Australian Government
The Treasury

Climate-related financial disclosure

Consultation paper

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treasury.gov.au

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Request for feedback and comments

This consultation paper seeks views on proposed positions for the detail, implementation and sequencing of standardised, internationally-aligned requirements for the disclosure of climate-related financial risks and opportunities in Australia. In particular, views are sought the proposed positions relating to coverage, content, framework and enforcement of the requirements.

Closing date for submissions: 21 July 2023

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The proposals outlined in this paper have not received Government approval and are not yet law.

Key terms and definitions

AASB	The Australian Accounting Standards Board (AASB) is an independent, non-corporate Commonwealth entity of the Australian Government that develops, issues and maintains accounting standards applicable to entities in the private and public sectors of the Australian economy.
AUASB	The Auditing and Assurance Standards Board (AUASB) is an independent, non-corporate Commonwealth entity of the Australian Government, responsible for developing, issuing and maintaining auditing and assurance standards.
IFRS	The International Financial Reporting Standards (IFRS) Foundation is a not-for-profit established to develop globally accepted accounting and sustainability disclosure standards. The Standards are developed by their two standard-setting boards, the International Accounting Standards Board (IASB) and the International Sustainability Standards Board's (ISSB).
ISSB	The International Sustainability Standards Board (ISSB) was established in 2021 to develop a comprehensive global baseline of sustainability disclosures for capital markets.
NGER Reporting Entity	An entity required to lodge financial reports under Chapter 2M of the *Corporations Act (2001) (Cth)* that is registered as a 'Controlling Corporation' reporting under the *National Greenhouse and Energy Reporting Act 2007 (Cth).*
Scope 1, 2, and 3 (emissions)	Scope 1 covers direct greenhouse gas emissions from owned or controlled sources. Scope 2 covers indirect greenhouse gas emissions from the generation of purchased electricity, steam, heating and cooling consumed by the reporting company. Scope 3 includes all other greenhouse gas emissions that occur upstream and downstream in a company's value chain.
TCFD	The Task Force on Climate-Related Financial Disclosures (TCFD) was created by the Financial Stability Board (FSB). In 2017, the TCFD released climate-related financial disclosure recommendations.
Paris Agreement	The Paris Agreement refers to the international treaty on climate change, of which Australia is a party, which came into force in 2016. The Paris Agreement aims to strengthen global responses to climate change.

Climate-related financial disclosure consultation

Introduction

Climate change is recognised internationally as presenting material risks to the global financial system – risks which need to be managed by capital markets, regulators and corporations. These include physical risks of climate change and the transition risks associated with policy, regulatory and technological change brought on by efforts to mitigate climate change.

A well-recognised and important tool to manage both individual and systemic climate-related financial risks is disclosure of those risks. The International Sustainability Standards Board (ISSB) was established in 2021 to develop comprehensive baseline global standards for climate disclosure (based on the recommendations of the Taskforce on Climate-Related Financial Disclosures) and sustainability reporting.

The Government has committed to ensuring large businesses and financial institutions provide Australians and investors with greater transparency and accountability when it comes to their climate-related plans, financial risks, and opportunities. As part of this commitment, the Government will introduce standardised, internationally-aligned reporting requirements for businesses to make disclosures regarding governance, strategy, risk management, targets and metrics – including greenhouse gasses.

Treasury sought views on key considerations for the design and implementation of standardised, internationally-aligned requirements for disclosure of climate-related financial risks and opportunities in Australia between 12 December 2022 and 17 February 2023.

Treasury received 194 submissions from peak bodies, businesses, individuals, academics, research institutes and public sector entities. The submissions are available on Treasury's website, except where the authors requested otherwise. Stakeholders were almost universally supportive of the Government mandating climate-related risk disclosures. Feedback from the first consultation has informed the positions proposed in this consultation.

Feedback from consultation in relation to the governance and oversight arrangements in the financial reporting system was mixed, however the strongest focus was on the need for standards to be developed quickly. Legislation currently before the Parliament will give the AASB the ability to develop climate-related standards in the immediate future. Consideration of longer-term arrangements is ongoing and not addressed in this paper.

Reform principles

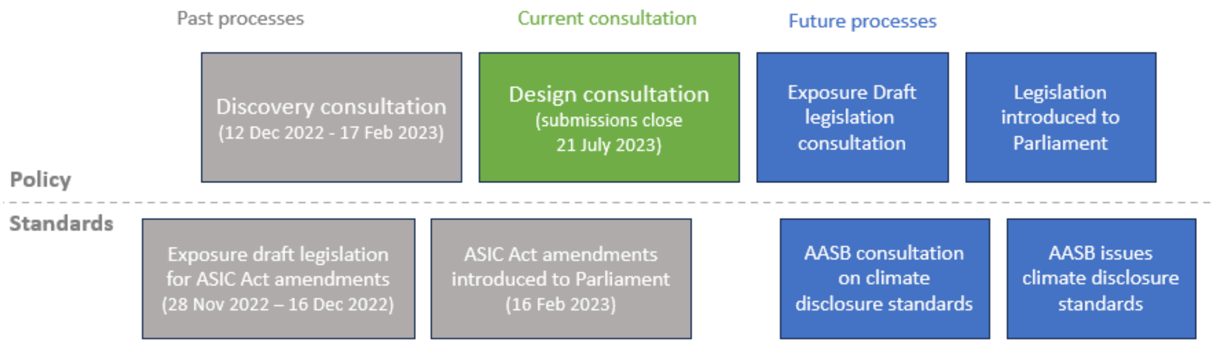
Principle	Definition
Support climate goals	Climate disclosure reforms should assist with: Australia's transition to net zero emissions by 2050; adaptation to a changing climate; and broader efforts and initiatives to promote a sustainable financial system in Australia and internationally.
Improve information flows	Reforms should deliver clear improvements in the quantity, quality, and comparability of disclosures, which will help regulators to assess and manage systemic risks and other risks to investors, strengthen transparency and improve the flow of useful information to investors (including what actions are being taken to mitigate risks).
Well-understood	Businesses, investors, regulators and the public should have a clear and common understanding about obligations for entities to disclose climate-related financial risks. This will require prescription of whom they apply to, how and when they should be made, and clarifying details on content of disclosures.
Internationally aligned	New requirements should, as far as possible, be aligned with international reporting practices, to minimise compliance costs for Australian businesses that operate internationally, and to ensure Australia's regime is viewed with credibility by international markets.
Scalable and flexible	New requirements should, where possible, build on the existing financial reporting system, and be scalable and flexible to accommodate future developments in the global baseline for climate and sustainability reporting, to minimise the expected compliance costs and potential for unintended consequences.
Proportional to risk	Climate disclosure requirements should be proportional to the risks they seek to address, particularly regarding whom they apply to, what costs those entities will incur, what data or capability they will require and what liability they may enliven.

Process

Treasury is leading consultation on the implementation of the Government's commitment to standardise climate disclosures by large businesses and financial institutions, with close support from the financial regulators and standard-setting bodies.

This consultation builds on the previous discovery consultation that occurred between 12 December 2022 and 17 February 2023, and seeks views on proposed positions for the detailed implementation and sequencing of standardised, internationally-aligned requirements for disclosure of climate-related financial risks and opportunities in Australia. Figure 1 outlines the current consultation in relation to other public processes to implement climate-related financial reporting requirements for companies.

Figure 1: Public processes in relation to climate-related disclosures



Responding

In particular, views are sought on whether the proposed positions relating to coverage, content, framework and enforcement of the requirements are workable. In line with the policy principles, this consultation seeks to ensure the new requirements are proportionately targeted and provide sufficient clarity as to the requirements of the regime.

Treasury also seeks the inclusion of information in submissions that support the quantification of costs and benefits of the proposals. This will inform a Policy Impact Analysis, which will be developed as part of this reform, in accordance with the Australian Government Guide to Regulatory Impact Analysis.

Feedback can be provided to climatereportingconsultation@treasury.gov.au until 21 July 2023.

Next steps

Detailed disclosure standards will be formally established by the AASB. The intention is that the Australian standards will be aligned as far as practicable with the final standards developed by the ISSB and the AASB is expected to consult on these in the second half of 2023. Treasury will continue to work closely with the AASB on the development of Australia's climate-related disclosure requirements.

Where legislation is required to give effect to the new requirements, exposure draft legislation will be released.

Separately, the Minister for Finance is leading related work to implement appropriate arrangements for comparable Commonwealth public sector entities and companies to also disclose their exposure to climate-related risk.

Reporting entities and phasing

Reporting entities

It is appropriate that mandatory climate disclosure reforms cover entities in proportion to the physical and transition risks the entities face. Feedback received to date has emphasised that requirements should apply to both large listed and unlisted entities and financial institutions, with coverage expanding over time.

Proposal: that all entities that meet prescribed size thresholds and that are required to lodge financial reports under Chapter 2M of the *Corporations Act 2001* (Cth) (Corporations Act) would be required to make climate-related financial disclosures.

This means entities (including financial institutions) lodging financial reports under Chapter 2M of the Corporations Act that meet two of the following criteria would be covered under climate-related risk disclosures legislation by 2027-28:

- the consolidated revenue for the financial year of the company and any entities it controls is $50 million or more;
- the value of the consolidated gross assets at the end of the financial year of the company and any entities it controls is $25 million or more;
- the company and any entities it controls have 100 or more employees at the end of the financial year.

In addition, all entities that are required to report under Chapter 2M of the Corporations Act that are registered as a 'Controlling Corporation' reporting under the *National Greenhouse and Energy Reporting Act 2007* (Cth) would be covered under climate-related risk disclosures requirements, even if they do not meet the threshold criteria above.

Most large financial institutions are already captured under Chapter 2M. Registrable superannuation entities will be brought within the requirements of Chapter 2M from 1 July 2023. As a result, separate thresholds or definitions are not considered necessary to ensure large financial institutions make climate-related disclosures.

Consistent with the reform principles, existing definitions would be used, as they are well known to reporters and investors, while covering private companies improves alignment with the approaches taken internationally (for example the UK and EU also cover private companies). Including private companies ensures equal treatment of reporters, which should improve information flows and promote transparency. Including entities based on their size is proportional to risk, as the larger and more interconnected an entity is, the higher the chance they will face physical and transitional climate-related risks. Furthermore, excluding small and medium sized entities ensures they are not subjected to additional regulatory burden.

Implementation of commensurate arrangements for comparable Commonwealth public sector entities and companies is being progressed separately, led by the Minister for Finance.

Alternatives considered

Treasury received a range of additional suggestions about the types of entities that should be covered and on what basis, including alternative thresholds of materiality and company turnover.

Materiality

Some stakeholders recommended covering entities based on the extent to which they face material climate risks. For example, via a formal assessment which provides entities with a climate vulnerability score. Climate-related risks, either physical or transition, will be material for the vast majority of large companies in the near term, if they are not already. Relying on judgements about materiality would not provide the level of certainty and clarity to all businesses about their obligations that comes with clear quantitative thresholds. Smaller companies should nevertheless make voluntary disclosures if they are below the prescribed size thresholds and assess climate to be a material risk. Existing obligations under the Corporations Act in relation to the disclosure of material financial risks would continue to apply.

Turnover

Several stakeholders suggested using turnover as one of the thresholds used to determine which businesses are covered by the climate-risk disclosure regime. This is similar to thresholds used by the European Union's Corporate Sustainability Reporting Directive (EU CSRD).

Using a consolidated revenue threshold aligns the climate-related disclosure framework with existing concepts and definitions, particularly the definition of 'large proprietary company' that is well understood and used to determine corporate reporting obligations. Using and building on existing definitions within the Corporations Act reduces duplication and minimises cost implications on reporters who already have processes and systems in place to determine whether they meet these thresholds for corporate reporting reasons.

Phased implementation approach

In response to the discovery consultation, a majority of stakeholders agreed the Government should take a phased approach to coverage over time. A three-phased approach is proposed, starting with a relatively limited group of very large entities that expands over two years to apply to progressively smaller entities. Allowing smaller entities more lead time before they are subject to the mandatory requirements enables them to build the capability and skills required to meet their obligations.

The reform is also likely to increase the level of demand for professional services. Progressively expanding coverage over time should mitigate the risk of supply shortages in these service areas (particularly audit and assurance), by allowing sufficient time for the market to attract and grow the resourcing, capacity and expertise that will be needed to meet this increased demand.

National Greenhouse and Energy Reporting (NGER) Entities would be phased in based on the publication threshold, which determines whether the Clean Energy Regulator (CER) publishes emissions data about reporters. Around half of all NGER reporters fall below the publication threshold. These thresholds appear below.

Table 1: NGER Reporting Entities

Controlling Corporation Threshold	Reporting Transfer Certificate Holder Threshold
Data is published if corporate totals have combined scope 1 and scope 2 greenhouse gas emissions equal to or greater than 50 kilotonnes carbon dioxide equivalence (CO_2^{-e}).	Data is published if a facility has greenhouse gas emissions of 25 kilotonnes CO_2^{-e} or more; or production of energy of 100 terajoules or more; or consumption of energy of 100 terajoules or more.

Additionally, under section 25 of the *National Greenhouse and Energy Reporting Act 2007* (Cth) (NGER Act), registered corporations may apply to have some NGER data withheld from publication.

As all NGER Reporting Entities would be required to make their climate disclosures public, for some reporters, emissions data will be made public for the first time. It is appropriate that all entities with material climate risks provide the same level of transparency around these risks. As large emitters and/or energy consumers, NGER Reporting Entities are all exposed to material climate-related risks.

Timeline and scaled thresholds for phasing

The thresholds that would determine the year in which entities are required to commence reporting are outlined in the table below. Gross consolidated assets, consolidated revenue and employee thresholds will apply to the company or entity and any entities it controls at the end of the financial year. For NGER Reporting Entities, the publication threshold would apply for the purposes of phasing.

Where an entity falls below the Group 3 threshold it would no longer be subject to mandatory climate-related financial disclosure requirements. Entities dropping below the threshold for a given year would be strongly encouraged to continue to report on a voluntary basis, particularly where they are likely to exceed the threshold again in future.

Table 2: Proposed roadmap for mandatory disclosure requirements

Timing	Reporting entities
Group 1 *2024-25 onwards*	Entities required to report under Chapter 2M of the Corporations Act and that fulfill **two of the three** thresholds: – Has over 500 employees; – The value of consolidated gross assets at the end of the financial year of the company and any entities it controls is $1 billion or more; – The consolidated revenue for the financial year of the company and any entities it controls is $500 million or more. AND Entities required to report under Chapter 2M of the Corporations Act that are a 'controlling corporation' under the NGER Act and meet the NGER publication threshold.
Group 2 *2026-27 onwards*	Entities required to report under Chapter 2M of the Corporations Act and that fulfill **two of the three** thresholds: – Has over 250 employees; – The value of consolidated gross assets at the end of the financial year of the company and any entities it controls is $500 million or more; – The consolidated revenue for the financial year of the company and any entities it controls is $200 million or more. AND Entities required to report under Chapter 2M of the Corporations Act that are a 'controlling corporation' under the NGER Act and meet the NGER publication threshold.

Table continues over following page.

Table 2: Proposed roadmap for mandatory disclosure requirements (cont.)

Timing	Reporting entities
Group 3 *2027-28 onwards*	Entities required to report under Chapter 2M of the Corporations Act and that fulfill **two of the three** thresholds: – has over 100 employees; – The value of consolidated gross assets at the end of the financial year of the company and any entities it controls is $25 million or more; – The consolidated revenue for the financial year of the company and any entities it controls is $50 million or more. AND Entities required to report under Chapter 2M of the Corporations Act that are a 'controlling corporation' under the NGER Act.

Reporting content

The positions for reporting content reflect a proposed high-level policy direction on the information in-scope reporting entities would be required to disclose. These positions are primarily designed to inform future Government engagement with Australian standards setting boards in the development of Australian climate-related financial disclosure standards, and any associated amendments to the Corporations Act.

Reporting content requirements would aim to provide clarity to reporting entities about what types of information must be disclosed and to ensure the requirements improve access to decision-useful information for users of financial reporting. Disclosures will enable investors (and future investors) to understand and assess the climate-related financial risks and opportunities faced by reporting entities and how entities are managing, planning for and adapting to these risks and opportunities. Disclosures will also support policy makers and regulators to better understand and assess broader systemic risks to Australia's financial system.

Reporting content requirements would also aim to ensure that Australian capital markets keep pace with investor demands for high quality and comparable information on climate-related risks globally. The proposed positions are intended to indicate at a high level how the ISSB's new global standard for climate-related financial disclosure (IFRS S2 *Climate-related Disclosures*) would apply in the Australian context. Strong international alignment is important to minimise compliance costs for Australian entities that operate internationally, and to ensure Australia's regime is viewed with credibility by international capital markets. Australia is well-placed to implement requirements that align with the ISSB standards, with many Australian firms already voluntarily reporting their climate-related risks.

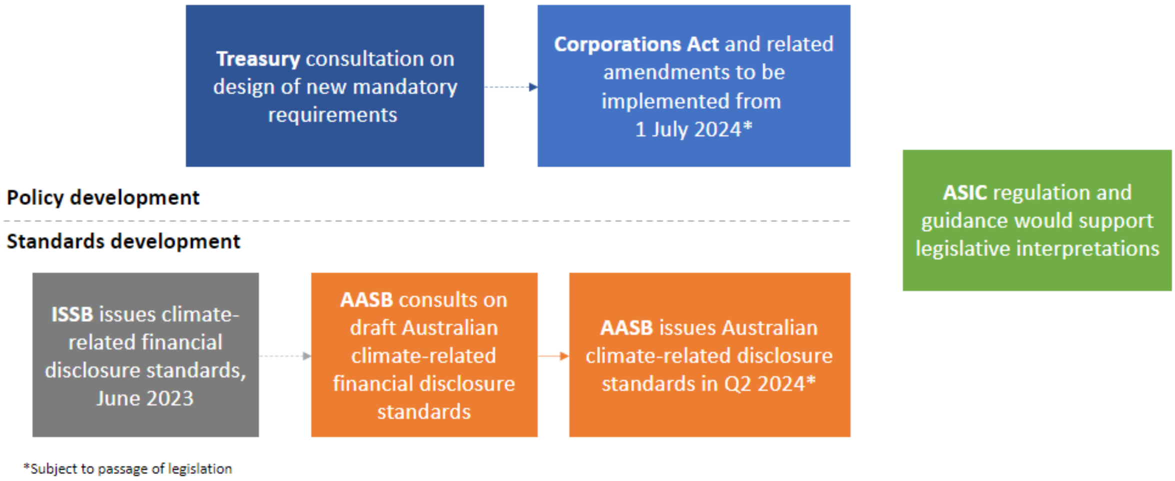
Climate-related financial disclosure standards

Further detail about what information would need to be disclosed under the proposed requirements will be set out in forthcoming Australian climate-related financial disclosure standards.

The ISSB is developing a global baseline for sustainability and climate-related financial disclosure reporting standards, which aims to improve consistency and comparability across firms reporting. This paper draws on the draft IFRS S2 *Climate-related Disclosures*, which was issued for consultation in 2022, and subsequent public ISSB decisions to date. Noting the ISSB has now completed work on its final standards, with further guidance expected to be released throughout the second half of 2023. Should the final ISSB standards differ markedly from what is anticipated here, Treasury will consult further on any revisions to proposed positions.

The AASB will be responsible for developing Australian climate disclosure standards, which are envisaged to closely align to the requirements in IFRS S2 *Climate-related Disclosures*. It is anticipated that the AASB will conduct a public consultation process as part of developing the Australian standards. For this reason, the reporting content positions outlined in this paper should be considered indicative and the content of those standards is not the focus of this consultation paper.

Figure 2: Developing mandatory climate-related financial disclosures



Phasing of reporting requirements

The proposed requirements would be phased-in over three years, with full application of the mandatory reporting for all groups of reporting entities from the 2027-28 reporting year onwards (**end state**).

A **transitional period** from 2024-25 to 2026-27 would involve relatively less onerous disclosure requirements and aims to provide reporting entities with time to develop internal capabilities and internal capacity to meet the disclosure requirements. This would be supported by the proposed modified liability settings over the same period.

While only group 1 and 2 entities would be subject to mandatory disclosure requirements in the transitional phase, other companies choosing to make climate-related financial disclosures (including to meet existing legal obligations to report material financial risks) would be encouraged to do so in line with the available Australian standards. Existing legislative settings and regulatory guidance is expected to be sufficient to support this outcome.

Materiality

Proposal: Principles of financial materiality would apply.

Acknowledging that climate-related risks and opportunities are inherently financial over the short, medium and long term, climate-related financial information would be material if omitting, misstating or obscuring it could reasonably be expected to influence decisions that the primary users of general purpose financial reports (existing and potential investors, lenders and other creditors) make on the basis of the reports.

This approach to materiality aligns with the anticipated position on materiality from the ISSB and ensures harmonisation with existing definitions of financial materiality in the Australian and international standards to ensure consistency for reporting entities. Stakeholder feedback largely supports alignment with the ISSB as the international benchmark for materiality for climate-related financial disclosures.

It is expected that this definition of materiality would be applied across all aspects of reporting content, with the exception of scope 1 and scope 2 emissions disclosure (outlined below). However, it is increasingly understood that climate-related risks (either transition or physical risks) would be material for most businesses.

Alternatives considered

The concept of double materiality was proposed, with stakeholders suggesting new requirements should take a broad approach to materiality and require companies to also consider and disclose external impacts of their operations. It was argued that external impacts on broader social and environmental conditions can often develop into financial risks overtime, in unknown ways. While the proposed requirements would not prevent companies adopting a double materiality approach as part of their disclosures, double materiality is not currently the main objective of the proposed mandatory climate disclosure requirements.

Governance

Proposal: From commencement, companies would be required to disclose information about governance processes, controls and procedures used to monitor and manage climate-related financial risks and opportunities.

Information about governance arrangements is important for investors to appropriately understand and assess the adequacy of the company's processes, climate-related oversight, and management. Investor feedback stressed that this information is important to understand how climate-related risks and opportunities are being considered as part of an entity's day-to-day and strategic decision making, in addition to the identification of risks and opportunities and associated metrics.

As indicated by the ISSB, it is expected that disclosures would include information about how the company's governance bodies are involved in overseeing and monitoring climate-related risks and opportunities, including an explanation of how this role is incorporated in company policy and procedures and whether (and how) climate-related performance metrics are factored into executive remuneration. This is considered an extension to existing remuneration-related disclosures under current annual reporting obligations.

Strategy

Primary users of general purpose financial reports should be able to understand an entity's strategy for identifying and addressing climate-related risks and opportunities. As indicated by the ISSB, disclosures relating to an entity's strategy would include information about the:

- current and anticipated effects of risks and opportunities faced by the reporting entity (for the reporting period and over the short, medium and long term) on the entity's:
  - business model and value chain
  - business strategy, decision-making (including any transition plan)
  - financial position, financial performance and cash flows
- climate resilience of its strategy and business model to both transition and physical risks.

Scenario analysis

Disclosure of strategy-related information aims to help an entity demonstrate that it has undertaken a robust examination and evaluation of possible climate-related futures and factored this into business strategies and plans. While methods of scenario analysis can vary in their sophistication, entities must disclose their approach.

Proposal: From commencement, reporting entities would be required to use qualitative scenario analysis to inform their disclosures, moving to quantitative scenario analysis by end state.

Reporting entities would be required to disclose information to help users understand the basis of scenario analysis undertaken by the reporting entity for the purpose of disclosures, including methodology, limitations and critical assumptions.

In the transition period, entities would be required to undertake qualitative scenario analysis at a minimum, with the level of sophistication of this scenario analysis proportionate to the experience of reporting entities, their exposure to climate-related risk and the availability of supporting information (methodology and datasets). It is expected that companies currently reporting quantitative scenario analysis would continue to do so.

By end state, reporting entities would be required to undertake some form of quantitative scenario analysis. However, entities will be encouraged to undertake quantitative scenario analysis before this time, while modified liabilities settings apply. As outlined in the liability section, companies will be afforded protection from false or misleading representation claims from private litigants in relation to forward looking statements for the first three years. These protections aim to reduce uncertainty for reporting entities and encourage companies to take best efforts to use quantitative scenario analysis as early as possible.

Stakeholder feedback highlighted that phasing in requirements for scenario analysis is important for the Australian context, as there are a number of entities who have not yet built capability in reporting. Stakeholders also raised the fact that development of useable Australian-specific climate scenarios for the corporate sector is still in its infancy.

Stakeholder feedback also supported the use of quantitative scenario analysis to improve transparency, comparability and rigour of disclosures. It is expected that quantitative analysis would help firms interpret the scale of impact of risks and opportunities, which is also beneficial for business planning and decision making.

Proposal: From commencement, reporting entities would be required to disclose climate resilience assessments against at least two possible future states, one of which must be consistent with the global temperature goal set out in the *Climate Change Act 2022.*

Entities would need to consider the transition risks associated with achievement of the global temperature goal set out in the *Climate Change Act 2022*, which is to contribute to *'holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels'*.

Entities would also report against at least one other scenario that reflects different climate future(s). This aims to help investors understand resilience of the reporting entity's business strategy in a scenario where the world is decarbonising at a different speed. This could include a scenario reflecting the Government's commitment to reduce emissions by 43 per cent by 2030 and to net zero by 2050.

Stakeholder feedback highlighted the benefits of consistency in scenario analysis across firms to enable comparisons, with calls to include at least one scenario that is aligned to the Paris Agreement. The temperature goal stated in the Climate Change Act is consistent with this. The Paris Agreement's global temperature goals are stated as '*holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels*.'

Alternatives considered

Stakeholders stressed the difficulty of choosing appropriate scenarios to underpin climate disclosures and the importance of standardising scenario selection to reduce fragmentation and improve comparability across company reports. In response to these issues, feedback suggested that the Government mandate the specific scenarios that all reporting entities must disclose against. However, mandating the use of the same scenario(s) across *all* reporting entities would embed the risk that a significant climate-related risk or opportunity is overlooked and that the mandated scenario does not reflect potential climate impacts that would be most relevant or significant for all entities. It is important to allow some flexibility in scenario choice, so long as there is at least one standard scenario aligned to Australia's international commitments.

An alternative approach would be to adopt the TCFD recommendations, which specifies use of at least one scenario with a 2°C future warming objective. This would expand potential for international comparability and enable interoperability among users of the TCFD framework.

Transition planning and climate-related targets

Proposal: From commencement, transition plans would need to be disclosed, including information about offsets, target setting and mitigation strategies.

Stakeholders indicated that disclosure of clear, internationally aligned transition plans would improve information flows and comparability. The approach from ISSB indicates a focus on transparency, rather than prescribing certain transition planning activities or a level of ambition that firms should meet. If an entity does not have a transition plan, the disclosure requirement could be met by stating this. Where offsets are contributing to transition plans, disclosures would be required to include information about whether these offsets are verified though a recognised standard (such as Australian Carbon Credit Units). Requiring transparency at this level is expected to drive entities towards greater ambition in response to market demands.

As a function of phased coverage, the largest companies and those with the highest exposure to climate-related risk would be the first to disclose transition plans. Many of these entities are already making these disclosures in some form. Compared to financial reporting, some elements of climate disclosures are more dependent on long-dated external parameters and future states that are subject to uncertainty. As outlined in the liability section, reporting entities will be afforded some protection from false or misleading representation claims in relation to forward looking statements for the first three years. These protections aim to reduce uncertainty for reporting entities and encourage companies to make best efforts in making disclosures.

As part of broader consultation on the Government's Sustainable Finance Strategy later this year, Treasury will consider arrangements that could strengthen the development and disclosure of company transition plans.

Proposal: From commencement, all entities would be required to disclose information about any climate-related targets (if they have them) and progress towards these targets.

Disclosures would enable investors to understand and evaluate the robustness of climate-related targets (i.e., whether the target is 'science-based' or has been validated by a third party). Entities would also be required to disclose how their chosen target compares to the global temperature goal set out in the *Climate Change Act 2022* and Australia's nationally determined contribution.

Climate-related targets should include information about the entity's strategy to achieve the target (including expected operational changes and use of offsets) and progress to date. Entities that have not developed or stated future targets could meet the disclosure requirement by noting this.

However, it is expected that the proposed requirements will help encourage improvements in transition planning and target setting in the market, driven by investor demand.

Alternatives considered

Stakeholders suggested that companies should be required to adopt and disclose transition plans that reflect actions to limit global warming to 1.5°C. While this could be considered beneficial to help to accelerate emissions reduction, the aim of the requirements is to improve transparency, with the view that investor demand will drive improvements in transition planning and target setting. Mandating a specific target for entities would also increase the risk of greenwashing in the market where entities are not in position to achieve this target. Treasury will consult further on additional actions to improve corporate transition planning as part of a broader work program under the Sustainable Finance Strategy.

Risks and Opportunities

Proposal: From commencement, entities would be required to disclose information about material climate-related risks and opportunities to their business, as well as how the entity identifies, assesses and manages risk and opportunities.

In addition to risks and opportunities themselves, entities would be required to disclose information about where risks and opportunities are concentrated in the entity's supply chain, the anticipated time horizon and metrics that help investors understand the scale and impact of risks and opportunities.

Alternatives considered

Stakeholder feedback stressed that while transition risks relating to emissions may present the largest immediate risks to many investments, physical risks should not be overlooked. Greater specificity of information will be detailed in forthcoming Australian standards, which will provide certainty about the types of risks and opportunities, supporting information and metrics that would need to be disclosed.

Some stakeholder feedback proposed that internal carbon prices should be aligned to any proposed future Australian carbon pricing mechanism. The intention of disclosure requirements is to ensure transparency, not to standardise the value of internal carbon prices across companies. It is also reasonable to expect that internal carbon prices will differ depending on the nature of business operations or markets in which they operate. The proposed requirements would not prevent companies from selecting internal carbon prices that align with international or industry benchmarks or official pricing mechanisms.

Metrics & Targets

Greenhouse gas emissions

Greenhouse gas (GHG) emissions are fundamental to understanding transition risk, which reflects uncertainty created by the global shift towards a net-zero economy. Scope 1 and 2 emissions are important to help assess the immediate transition risk faced by the reporting entity as a result of its energy consumption. Scope 3 emissions are important to determine the level of interconnectedness for transition risk, including whether and where risks sit within a company's supply chain, which if realised, could have significant flow on effects to the reporting entity and broader financial system.

Disclosure of emissions data (including as part of emissions outcomes or as progress towards any emissions reduction target) would need to be accompanied by information that would enable investors to understand how the emissions profile was calculated. This includes information about the accounting framework, assumptions, methodology and approach to selecting and measuring input data.

Proposal: From commencement, scope 1 and 2 emissions for the reporting period would be required to be disclosed.

Gross scope 1 and 2 emissions (being total emissions before any eligible units and/or certificates have been accounted for) would need to be disclosed for the reporting period. Where a reporting entity is disclosing Australian-based emissions, these would need to be calculated consistent with methods set out in the NGER Scheme legislation. The NGER Scheme does not provide methods for the estimation of emissions from agricultural sources or land use, land use change and forestry. Guidance on the estimation of emissions from these sources would be provided over time, drawing on Australia's national greenhouse gas inventory methods.

If an entity chooses to also disclose net scope 1 and 2 emissions (gross emissions after eligible units and certificates have been deducted), this would need to be accompanied by information that provides transparency to help users understand the nature (including the source and quality) of any units or certificates surrendered.

Reporting of scope 2 emissions (both location-based and market-based accounting methods) would be required by end state, using methods under NGER Scheme legislation. The proposed requirements would not prevent reporting entities from voluntarily dual-reporting scope 2 emissions prior to this time.

It is anticipated that disclosure of scope 1 and 2 emissions would be relatively straightforward for all reporting entities. Around 900 entities[1] (more than 700 of which are companies) are already required by legislation to report scope 1 and 2 emissions as part of the NGER Scheme legislation.

Proposal: Disclosure of material scope 3 emissions would be required for all reporting entities from their second reporting year onwards. Scope 3 emissions disclosures made could be in relation to any one-year period that ended up to 12 months prior to the current reporting period.

In line with the ISSB's proposed approach to scope 3 emissions disclosures, companies would receive relief in the form of a temporary one-year exemption from reporting scope 3 emissions, following the commencement of mandatory disclosure requirements for that entity. It is expected that companies would use this relief and temporary modifications to liability settings to build capability in relation to scope 3 calculation and estimation.

In addition to the above relief, the scope 3 emissions disclosed could have accrued in any one-year period that ended up to 12 months prior to the current reporting period. For example, scope 3 emissions reported in the 2027-28 financial year could be those incurred (either actual or estimated) in the company's supply chain in the 2026-27 financial year. This recognises that other reporting entities' scope 1 and 2 emissions may form inputs for an entity's scope 3 estimation. This is particularly important for financed scope 3 emissions where banks, superannuation funds and insurers are likely to need to model or estimate a significant proportion of the economy.

Scope 3 emissions should incorporate material emissions both upstream and downstream from the reporting entity, in line with a recognised emissions accounting framework (i.e. GHG Protocol) and drawing on Australia-specific emissions factors where relevant (i.e., National Greenhouse Accounts Factors). Materiality in this context would have regard to the relative size of the emissions source.

[1] Clean Energy Regulator (2023), *National Greenhouse and Energy Register 2021-22*, accessed 25 May 2023.

Reporting entities would also need to provide information about how they have determined the boundaries for material scope 3 estimation and what components of upstream and downstream value chain are represented in and excluded from this calculation. The framework used to guide scope 3 estimation (e.g., Climate Active Carbon Neutral Standard) should also be disclosed.

It is expected that in the immediate term, most scope 3 disclosures would be estimates, reflecting information that is accessible at the time of disclosure. As some reporting entities may lack internal capability to undertake scope 3 estimation to a high level of sophistication, the proposed requirements would take a proportional approach, in line with what has been indicated by the ISSB to date. As companies become more practiced in scope 3 estimation and available methodologies and data improve over time, scope 3 disclosures would be expected to improve.

Alternatives considered

Stakeholder feedback sought expansion of the NGER Scheme legislation to include all in-scope reporting entities, with the view that this would improve the availability of robust emissions data for the market. While NGER emissions data may form a key input for company disclosures, the objectives of emissions accounting are different to objectives of financial disclosures. As such, there is no proposal to expand the NGER Scheme to cover all reporting entities subject to disclosure requirements.

A number of concerns were raised about the difficulties associated with calculating and reporting scope 3 emissions. Excluding scope 3 emissions would significantly reduce the value of disclosures. Scope 3 emissions are an important source of information for companies and investors about where transition risks may be present within supply chains. Conversely, requiring economy-wide disclosure of scope 1 and 2 emissions to enable entities to calculate their scope 3 emissions using actual data from across entities' supply chain is considered disproportionate to the value of disclosure.

Industry-based metrics

Proposal: By end state, reporting entities would be required to have regard to disclosing industry-based metrics, where there are well-established and understood metrics available for the reporting entity.

Industry-based metrics are beneficial to help investors understand and compare the reporting entity's exposure to climate-related risks relative to other entities. These metrics are generally expressed as a function of business activity (e.g., area of properties located in 100-year flood zones, by property subsector). While there are limitations relating to availability of industry-based metrics for Australia at this time, stakeholder feedback outlined that use of industry-based metrics is important to improve quality and comparability of disclosures across firms over time.

By the end state, it is expected that where there are industry-based metrics available that are appropriate for Australian industry specific sectors, such that reporting entities would disclose against said metrics. These metrics would be subject to consultation with members of that sector. This would ensure reporting entities have had the opportunity to influence what metrics are most relevant to their business model.

Supporting information

Consultation sought feedback on the role of Government in supporting the implementation of climate-related financial disclosures. Stakeholders widely supported the implementation of mandatory disclosure requirements but noted extensive gaps in data and capability, particularly around scope 3, scenario selection and transition planning.

Stakeholder feedback widely called for more guidance on scope 3 estimation methodologies, including guidance on the interpretation of materiality, boundaries for estimation and how best to disclose data gaps and changes in methodologies and assumptions. With regard to scenario selection, stakeholders requested assistance with selecting appropriate scenarios, with calls for downscaled regional scenarios to support the Australian context. In transition planning, requests for gold-standard and leading examples of transition plans were made.

In recognition of these challenges, Treasury considers further guidance and progress on data challenges is necessary to support broad adoption of best-practice disclosure in the medium term. The Government is currently developing a Sustainable Finance Strategy which will look in more detail at options and priorities for addressing key data challenges and providing clearer guidance in these areas. As part of the consultation process on the Strategy, stakeholders will have an opportunity to provide further input on these issues.

While these issues will be considered in the latter half of the year, modified liability settings (seen in the liability framework section) in conjunction with application of proportionality will support more ambitious disclosures as industry and Government continue to improve capability.

Reporting framework and assurance

Reporting location, frequency, and timing

Location

To maintain alignment with existing corporate reporting practices, climate disclosures would be required to be published in an entity's annual report. The annual report is a primary document through which entities communicate details of their activities, financial results, and strategies. For many entities, climate-related risks and opportunities are inextricably linked to these three areas. It is therefore important that climate disclosures are made in the context of an entity's financial position. By embedding climate disclosure in annual reporting processes and practices, it is also intended that Australian entities more deeply integrate climate-related risk and opportunity into their decision-making.

Part 2M.3 of the Corporations Act sets out the requirements of annual financial reports. It is proposed that the requirement to comply with climate disclosure standards would be contained in Part 2M.3. Climate disclosures would be required as part of both the directors' report and the financial report.

For listed entities, climate disclosures would be required in the operating and financial review (OFR), within the directors' report. ASIC considers that the law currently requires an OFR to include a discussion of climate-related risk where it is a material risk that could affect the company's achievement of its financial performance.

Where climate-related risks and opportunities have a material impact on the financial position of an entity, this would be included in the financial report (or the OFR, as appropriate).

Existing annual report requirements

Annual reports have associated pre-existing requirements, including:

- Directors must make a declaration that the financial statements comply with accounting standards, are true and fair, and that the company is solvent.
- Directors must exercise their duty of care and diligence (section 180 of the Corporations Act) when preparing annual reports.
- Companies, registered schemes and disclosing entities must have the financial report audited and obtain an auditors' report.

Where appropriate, these requirements would be adapted in line with the proposed approach to assurance requirements for climate disclosures (discussed below). For example, temporary carve outs for climate disclosure audit requirements or the addition of compliance with climate disclosure standards in a directors' declaration.

Format requirements

These reforms aim to produce high quality and useful climate disclosures. Some stakeholders have raised concerns that additional requirements in the annual report may lead to lengthy and impractical reports. The following conditions would improve readability of annual reports containing climate disclosures:

- Entities must include an index table within their annual report that displays climate disclosure requirements (i.e., governance, strategy, risk management, metrics and targets) and the correlating disclosure section and page number.

- Listed entities may report the proposed 'metrics and targets' standards in a separate report, provided it is referenced in the directors' report.

The index table is intended to improve users' ability to navigate information and provide a way for entities to clearly demonstrate their compliance with climate disclosure requirements. For example, BP publishes a TCFD index table that maps disclosures to TCFD recommendations[2].

Figure 3: Example BP TCFD index table

TCFD index table

Our expanded TCFD disclosures can be found on the following pages.

TCFD Recommendation	TCFD Recommended Disclosure	Where reported
Governance Disclose the organization's governance around climate-related issues and opportunities.	a Describe the board's oversight of climate-related risks and opportunities.	Pages 50-52.
	b Describe the management's role in assessing and managing climate-related risks and opportunities.	Pages 52-53.
Strategy Disclose the actual and potential impacts of climate-related risks and opportunities on the organization's business, strategy and financial planning where such information is material.	a Describe the climate-related risks and opportunities the organization has identified over the short, medium, and long term.	• Pursuing a strategy that is consistent with the Paris goals, page 26. • Strategy – page 10. • Risk factors, page 73.
	b Describe the impact of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning.	• Risk factors, page 73 – description of principal risks. • Strategy – page 10.
	c Describe the resilience of the organization's strategy, taking into consideration different climate-related scenarios, including a 2°C or lower scenario.	• Strategy, page 10. • Pursuing a strategy that is consistent with the Paris goals, page 26.
Risk management Disclose how the organization identifies, assesses and manages climate-related risks.	a Describe the organization's processes for identifying and assessing climate-related risks.	• Risk management – page 52. • How we manage risk, page 69. • Risk factors – page 73.
	b Describe the organization's processes for managing climate-related risks.	• Risk management, page 52. • How we manage risk, page 69.
	c Describe how processes for identifying, assessing, and managing climate-related risks are integrated into the organization's overall risk management.	• Risk management, page 52. • How we manage risk, page 69. • Risk factors – page 73.
Metrics and targets Disclose the metrics and targets used to assess and manage relevant climate-related risks and opportunities where such information is material.	a Disclose the metrics used by the organization to assess climate- related risks and opportunities in line with its strategy and risk management process.	• Our strategic focus areas and metrics, page 11. • Our group-wide principal metrics and relevant targets – page 62.
	b Disclose Scope 1, Scope 2, and, if appropriate, Scope 3 GHG emissions, and the related risks.	• GHG emissions data – pages 45-48.
	c Describe the targets used by the organization to manage climate- related risks and opportunities and performance against targets.	• Our net zero targets and aims at a glance – page 45.

Providing listed entities with an option to report some climate-related information in a separate report (like a sustainability report) would reduce the length of the annual report (where length may be an issue) and ensure it is focused on governance, risk, and strategy. Climate-related information in the separate report would be subject to the same requirements as the annual report.

The combination of an index table and option for reporting in a separate report would also lay practical foundations for potential future reporting (e.g., nature, biodiversity).

Based on stakeholder feedback from the discovery consultation, the implementation of digital reporting for climate disclosure will not be pursued ahead of any plans to make digital reporting for existing financial reporting mandatory.

Timing of lodgement

The timing of annual financial report lodgement with ASIC would stay consistent with current requirements under section 319 of the Corporations Act. Disclosing entities and registered managed investment schemes must lodge complete financial reports within three months after the end of financial year. All other companies must lodge their financial reports within four months after the end of the financial year.

For listed entities, annual reports containing climate disclosures would need to be sent to members by the earlier of four months after financial year end or 21 days before the next AGM. They must also

[2] Climate Disclosure Standards Board (2021), *TCFD Good Practice Handbook 2nd Edition* (November 2021).

give the ASX a copy no later than three months after the end of the accounting period, in line with Listing Rule 4.5. This is consistent with current requirements.

For entities that report under the NGER Act, the statutory deadline for reporting is 31 October (for the preceding reporting year of 1 July to 30 June). To ensure consistency, companies should report the same emissions and energy data in their company reports as they do in their NGER reporting.

Requirement to publish reports

All covered entities would be required to make climate disclosures in the annual report available to the public. Large proprietary companies, public companies, disclosing entities and registered investment schemes are currently obliged to make their financial report available to members by publishing it on their website or sending it directly to members. All annual financial reports can be accessed through the ASIC register for a fee.

Where an entity is subject to the climate disclosure requirements, and does not fall into the categories listed above, an additional requirement to make climate disclosures publicly available would be imposed.

Continuous disclosure and fundraising documents

Climate-related disclosure obligations would extend to continuous disclosure and fundraising document obligations. ASIC has previously stated that depending on the circumstances, disclosure of climate-related risk may already be required by the law in contexts such as a prospectus or continuous disclosure announcement.

Listed companies must disclose material price sensitive information on a timely basis. If price sensitive information is related to climate disclosures, then it must be disclosed to maintain integrity of the market and ensure transparency.

Fundraising documents have a direct link to investment decisions. As a result, climate-related information that helps investors assess risks and returns and make informed investment decisions must be included. Prospectuses are the most common type of fundraising disclosure document, and they must not include misleading or deceptive statements under s728(1) of the Corporations Act.

Further guidance issued by ASIC regarding fundraising document requirements, and the ASX regarding climate disclosures in the context of continuous disclosure, may assist reporters in better understanding their obligations.

Alternatives considered

Separate report and alternative timing

Some stakeholders suggested that climate disclosures could be contained in a completely separate report (such as a standalone sustainability report), which would be published either alongside or after annual reports.

A key principle of these reforms is that requirements should build on existing frameworks, while ensuring flexibility to accommodate future reporting developments. A separate report would not automatically be subject to chapter 2M of the Corporations Act, and would not leverage existing definitions, legislative frameworks, or entities' understanding of current reporting obligations. This would lead to greater uncertainty and costs in relation to a company's reporting obligations.

A separate report may also diminish the integration of climate-related risk and opportunity into company decision-making, if climate reporting processes and procedures are not aligned with financial reporting. This option may result in the duplication of disclosures, as entities are presently required to disclose material climate-related risks in its annual report. A separate report also increases the risk that investors receive a disjointed narrative regarding an entity's climate-related risks and opportunities, inhibiting their ability to make accurate and fair assessments.

Other stakeholders suggested affording companies the flexibility to decide where and when they report climate disclosures. While flexibility may minimise immediate short-term pressure on companies and auditors, this path would not result in standardised disclosures and would reduce the decision-usefulness of reporting for investors. Publishing climate disclosures after annual reports would constrain the flow of information to investors. The disclosure of climate-related financial risks should occur alongside a company's financial information to ensure cohesive and transparent reporting. Delayed publication, even with aligned reporting period information, may also interfere with annual general meeting processes and timelines.

The total reporting and audit burden has been considered, and will continue to be considered, in the context of increasing disclosure requirements.

Exemption from continuous disclosure obligations

Although preferred by some stakeholders, excluding climate-related financial disclosures from continuous disclosure obligations carries the risk of distorting investment decisions by limiting available information. Presently, listed companies must disclose material price sensitive information on a timely basis. Should a company's climate disclosures constitute material price sensitive information, it should be provided to the market. Exempting listed companies from this obligation would undermine the integrity of ASX Listing Rules and the market itself.

It is not expected that all changes to underlying assumptions relating to climate disclosures would need to be reported to the market. However, if assumptions attached to a previous disclosure is subsequently found to be incorrect and result in a material effect on the price or value of the entity's securities, then it is expected that the market would be informed.

The *Treasury Laws Amendment (2021 Measures No. 1) Act 2021* amended the Corporations Act so that relevant entities and/or officers are only liable for civil penalty proceedings in respect of continuous disclosure obligations where they have acted with "knowledge, recklessness or negligence" in failing to update the market with price sensitive information. These amendments provided for a review by an independent expert in two years. Once complete, Treasury will monitor and consider findings of the review.

Assurance

Assurance plays an important role in enhancing the credibility of climate disclosures. However, assurance industry participants have cautioned that capability uplift is needed to meet growing demand for climate-related assurance services. Consultation feedback indicated broad agreement for phasing and scaling of assurance requirements. This would allow for skills, capacity, and processes to be developed in the market at a workable pace.

Assurance requirements interact with several other elements of the reforms, particularly reporting content requirements. Final decisions on the implementation and timing of reporting obligations may affect assurance requirements.

Moreover, the level of supporting information provided for climate disclosures (e.g., scope 3 estimation methodologies) not only plays a role in an entity's ability to provide accurate information, but also an assurance provider's ease of conducting an audit. Generally, the more standardised the disclosures, the less cost and time involved with the assurance process in the long run. This will be taken into consideration when finalising the climate disclosure reporting requirements. The preferred policy parameters for climate disclosure assurance include:

- a requirement for limited assurance, moving to reasonable assurance over time.
- reasonable assurance of scope 3 as a final step in scaling requirements.
- assurance would need to be provided against the Australian equivalent standards to the ISSB and Corporations Act/Corporations Regulations, in line with AUASB standards.
- assurance to be carried out by a qualified and experienced independent provider (conducted or led by the financial auditor).

It is proposed that further consultation on areas that extend beyond climate disclosure assurance is conducted by the AUASB, after the release of draft international sustainability assurance standards.

Assurance roadmap and timeline for climate disclosures

A proposed assurance roadmap and timeline for climate disclosures is set out on page 25. The phasing of minimum assurance requirements considers the balance between providing investors with confidence in climate disclosures and ensuring sufficient time for capability uplift. Assurance will also serve to reduce the risk of greenwashing, which can be damaging to investors, the public, and the entities themselves.

An increasing number of entities are obtaining voluntary assurance on climate-related information. Research carried out by the AASB and AUASB has found that 45 annual reports between 2018-2021 included an assurance report covering climate disclosures[3]. 41 obtained limited assurance and 4 contained both limited and reasonable assurance (limited assurance on sustainability information or scope 3 greenhouse gas emissions and reasonable assurance, specifically on scope 1 and 2 greenhouse gas emissions).

It is expected that at least some entities will obtain assurance above the minimum requirements. This is particularly the case for large entities covered in the first phase of reporting requirements (2024-25) that are already obtaining voluntary assurance.

Scope 3 emissions

Stakeholders have raised strong concerns regarding the feasibility of assuring scope 3 emissions disclosures. This is linked to the complexity of calculating emissions across an entity's value chain, which also varies between industries. The assurance of scope 3 emissions requires adequately auditable data. While capability is being developed, it is proposed that scope 3 calculation methodologies would be assured at a minimum. This provides an interim step that balances data limitations with the need to ensure the reliable provision of information to the market.

Transition plans and scenario analysis

These reforms are intended to produce robust climate disclosures that provide investors with transparency around business plans and sensitivity to climate-related risk. However, assuring these types of disclosures is challenging without agreed frameworks or sufficiently auditable data.

In the absence of agreed frameworks to assure transition plans, assurance requirements will be more flexible. This would involve an assurance provider assessing an entity's process of determining its

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[3] J. You and R. Simnett, (2022), *Climate-related disclosures and assurance in the Annual Reports of ASX-listed companies*, AASB-AUASB Research Report (December 2022).

transition plan and checking it off against established-best practice. The scope of assurance requirements would increase as entities progress on the pathway from qualitative to quantitative transition plans. The need for additional guidance in relation to making and assessing transition plans is being considered as part of the Government's wider Sustainable Finance Strategy.

Assurance for climate-related risk scenarios would include testing the underlying assumptions and methodology, as well as stress testing the models themselves.

International sustainability auditing and assurance standards

The International Auditing and Assurance Standards Board (IAASB) is currently working on a project to develop an overarching standard for assurance on sustainability reporting, which would address both limited and reasonable assurance. The IAASB is targeting July/August 2023 to release the exposure draft and is aiming for final approval in late 2024.

Stakeholders have recommended that Australian climate-related disclosures assurance is aligned with international standards when complete. Treasury will continue to monitor progress of the IAASB's assurance on sustainability reporting project. To minimise compliance costs for entities that operate internationally, assurance should be aligned with IAASB standards as far as possible.

Assurance providers and professional requirements

Providers of assurance for climate-related disclosures would be required to be independent from the entity being audited. This is in line with legally enforceable requirements under Part 2M.4 and s307C of the Corporations Act and auditing standards. The independence of assurance providers removes external influence or bias and minimises the risk of conflicts of interest.

It is proposed that financial auditors would lead climate disclosure assurance engagements, supported by technical climate and sustainability experts, when required. While financial auditors will have both requisite professional qualifications and knowledge of assurance processes, they may not possess the skills or technical expertise to assure climate-specific elements. Delegation to third-party assurance providers increases the available pool of auditors and broadens the market, while maintaining professional, ethical, and quality controls. It is important that new players are encouraged to enter the market to build capacity and avoid entrenching a highly concentrated assurance market that inhibits competition.

The Register of Greenhouse and Energy Auditors was established under the NGER Scheme legislation and is maintained by the CER[4]. It is available to scheme participants to assist in identifying and appointing an auditor. Auditors are required to apply for registration as a Greenhouse and Energy Auditor and must demonstrate knowledge of the legislation as well as knowledge of and experience in auditing.

The CER register would be available for the use of climate-related disclosure audits. This would assist in connecting audit leaders to a range of technical experts, as well as providing investors with confidence in the audit team. Expanding the scope and quantity of auditors on the register is intended to increase its use and the flow of business to auditors. Leveraging the CER register is a cost-efficient way to maintain the quality of climate disclosure auditors, which avoids the overhead and operating costs involved in establishing a bespoke register.

[4] Clean Energy Regulator (2023), *Register of auditors*, *accessed 25 May 2023.*

Alternatives considered

Mandatory accreditation or licencing

Initial consultation revealed a preference from some stakeholders for an accreditation or licensing regime for climate disclosure auditors commencing alongside mandatory climate reporting, while others suggested audits should be conducted by registered company auditors.

A new accreditation or licensing regime would introduce an additional regulatory burden in the initial stages of climate reporting, which could result in a constrained supply of services that may not meet increased market demand. Restricting providers to registered company auditors, without an option to delegate audit and assurance tasks to experts, would exacerbate market concentration and stifle opportunities for greater competition in the market.

While it is paramount that climate disclosure auditors are appropriately qualified and experienced, it is acknowledged that this area is relatively nascent in comparison to financial audit and assurance. Detailed and specific consultation on professional audit and assurance requirements is proposed to be conducted at a later stage, rather than prior to the commencement of first phase reporting and assurance requirements.

Voluntary assurance

Some stakeholders suggested voluntary assurance in the initial phase of climate reporting, moving to mandatory assurance (e.g., after one or two years). This option represents current practice, as many entities already seek limited and/or reasonable assurance on its TCFD climate disclosures. A substantial number of entities and assurance providers are already well-positioned to comply with proportionate and scaled assurance requirements.

Extending the voluntary assurance time horizon may assist in improving audit readiness and capability building for a group of stakeholders, however, this risks Australian entities falling behind market expectations and their international peers.

Table 3: Proposed assurance roadmap and timeline for climate disclosures

Group	Timeline						
	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-2031
1	Limited assurance of Scope 1 and 2 emissions Reasonable assurance of governance disclosures	Reasonable assurance scope 1 and 2 emissions Limited assurance of scope 3 emissions, scenario analysis and transition plans (specific requirements – process/ methodology/assumption assurance)	Reasonable assurance scope 1 and 2 emissions and other climate disclosures Limited assurance of scope 3 emissions, scenario analysis and transition plans (full quantitative assurance)	Reasonable assurance all climate disclosures			
2			Limited Assurance of Scope 1 and 2 emissions Reasonable assurance of governance disclosures	Reasonable assurance scope 1 and 2 emissions Limited assurance of scope 3 emissions, scenario analysis and transition plans (specific requirements – process/ methodology/assumption assurance)	Reasonable assurance scope 1 and 2 emissions and other climate disclosures Limited assurance of scope 3 emissions, scenario analysis and transition plans (full quantitative assurance)	Reasonable assurance all climate disclosures	
3				Limited Assurance of Scope 1 and 2 emissions Reasonable assurance of governance disclosures	Reasonable assurance scope 1 and 2 emissions Limited assurance of scope 3 emissions, scenario analysis and transition plans (specific requirements – process/ methodology/assumption assurance)	Reasonable assurance scope 1 and 2 emissions and other climate disclosures Limited assurance of scope 3 emissions, scenario analysis and transition plans (full quantitative assurance)	Reasonable assurance all climate disclosures

Liability and Enforcement

Climate disclosures interact with the existing legal framework in a number of areas including directors' duties, misleading representation provisions and reporting requirements. These requirements are found across the Corporations Act*, Australian Securities and Investment Commission Act 2001* (Cth) and the *Competition and Consumer Act 2010* (Cth). An interim modified liability framework is likely to balance the importance of disclosing decision-useful information with appropriate protections for reporting entities.

Where concerns were expressed about liability settings, stakeholders primarily raised issues around the applicability and operation of the current liability framework to forward looking statements. Reporters and some advisers noted forward-looking statements would require positions to be taken on inherently uncertain matters and thus leave company directors open to liability for misleading and deceptive conduct. Furthermore, concerns were expressed regarding Australia's class actions regime and the heightened scrutiny around climate and sustainability claims.

Other submissions commented that concerns about forward looking statements were overstated and that the reasonable grounds threshold was sufficiently flexible to account for the inherent uncertainty surrounding forward looking statements. As such, directors would be unlikely to be exposed to successful litigation and that modification of liability settings was unnecessary and undesirable.

Modified liability approach

A time and scope-limited modification of liability settings balances these competing views. Specifically in the case of scope 3 emissions, concerns that there are significant data availability issues that do not allow for confident and accurate reporting of these emissions would appear well-founded in the short term. There is a risk that without appropriate protections, entities would provide overly cautious disclosures that do not meet the needs and expectations of the market or investors.

Proposal: Climate-related financial disclosure requirements would be drafted as civil penalty provisions in the Corporations Act. The application of misleading and deceptive conduct provisions to scope 3 emissions and forward-looking statements would be limited to regulator-only actions for a fixed period of three years.

New climate reporting requirements would be drafted as civil penalty provisions, attracting the protection of sections 1317S and 1318 of the Corporations Act for entities and company officers respectively. In practice, this would protect company officers and entities in civil proceedings where they have acted honestly and ought fairly to be excused for the breach. This is a threshold that has been tested in court and does not diminish the impact of the mandatory climate disclosure regime. Additionally, infringement notices will be available for breaches to enable flexibility in regulator responses to non-compliance with the obligations.

In addition to these protections, elements of mandatory disclosure including scope 3 reporting, scenario analysis and transition planning would be afforded time-limited protection from misleading or deceptive conduct, false or misleading representations, and similar claims. This protection would only operate in respect of private litigants and would allow ASIC to take action where appropriate.

The protection from misleading or deceptive conduct, false or misleading representations, and similar claims would apply for three years from the commencement of the regime. Beyond this period, it is anticipated that the requirement of reasonable grounds for forward looking statements and scope 3 reporting is not too high a threshold.

Continuous disclosure

Continuous disclosure obligations would apply as they do presently, requiring entities to make timely and accurate disclosures. It is not proposed that the thresholds be changed as there is an additional fault element that requires knowledge, recklessness or negligence. This results in a requirement for a higher threshold to be proven before liability can be attached and should raise the threshold for class action cases.

Further guidance issued by ASIC regarding fundraising document requirements, and the ASX regarding climate disclosures in the context of continuous disclosure, may assist reporters in better understanding their obligations.

Alternatives considered

Protection for good faith disclosures

Consideration was given to providing protection from liability for forward-looking disclosures that were made in good faith and based on sound judgment, drawing on the already established concept of good faith such that a statement would not be deemed misleading or deceptive unless it is shown that such a statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

This option is not preferred as it would require the creation of new sections in legislation where existing sections could provide appropriate protections. Leveraging the existing framework would allow reporting entities the comfort and familiarity of knowing how existing protections are interpreted and applied. Additionally, it is possible that requiring litigants to prove that a statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith is too high a threshold and would effectively reverse the burden currently placed on entities.

Safe harbours

Safe harbour options involving disclaimers, protections for disclosures made with the benefit of advice and a general protection for all climate related disclosures were considered.

Disclaimers for forward-looking statements

One suggestion was to exclude liability where a relevant forward-looking statement was identified as such and included a proximate cautionary statement identifying relevant factors that could cause the actual results to differ materially from those in the statement. This option is not preferred as it would likely lengthen and reduce readability of disclosures without providing decision-useful information. Additionally, using a disclaimer to absolve the entity of any liability associated with a forward-looking statement may undermine the quality of disclosures.

Disclosures made with the benefit of advice

A further option considered was to allow that a statement would not be held to be misleading or deceptive if it was supported by suitably qualified external advice and was made following reasonable steps by the disclosing entity. This option is not sufficiently specific to provide meaningful assistance to entities regarding the requirements to benefit from the protection. While additional clarity could be afforded through guidance, what constitutes suitably qualified advice will differ according to circumstance and is likely to require case by case assessment. This assessment could take place in a court as a result of action from private litigants and is therefore not likely to provide comfort to entities at the time of making disclosures.