation and decision-making.

Who held the largest hand in writing what became IFRS S2, may help to explain why certain vital data points and basic information is excluded from this model. It is vital that in considering feedback that Treasury does not default to favouring 'standardisation' with IFRS S2 - but takes steps to acknowledge its inherent biases, and weighs the real-economy value of feedback recommended by civil society organisations and others.

Omission of human rights

In Australia and overseas, Indigenous Peoples and other environmental defenders - those who have the best track record in safeguarding climate and nature - have been insistent that human rights and climate outcomes are intertwined. In an array of spaces, as expertise deepens, it comes to align with this view, identifying the inter-relationship between the rights of those seeking to protect their lands and environment from high-emissions industries, and environmental outcomes. For example, the 2022 IPCC report mentioned land tenure security 58 times, the Kunming-Montreal Global Biodiversity Framework incorporates an array of human rights measures, the Global Reporting Initiative now requires alignment with the UN Guiding Principles on Business and Human Rights under its universal standard and the European Financial Reporting Advisory Group (EFRAG) has also incorporated human rights disclosures.[xiii] One of the logical fallacies of the TCFD model, is that it simultaneously recognised that the financial sector has done a poor job of identifying the impacts of climate risks to the economy, at the same time as entrusting those without climate expertise - primarily corporations and accountants - to lead the response. This has artificially excluded human rights from its approach and failed to adopt hard-won lessons. Similarly, Sustainability Accounting Standards Board (SASB) sector guidance on which an AASB alignment with IFRS S2 is likely to draw, can often exclude human rights provisions included those in widely adopted industry initiatives.

Omission of grievance lists

Under the ISSB IFRS S2 model, a company is not required to publicly disclose a grievance list. For example, a list of allegations or complaints that are significant enough to warrant escalation to a risk officer or management team. This, for example, is often seen in soft commodities industry standards in high deforestation risk industries – with grievance lists including media exposes, informal allegations and complaints. It is hard to understand the argument for why the primary users of financial reports – or the public at large - shouldn't be informed as to whether a business is facing complaints or allegations that it is violating its own climate policies, failing its climate due diligence or otherwise connected to harmful practices. Indeed, controversies reporting is the mainstay of industry risk databases used for risk-related screening.[xiv] Much of the data on which this is based is not revealed by companies themselves, their consultants or auditors – but information that is generated by locally affected communities, either directly or through journalists and civil society organisations. This is a serious weakness of the IFRS S2 model.

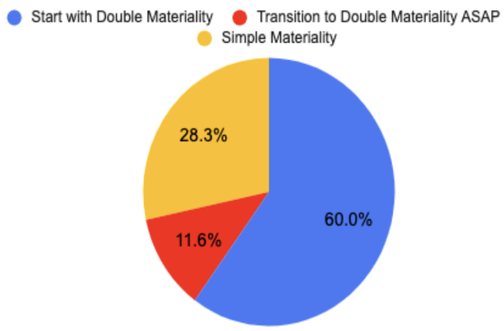
Grievance list reporting is a particularly important safeguard where businesses and third parties may disagree as to the extent of a business' climate-related exposures. There are also no data or assurance barriers to grievance list disclosures. The model used in the palm oil sector, for example, simply requires a business to disclose a list of grievances that it has catalogued with basic details. Grievance lists are not only punitive – they can also allow a business to display where they take a comprehensive approach to addressing grievances. It is also standard for businesses to have safeguards for complainants making grievances privately to ask for anonymity – for example, if they are facing fears of retaliation.

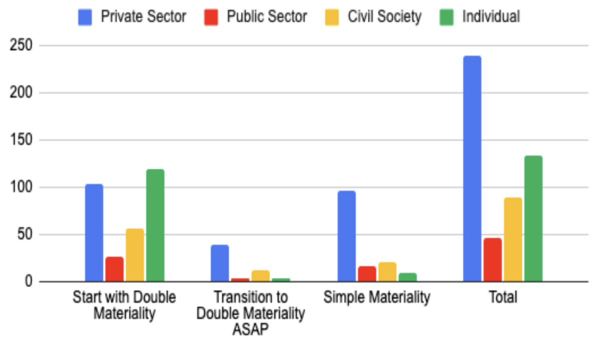
***Approach to materiality: Almost three quarters of comment letters to the ISSB supported double materiality*[xv]**

Jubilee Australia Research Centre notes that already various organisations have raised the issue of materiality. Re_Generation has also analysed public comment letters to the ISSB on its initial 2020 question on materiality.[xvi] It writes:

> Support for double materiality is far from a minority position [presented to the ISSB]. An enormous and growing contingent of influential voices from around the world is unanimous in calling for a double materiality approach. Of the 577 comment letters submitted to the IFRS Consultation Paper in 2020, **a large majority explicitly called for a double materiality perspective** – a fact which was noticeably absent from the feedback letter released by the IFRS as a summary of the comment letters. Our analysis demonstrates that, of the 508 respondents that answered Question 9 on materiality, 72% supported double materiality either being implemented immediately or as soon as possible, while only 28% explicitly supported the ISSB's stated approach. This group included a majority of private sector respondents (59%), as well as a vast majority of regulators, NGOs, and individuals (83%).'

Organisations then continued to raise the double materiality issue.[xvii] In 2022 a former member of the technical working group of the Climate Disclosure Standards Board, later incorporated into ISSB, also criticised the approach, noting that 'it's creating an extremely dangerous precedent that the social and environmental issues only matter insofar as they affect profitability, and that will have reverberating effects.'[xviii]





Graphics from Re_Generation analysis of ISSB submissions in 2020[xix]

Exclusion of lobbying

Often discussions of 'transition risks' include, or even emphasize, government action through new policies or regulations as a future climate-related risk. However, under the ISSB IFRS S2 model, a company is not required to publicly disclose its lobbying on climate-related policies or legislation. In short, a company can actively seek to prevent new laws or regulations on climate-related issues – *which could see climate harms become a legal or financial risk* – without disclosing these efforts. A company can claim to be planning for greater materiality of climate-related risks – while secretly lobbying against laws that would affect this. This creates an extreme risk of greenwashing and the model of proposed reporting misleading investors and the public. There are no data or assurance barriers to lobbying disclosures. Businesses could be reasonably expected to have data on their own lobbying activities, or the lobbying of industry groups to which they are a member. Similarly, there are ample international examples of assurance models for lobbying disclosures. This is an issue that investors themselves have raised for at least half a decade in the Australian and international context including through the development of the Global Standard on Climate Lobbying.[xx]

Approach to scope 3 emissions

The model proposed by Treasury fails to definitively include, or in many cases excludes, what will be for many Australian companies their largest contribution to the climate crisis - such as the burning of Australian fossil fuels sold overseas, the sourcing of goods linked to deforestation or providing the financing that drives these activities - known as scope 3 emissions.[xxi] Failing to require that companies even take the initial step of disclosing these impacts for high-risk and high-emissions sectors means that the following step of addressing them is even less likely. This does not serve the need to manage the systemic risks from climate change to the Australian economy.

Data comparison and verifiability issues

A general observation on the proposed model of climate-related disclosures is that they rely on high-level, aggregated data - which cannot be independently scrutinised. For example, it is now broadly recognised in certain high-risk sectors such as forest-risk agricultural commodities, that the disclosure of supplier names or the geolocation of sourcing is critical to capture violations of company policies or even local laws. This data has been vital for independent third parties, such as journalists, civil society organisations or government agencies, who have used this data to identify poor due diligence and chronic under-reporting by companies and their auditors. While some climate risks are inherent to the product produced or traded - such as fossil fuels - others require specific due diligence to identify if violations are occurring, such as deforestation through land clearing. Additionally, there are inherent challenges in sustainability auditing, including poor industry oversight and inherent conflicts of interest. These conflicts include, for example, where assurance firms also serve as consultants on sustainability policies, an over-reliance on information supplied by the company without independent verification and companies defining the terms of a sustainability audit.

III. Enforcement and liability challenges

Jubilee Australia would welcome a further articulation from the Treasury on the enforcement and liability models intended to have oversight of climate-related financial risk reporting. Firstly, the nature of the enforcement model, secondly, its mechanisms of enforcement and thirdly, its resourcing. Based on the proposed model, we could foresee that at some future point it may be possible to bring regulator actions against companies that have outright failed to report or for the most egregious and extreme disinformation claims, particularly for projects involving high upfront costs or the use of grossly fraudulent data. However, beyond this, there appear to be few avenues available which is of serious concern. Publicly disclosed data in a double materiality approach could allow company reports to be checked against on-the-ground realities or allow government auditors to review and compare data, but this is not the crux of the proposed model. Our experience is that Australian company reports - particularly on contested issues - can regularly read more like fantasy or science fiction with little recourse or oversight to enforce accuracy.

[i] https://public.wmo.int/en/media/press-release/global-temperatures-set-reach-new-records-next-five-years
[ii] https://link.springer.com/article/10.1007/s10584-019-02542-2
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4424081
[iii] In line with policies outlined with by the Intergovernmental Panel on Climate Change and the International Energy Agency.
[iv] https://greenfinanceobservatory.org/wp-content/uploads/2022/11/openletternaturepositive-final-3.pdf
[v] https://link.springer.com/article/10.1007/s10584-019-02542-2
[vi] https://theconversation.com/australias-116-new-coal-oil-and-gas-projects-equate-to-215-new-coal-power-stations-202135
[vii] Fossil gas burning and extraction contribute to methane emissions which in the near-term (20 years) trap almost 80 times more heat than carbon, or even higher. https://climate.mit.edu/ask-mit/why-do-we-compare-methane-carbon-dioxide-over-100-year-timeframe-are-we-underrating
[viii] https://influencemap.org/multipage/Australia-deb9c7bf17045bcbf51e921c4ebb2426-9099
[ix] https://www.jubileeaustralia.org/resources/publications/hidden-cash
[x] For example, see discussions in the UK on the limitations of climate-related financial disclosures on addressing financing linked to deforestation.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087635/global-resource-initiative-finance-report-may-2022.pdf
https://www.globalwitness.org/en/blog/why-climate-risk-reporting-will-not-stop-finance-industry-bankrolling-deforestation/
[xi] https://australiainstitute.org.au/post/57-1b-record-breaking-fossil-fuel-subsides-following-climate-election/
[xii] https://www.fsb-tcfd.org/members/
For example, fossil fuel firm Eni and financier BlackRock.
https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf
[xiii] https://news.mongabay.com/2022/03/after-ipcc-climate-report-stresses-indigenous-local-land-rights-58-times-lets-respond-with-a-concrete-tenure-plan-commentary/
[xiv] This includes databases like RepRisk, as well as more generalised ESG tracking in Refinitiv Eikon or the ESG offerings of credit ratings agencies such as Fitch.
[xv] Under the standards proposed by EFRAG, which undergirds the EU's Corporate Sustainability Reporting Directive, ‘a sustainability matter meets the criteria of double materiality if it is material from an impact perspective or from a financial perspective or from both’.
[xvi] https://www.re-generation.ca/wp-content/uploads/ISSB-Response.pdf
[xvii] https://www.icmagroup.org/assets/documents/Sustainable-finance/Responses/ICMA-ISSB-Final-Response_29-July-2022-010822.pdf
https://www.ifrs.org/content/dam/ifrs/project/general-sustainability-related-disclosures/exposure-draft-comment-letters/o/oecd-7e31876a-4ba0-4983-bdf5-dbd618b72af2/oecd-letter-to-ifrs-foundation---issb-exposure-drafts---july-2022.pdf
https://www.ifrs.org/content/dam/ifrs/project/general-sustainability-related-disclosures/exposure-draft-comment-letters/c/cdp-f87184a5-d57f-4b75-8c56-0bbbb3b71675/2022-07-cdp-response-ifrs-consultation-exposure-draft-general-requirements.pdf
[xviii] https://www.bloomberg.com/news/articles/2022-07-29/new-sustainability-rules-attacked-for-protecting-profits-over-planet
[xix] https://www.re-generation.ca/wp-content/uploads/ISSB-Response.pdf
[xx] https://climate-lobbying.com/
[xxi] For one example, see Global Witness reporting.
https://www.globalwitness.org/en/campaigns/environmental-activists/indonesia-palm-oil-traders-are-failing-land-and-environmental-defenders/