



23 February 2022

Corporations Branch
Market Conduct Division
Treasury
Langton Crescent
PARKES ACT 2600

By email only: climatereportingconsultation@treasury.gov.au

Att: Climate Disclosures Unit, Treasury

Dear Climate Disclosures Unit

TREASURY – CLIMATE-RELATED FINANCIAL DISCLOSURE CONSULTATION PAPER – NELA COMMENTS

Set out below are the comments made on behalf of the National Environmental Law Association regarding the Australian Government Treasury's public consultation on *Climate-related financial disclosure: Consultation Paper* (December 2022) (**Consultation Paper**). These comments have been prepared by the NELA WA division and endorsed by the NELA National Board.

ABOUT NELA

NELA is the national peak body for advancing Australian environmental law and policy. We are Australia's only national, multidisciplinary, member-based association focused on environmental law, policy and sustainability. NELA serves the needs of practitioners in law, planning, natural resources, industry and environmental science and management. NELA obtains and exchanges information on issues relevant to environmental law and policy.

One of NELA's objectives is to provide a forum for, and otherwise assist in the discussion, consideration, and advancement of, environmental law among the legal profession and the wider community.

EXECUTIVE SUMMARY

- (a) **Question 2** - In relation to consultation Question 2, NELA:
- a. supports companies' voluntary disclosure of climate-related financial risks and opportunities while the key regulatory frameworks are being finalised; and
 - b. supports the imposition of mandatory climate disclosure for larger entities as a starting point, including those considered 'large emitter' entities under the *National Greenhouse and Energy Reporting Act 2007* (Cth) (**NGER Act**) (who emit more than 100,000 tonnes of carbon dioxide equivalent per year) in an initial phase and recommends that further

phases are rolled out as quickly as possible to ensure better chances at success of the scheme.

(b) **Question 3** - In relation to consultation question 3, NELA:

- a. submits that an appropriate framework in determining a large, listed entity and a large financial institution is to follow the threshold of 'large emitter entities' provided for in the NGER Act and to determine the size thresholds for a large financial institution with reference to the institution's total asset value; and
- b. supports the broadening of application of mandatory disclosures from large, listed entities to include also large emitters under the NGER Act to capture a broader range of entities than those provided for in the *Corporations Act 2001* (Cth).

(c) **Question 4** – In relation to consultation question 4, NELA submits that:

- a. Australia should seek to align our climate reporting requirements with global baseline and the International Sustainability Standards Board (**ISSB**) is the most appropriate standard to use for entities in Australia.
- b. if the ISSB standards are not finalised prior to the implementation of the scheme, then transitional arrangements could apply prior to the eventual adoption of the ISSB climate-disclosure standards to ensure international alignment; and
- c. Australia should also ensure that localised, specific climate risk disclosure guidelines, including those in *Guidance Note No. 44, Climate Risk Disclosure in Investment Management* published by the Financial Services Council, are covered by the new system (to the extent to which they are not inconsistent with the ISSB standards).

(d) **Question 5** – In relation to consultation question 5, NELA submits that the ongoing management of the new regulatory framework is key to its success. NELA recommends that specific standards and guidelines be prepared to support the overarching legislative framework and ensure all disclosers are aware of their requirements and responsibilities.

(e) **Question 6** – in relation to consultation question 6, NELA:

- a. submits that the new reporting requirements should continue to be included in operational and financial review; and
- b. supports retaining and entrenching the new system and ensuring that climate-related disclosures are not inconsistent with any voluntary disclosures, including the forthcoming ISSB standards.

(f) **Question 8** – in relation to consultation question 8, NELA submits that:

- a. climate disclosures should be released in conjunction with comprehensive, reasonable assurance;
- b. independent assurance providers should provide assurance for climate-related financial disclosures; and
- c. assurance managers should be subject to independence and quality management standards in line with national and international assurance standards.

(g) **Question 9** - in relation to consultation question 9, NELA:

- a. recognises that it is important to ensure consistency across various emissions reporting frameworks, including the NGER Act reporting framework; and

- b. recognises that it is also important to consider how Australia's reporting requirements align with international recommendations, to cover disclosure of scope 1 and scope 2 emissions and to encourage disclosure of scope 3 emissions.

INTRODUCTION

- 1 NELA is generally supportive of the design and implementation of a mandatory climate-related financial disclosure system in Australia. In particular NELA considers that the framework should ideally align with internationally developed and recognised standards, such as the forthcoming ISSB standards climate-related disclosure requirements developed by the International Sustainability Standards Board (**ISSB**) – the ISSB standards. NELA also submits that the Australian approach to climate-related disclosures should build on existing reporting requirements, for example the *National Greenhouse and Energy Reporting Act 2007 (Cth)* (**NGER Act**) and existing voluntary standards, such as those in *Guidance Note No. 44, Climate Risk Disclosure in Investment Management* published by the Financial Services Council. This will help to ensure that the Australian government delivers on its implementation of a robust and streamlined system of mandatory climate-related disclosure in Australia and will enable the Australian economy to help mitigate the material risks posed by climate change.
- 2 NELA also generally accepts and supports the reform principles outlined in the Consultation Paper, including that the new system should support climate goals, improve information flows, be well-understood and internationally aligned, and be scalable, flexible and proportional to risks. NELA would be interested in the opportunity to further participate in the consultation process, including commenting on further consultations that set out greater details of the shape and scale of the intended new reporting requirements.

NELA'S COMMENTS

Question 2: Should Australia adopt a phased approach to climate disclosure, with the first report for initially covered entities being financial year 2024-25?

- 3 NELA recognises the burden that competing international disclosure frameworks and the requirement for reporting under various frameworks has for industry. Thus, to promote international alignment, NELA supports a streamlined approach to reporting.
- 4 NELA also acknowledges that the key regulatory frameworks to underpin the mandatory climate disclosure regime are unlikely to be finalised to allow for first reports to be released for the 2023-24 financial year period. However, in the interim period, NELA supports the voluntary disclosure of climate-related financial risks and opportunities from all entities to the extent practical.

2.1 What considerations should apply to determining the cohorts covered in subsequent phases of mandatory disclosure, and the timing of future phases?

- 5 In NELA's view, consistency with global trends for implementation of climate disclosure is beneficial. However, NELA notes that there is significant regulatory uncertainty for industry, particularly with respect to climate disclosures and international standards and norms. As such, NELA submits that the government should provide clarity with respect to how the 'phased' approach of applying obligations to different entities will occur.
- 6 NELA supports the imposition of mandatory climate disclosures for larger entities as a starting point. However, NELA submits that in addition to requiring certain listed entities under the *Corporations Act 2001 (Cth)* to disclose, 'large emitter' entities under the NGER Act should also be required to disclose as part of the first phase. This would mean that all entities emitting more than 100,000 tonnes of carbon dioxide equivalent per year would be included in an initial phase. This would also ensure that those entities mentioned in page 9 of the Consultation Paper are not excluded from mandatory reporting in the initial phase in circumstances where they meet the emissions threshold.

- 7 In determining the cohorts covered in subsequent phases, NELA submits that particular attention should be given to the emissions intensity of each organisation/company as opposed to requiring phasing of reporting based on specific industries. NELA's view is that requiring disclosure on a 'cohort' or 'industry' basis fails to acknowledge the specific divergences between operators within each industry and could lead to large emitters falling through the cracks until subsequent phases.
- 8 NELA also submits that, to the extent that smaller entities are required to participate in the mandatory climate disclosure framework, resources should be adequately provided to ensure that smaller entities are equipped with the same reporting capabilities as larger entities.
- 9 Future phases should be rolled out as quickly as possible, to ensure that there are better chances of success in the intended outcomes of the mandatory disclosures, including by increasing Australia's chance to achieve its emissions reductions targets.

Question 3: To which entities should mandatory climate disclosures apply initially?

3.1 What size thresholds would be appropriate to determine a large, listed entity and a large financial institution, respectively?

- 10 As noted above, NELA submits that an appropriate framework is to follow the threshold of 'large emitter' entities prescribed under the NGER Act. This would mean that all entities that emit more than 100,000 tonnes of carbon dioxide equivalent per year would be included in an initial phase. This would also ensure that those entities mentioned in page 9 of the Consultation Paper are not excluded from mandatory reporting in the initial phase in circumstances where they meet the emissions threshold.
- 11 In terms of financial institutions, NELA notes that insurers, banks and superannuation fund trustees may be subject to liability for failing to disclose climate change risks and that climate change can significantly affect the price of assets because it creates a risk to future cash flows, making asset values more volatile. Climate risks may also affect the value of assets used as security for loans and thereby the potential losses that lenders face if borrowers are unable to meet their repayment obligations.¹
- 12 With respect to financial institutions, NELA recommends that the size thresholds for a large financial institution be determined by reference to the institution's total asset value. This will ensure there is impetus for large financial institutions to better manage and assess climate-related risks.
- 13 NELA also submits that the government could look to other jurisdictions to assess which thresholds are applicable with respect to large financial institutions, and adopt similar approaches where suitable to ensure consistency in international climate-disclosure standards. For example, in New Zealand, all registered banks and credit unions with total assets of more than NZ\$1 billion and asset managers of registered investment schemes or licenced insurers with more than NZ\$1 billion (or, in the case of insurers, an annual premium income greater than NZ\$250 million) in total assets under management are required to produce climate-related disclosures. These thresholds are also permitted to be increased from time to time to reflect movements in the CPI.

3.2 Are there any other types of entities (that is, apart from large, listed entities and financial institutions) that should be included in the initial phase?

- 14 As noted above, NELA supports the broadening of application of mandatory disclosures from large, listed entities, to include also large emitters under the NGER Act, to capture a broader range of entities than those certain listed entities under the Corporations Act. This would allow

¹ Kearns, Jonathan, Head of Domestic Markets, Reserve Bank of Australia, *Climate Risks in the Financial System*, Speech given at the Credit Law Conference 'Managing Financial Services Risks in an Age of Uncertainty', Sydney, 24 August 2022, transcript and audio available [here](#).

for more stringent and targeted climate-related disclosure for the largest emitters in Australia, allowing for more prudent assessment of risk.

Question 4: Should Australia seek to align our climate reporting requirements with the global baseline envisaged by the International Sustainability Boards?

15 NELA submits that:

- (a) Australia should seek to align our climate reporting requirements with the global baseline, and the ISSB is the most appropriate for entities in Australia; and
- (b) if the ISSB standards are not finalised prior to the implementation of Australia's climate-related disclosure regime, NELA contends that transitional arrangements should apply to enable the eventual adoption of the ISSB climate disclosure standards to ensure that Australia is internationally aligned.

4.1 Are there particular considerations that should apply in the Australian context regarding the ISSB implementation of disclosures relating to: governance, strategy, risk management and/or metrics and targets?

16 As the ISSB standards are industry focused, in NELA's view they should generally be able to cover the Australian context. However, NELA would be supportive of a variance from these standards if it would lead to greater outcomes in terms of support of Australia's climate goals, including its transition to net zero for example. Nonetheless, NELA supports the implementation of reform principle 4², which is to ensure that new requirements, are as far as possible, aligned with international reporting practices, to minimise compliance cost, and to ensure that the Australian regime is viewed with credibility by international markets.

4.2 Are the climate disclosure standards being issued by the ISSB the most appropriate for entities in Australia, or should alternative standards be considered?

17 The ISSB is currently developing a global framework for both sustainability and climate-related financial disclosures, which is intended to act as a baseline for such disclosures and to provide investors information about companies' sustainability and climate related risks and opportunities. On 17-19 January 2023, the ISSB met to redeliberate some of the proposals in its drafts for both sustainability and climate-related disclosures (IFRS S1 *General Sustainability-related Disclosures* and IFRS S2 *Climate-related Disclosures*) and now expects to deliver a Sustainability Disclosure Standard by the end of Q2 2023.³ NELA understands this date has previously been extended and there is potential for it to be extended further.

18 On the one hand, as ISSB standards are still being developed, it is unclear if they are the most appropriate standards to be used as they are not yet in their final form. One option is to use the Recommendations of the Task Force on Climate-related Financial Disclosures (**TCFD Final Report**)⁴ in the interim, with a view to shifting to the ISSB standards once they are finalised.

19 However, a downside of this option is that adopting an interim standard may lead to a less robust Australian system. The IFRS S2 is built on the TCFD recommendations and also incorporates industry-based disclosure requirements derived from Sustainability Accounting Standards Board (**SASB**) standards. These are a set of 77 industry-specific sustainability accounting standards designed to help entities disclose decision-useful information to investors. They were a key resource of the Value Reporting Foundation, which was

² The Treasury, Climate-related financial disclosure, Consultation Paper, December 2022, page 6.

³ International Financial Reporting Standards website, Climate-related disclosures, "Current Stage", updated February 2023, available [here](#)

⁴ Task Force on Climate-related Financial Disclosures, *Final Report: Recommendations of the Task Force on Climate-related Financial Disclosures*, June 2017.

consolidated into the IFRS Foundation in August 2023.⁵ To only adopt the TCFD recommendations in the interim would be to miss out on the value derived from the SASB standards, which were ‘developed by an independent standard-setting board through a rigorous and open due process over nearly 10 years with the aim of enabling entities to communicate sustainability information relevant to assessments of enterprise value to investors in a cost-effective matter’.⁶ For this reason, NELA does not prefer this approach, and instead NELA strongly supports the ISSB standards as being the most appropriate for entities in Australia.

- 20 As currently drafted, the ISSB standards require more specific climate-related disclosures than those required under the TCFD recommendations. For example, the TCFD recommendations require that ‘reporting entities describe certain matters without qualifying the level of detail needed’, however, the ISSB standards ‘require more granular information about current and future sustainability as well as how they intend to respond to those matters’.⁷
- 21 For the above reasons, NELA submits that ISSB standards are the most appropriate for entities in Australia, and that they should be used in the Australian system as soon as practicable after they are finalised. At COP26, the ISSB announced an alliance with the Carbon Disclosure Project (**CDP**), which is a not-for profit institution that runs a global environmental disclosure platform supporting companies to manage their sustainability-related risks and opportunities. CDP has committed to incorporating the IFRS S2 requirements into its environmental disclosure platform.⁸ In 2022, CDP had 18,700 companies, worth half of global market capitalisation disclosing environmental information through it. This integration into CDP’s system will mean rapidly accelerated early adoption on ISSB climate data disclosure across the global economy. Adopting the same standards as those adopted by CDP will help align Australia with international practice across the global economy.⁹
- 22 As well as adopting the ISSB standards into the new system and aligning itself with international practice, Australia should ensure that localised, specific climate risk disclosure guidelines are covered (to the extent to which they are not inconsistent with the ISSB Standards). For example, *Guidance Note No. 33, Climate Risk Disclosure in Investment Management*,¹⁰ published by the Financial Services Council, offers ‘practical steps based on leading practice, to guide investment managers on how to communicate with investors regarding the relevant green or sustainable attributes of relevant products and services’¹¹. Application of the guidance note is voluntary. Material such as the Guidance Notes published by the Financial Services Council is likely to contain useful and localised lessons which will ensure that Australia adopts the best practice guidelines on a global and local level.

⁵ International Financial Reporting Standards website, *IFRS Foundation completes consolidation with Value Reporting Foundation*, 1 August 2022, available [here](#)

⁶ International Sustainability Standards Board, *IFRS S2 Climate-related Disclosures, Exposure Draft, March 2022*, page 2.

⁷ Allens Linklaters website, *Insight: Sustainability Reporting: What you need to know to be prepared for the ISSB Standards*, 21 December 2022, available [here](#)

⁸ Institute of Chartered Accountants in England and Wales website, *ISSB one year on: looking to the future*, 15 November 2022, available [here](#)

⁹ International Financial Reporting Standards website, *ISSB at COP27: CDP to incorporate ISSB Climate-related Disclosures Standard into global environmental disclosure platform*, 8 November 2022, available [here](#)

¹⁰ Financial Services Council, *Guidance Note No. 44, Climate Risk Disclosure in Investment Management*, 3 August 2022.

¹¹ Norton Rose Fulbright website, [Publication: Standards on sustainability and climate-related disclosures being developed by International Sustainability Standards Board, November 2022](#), available [here](#)

Question 5: What are the key considerations that should inform the design of a new regulatory framework, in particular when setting overarching climate disclosure obligations (strategy, governance, risk management and targets)?

- 23 In NELA's view, the ongoing management of the regulatory framework is key to its success. NELA supports the proposal that the regulatory framework for these requirements will be broadly consistent with the existing regulatory framework for financial reporting.
- 24 NELA also considers that strategy, governance, risk management and targets are all essential features of climate disclosure obligations. However, in NELA's view, the regime could be strengthened by a mandatory requirement for each discloser to also set risk-mitigation targets. This would compel disclosers to review their ongoing risks at the end of each reporting period and compare their progress against previous years.
- 25 NELA also recommends that specific standards and guidance be prepared to support the overarching legislative framework to ensure that all disclosers are aware of the specificity of the requirements and responsibilities.

Question 6: Where should new climate reporting requirements be situated in relation to other periodic reporting requirements? For instance, should they continue to be included in an operating and financial review, or in an alternative separate report included as part of the annual report?

- 26 In NELA's view, the new reporting requirements should continue to be included in the operational and financial review. NELA agrees with the statement in the Consultation Paper that the new requirements should seek to build on existing practice in Australia, to minimise any additional regulatory burden and costs.
- 27 NELA is supportive of retaining, and entrenching in the new system, the current approach as expressed in ASIC *Regulatory Guide RG 247 (RG247)*.¹² RG247 recommends that where climate change represents a material risk, it should be disclosed in the directors' report as part of an operating and financial review required under the Corporations Act. In NELA's view, the climate reporting requirements should stay within the operating and financial review to reflect that they are the same as any other material risk that would ordinarily be disclosed in this section. As stated in RG247, 'climate change is a systemic risk that could have a material impact on the future financial position, performance or prospects of entities'.¹³
- 28 Additionally, as is also noted in RG247, climate-change related risk disclosure should not be inconsistent with any voluntary disclosures, such as those recommended with by the TCDF and the forthcoming ISSB standards.

Question 8: What level of assurance should be required for climate disclosures? Who should provide assurance (for instance, auditor of the financial report or other expert). Should assurance providers be subject to independence and quality management standards?

- 29 NELA submits that:
- (a) climate disclosures should be released in conjunction with comprehensive, reasonable assurance;
 - (b) independent assurance providers should provide assurance for climate-related financial disclosures; and

¹² Australian Securities & Investments Commission, *Regulatory Guide 247: Effective disclosure in an operating and financial review*, August 2019 (RG247).

¹³ RG247, page 20

- (c) assurance managers should be subject to independence and quality management standards in line with national and international assurance standards.

What level of assurance should be required for climate-related financial disclosures?

- 30 NELA contends that assurance is necessary to ensure the efficacy of the climate disclosure scheme. The Australian Auditing and Assurance Standards Board defines two levels of assurance engagement – ‘limited’ and ‘reasonable’.
- 31 Limited assurance of reported greenhouse gas emissions (**GHGE**) considers whether the assurance practitioner has become aware of anything to make them believe that a GHGE report is not prepared according to its requirements.¹⁴
- 32 Limited assurance of non-GHGE disclosures must merely ‘enhance the intended users’ confidence about the subject matter information to a degree that is clearly more than inconsequential’.¹⁵ Assuring entities must merely identify areas where material reporting misstatements are likely to arise.¹⁶
- 33 Conversely, reasonable assurance constitutes an assurer’s completely formed opinion that a GHGE statement is prepared according to respective criteria.¹⁷ Reasonable assurance involves an assuring entity testing how a reporting entity made an estimate, and whether their assumptions and methods to quantify estimates are reasonable.¹⁸
- 34 In NELA’s view, reasonable assurance should be required of all climate-related disclosures. Disclosure of the assumptions and results a reporting company uses was recommended in the United States because it minimises confusion and fosters reporting consistency.¹⁹ The weaker, negative form of limited assurance would not reflect the urgency with which organisations should operate to mitigate their emissions and climate-related risks. Limited assurance provides “substantially less” assurance than reasonable assurance,²⁰ disproportionate to the considerable policy, technology, market, and reputation risks climate change creates.²¹
- 35 NELA contends that assurance should comprehensively cover all aspects of climate disclosures. All potential risks, not just greenhouse gas (**GHG**) metrics, should receive reasonable assurance prior to their disclosure. Reasonable assurance should be mandated for the TCFD’s four recommended climate disclosure pillars: governance, strategy, risk management, and metrics.²²
- 36 New Zealand’s disclosure scheme, in line with international standards,²³ currently requires limited assurance of scope 1 to 3 emissions.²⁴ The New Zealand government is considering phasing in additional assurance requirements for all items within a climate disclosure, with

¹⁴ Auditing and Assurance Standards Board, Standard on Assurance Engagements ASAE 3410, *Assurance Engagements on Greenhouse Gas Statements*, December 2022, para 73L

¹⁵ Auditing and Assurance Standards Board, Standard on Assurance Engagements ASAE 3000, May 2017, para 12(a)(i)b.

¹⁶ ASAE 3000, para 46L.

¹⁷ ASAE 3410 para 73R.

¹⁸ ASAE 3410, para 44L.

¹⁹ Condon M, Ladin S et.al, “Mandating Disclosure of Climate-related financial risk”, 23 *New York University Journal of Legislation and Public Policy* 3 (2022), p 794, available [here](#)

²⁰ International Auditing and Assurance Standards Board, *Basis of conclusions for ISAE 3410, Assurance Engagements on Greenhouse Gas Statements*, June 2012, para 33.

²¹ TCFD Final Report, pp 5-6.

²² TCFD Final Report p 14.

²³ International Ethics Standards Board for Accountants, *Handbook for the International Code of Ethics for Professional Accountants*, 2022 ed. (**IESBA Code of Ethics**).

²⁴ Aotearoa New Zealand Climate Standard 1, Climate-related Disclosures (**NZ CS 1**), para 25.

incremental additions to obligations allowing time for reporting entities to adapt, and assurance firms to develop within the new area.

- 37 NELA recommends that Australia adopt a similar approach to New Zealand to ensure that all climate disclosures are assured, not just GHG metrics. This would also be consistent with reform goal 3 in the Consultation Paper, which is that new requirements should, as far as possible, be aligned with international reporting practices, to minimise compliance costs for Australian businesses that operate internationally.

Who should provide assurance (for instance, auditor of the financial report or other expert)

- 38 NELA's view is that an independent assurance body should be the only assuring entity for climate disclosures. An independent external assurance provider would maximise reliability and align with international and national assurance standards. The International Ethics Standards Board for Accountants Code of Ethics provides 'a firm providing an assurance engagement shall be independent of the assurance client'.²⁵ Assurer independence of reporting bodies "safeguards the ability to form an assurance conclusion without being affected by influences that might compromise that conclusion."²⁶ External assurance, as opposed to internal assurance, ensures that assurance is carried out objectively and without bias. This aligns with the reform principles outlined on page 6 of the Consultation Paper, including to improve information flows which aims to strengthen transparency and ensure the flow of useful information to investors.

Should assurance providers be subject to independence and quality management standards?

- 39 In NELA's view, independence and quality management standards should be applied to assurance providers. This would ensure consistent reporting quality between reporting entities, enhancing market confidence.
- 40 Assurance providers should be subject to the International Ethics Standards Board for Accountants' internationally recognised requirements.²⁷ New Zealand's operative climate disclosure legislation and assurance standards align with these international standards.²⁸
- 41 The International Standard on Assurance Engagements provides that when assuring reported GHGE, assurance practitioners must comply with relevant ethical requirements, and include any ethical issues raised during the engagement in their conclusions.²⁹ Assurance practitioners must consider qualitative aspects of a client's quantitative reporting practices, including whether estimates are reasonable, and that the report adequately discloses required items in a way that intended users can understand them.³⁰
- 42 International standards outline that assurance firms should establish a quality control system, addressing the following elements:³¹

²⁵ IESBA Code of Ethics para R900.11.

²⁶ International Auditing and Assurance Standards Board, *ISAE 3000 (Revised), Assurance Engagements Other than Audits or Reviews of Historical Financial Information, International Framework for Assurance Engagements and Related Conforming Amendments*, Final Pronouncement, December 2013 (**ISAE 3000**), para A33.

²⁷ IESBA Code of Ethics; ISAE 3410.

²⁸ NZ CS 1.

²⁹ ASAE 3410, paras 10, 67.

³⁰ ASAE 3410, para 73.

³¹ International Auditing and Assurance Standards Board, *International Standard on Quality Control (ISQC) 1, "Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*, Final Pronouncement, December 2020, (**ISQC**).

- (a) leadership responsibilities for quality within the firm;
- (b) relevant ethical requirements;
- (c) acceptance and continuance of client relationships and specific engagements;
- (d) human resources;
- (e) engagement performance; and
- (f) monitoring.

43 International standards further hold that that assurance firms should ensure their engaging partner is sufficiently competent in the assurance area, and assurance reports should not be released until all significant judgements made have been reviewed by a responsible quality control officer.³² Assurance practitioners must also comply with ethical standards,³³ including:

- (a) assuring firms shall be independent of their assurance client;³⁴
- (b) assurance firms shall nominate a suitably skilled person, preferably in senior management, to oversee assurance activities and accept responsibility for actions arising from the activities' results;³⁵ and
- (c) if there is a breach of independence, the firm will end the relationship creating the breach and evaluate whether the breach impacts its ability to provide an objective assurance report.³⁶

44 NELA contends that the application of the measures mentioned in paragraphs 40, 41 and 42 above will ensure that the Australian climate-related disclosure system is subject to appropriate independence and quality management standards, which will enhance the integrity of the system. This will make Australia a more appealing market for environmentally conscious investors, helping to drive Australia to meet its transition to net-zero by 2050 and to adapt to changing climate.

Question 9: What considerations should apply to requirements to report emissions (Scope 1, 2 and 3) including use of any relevant Australian emission frameworks?

45 NELA recognises that it is important to ensure consistency across various emissions reporting frameworks, particularly in the early stages of climate-related financial disclosure requirements. Australia's current emissions frameworks, in particular the NGER Act, can assist in determining the disclosure requirements for GHGE. Under the NGER Act, 'emission' means Scope 1 and Scope 2 emissions. There is no reference to Scope 3 emissions. Conversely, Climate Active, a partnership between the Australian government and Australian business, has published a *Carbon Neutral Standard for Organisations (CNSO)* which refers to Scope 1, 2 and 3 emissions.³⁷ It is noted that the CNSO is a voluntary standard and does not provide legislated reporting requirements. One potential solution for ensuring consistency between emissions reporting frameworks is to require the disclosure of Scope 1, 2 and 3 emissions as a minimum.

46 It is also important to consider how Australia's reporting requirements may align with international recommendations. The Consultation Paper states 'the frontier of global best

³² ISAE 3000 paras 33-36.

³³ ISAE 3000 para 3; International Ethics Standards Board for Accountants, (2022), "Code of Ethics for Professional Accountants" ('IESBA Code').

³⁴ ISAE 3000 para A33; IESBA Code para R900.11.

³⁵ IESBA Code para R900.14.

³⁶ IESBA Code para R900.50.

³⁷ Climate Active, *Carbon Neutral Standard for Organisations*, October 2022.

practice continues to shift outward as capital markets and investors demand better quality, internationally comparable disclosures', and notes that financial regulators have recommended the TCFD as a framework for disclosure.³⁸ The TCFD released its Final Report containing its recommendations in 2017. One of the recommended disclosures was '[d]isclose Scope 1, Scope 2, and if appropriate, Scope 3 GHGE, and the related risks'.³⁹ This recommendation was revised in 2022 'to encourage disclosure of Scope 3 GHGE'.⁴⁰ This is revised guidance for disclosure in all sectors. This should be taken into account when drafting reporting requirements for Australia.

- 47 There is general recognition of the importance of Scope 3 emissions in financial reporting. The Financial Stability Board's *Roadmap for Addressing Financial Risks from Climate Change: 2022 progress report* states that a key area for future work progress on standardising disclosures of metrics, which includes Scope 1, 2 and 3 emissions, 'would drive comparability and better data'.⁴¹ The International Sustainability Standards Board Climate-related disclosures Exposure Draft, when reviewing metric categories and GHGE noted that the disclosure of Scope 3 emissions was becoming more common and that 'reflects an increasing recognition that Scope 3 emissions are an important component of investment-risk analysis because, for most entities, they represent by far the largest portion of an entity's carbon footprint'.⁴²
- 48 In drafting these requirements with respect to reporting Scope 1, 2 and 3 emissions, consideration should be had to transparency and accountability to investors by companies. The 2020 'Full Disclosure – Improving Corporate Reporting on Climate Risk' report by Investor Group on Climate Change stated that '[i]nvestors use corporate reporting as a springboard for engagement on climate risk' and that 'to better meet investor needs, investors expect the next generation of company reports on climate change to... extend reporting on emissions metrics and target to scope 3 emissions, where material'.⁴³
- 49 The Consultation Paper notes 'financial regulators have issued guidance that climate-related financial risks must be disclosed as part of existing obligations to disclose material risks'.⁴⁴ For example, there are reporting requirements in the Corporations Act such as section 299A(1), which states that the Director's Report 'must also contain information that members of the listed entity would reasonably require to make an informed assessment of:
- (a) the operations of the entity reported on; and
 - (b) the financial position of the entity reported on; and
 - (c) the business strategies, and prospects for future financial years, of the entity reported on'.
- 50 Climate risks could be included in these reports.⁴⁵ Consideration must be had to current reporting requirements and if or how climate-related financial disclosures have an impact on them.

³⁸ Consultation Paper, page 5

³⁹ TCFD Final Report, page 30

⁴⁰ Task Force on Climate-related Financial Disclosures, *Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures*, October 2021, page 6

⁴¹ Financial Stability Board, *Roadmap for Addressing Financial Risks from Climate Change: 2022 progress report*, July 2022, page 5

⁴² IFRS S2, page 22

⁴³ Investor Group on Climate Change, *Full Disclosure: Improving Corporate Reporting on Climate Risk*, August 2020, page 7

⁴⁴ Consultation Paper, page 5

⁴⁵ See more discussion in Foerster et al, 'Keeping Good Company in the Transition to a Low Carbon Economy? An Evaluation of Climate Risk Disclosure Practices in Australia' (2017) 35 *Company and Securities Law Journal* 154.

NELA appreciates the opportunity to make submissions on key considerations for the design and implementation of the Australian Government's commitment to standardised, internationally-aligned requirements for disclosure of climate-related financial risks and opportunities in Australia. NELA looks forward to further opportunities to participate in the process.

If you have any questions about the above, please contact NELA at [REDACTED]