The Australian Industry Group
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Climate Disclosure Unit
Market Conduct and Digital Division
The Treasury
[redacted]

AI GROUP RESPONSE TO THE CLIMATE-RELATED FINANCIAL DISCLOSURE CONSULTATION PAPER

The Australian Industry Group (Ai Group) welcomes the chance to make a submission on the "Climate-related financial disclosure" Consultation paper (the Paper).

Ai Group is a peak national employer organisation representing traditional, innovative and emerging industry sectors. We have been acting on behalf of businesses across Australia for nearly 150 years. Ai Group is genuinely representative of Australian industry. Together with partner organisations we represent the interests of more than 60,000 businesses employing more than 1 million staff. Our members are small and large businesses in sectors including manufacturing, construction, engineering, transport & logistics, labour hire, mining services, waste services, the defence industry, retail, aged care, civil airlines and ICT.

Our members are affected by climate change and climate policy in many different ways, but all have a stake in a successful transition that avoids as much climate change as possible and positions Australia to prosper in a net zero emissions world. Some of them already make climate-related financial disclosures, others do not and may be directly caught up in the Government's proposals, while others will not be covered but may be impacted through information requirements imposed by other participants in their supply chains.

Our attached submission addresses some of the issues raised by the Paper. Broadly we support the proposed approach. However we urge the Government to push back the commencement of each Group's coverage by 12 months to provide more adequate time to prepare for implementation and compliance; and to ensure strong guidance on the materiality of Scope 3 emissions, which otherwise could consume considerable business reporting resources for little investor gain.

For any questions in relation to this submission, please contact Ai Group Director of Climate Change and Energy [redacted].

Sincerely yours,

[redacted]
Head of Industry Development & Policy

Response to the proposed approach

The principles

The stated principles guiding policy development are broadly sensible and appropriate, though there will be room for argument about how to apply them:

- Support climate goals
- Improve information flows
- Well-understood
- Internationally aligned
- Scalable and flexible
- Proportional to risk

International alignment is particularly important, as many Australian businesses are active overseas and vice versa. While there can be reasons to take account of unique Australian conditions, Ai Group has a strong preference for international consistency in this context and many others. Therefore the Australian legislation and Australian Standards should reference and mirror the International Sustainability Standards Board (ISSB) approach to the maximum extent practicable.

Reporting entities and phasing

The proposed coverage is all entities required to make financial reports under Chapter 2M of the Corporation Act (broadly, those which are listed on a licensed market, or issue securities held by 100 or more persons, or are large proprietary companies) as long as they either meet a size threshold (any two of $50m+ consolidated revenue, $25m gross assets, or 100+ employees) or are a registered 'controlling corporation' under the *National Greenhouse and Energy Reporting Act 2007*.

The proposed coverage of reporting entities is broadly appropriate, and places public and privately held businesses of significant size on a level playing field. The size criteria are double those in the existing Corporations Act definition of a 'large proprietary company' required to make financial reports. Businesses of this size are in a better position to consider the issues involved in climate-related disclosure, and their management of these issues can have greater individual impact. The Government should clarify whether the size criteria apply to a company and any entities it controls globally, as appears to be the case; or only within Australia.

The phasing proposal has three parts.

Group	Who	When
1	Extremely large reporting entities (any two of 500+ employees, $1b+ gross assets, $500m+ consolidated revenue); and Reporting entities that are also NGER Act 'controlling corporations' whose emissions data is required to be published	2024-25 (next financial year)
2	Very large reporting entities (any two of 250+ employees, $500m+ gross assets, $200m+ consolidated revenue); and Reporting entities that are also NGER Act 'controlling corporations' whose emissions data is required to be published	2026-27 (two financial years after Group 1)
3	Large reporting entities (any two of 100+ employees, $25m+ gross assets, $50m+ consolidated revenue); and Reporting entities that are also NGER Act 'controlling corporations'.	2027-28 (three financial years after Group 1)

The timing of the phase-in presents several difficult issues to balance.

- Commencement as soon as possible will provide better information to investors, supply chains, government and the community.
- Adequate time is needed following passage of legislation and completion of both global and localized standards and guidance for liable entities to know their obligations and prepare to meet them.
- Adequate time is needed for liable entities to lift their internal compliance capability, or for professional services providers to scale and skill up to meet demand.

The proposed phasing gaps from Group 1 to 2 to 3 appear very helpful to address the third issue, providing time to scale the availability of quality advice. However after consulting our members, Ai Group is concerned that the current dates for commencing obligations are too soon. Even for large and sophisticated Group 1 businesses, commencing in 2024-25 leaves little time to prepare to comply. Financial year 2023-24 has commenced, the development of legislation will take some time and while the passage of legislation seems very likely, the speed of passage and the nature of any amendments are matters for the Parliament. While the ISSB has completed final standards for climate-related disclosures, further ISSB guidance is still expected in 2023 and an Australian adaptation will require some further time.

The result may be that there is limited time for Group 1 businesses to prepare, informed by full knowledge of what must be prepared for, prior to the commencement of the disclosure obligation. This is particularly challenging given that we are talking not just of disclosures in annual reports, but existing continuous disclosure requirements. Even for those of our members who are already making climate-related financial disclosures, adapting quickly enough to the specific requirements of the forthcoming legislation will be a challenge.

For Groups 2 and 3 the current timelines are also challenging. We should not underestimate the challenges involved in promoting awareness, scaling up and skilling up advisory services, and developing new advisory and analytical tools that are suitable for the contexts of the medium-sized businesses to whom disclosure obligations would ultimately apply.

The Paper attempts to resolve these concerns by proposing relatively less onerous disclosure requirements during the transitional period. However the detail of this is not clear. The Paper later refers to some variations in the content of reporting requirements over time.

From commencement	***Entity second reporting year onwards***	***End state***
Disclose governance		
Use qualitative scenario analysis		Use quantitative scenario analysis
Disclose climate resilience against 2+ future states, including Paris temperature goals		
Disclose transition plans		
Disclose any targets and progress		
Disclose material risks and opportunities		
Disclose Scope 1 & 2 emissions	Disclose material Scope 3, for any one year period ending up to 12 months before current period	
		Have regard to disclosing industry-based metrics where well-established and understood

These variations are welcome, but would not be an adequate substitute for sufficient time to prepare for the core obligations.

We can imagine three broad options in response to these concerns.

1. Push back the commencement of obligations by 12 months, a modest extension. Group 1 could be subject to the proposed obligations from the start of 2025-26, Group 2 from 2027-28 and Group 3

from 2028-29. This would provide all affected businesses and service providers with more time to prepare for high-quality compliance.

2. Do not enforce the obligations with respect to activities taking place in the first year in which businesses are covered (2024-25 for the largest businesses, 2027-28 for businesses in Group 2 but not Group 1, 2028-29 for businesses in Group 3 but not Group 2. This approach has been taken by recent governments in other business reporting contexts; for instance, the Large Business Payment Times Reporting reforms specified an initial period during which those reporting obligations would not be enforced. This would provide a lower-stakes environment for adjusting to the new obligations, though it does risk confusion and no business would like to be in breach of a legal obligation – even one that is not subject to enforcement.
3. Ignore concerns and push ahead with the proposed phase-in from the start of 2024-25. This presents significant risk that Group 1 businesses will not be ready to comply with their obligations in 2024-25, and that Group 2 and 3 businesses will not be able to acquire advice and expertise suitable to their needs in time for their coverage.

On balance Ai Group considers that Option 1 – phasing in Group 1 in 2025-26, Group 2 in 2027-28 and Group 3 in 2028-29 – would provide the best combination of clarity, urgency and adequate time to prepare.

A further issue, in the interests of minimising duplication, is the need for an approach to Australian entities that are subsidiaries of overseas businesses. Where an international parent company already discloses climate related financial information consistent with the ISSB standard, and that information fully incorporates the information of the Australian subsidiary, this global disclosure should be deemed to meet the requirements of the Australian law. We understand that Singapore proposes a similar approach in its own disclosure regime.

Reporting content

Phasing of reporting requirements

The proposed phasing of obligations (as distinct from coverage) is reasonable, though as argued above, does not seem sufficient to make commencement practical on the currently proposed timeline.

Materiality

The adoption of the IISB approaches, including to materiality, is sensible. While climate change and humanity's response to it will have many economic and financial impacts, there are gradations and variations. A materiality threshold based on what could be reasonably expected to influence the primary users of general purpose financial reports is appropriate.

Governance

Disclosing information about governance processes, controls and procedures used to monitor and manage climate-related financial risks and opportunities is a reasonable requirement, acknowledging both that appropriate approaches will vary across business contexts and that best practices will emerge in these different areas.

Strategy

The approach proposed to strategy disclosure is reasonable overall, though considerable upskilling and scenario development will be needed over coming years. Scenarios will be a work in progress, both because Australian and international climate ambition will keep evolving and understanding of physical impacts and their economic consequences will improve. Transition plans can be very useful, but the field requires greater understanding and development; the further work flagged on arrangements to strengthen development and disclosure of transition plans will be very important.

The proposal to require scenarios to include at least one scenario consistent with the temperature goal in Australia's *Climate Change Act 2022* is more specific than the IISB approach as we currently understand it. On balance, however, the clarity of requirement is worth the variation. In any case the relevant legislative text mirrors the global Paris Agreement.

Risks and opportunities

Disclosing material risks and opportunities, and risk management approaches, is central to this whole effort and reasonable – though materiality is central.

Metrics & Targets

Disclosure of gross Scope 1 and 2 emissions is reasonable, though the range of business approaches to electricity procurement and emissions reduction is wide and will not be fully captured in NGER data. In some cases companies will no doubt choose to nuance this information with other disclosures, for instance of their 24/7 renewable portfolio matching strategies.

The Government should clarify whether the obligation is to report emissions from the entity and any controlled entities globally, as appears to be the case, or within Australia only.

"Scope 3 emissions" is a messy catch-all category and raises many different questions and challenges for reporting. There are a few contexts in which Scope 3 is highly material and a topic of intense investor, business and wider interest; emissions from the combustion of Australian coal and gas exports are particularly in focus. There are many other contexts in which Scope 3 is both fairly inconsequential and very effort-intensive to assess.

The proposed approach seeks to limit wasted effort with an emphasis on materiality, and to ease adoption of Scope 3 reporting by deferring its commencement to an entity's second reporting year. There is also a proposal that any Scope 3 estimates would initially be assured at a minimum.

These steps are positive, but Scope 3 will still be difficult for many entities to address – and the results could often be of little interest to investors and other consumers of financial reports. The best answer may be greater guidance on the materiality of Scope 3 emissions. More will need to be said than "Materiality in this context would have regard to the relative size of the emissions source." A large part of the issue is whether upstream Scope 3 emissions are likely to have a financially material impact on a reporting entity's costs – whether through pricing of emissions or the cost of cleaner sourcing – and whether downstream Scope 3 emissions are likely to have a financially material impact on a reporting entity's revenue and costs through shifts in demand, prices and investment. For a great many inputs and outputs, particularly where products are complex and/or involve high added value, Scope 3 impacts are unlikely to be material in these ways.

Industry-based metrics will be helpful but effort-intensive to develop.

Reporting framework and assurance

Reporting location, frequency and timing

Applying requirements consistent with those for existing financial reporting is appropriate. However we again note that mirroring existing requirements for continuous disclosure and timely disclosure of material price sensitive information will increase the difficulty of commencing Group 1 reporting obligations in 2024-25.

Assurance

The proposed approach to assurance is broadly appropriate, including the initial limited assurance of Scope 3 emissions. However, we reiterate that the commencement of obligations for each Group should be deferred by 12 months, which would in turn push back the proposed timeline for moving from limited assurance to reasonable assurance for various reporting elements.

Reporting standards

To ease compliance for globally active businesses that may be subject to several similar disclosure regimes, the Government should – while mirroring the ISSB standard in Australia – recognise and provide the option to use equivalent ISSB-compliant standards, such as the European Sustainable Reporting Standards. This will help ensure substantive compliance while minimising duplication.

Liability and Enforcement

We understand that the Government's proposed modified liability approach, involving civil penalty provisions and an initial period of three years in which only the regulator could bring actions in relation to misleading and deceptive conduct with respect to Scope 3 emissions and forward-looking statements, is an effort to balance the need for meaningful enforcement with the challenges involved in providing some kinds of information.

However we restate that this should be in the context of commencing Group 1 coverage from 2025-26, Group 2 in 2027-28 and Group 3 in 2028-29.

Furthermore there are concerns from some Ai Group members that despite the limitations in relation to who could bring actions relating to Scope 3 and forward-looking statements, these remain difficult issues. Forward-looking information involves significant uncertainties and clearer recognition of this is important. If the Government will not adopt the 'safe harbour' provisions called for by some members, it is important to provide clear guidance to the regulator and other stakeholders that forward-looking statements involve uncertainties.

Finally, there should be clarification that any information required to be disclosed should be disclosed in ways that do not compromise the physical security or valuable assets of the disclosing entity. For instance, disclosing the exact physical locations of some facilities, rather than broader regional aggregates, may in some circumstances expose businesses to danger.