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## Re: Consultation – Climate-related financial disclosures – Exposure Draft Legislation

NSW Treasury welcomes the opportunity to comment on the Exposure Draft for the *Treasury Laws Amendment Bill 2024: Climate-related financial disclosure (Amendment Bill)*, that proposes changes to the *Australian Securities and Investments Commission Act 2001 Act* and the *Corporations Act 2001*.

NSW Treasury is the financial reporting regulator for the NSW public sector. Our feedback relates to whether the scope of draft legislation reflects the intent outlined in the Commonwealth's second consultation paper on climate-related financial disclosures.

In our view, the drafting of proposed s292A(6) is ambiguous. As drafted, s292A(6) would appear to capture entities that are not required to report under Chapter 2M of the Corporations Act, but that are required to report under the *National Greenhouse and Energy Reporting Act 2007* (NGER). This would bring into the Corporation Act entities established under State and Territory legislation, including universities and government enterprises.

It is not clear whether this outcome would be consistent with the Commonwealth Treasury's *Second Consultation Paper* released in June 2023. The following statement on Page 6 indicates, the intent to include entities that are both Chapter 2M and NGER reporters: "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".

We also note Exposure Draft ED SR1 *Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information*, published by the Australian Accounting Standards Board states: "...the 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...". Again, this indicates the intent to only include entities that are both Chapter 2M and NGER reporters.

Including entities established and regulated under state and territory legislation, in the Corporations Act, would be unusual. It would also create potential implementation challenges and inconsistencies for states and territories, if and when they adopt climate reporting standards under their respective legislation.

NSW's Treasury's view is therefore that the Amendment Bill should ensure unambiguously that states and territories are free to determine the applicability of climate-related risk disclosures requirements to their state and territory entities (except where they are both Chapter 2M and NGER reporters).

We would welcome the opportunity to discuss our comments with you. If you have any questions please contact Sean Osborn, Director of Accounting Policy & Advisory at [sean.osborn@treasury.nsw.gov.au](mailto:sean.osborn@treasury.nsw.gov.au).

Sincerely

A handwritten signature in black ink, appearing to read 'Andy Hobbs', with a long horizontal stroke extending to the left.

Andy Hobbs  
Executive Director, NSW Treasury