

**To: Department of Treasury**

**Re: Climate-Related Financial Disclosure**

21 July 2023

## Introduction

AMEC appreciates the opportunity to provide a submission to the second consultation of the Australian Government, on climate-related financial disclosures. We note this consultation paper was released following the conclusion of the first round of consultation in February 2023, and outlines Government's proposed positions on the implementation of financial disclosures for Australian entities.

## About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2021/22 Industry generated a record high \$413 billion in resources exports, invested \$3.86 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$63 billion in royalties and taxes.

## Climate-related financial disclosures consultation paper

### General Comments

AMEC provided a submission to the initial consultation, and adds further, targeted feedback through this short consultation round. Given the enormity of the proposed shift in disclosures and reporting standards, impacting not only the nation's largest emitters but with direct and indirect immediate impacts encompassing all levels of the exploration and mining industry, the three-week consultation period is too short.

The rushed consultation over the end of financial year period makes it difficult to illicit meaningful feedback, with sufficient time to consider the proposals in line with the finalised inaugural IFRS ISSB sustainability disclosure standards. AMEC considers this consultation paper should be released for further consultation to align with the ISSB standards, and transparently outline syntheses and variances. We recommend best-practice consultation principles are upheld for the significant shift this introduction represents.

Our comments should be taken in addition to initial feedback provided to the first round of consultation.

### **Accurate data and emissions calculations.**

There does not yet exist accurate, standardised, reliable methods to calculate and report scope 3 emissions.

While the initial changes are intended to only encompass the largest emitters, a sizeable percentage of industry service providers rely on contracts from large emitters, including miners. These service providers will need to measure and disclose carbon footprints and estimates as part of contractual negotiations, for non-mandated and non-reporting entities. The impact of these calculation requirements across the supply chain will shift greater reporting and disclosure burdens across the services chain. Not only will their accuracy ultimately impact the calculation of emissions at the point of disclosure, it will also increase the cost of doing business.

AMEC asks that Government consider the unintended consequences across the supply chain.

### **Reporting formatting**

The reporting format and expected location is still subject to uncertainty, with variances in stakeholder and regulator expectations. It is important stakeholders have access to sufficient guidance materials, to enable them to have a clear understanding of the appropriate section of annual reports where their disclosures should be made. Many entities are expected to disclose information across multiple reports, which are not uniform, often due to jurisdictional variances. Without prescribing reporting layout and composition, there is a need for a clear understanding of how to disclose specific information in the relevant component of a report<sup>1</sup>.

AMEC seeks clarity from the Government on reporting expectations.

### **Alignment with existing regulatory and reporting frameworks and standards.**

Entities comply with a wide range of governance and assurance requirements, to ensure they are operating in line with regulatory expectations and can meet their stakeholders' expectations. Often, dependent on the size and scale of the company and location of their key financiers, their reporting requirements will have to align with the requirements of the jurisdiction of their key shareholders, regardless of the location of their headquarters, or project interests. Synthesising reporting standards and frameworks to a consistent level of detail required to satisfy all requirements, is a task yet to be completed by any jurisdiction. This creates reporting burden and can lead to variances and misalignment in expectations.

There is concern that this consultation paper refers to the draft IFRS S2, and proposes that climate-related financial disclosure requirements be drafted as civil penalty provisions in the *Corporations Act 2001*. Potential misleading and/or deceptive conduct provisions relating to scope 3 emissions and forward-looking statements to be limited to regulator-only actions for a fixed period of three years, with

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<sup>1</sup> <https://www.bdo.com.au/en-au/insights/esg-sustainability/issb-launches-new-global-sustainability-standards>

the effect that companies will be protected from false or misleading representation claims from private litigants over this period<sup>2</sup>, is considered insufficient given the seismic shift in administrative and legal burden. Regulator-only actions should be extended to each mandated reporting entity for a fixed period of at least three years from the commencement of their mandatory reporting requirements, subject to review and potential extension.

The release of the new statement of expectations from the Commonwealth Government in June 2023, for the Australian Prudential Regulation Authority (APRA) explicitly requires APRA to promote prudent practices and transparency relating to climate-related financial risks and the adoption of climate reporting standards, by regulated entities. Prudent and transparent reporting is supported, alongside expectations that can be met by reporting entities. However, there is a need for guidance, developed by the Australian Government, to address the gap that currently exists, between differing information requirements, and how companies can demonstrate they have met requirements, without unnecessary duplication, and significant cost.

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

AMEC questions the definition of ‘the company and any entities it controls’ for the purposes of this framework, particularly how entities a company controls will be calculated. Many organisations within the mining and exploration sector have interests of a commercial nature in other entities domestically and internationally; will they be included in this definition? Clarity is sought, as there is concern a much larger range of companies will be subject to mandatory disclosures than originally intended.

Further, the expected value of consolidated gross assets for these companies and entities is likely to exceed the mandatory first phase threshold; will plant and machinery be included in this definition?

AMEC continues to express concern that this proposal will quickly mandate disclosures for explorers and miners outside of the ATO’s ‘top 100’ list as proposed in the consultation paper, due to the broad remit of these thresholds, and their cascading effect. It is envisaged a large number of companies will be required to report in the first and second phases, with little time to collect and justify accurate data, or learn from the initial transition phase due to these rushed timeframes. The proposal does not appear to include NGERs reporting requirements, of which any ‘controlling corporation’ is required to report under NGER, regardless of meeting the threshold criteria under Chapter 2M. Alignment between the two is recommended, with sufficient transition periods between phase one and phase two, to allow a ‘lessons learnt’ including information sessions and guidance development, to inform the next transition phases.

Of interest is how joint ventures, which are a common method of financing, will be considered. At what point will a 2M company have to consider a non-2M joint venture partner’s emissions on their project? Will it be once they have earned a buy-in above 50%?

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<sup>2</sup> <https://www.gtlaw.com.au/knowledge/issb-launches-global-sustainability-climate-disclosure-standards>

## **Thresholds.**

AMEC also questions the substantial lowering of the reporting threshold for the proposed Australian framework, in comparison with the UK framework. The UK has introduced a threshold of over 500 employees, and over £500M (\$A872M) in annual turnover, expected to capture 1,300 companies. Australia's \$50M is a drastically lower, with a sizable differential in impacted entities.

The thresholds as proposed are too low, and transition periods too short, to meet the intent of the reform to exclude smaller and medium sized entities from mandatory disclosures in the first instance, so as not to increase regulatory burden. It is unclear why commensurate arrangements for comparable Commonwealth public sector entities and companies has not yet been developed, and is being led by the Minister for Finance. Consistency and transparency, should be prioritised for all sectors, private and Government.

## **Proposed roadmap for mandatory disclosure requirements.**

AMEC understands from briefing sessions hosted by the Department of Treasury, and the proposed framework, that the first tranche of reporting entities will be expected to comply with will be ready for use for the 2024-25 reporting year, in under 11 months from this consultation process concluding. This is an ambitious timeframe for a significant shift.

Clarity is still sought on whether reporting will be mandatory for those entities that do not satisfy at least two of the thresholds listed.

The proposed halving of thresholds in the 2026-27 reporting period will have a multiplier effect on the number of reports required. AMEC recommends an intermediary threshold is introduced, of 350 employees, \$750M in assets and \$300M in consolidated revenue, to ensure there is sufficient time and capacity for the lower threshold companies to contend with the new requirements, and learn from the first tranches. There must be sufficient time for review, to inform next steps, and the current process does not allow for this.

AMEC recommends the proposed mandatory reporting timeline for the 'intermediary threshold group' proposed above is for the 2027-28 reporting period, and Group 3 is deferred until the 2030-31 reporting period.

## **Climate-related financial disclosure standards.**

AMEC recommends further guidance to address nuances between existing and emerging reporting and disclosure frameworks and standards. For example, the 'further details about what information would need to be disclosed under the proposed requirements' to be set out in forthcoming Australian climate-related financial disclosure standards.

Further information is also sought on the proposed 'modified liability settings' to support the disclosure requirements over the transition period, referred to on page 11 of the consultation paper.

### **Materiality of reporting.**

While the paper (page 11) states that scopes 1 and 2 emissions disclosures will be excluded from the definition of materiality to be applied across all aspects of reporting content, industry welcomes confirmation that scope 3 reporting will also be exempt, while scope 3 reporting requirements are not legislated in Australia.

We support the proposal that disclosures should be published in annual reports, with the ability to reference metrics and targets in a separate report from the Director's report. This approach enables a practical path to embed climate-related reporting and transparency into existing frameworks, whilst allowing flexibility to accommodate future reporting developments. However, there is still concern about the validity of disclosures relating to scope 3 'estimates' as continuous listing obligations.

### **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.**

The disclosure of strategic planning and operational deliberations to meet the intent of qualitative scenario reporting will require the sharing of planning at a point in time, that is subject to variation. It is important that a balance can be struck between qualitative and quantitative scenario analysis, that is not inadvertently perceived as misleading, influenced by the point in time the disclosures are required.

More detail is required on the protections that will be afforded to companies, as briefly stated in the consultation paper. Details such as to whom will companies be protected from, to what extent, will Government for instance challenge a court proceeding, is this limited to a company's first three years of mandatory reporting, or the first three years that a single report has been public? Given the significance of potential legal challenge, this detail is needed urgently.

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

The proposal to align transition reporting requirements to the ISSB approach is recognised as focusing on transparency rather than prescriptive elements.

However, clarity is requested on disclosures around offsets that may not be verified through a recognised standard (such as ACCUs), and whether or not these will be accepted as sufficient disclosures without a recognised standard verification attached. Thought must be given to those entities that are going through the verification process at the time of disclosure.

Currently, there is not yet maturity across the sector in terms of preparedness to inform transition plans, to effectively understand exposure, and the work that is required by companies to meet minimum standards based on current consultation information. Business-wide assessments for thresholds, preparedness and exposures, requires an incredible amount of preparedness that these timeframes do not allow for. It is not feasible for operational planning to occur, without being underpinned by realistic

accounting data and standards, to inform decision making. The current standards and frameworks that exist, including ISSB, are targeted at specialists rather than operational-level executives. Synthesising the two to provide optimal data, is an activity that requires Government support to garner the most accurate outcomes.

AMEC welcomes further engagement on the proposed consultation of Government's Sustainable Finance Strategy later this year, to ensure industry has a voice to arrangements that could influence the development and disclosure of company transition plans, noting that emerging and mid-tier companies will not have as mature systems as the largest emitters captured under Safeguard, and must be afforded sufficient time and support to meet balanced expectations.

**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.**

This proposal broadly assumes that investors can evaluate if targets are science-based or have been evaluated. Given continuous concern demonstrated in Treasury-led briefings about a shortage of regulators and consultants with the expertise to meet demand in this area, this rationale is questioned.

The level of detail a reporting entity would need to provide to justify their chosen targets in comparison to the global temperature goal outlined in the *Climate Change Act 2022* and Australia's nationally determined contribution, is currently unclear.

It is important that disclosures requiring elements of operational plans subject to change and evolution, do not inadvertently prevent companies from making optimal business decisions. Governance and compliance standards set by the ASX and ASIC are stringent, and disclosure requirements must be cognisant of these requirements.

**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.**

AMEC does not support this proposal. Scope 3 emissions are inordinately difficult to calculate and accurately quantify for large emitters, let alone junior and emerging explorers and miners. The Commonwealth Government's policy approach via NGER not to report scope 3 emissions is reasonable. It is a stretch to propose an extension beyond those requirements.

No current ESG or other relevant Australian emissions reporting frameworks require scope 3 emissions to be reported. The ISSB will only begin to phase in scope 3 emissions after the IFRS S2 climate-related disclosures have been transitioned to.

There is substantial concern across industry that scope 3 reporting requirements have been proposed for too soon an introduction, under this consultation. There is too broad a range, for such a significant

transition that will encompass well beyond the initial vision of the largest emitters in the first stages only, due to the significant reduction in thresholds and timeframes.

Accurate scope 3 disclosures are contingent on third parties having relevant greenhouse gas information. This is not the case for the majority of impacted entities, and to extend this requirement to all entities from their second reporting year onwards, potentially leaves a multitude of companies at risk of providing inaccurate disclosures.

The proposed ability to report on scope 3 emissions in any one-year period that ended up to 12 months prior to the current reporting period is also questioned, as it has not been assured that a reporting entity will not also be required to account for the variance in emissions between their selected initial reporting period, and the most recent reporting period. If this element of the proposal continues, there should be a clause that will not require entities to 'back-fill' gaps in data between potential reporting periods that have not been explicitly reported against.

Guidance is needed to support a transition to this requirement, in due course. For example, if entities can provide information on how they determined the components of upstream and downstream scope 3 material estimates they have included, this implies they can select which estimates to disclose. Clarity on this interpretation is requested.

AMEC broadly supports the intent behind the proposed proportional transition approach, but is concerned with the rushed timeframes, the lack of expertise, and the inclusion of scope 3 reporting when it is not yet legislated. We recommend this proposal is removed from the framework until such time as the maturity across regulators and industry exists and is readily accessible to meet requirements, to avoid widespread unintended consequences.

**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.**

There are a range of baselines and thresholds which require robust consultation and engagement to be determined. A common baseline of metrics should align with ISSB climate disclosures for international consistency, but recognise the unique aspects of Australian reporting entities if there are outliers against international baselines.

The development of a mining-industry baseline for instance, must recognise the wide breadth of the sector, and that mineral exploration typically falls under the definition of mining for the purposes of Mining Law, despite the vast differences in emissions profiles, scale, and outputs. Nuances between older and newer operations, and the various stages of development and production, as well as commodity profiles, must all be considerations in the deliberation of this industry-specific metric.

Measurement points will underpin the data that is received, where the calculation is undertaken at a particular point across the operation's flowsheet. With greater volume prior to treatment of an ore (at



the point of mining), the variable will be considerably disproportionate to the variable that is calculated at the point of refining when an ore has been electrified and produced. Industry consultation on key variables should be progressed, to inform an array of consultations currently underway.

Consideration must be given to the consultation underway by DCCEEW to define guidelines to set international best practice benchmarks for use under the reformed Safeguard Mechanism. These benchmarks will then inform Australian benchmarks. There is a strong need for more guidance to support industry's ability to meet investor and regulator expectations, including but not limited to the interpretation of materiality and material risks, the level of detail that would be expected for both compulsory and voluntary disclosures, boundaries and baselines for estimation through the development and transition phases.

### **Assurance.**

AMEC questions what will be considered as 'limited assurance' and what a move to 'reasonable assurance' looks like, over time, practically? For instance, how will reasonable assurance of scope 3 as a final step in scaling requirements be provided, when scope 3 estimates are at best, based on a preferred reporting year by mandated entities, under this proposed framework? The baselines for a non-legislated reporting metric would be rough estimates, if that.

AMEC has broader questions around the Australian equivalent standard to the ISSB and Corporations Act referred to in the paper. Will the AASB be Australia's answer? It is important sufficient time and transition periods are provided, given the wide raft of changes already underway in the climate realm, and pressurised timeframes. With consultation on Australian standards anticipated to commence after the release of draft international sustainability assurance standards, up to date communication will enable industry planning.

### **Education & Skills.**

As stated in AMEC's initial submission, to ensure a successful implementation wider Industry education must be prioritised. There is a lack of knowledge and understanding within the community as to how to meet the new expectations for climate related financial disclosure. The Government must work to close that gap and ensure there is sufficient expertise available to industry to meet these requirements.

### **Intellectual Property and Privacy.**

Industry has highlighted concerns with how intellectual property and privacy will be affected and managed by the proposed reforms. Companies are heavily investing in commercially sensitive technologies to mitigate their emissions and climate impacts. Greater clarity on these two considerations would be welcome in future guidance.

### **Final Comment**

AMEC appreciates the opportunity to contribute to this consultation in the first and second phases, and welcomes further engagement as the commencement quickly approaches. There are a range of



elements requiring further detail and consideration, in order to avoid widespread unintended consequences the framework if introduced in its current form, could pose. Industry seeks to work collaboratively with Treasury and the AASB on an effective path forward.

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