Maritime Union of Australia (MUA)

Submission to Treasury

Response to its consultation on climate-related financial disclosure: exposure draft legislation

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About the Maritime Union of Australia (MUA)

The Maritime Union of Australia (MUA) is an affiliate of the 2-million member Australian Council of Trade Unions (ACTU) and an affiliate of the 20-million-member International Transport Workers' Federation (ITF).

The MUA represents approximately 14,000 workers in the shipping, stevedoring, offshore oil and gas, port services and commercial diving sectors of the Australian maritime industry. The MUA is also part of an Offshore Alliance with the Australian Workers Union (AWU) that jointly organises workers across the Australian offshore oil and gas industry.

The ITF represents workers involved in the shipping, ports, rail, road, airline and logistics components of global supply chains.

The MUA submission

The MUA welcomes the opportunity to make a submission on the exposure draft legislation - Treasury Laws Amendment Bill 2024: Climate-related financial disclosure.

Our submission on the exposure draft legislation follows our submission to Treasury in response to its Sustainable Finance Strategy Consultation Paper of November 2023, which we lodged on 7 December 2023. At the time we said, "*we are concerned that the Discussion Paper largely sidelines the agents of production and consumption – the place and role of the workforce or labour in the investment chain and their role in sustainability*".

We are concerned that the exposure draft Bill also sidelines the workforce, and that as a consequence the Bill does not explicitly provide for disclosure on workforce impacts. We propose a solution to that gap – an amendment to the Bill.

We support the submission of the Australian Council of Trade Unions (ACTU).

The MUA concerns

The overall concern we have is that the Bill has been circulated in advance of:

- Finalisation of the Australian Accounting Standards Board (AASB) *SR1 Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information,* which remains out for consultation until March 2024; and
- Finalisation of the Australian Sustainable Finance Institute (ASFI) Australian sustainable finance taxonomy.

The Bill is seeking to amend the Corporations Law to require entities that lodge financial reports under the Corporations Act, to make disclosures relating to climate in accordance with sustainability standards made by the AASB, which in turn can be expected to rely on the Australian sustainable finance taxonomy for common definitions for sustainable economic activities that entities are reporting on.

The making of a sustainability standard could still be some time off given that consultation on its draft standard does not close till 1 March 2024 after which it will be some time before a standard is settled. We note also that the formal making of Australian Sustainability Reporting Standards (ASRS) Standards as legislative instruments by the AASB will depend on the Australian *Securities and*

Investments Commission Act 2001 being amended by Parliament to empower the AASB to issue ASRS Standards.

As we believe there are deficiencies in the draft ASRS standard circulated by AASB for stakeholder comment, and what we regard as lack of specificity in the *Application guidance* [Draft ASSB standard P33] and the absence of a process for stakeholders to ensure Guidance is under continuous review (like the processes managed by the Attorney General's Department to ensure guidance for statutorily imposed reporting in Modern Slavery Statements for entity compliance with the *Modern Slavery Act 2018* are under continuous review), we are concerned that settling a statute without knowing more clearly what entities will be required or expected to disclose is problematic.

This is crucial given the present structure of proposed new section 296D which refers to matters "*required to be disclosed by the sustainability standards*". In other words, if there are any gaps or deficiencies in the AASB standard once made (including the *Application guidance* which forms part of the standard), an entity will be in compliance with the law notwithstanding gaps or deficiencies in the standard, and is likely to result in a minimalist disclosure hurdle, and a continuation of greenwashing, a feature of current practice as acknowledged in the Treasury *Policy Impact Analysis* (P8/9).

The MUA proposed pathway forward

In order to achieve the policy intention 'to improve the quality and comparability of disclosures of material climate-related financial risks and opportunities within the financial reporting framework so investors are provided with greater transparency of an entity's climate-related plans and strategies' [EM 1.25] (for our constituency, particularly transition plans and strategies and consequential impacts on the workforce in a reporting entities' supply chains) we believe an amendment is required to 296D *Climate statement disclosures.*

The amendment we propose is inclusion of a new subsection 296D(c) along the lines of the following (see blue font):

> *296D Climate statement disclosures*
> *(1) The climate statements for a financial year, and the notes to the climate statements, must together disclose all of the following:*
> *(a) ………………..*
> *(b) ………………..*
> *(c) 'any metrics and targets of the entity for the financial year related to climate, particularly climate transition plans and strategies, which are required to be disclosed by the sustainability standards, including metrics and targets relating to workforce impacts'.*

If agreed, this will require a consequential amendment to current subsection (c) and all following subsections.

We note that Treasury's *Policy Impact Analysis* (P13) when considering Option 1 noted that reporting requirements would aim to provide clarity to reporting entities about the types of information to be disclosed and to ensure the requirements improve access to decision-useful information for users of financial reporting. To achieve this, reporting entities would be required to, inter alia: "*Disclose transition plans, including information about offsets, target setting and mitigation strategies*"; and "*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*." On our assessment is that the draft ASRS standard does not yet adequately reflect those ambitions.

We therefore strongly advocate inclusion of an amendment to the Bill as proposed, with the expectation that the draft standard can be improved before being made. Additionally, we note the reference to 'workforce' in Appendix B: *Application guidance* of the AASB SR1 consultation draft, at B4 (P33) which says "*Resources and relationships that an entity depends on and affects by its activities and outputs can take various forms, such as natural, manufactured, intellectual, human, social or financial. They can be internal—such as the entity's **workforce**, its know-how or its organisational processes—or they can be external—such as materials and services the entity needs to access or the relationships it has with suppliers, distributors and customers. Furthermore, resources and relationships include, but are not limited to, the resources and relationships recognised as assets in the entity's financial statements*." (MUA emphasis)

Similarly, in SR 2, under the heading Strategy and decision-making (P53), there is a reference to 'workforce' in the following terms: "*An entity shall disclose information that enables users of general purpose financial reports to understand the effects of climate-related risks and opportunities on its strategy and decision-making. Specifically, the entity shall disclose: (a) information about how the entity has responded to, and plans to respond to, climate-related risks and opportunities in its strategy and decision-making, including how the entity plans to achieve any climate-related targets it has set and any targets it is required to meet by law or regulation. Specifically, the entity shall disclose information about: (i) current and anticipated changes to the entity's business model, including its resource allocation, to address climate-related risks and opportunities (for example, these changes could include plans to manage or decommission carbon-, energy- or water-intensive operations; resource allocations resulting from demand or supply-chain changes; resource allocations arising from business development through capital expenditure or additional expenditure on research and development; and acquisitions or divestments); (ii) current and anticipated direct mitigation and adaptation efforts (for example, through changes in production processes or equipment, relocation of facilities, **workforce adjustments**, and changes in product specifications), (iii) current and anticipated indirect mitigation and adaptation efforts (for example, through working with customers and supply chains); (iv) any climate-related **transition plan** the entity has, including information about key assumptions used in developing its transition plan, and dependencies on which the entity's transition plan relies…..*". (MUA emphasis)

We note also that Treasury acknowledges the potential for assets to become stranded, and the literature on stranded assets (e.g. *Making transition plans just*, The Grantham Research Institute on Climate Change and the Environment, October 2022) invariably addresses the impact on workforce and communities. The *Policy Impact Analysis* (P5) says: "*Some industries will need to change business models and practices to fit within a low carbon economy. **Consideration would also need to be given to those assets that lose value or become 'stranded' due to an inability to adapt to these changes. Stranded assets can lead to large (downward) adjustments in asset values, with potential implications on economic and financial stability**. This has led to heightened demand from investors, regulators and firms for greater information in order to understand and respond to these risks*." (MUA emphasis)

Given those risks, which inevitably impact the workforce, we strongly urge Treasury to agree to the amendment to the Bill we propose. That will send an unambiguous message to entities covered by any such legislation to (i) consider; (ii) adopt plans to mitigate; and (iii) disclose impacts, on the workforce.

Global developments in relation to workforce, human capital and human rights disclosure

Importantly we refer Treasury to *European Directive 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU*, as regards corporate sustainability reporting.[1] These amendments to existing Directives as part of its indicate the leading practice being adopted in Europe.

We also refer Treasury to the European Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards, particularly ESRS S1 reporting on a company's 'Own Workforce' and ESRS S2 reporting on a Workers in the (company's) Value Chain.[2]

Additionally we ask that Treasury note that the ISSB is currently considering proposed projects on sustainability-related risks and opportunities covering, inter alia, human capital and human rights as a result of its 2023 stakeholder consultation on the ISSB's future work plan. While the outcomes of the stakeholder consultation remain under consideration, it is clear that ISSB will be moving towards embedding standards on what it describes as human capital and human rights in its future standard setting work. See for example the ISSB Paper of November 2023 Feedback summary—Proposed projects on sustainability-related risks and opportunities.[3]

Given these developments, we believe Treasury should have confidence to include workforce reporting in the Bill to ensure Australian disclosure is meeting global best practice and remains at the forefront of global developments on climate disclosure.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464. See in particular clauses 9, 28, 29 31, 32, 45, 49 in the introduction; clause 1 in the Amendments to Directive 2013/34/EU; and clause 2 in 'Chapter 6a Sustainability Reporting Standards.

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302772 P164 (ERS 1) and P202 (ERS 2)

[3] https://www.ifrs.org/content/dam/ifrs/meetings/2023/november/issb/ap2d-feedback-summary-proposed-projects-on-sustainability-related-risks-and-opportunities.pdf