



09 February 2024

Climate Disclosure Unit
Climate and Energy Division
Department of Treasury
Langton Crescent
Parkes ACT 2600

Via email: ClimateReportingConsultation@treasury.gov.au

Dear Director,

RE: Climate-Related Financial Disclosure: Exposure Draft Legislation (*Treasury Laws Amendment Bill 2024: Climate-Related Financial Disclosure*)

The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade, and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

Overview

The NFF welcomes the opportunity to provide comment to inform ongoing processes relating to the design of Exposure Draft Legislation for mandatory Climate-Related Financial Disclosure (CRFD) reporting in Australia.

NFF's *Climate-Related Financial Disclosure Policy* is available at Attachment 1 and should be read in conjunction with this submission.

The proposed legislation will mandate requirements for businesses and financial institutions to disclose climate-related risks and opportunities as a component of their annual reporting through amendment to the *Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001*. Three policy pathways have been presented to Federal Government; Treasury have recommended Option 1B for implementation.



The NFF has carefully reviewed all policy consultation and explanatory materials. In alignment with Treasury request, our submission has examined whether the proposed legislation effectively implements the policy intent as outlined in the *Policy Position Statement*. Key industry concerns regarding the policy setting of Option 1B have also been articulated, alongside other issues that demand further addressment.

The NFF recognises that the Australian Accounting Standards Board (AASB) is concurrently facilitating a public consultation on Exposure Draft Legislation for Sustainability Reporting Standards for the disclosure of Climate-Related Financial Information (CRFI) – (closing 01 March 2024). The NFF will be providing a detailed response to this process. These critical processes must and cannot be determined, influenced, or restricted by political deadlines or timeframes.

Drivers for Mandatory Climate-Related Financial Disclosure in the Australian Context

Currently in Australia, there exist a multitude of competing frameworks each armed with their own set of reporting requirements for the disclosure of CRFI (i.e., different reporting periods, formats, and styles). These include but are not limited to the TCFD, SASB Standards, GRI Standards, and the SDGs. The AASB will be expected to be designed against agreed IFRS requirements and this legislation.

The establishment of a standardised disclosure process will ensure investors are provided with high-quality, transparent, and more comparable information about an entity's exposure to climate-related financial risks, opportunities, plans, and strategies. This will ensure an efficient allocation of capital investment can be achieved as investors will be better positioned to confidently make an informed investment decision.

Supported Policy Measures

Exposure Draft Legislation represents an overall improvement from initial policy settings shared in previous public consultations. The NFF notes the following measures:

- Treasury have recommended the policy option of least regulatory resistance (Option 1B). The NFF expresses caution, however, that the anticipated capture of 1,800 entities is in-fact an under-estimation, considering Registered Management Investment Schemes (MISs), Registerable Superannuation Entities (RSEs), and entities captured under a proposed expansion of NGER Scheme reporting to include emissions from agriculture and LULUCF may fall under the regulatory capture of this regime. The latter of which NFF opposes.
- Scope 3 reporting exemptions for small- and medium-sized entities (i.e., Group 3) as a result of high proposed capture threshold requirements.



- Introduction of modified liability for Scope 3 disclosures.
- Greater flexibility in Scope 3 reporting timeframes (a maximum lag timeframe of 12 months).
- A CRFD reporting exemption for Group 3 entities that do not face material climate-related risks or opportunities during any financial reporting period.
- Average estimated compliance burden under Option 1B for Group 1, 2, and 3 decrease in total cost per captured entity (\$811,838, \$785,695, and \$33,956 respectively). This aligns with the policy intent to reduce the regulatory burden for small- and medium-sized entities, however, it remains difficult if this remains the case for NGER as the number of NGER captured entities under Option 1B has not been provided.
- **336A (1): Sustainability Standards developed by the AASB for the purposes of this Act** (*Treasury Laws Amendment Bill 2024: Climate-Related Financial Disclosure*) **must not be inconsistent with this Act, regulations or a legislative instrument made under this Act.** This is an important measure as it will ensure the development of Sustainability Standards by the AASB is constrained by the IFRS and this national enabling legislation, mitigating the risk of consequential impacts.

Policy Concerns

Although Exposure Draft Legislation does resemble an overall improvement from initial policy settings shared in previous public consultations, the NFF holds the following concerns:

- **There is no Scope 3 reporting exemption for agricultural entities.**
- **Initial transition costs to achieve regulatory compliance for each affected entity will exceed \$1 million, and annual compliance costs, although decreasing through time, will exceed \$500,000 per entity. This is a significant regulatory burden.**
- **The proposed legislation enables the Minister, by legislative instrument, to establish new thresholds for two of three criteria used to determine regulatory capture under Group 3.** If criterion is lowered, the quantity of Group entities required to produce a sustainability report and disclose Scope 3 emissions will be significantly raised, in turn, increasing the number of reporting entities seeking data and information from the supply chain. This is problematic as primary producers may feel compelled to disclose sensitive commercial information at their own individual cost to satisfy their much larger business counterparts to avoid unnecessary strain on critical business relations. **As such, the NFF seeks to remove**



this provision entirely (292A (4)(a) and (b)) and substitute it with an option for such criterion to be adjusted only upon recommendation from mandatory Government post-implementation review of the legislation (to be conducted as soon as practicable after 1 July 2028).

- **A formal Scope 3 reporting date no earlier than 2035 must be considered and implemented for all reporting Groups.** This is a novel, and extremely complex issue that will require supply chain elements to develop in-place new infrastructure to satisfy demands for Scope 3 reporting.
- **Modified liability arrangements only apply for statements within sustainability reports prepared for FY25, FY26, and FY27.** This means Group 2 entities are provided relief for a one-year period, and no relief is provided for Group 3 entities as their first reporting year commences on or after 1 July 2027.
- **Modified liability arrangements are only applicable to statements relating to Scope 3 emissions or scenario analyses.** This creates the possibility for either private plaintiffs to instigate civil proceedings for any other statements within a sustainability report or the ASIC to bring forward civil penalty proceedings.
- **Group 3 entities that do not face material climate-related risks or opportunities for the financial reporting period must still produce a separate sustainability report that is covered by the Director's declaration.** This materiality provision does not align with the policy intent to reduce the compliance burden for medium-sized entities, and it exposes decision-makers involved in the materiality assessment to challenge. The NFF, therefore, recommends that Group 3 entities are restricted from mandatory disclosure until a post-implementation review of the legislation is conducted, or Group 3 is restricted to entities operating in defined sectors likely to experience a material climate impact to their business.

Interaction Between Scope 3 Reporting and the Supply Chain

It remains unclear who will be responsible for estimating Scope 3 emissions to satisfy CRFD requirements (i.e., whether a reporting entity is required to estimate Scope 3 emissions of their supply chain, or if specific elements of the supply chain are required to estimate and provide such data themselves, upon request, at their individual expense).

The NFF understands that Exposure Draft Legislation has been designed to align with developing AASB Standards of which Federal Government has committed to aligning 'as far as possible with IFRS S2 issued by the ISSB'. As outlined by the AASB in ED SR1:

- **B46:** *'An entity's measurement of its Scope 3 greenhouse gas emissions will be based on data obtained directly from specific activities within the entity's value*



chain (primary data), data not obtained directly from activities within the entity's value chain (secondary data), or a combination of both'.

Although the AASB has provided guidance on this specific issue, a statement to this effect is required in the Explanatory Memorandum. Non-captured entities must not be compelled to disclose sensitive information about their business to reporting entities at their own individual cost if they chose to withhold such information. There also exists a risk that suppliers will offload the regulatory cost of data collection and Scope 3 modelling onto the supply chain. Supply chains may either feel compelled or coerced to estimate and provide Scope 3 emissions to specific entities upon request, despite not being required to do so, to maintain key business relations.

It is unclear how the policy intent that Scope 3 disclosures would represent 'information that is available at the reporting date without undue cost or effort' is reflected in-practice. This is apparent as no formal guidance has been provided by Federal Government to assist entities determine what methods are acceptable, or available for estimating Scope 3 emissions. In addition to example methodologies outlined within the *Greenhouse Gas Protocol: Corporate Value Chain (Scope 3) Accounting and Reporting Standard*, Government must develop separate guidance on additional methods for Scope 3 estimation inclusive of carbon calculators. By creating a credible, referable document, entities will have greater certainty on what estimation methods are available to them, and what the attributed costs involve. This will reduce the cost and time burden of exploring what options are available and will ensure entities do not create their own be-spoke methodologies, ensuring alignment with the policy intent that disclosures are undertaken 'without undue cost or effort'.

Captured NGER Entities

Under the proposed legislation, entities that are a registered corporations (or are required to register) under the NGER Act are categorised as Group 1 or 2 reporting entities dependent on whether they exceed the 50,000 tonne CO₂-e combined Scope 1 and Scope 2 GHG emissions 'publication threshold'.

In December 2023, the CCA recommended the following policy action to Federal Government¹:

'Reporting under the NGER scheme should be extended to agriculture and land emissions in a separate and staged manner'.

If the scope of the NGER Scheme is expanded to include agriculture and land as recommended by the CCA, NGER reporting agricultural entities will be required to prepare

¹ <https://www.climatechangeauthority.gov.au/sites/default/files/documents/2023-12/2023%20NGER%20Review%20-%20for%20publication.pdf>



a sustainability report for each financial year irrespective of their revenue, gross assets, or number of employees.

This is a significant concern to the NFF, and we seek to ensure no new additional legislation proposing an expansion of the NGER Scheme to include emissions from the agriculture or land sectors is introduced.

Conclusion

The NFF thanks Treasury for the opportunity to provide strategic comment to this Exposure Draft Legislation. We would be pleased if Treasury is available to present to and brief the NFF Sustainable Development and Climate Change Committee on this proposed legislative reform, with preference for early March.

Please do not hesitate to contact Warwick Ragg, General Manager NRM via e-mail: WRagg@nff.org.au at the first instance to progress this discussion or to seek further clarification.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Tony Mahar', written in a cursive style.

TONY MAHAR
Chief Executive Officer



**National
Farmers
Federation**

Climate-Related Financial Disclosure Policy

Policy Position

The National Farmers' Federation (NFF) is concerned about the impact of mandatory climate-related financial disclosure reporting. We remain opposed to a requirement to formalise the reporting of Scope 3 emissions irrespective of proposed tranche timeframes until the farm sector gains clarity on coverage and threshold activation numbers as well as the impacts of shared cost and time commitment compliance requirements. Discussions around what level of verification is expected to underpin Scope 3 reporting and how compliance will be enforced are critical questions, this is a requirement that must be undertaken immediately and with priority.

Concerns also arise regarding the reporting and disclosure of project data and how it will be utilised and shared. NFF holds the view that industry sector reporting must be protected, and that the supply of information to financial institutions be avoided where possible to ensure such institutions do not discriminate against various industry groups.

Background and Issue

The Australian agriculture sector has been actively engaged in addressing climate change both through individual and collective action, having steadily reduced GHG emissions output since 1993 and committed significant investment into the development of anti-methanogenic technologies with promising, measurable results. There also exists discussions around better or alternate pathways to nitrogen management in cropping enterprises, ongoing exploration of the viability of soil carbon sequestration, and a suite of programs that address climate change including but not limited to several sector-based emission reduction targets over various timeframes and with varying ambition.

The agriculture sector's priority has since become to understand its own disposition in relation to individual producers' emissions and sequestration so it can make informed decisions about how individual farmers understand and respond to climate policy with respect to managing their individual business. The Australian agricultural sector has been engaged in extensive, groundbreaking work to understand, report, and demonstrate its sustainability across environmental, social, and governance outcomes through the Australian Agricultural Sustainability Framework (AASF). A key component of this are 17 principles which include greenhouse gases, it is expected that further work on data sources will aid understanding of agriculture's climate disposition. The sector has also been heavily involved and focused in ensuring credible carbon calculators are developed for public usage. Carbon calculators that have come online remain nascent, and there exists a requirement to have these benchmarked to ensure they are providing credible answers.

If carbon calculators are deemed an insufficient and unverifiable tool to support the reporting of Scope 3 emissions, the next level step may involve biophysical measurement at a farm-scale. Small- and medium-scale agricultural entities and businesses will likely be unable to meet any proposed threshold for Scope 3 reporting without undertaking substantial cost, and lack the necessary skill-base, technology access, or economic driver to do so. This is opposed by the farm sector, and it therefore demands extensive industry consultation as well as a detailed assessment of agriculture's ability to meet such a threshold.

What the Industry Needs

Policy

- The government not to implement this policy for Scope 3 for agriculture;
- Government to engage with industry stakeholders via an immediate land-sector specific consultation;
- Clear advice on materiality and best-efforts thresholds from government;
- Develop a common methodology indicator and reporting code of practice to benchmark carbon calculators;
- Ensure that bespoke solutions by individuals and companies are not encouraged and generic calculators are able to be used;
- Government facilitate medium term engagement with accounting software providers to map a pathway to climate related information be incorporated by no earlier than 2030; and
- If unavoidable, a formal Scope 3 emissions reporting requirement date beginning 2035 at the earliest.