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ASX Corporate Governance Council
C/o ASX Limited
PO Box H224
Australia Square, NSW 1215

Attention: Ms Mavis Tan

via email: mavis.tan@asx.com.au

Dear Ms Tan,

Review of the ASX Corporate Governance Principles & Recommendations

Thank you for the opportunity to provide a submission in response to the consultation draft of the proposed fourth edition of the ASX Corporate Governance Council (**Council**) Corporate Governance Principles and Recommendations (**Principles**).

The Australian Institute of Company Directors (**AICD**) is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director development and advocacy. Our membership of more than 43,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

The AICD has supported the Principles since their inception. We consider that the current and previous editions of the Principles and the "if not, why not" reporting model have served the business and investor communities well. As a committed member of the Council, we agree that now is an opportune time to review the Principles and consider whether they remain fit-for-purpose in the context of emerging domestic and global issues in corporate governance.

The consultation draft prepared by the ASX Secretariat reflects careful consideration of these issues and we appreciate the detailed work involved in its release.

The AICD strongly recommends that the fourth edition retain a principles-based approach, rather than becoming too granular or prescriptive. We encourage review of the consultation draft against this objective.

As acknowledged in the Principles, "which governance practices a listed entity chooses to adopt is fundamentally a matter for its board of directors". A more prescriptive approach carries with it the risk that listed entities may view adherence to the Principles as a compliance matter rather than as a starting-point for a consideration of their own corporate governance needs, bearing in mind their unique circumstances (including strategic and operational imperatives), investors, and other stakeholders. Further, the more detailed the guidance, the more difficult it will be for smaller, resource-constrained organisations (which comprise the majority of ASX listed entities) to embrace and support the Principles.

While many of the individual issues canvassed in the consultation paper are topical and important, we recommend a focus on the most material issues in this revision, limiting commentary that overlaps existing regulation. This approach would help maintain the broad

support of listed entities, their boards and stakeholders for the Principles and their continued acceptance as a useful, well accepted resource for good governance.

Our comments seek to support this balance recognising that the Principles should not endeavour to address all of the various challenges facing the business sector.

It is imperative that the Principles retain widespread support given they represent a self-regulatory standard (via the operation of ASX Listing Rule 4.10.3) by which listed entities are judged by investors and other stakeholders – a testament to their value to the market and broad acceptance. While, importantly, reporting is on an "if not, why not" basis, there are strong incentives for entities to comply with the Principles. Accordingly, it is important that the Principles remain tightly drafted, and their remit appropriately targeted to core governance issues.

The following submission has been prepared with these overarching comments in mind.

1. Executive summary

- In our view, the current third edition of the Principles have worked well because a) they operate within the legal framework for companies and directors' duties and give practical governance guidance on how to work within it; and b) they are a principles-based approach which recognises that governance frameworks must respond to a company's context and strategic and operational imperatives. Any revised edition must adopt the same approach.

- The AICD acknowledges that the proposed amendments cover many topical and important issues. However, we are concerned that the consultation draft has moved too far towards prescription, adding nine new recommendations and significantly expanding commentary, including moving from explanatory guidance to additional action or disclosure by listed entities in certain instances. We are concerned that this may encourage a shift to a "check-box" compliance approach, compared to the benefits of a principles-based model.

- We support many of the proposed changes relating to the board's role, composition and operation within the Principles, but there is a need to ensure that some of the language in the commentary does not lead to unintended consequences (for example, by implying a particular board composition or proposing arbitrary timeframes for certain actions).

- The AICD supports the Principles promoting a focus on long-term value creation and recognising the importance of active consideration and engagement by listed entities with stakeholders and community expectations. We are concerned, however, that concepts proposed to be introduced such as "social licence to operate" and acting in a "socially responsible manner" (see Principle 3) are subjective and will add unnecessary complexity and uncertainty. With this in mind, we recommend that the document be reviewed to ensure that it appropriately reflects the legal and fiduciary obligations of directors.

Our comments are outlined in further detail below with some general observations followed by more specific feedback on particular sections of the document. Attached to this submission is an **Appendix** which provides further comments on proposed changes.

2. General observations

It is important to acknowledge from the outset that Australia's corporate governance model is robust, well respected globally, and has withstood the test of time. The World Economic Forum 2017-18 Global Competitiveness report ranks Australia as 8th out of 137 nations for "efficacy of corporate boards", while we come in at 11th place for the "ethical behaviour of firms". The Asian Corporate Governance Association has also ranked Australia first in corporate governance

practices compared to 11 other jurisdictions in Asia, including Singapore, Hong Kong, Japan and South Korea, in a 2017 study.

While this does not mean that improvements cannot or should not be made, it is important that any revision to the Principles builds on the strong corporate governance framework - underpinned by the general law and statute – that already exists. The role of the Principles is important in this framework, offering a flexible, industry-led model of good corporate governance practice. Its purpose should not be to pre-empt the legislature, nor ongoing inquiries, such as the Hayne Royal Commission, which is playing a vital role in bringing to light poor practices in Australia's financial services sector.

While the AICD notes the critical role played by the Principles in setting a benchmark for corporate governance, we also acknowledge that they cannot be a panacea for the challenges facing corporations, including the trust deficit with the community. Instead this trust must be re-built from the ground up, with each organisation, led by its board and senior management, carefully considering what is necessary in their unique circumstances.

2.1 Moving from principles to prescription

The AICD is concerned that the proposed expansion of the Recommendations (from 29 to 38), with expanded commentary, adds unnecessary prescription and detail to the revised edition.

Specifically, the increased level of commentary and prescription (from a 38 page third edition to a proposed 55 page fourth edition) risks detracting focus from the most material issues, while in some instances deviating from established legal frameworks. In our view, the greater the degree of detail and prescription, the greater the risk that the Principles will be seen as a "check-box" compliance exercise. This would obviously deviate from the core objective of the document which is to provide principles-based, rather than prescriptive, guidance to companies. It is not intended to deliver a "one-stop shop" for good corporate governance.

This approach also appears to contrast with other jurisdictions, such as the UK, in recently refreshing, and significantly condensing, similar corporate governance codes.[1] Singapore's draft revised Code of Corporate Governance – currently being publicly consulted on - has also been made more succinct and streamlined, in order to "encourage companies to move away from a compliance mindset and adopt thoughtful corporate governance practices that will best support their long-term business objectives".

Some examples of areas where we believe there is an opportunity to review commentary and reduce prescription in the consultation draft include:

- Commentary to proposed Recommendation 1.5 – while the AICD supports the recommendation, the commentary is overly granular. Over two pages of commentary is provided on this topic, significantly more than on other, also important, recommendations;
- Proposed Recommendation 2.7 – we consider this unnecessary given the existing law is clear on directors' duties – if there is a concern with market practice this should be addressed by the relevant regulatory authorities;
- Proposed Recommendation 3.3 – while we support the presence and disclosure of a whistleblowing policy, we note that there is currently law reform proposed by the Commonwealth government that will soon impose different obligations upon companies. Our view is that proposed Recommendation 3.3 and associated commentary should

[1] See UK Corporate Governance Code 2018, https://www.frc.org.uk/news/july-2018/a-uk-corporate-governance-code-that-is-fit-for-the

remain high-level and avoid duplicating the law. In particular, references to the policy covering "socially responsible" behaviour may create ambiguity given that term lacks clear definition (see further below);
- Proposed Recommendation 3.4 – while having an anti-bribery and corruption policy is important for companies, it unclear why this has been highlighted specifically. There is a risk that by focusing on anti-bribery and corruption policies, other equally important issues could be seen as requiring less focus;
- Proposed Recommendation 8.4 – in our view, related party disclosure and the existing legal framework adequately address relevant concerns. The proposed recommendation would be restrictive, and costly, for smaller listed entities.

2.2 The role of commentary to the Principles

The consultation draft includes significantly expanded commentary which at times sets a higher bar for action by entities, rather than explanatory guidance on how an entity might seek to comply with a recommendation, or additional detail on the rationale for the recommendation.

For example, the commentary to:

- Recommendation 1.5 (diversity) suggests that entities should consider disclosing any insights from the annual review conducted and any changes the entity has made to its gender diversity objectives as a result, as well as any outcomes taken in response to pay equity audits and benchmarking exercises;
- Recommendation 3.2 (code of conduct) states that the Council would encourage a listed entity to disclose the actions it has taken to enforce its code of conduct and review the code at least once every three years, which appears to be an arbitrary timeframe;
- Recommendation 7.2 (risk review) encourages entities to disclose any insights it has gained from a risk review and any changes that it has made, removing the important qualification of 'where appropriate' in the current edition.

We note that a comparison of the third edition of the Principles with the proposed fourth edition reveals that the latter contains a material increase in such expectations/suggested practices (see for example, commentary to Recommendations 1.5, 3.2, 6.2, 7.4 and Principle 8).

We would welcome a focused review of areas where the document would benefit from a less detailed and prescriptive approach. The AICD's view is that such language should be appropriately circumscribed and remain explicitly "*explanatory* commentary" (as articulated in the current and proposed edition of the Principles), for the reasons discussed above.

We recommend that the preface more explicitly emphasise the explanatory nature of commentary.

3. Board role, composition and operation

There are number of proposed changes that relate to the board's role, composition and operation. Our comments in relation to the most material proposed changes are as follows.

3.1 Amendment to Recommendation 1.1: role of board and management

We support requiring a listed entity to have and disclose a board charter, given the importance of this document to the sound governance of any organisation. We also believe there is value in an entity defining its purpose as this can help assist with decision-making, including navigating potentially competing interests.

We are generally supportive of the explanatory commentary to the recommendation but suggest that the use of the word 'usually' be revisited, given the proposed new inclusions.

3.2 Amendment to Principle 2: structure the board to be effective and add value

It is proposed to amend the wording of this Principle to incorporate reference to the board having "knowledge of the entity and the industry in which it operates". While it is of course important that the board, as a whole, has the ability to draw on this knowledge, there is a risk that the language will be interpreted as restricting the pool of suitable director candidates (i.e. implying the need for more executive directors as well as *only* individuals with specific sectoral experience). We acknowledge that such an outcome could be an unintended consequence of the current draft and encourage review so that the focus is on the appropriate balance of skills and experience across the board as a whole, as well as diversity of thought and perspective.

It is important to acknowledge that there is a great deal of value that board members who come from outside an industry, can bring to the board table. For example, in other director roles, they may have already faced challenges that have not yet emerged in a specific industry, so can bring significant insight. Similarly, a board with a predominance of sectoral experience could encourage "group think" and a failure to sufficiently challenge management on business practices and behaviours.

3.3 Amendment to Recommendation 2.2

The proposed new commentary to Recommendation 2.2 states that "boards are increasingly being called upon to address new or emerging issues including around culture, conduct risk, digital disruption, cyber security, sustainability and climate change. The board should regularly review its skills matrix to make sure it covers the skills needed to address existing and emerging business and governance issues".

In our view, this passage could be interpreted as suggesting that directors should have specific subject matter expertise, say on cyber security, rather than the ability, judgment and experience to consider existing and emerging business and governance issues (including recognising where there may be a need to source appropriate independent or management advice). Indeed, it may not be appropriate for the entity to appoint a director who is a subject matter expert in one area, given that the board will be expected to deal with complex issues that will change in priority from time to time. This does not diminish the importance of regular skills matrix assessment and review, nor the need for board members to educate themselves on new or emerging issues.

3.4 Other board-focused changes

Further comments are outlined in the **Appendix** to this submission.

4. "Social licence to operate" and acting in a "socially responsible manner"

The AICD acknowledges a worrying lack of trust in institutions in Australia, including our corporations, as revealed in the periodic Global Edelman Trust Barometer results. In response to this and broader stakeholder feedback, over a number of years, the AICD has highlighted to our members, including through our education programs, the importance of consciously developing a healthy and sustainable organisational culture.[2] The Hayne Royal Commission

[2] For example, the AICD's Company Directors Course addresses culture and ethics in course materials and case studies, including in modules on duties and responsibilities, decision-making, risk and strategy. Other AICD programs also focus on the board's role in culture, including courses on cyber-risk management, innovation, governing vulnerable people and our annual Essential Director Update briefings. AICD publications also explore these issues, available at www.aicd.com.au.

and APRA prudential inquiry report into the Commonwealth Bank of Australia have further highlighted the importance of this issue and the need for boards to proactively and systematically manage non-financial risks.

The AICD has also emphasised the importance of directors understanding and engaging with the range of stakeholders that have an interest in their company – including employees, customers, suppliers, regulators and the broader community – as an essential part of preserving, and indeed building, long term shareholder value.

4. 1 Social licence to operate – what does it mean and to whom?

This notwithstanding, we have significant concerns with the proposed revisions to Principle 3, including the introduction of the fluid concepts of a "social licence to operate" and acting in a "socially responsible manner". Specifically, the draft proposes to change Principle 3 from (currently) "[a] listed entity should act ethically and responsibly" to "[a] listed entity should instil and continually reinforce a culture across the organisation of acting lawfully, ethically and in a socially responsible manner".

The consultation draft notes the importance of an entity's social licence to operate and the need to act to preserve it, stating that to maintain that licence, an entity *must* have regard to the views and interests of a broader range of stakeholders than just its security holders, including "employees, customers, suppliers, creditors, regulators, consumers, taxpayers and local communities".

The concept of "social licence" is highly subjective and will be interpreted differently by different stakeholders, as will the criteria listed in the Principles commentary as examples of being a good corporate citizen (e.g. paying a "living wage" or not engaging in "aggressive tax minimisation strategies").

These proposed changes have caused significant concern amongst the director community. Specifically, directors have expressed the view that the new wording introduces concepts with broad, perhaps changing, interpretations, without referencing the legal and fiduciary framework of director duties – including to act in the best interests of the company (see further below).

Companies are of course already subject to a range of targeted laws dealing with their impact on specific sets of stakeholders, for example in the areas of workplace health and safety (WHS), consumer protection and the environment, amongst others.

4. 2 Consistency with fiduciary and statutory duties of directors

The AICD is also concerned that the proposed commentary on Principle 3 risks creating confusion about the general law and statutory duties of directors under the *Corporations Act 2001.*

It is well-settled that the overriding test as to what constitutes "acting in the interests of the company" as a whole is the well-being of the company and therefore the shareholders generally. The High Court stated in *Pilmer v Duke Group Ltd (in liq)* (2001) 207 CLR 165 that "it may be readily accepted that directors and other officers of a company must act in the best interests of the company as a whole and that this will usually require those persons to have close regard to how their actions will affect shareholders."

According to *Ford, Austin and Ramsay's Principles of Corporations Law*, 17th edition, 2018 (**Ford**), directors must consider the interests of existing members because they are proprietors of the company who have risked their capital in the hope of gain. Ford states that "although it is sometimes said that directors should be obliged to consider interests of employees, customers, contractors and the community when making decisions for the company, there is no case law or corporations legislation in Australia that imposes that obligation".[3]

Of course, this is not to say that directors are prevented from considering the interests of other stakeholders in their deliberations. Far from it – boards of listed entities will carefully consider a range of (often complex and competing) stakeholder interests in acting in the best interests of the company. This does not subordinate shareholders' interests to those of other groups but accepts that stakeholder considerations are part of a strategy to promote company sustainability and maximise value over the longer term.

Professor Bob Baxt AO in his 2016 text on directors' duties articulated a similar view, noting that a fundamental principle of Australian company law is that directors owe their duty to the company and not to any other persons. Professor Baxt also emphasised that it would be "foolish" for directors, especially of publicly listed companies, to ignore stakeholder interests, which play a significant part in how companies must behave in order to prosper. [4]

The issue of the extent to which directors may take into account the interests of stakeholders was considered in detail by the Corporations and Markets Advisory Committee (**CAMAC**) in its 2006 report *The Social Responsibility of Corporations*. CAMAC accepted that under common law and the relevant statutory provisions, directors, in acting in good faith, in the best interests of the company and for a proper purpose, may take into account a range of factors external to the shareholders if this benefits the shareholders as a whole.

Endorsing the "business approach" to stakeholders, CAMAC concluded that while directors are able to have regard to other interests under the current legal framework, they should remain accountable to shareholders and "any extension of accountability to other stakeholders would undermine effective corporate governance".

To avoid creating unnecessary uncertainty in expectations or understanding of accountabilities, the legal position should be reflected accurately in the Principles (see section 4.4 below).

4.3 Social responsibility example

In our view, the inherent ambiguity of the concepts of "social licence" and "social responsibility" would create a difficult environment for listed entities to report against in corporate governance statements. The following hypothetical, though entirely plausible, example illustrates how it will not always be clear what is meant by a company acting in a "socially responsible manner":

- Hypothetical facts: Company X is seeking to engage in natural gas exploration and extraction adjacent to a rural community and has obtained the necessary licensing and regulatory approvals from the relevant authorities;

- First set of stakeholders: sections of the local community welcome the new employment opportunities offered by the project;

[3] The position changes where a company is insolvent or approaching insolvency, whereby the interests of creditors will need to be considered: see for example, *Bell Group Ltd (in liq) v Westpac Banking Corporation (No 9)* (2008) 39 WAR 1.
[4] See B Baxt AO, *Duties and Responsibilities of Directors and Officers*, 21st Edition, 2016.

- Second set of stakeholders: different sections of the local community oppose the project as they believe it will detract from a recent boom in local tourism;

- Third set of stakeholders: environmental groups may oppose the project given concerns regarding the potential impact on the local aquifer and carbon emissions;

- Fourth set of stakeholders: Company X employees welcome the project as it improves their job security;

- Fifth set of stakeholders: the majority of shareholders are pleased to see the project proceed as it is expected to deliver long term value for the company;

- Sixth set of stakeholders: a minority of shareholders are opposed to the project as they share the concerns of environmental groups; and

- Seventh set of stakeholders: some consumers and members of the public want the project to proceed as they believe it will contribute to lower energy prices.

In such a scenario, it is clear there will be conflicting views on whether the investment would constitute socially responsible behaviour.

4.4 An alternative approach

As an alternative to the proposed new wording in Principle 3 we recommend that it be drafted as "acting lawfully and ethically" (i.e. remove reference to acting socially responsibly). This would send the clear message to companies that compliance with the law is essential but will not always be enough, and that they should apply an ethical overlay to their decision-making and business practices. In our view, such terminology benefits from clarity and broad director support without introducing ambiguous, subjective terminology into a core corporate governance document. There are also established frameworks to grapple with ethical issues, offering company's practical tools to navigate challenging scenarios.

As an alternative to language around social licence, it may be preferable for the commentary to highlight the importance of entities taking active steps to preserve and build their "brand and reputation", including by appropriately managing non-financial risks. Such a formulation would be consistently understood by listed entities, their boards and stakeholders, and avoid unhelpful debate around loosely worded terminology. It would also be consistent with directors' duties.

The AICD recommends that the explanatory commentary refer to the current legal framework of directors' duties in order to avoid any confusion or potentially contradictory views as to whom obligations are owed. We note that the recently released UK Corporate Governance Code contains express wording to clarify that nothing in it overrides or is intended as an interpretation of the statutory statement of directors' duties in the relevant legislation. A similar statement would assist in the Australian context.

For completeness, we note that the term "social licence to operate" is also referenced in Recommendation 7.4 (sustainability disclosures), and the commentary to Principle 8 (remunerate fairly and responsibly). The former reference is particularly problematic as entities will be required to disclose whether and/or how they manage "social risks", including those risks that can lead to the loss of an entity's social licence to operate (see further below). Consequently, for the reasons outlined above, we would suggest the terms be removed from the Principles.

5 Diversity policies

The AICD supports the proposed changes to Recommendation 1.5, including the new 30% measurable gender objective for the ASX 300, noting that, as at 31 May 2018, women accounted for 27.7% of ASX 200 directorships (30% of ASX 100 directorships). If introduced, the recommendation would support the momentum towards more gender-balanced boards. It is important to recall that in 2009, only 8.3% of ASX 200 board roles were filled by women. We note that the timeframes and strategies to achieve the measurable objective would remain at the discretion of individual companies. The AICD encourages consideration of extending the 30% minimum measurable objective to all listed entities.

5.1 The business case for diversity

The AICD supports the draft highlighting that there is a strong business case for diversity. For example, in 2007, a McKinsey study "Women Matter" showed greater diversity in leadership correlated with better economic performance. The study found that these results were further improved where at least 30% of women were in leadership roles – below this level, no improvement was observed.

These findings were affirmed in the 2018 McKinsey study, "Delivering through Diversity", which found a positive correlation between gender diversity on executive teams and measures of financial performance: top-quartile companies on executive-level gender diversity worldwide had a 21 percent likelihood of outperforming their fourth-quartile industry peers on EBIT margin, and they also had a 27 percent likelihood of outperforming fourth-quartile peers on longer-term value creation (measured using an economic-profit margin). The data set was extensive, covering over 1000 companies across 12 countries.

Significantly, the same McKinsey research also found that for ethnic and cultural diversity, there was a 33 percent likelihood of outperformance on EBIT margin, demonstrating the importance of taking a multi-faceted approach to diversity. Companies in the fourth quartile on both gender and ethnic diversity were also more likely (29%) to underperform their industry peers.

Where an organisation consistently produces a homogenous team (whether at executive, board or broader workforce level) companies should ask themselves why this is occurring, including considering measures to address any unconscious (or conscious) bias that may be at play. For example, "blind" reviewing of job applications (removing personal names and other information that may reveal a candidate's gender, cultural or other background) may assist this process.

5.2 Proposed commentary and need to highlight skill and experience requirement

As articulated in section 2.2 above, we are concerned that proposed Recommendation 1.5 contains extensive commentary. We recommend that the draft be reviewed with the objective of shortening commentary, so as to provide non-prescriptive guidance to entities on how they can comply, rather than detailing further actions that listed entities could take. As examples, the AICD suggests removing commentary encouraging listed entities to link remuneration to KPIs on gender participation and to consider disclosing insights from annual reviews and changes the entity has made as a result of these. Instead, commentary could point to useful external references for the reader.

Of course, while all organisations should seek to achieve a diverse workforce and leadership team, this is not to say that listed entities should appoint any executive or director who is unqualified. The starting premise must always be to appoint individuals with the requisite skills and experience necessary to fulfil the duties of the role, regardless of their gender or other personal background. This should be reflected in the commentary to Recommendation 1.5.

6 Corporate reporting

The AICD is concerned by the proposal under Recommendation 4.4 for entities to have and disclose the process to "validate" their annual directors' report and any "other corporate report it releases". The commentary goes on to state that where such a report is not subject to assurance by the entity's external auditor, "the entity should have an appropriate process in place to validate that the report is accurate, balanced, and understandable and provides the market with appropriate information to make informed investment decisions".

We have received feedback from members that the term "validate" may suggest a requirement to prove each statement made in all corporate reports. There would be a significant compliance burden imposed if entities were required to undertake the level of validation/verification that entities undertake for a prospectus.

We understand this is not the intent of the recommendation and suggest that this be made clear in the explanatory commentary.

Alternative options would be to move the disclosure requirement to the commentary and introduce a threshold to encourage entities to disclose, in summary form, the reasonable steps they have taken to establish the accuracy of information in corporate reports in respect of *material* particulars.

We also recommend that consideration be given to:

- providing a definition of the term "corporate reports" so that the intended coverage of the Recommendation is clear – for example it is unclear whether it would encompass documents such as earnings releases, investor presentations, or modern slavery statements; and

- removing the reference to reports being "understandable" given the complexity inherent in certain reports and the subjectivity of the term. We have received feedback that it may be difficult for an entity to report against this requirement and that to do so meaningfully may require investigation (e.g. market surveys) or conflict with reporting obligations (e.g. where legislative or other regulatory frameworks codify the form of reporting).

7 Environmental and social risks

The draft proposes to amend Recommendation 7.4 to refer to "environmental and social risks" rather than (currently) "economic, environmental and social sustainability risks". Social risks are defined as "the negative consequences to a listed entity arising from its impact or perceived impact on social groups (including employees, customers, suppliers and local communities) or from being seen to operate outside accepted community standards. It includes risks that can "lead to the loss of an entity's "social licence to operate" mentioned in the commentary to principle 3 above".

7.1 Social risks and the social licence to operate

Directors have expressed concerns around these proposed changes, especially the incorporation of the term "social risks" and "social licence to operate" into the recommendation (see discussion at section 4 above). Instead, we suggest that the current wording of the Principles (third edition) be retained, given it has market acceptance and is well-understood.

7.2 Climate change disclosure

The AICD supports the proposed updated commentary in relation to climate change related risk, including the suggestion that entities that believe they do not have any material exposure to climate change risk should carefully consider the basis for that belief and undertake peer benchmarking.

We note that investors are increasingly seeking greater disclosure on such issues, and that over the last twelve months, key regulators, including ASIC and APRA, have highlighted the importance of companies taking a proactive approach to climate change risk management.

We also support the Council encouraging "listed entities with material exposure to climate change risk to consider implementing the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD)". Provided this remains framed as encouragement to consider, it is an appropriate balance noting that market practice is clearly evolving. Indeed, ACSI's 2018 Corporate Sustainability Report found that 95 ASX 200 companies (48%) have disclosed a climate-related policy statement, 112 companies reported their greenhouse gas (GHG) emissions, 42 companies had GHG emission reduction targets, and 22 companies reported against the TCFD framework or have committed to do so.

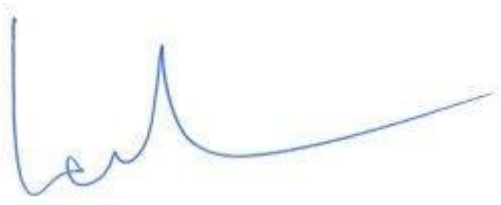
It is appropriate that the commentary is limited to encouraging consideration of the TCFD framework given that the TCFD recommendations are complex, and will require significant work by entities in order to produce reports that are accurate and would be of high value to end users, including investors. This is particularly the case for scenario-based modelling.

8 Next steps

We trust our comments will be of assistance when formulating the proposed fourth edition of the ASX Principles. It is imperative that the final draft is appropriately targeted to core governance issues and does not waver from its core purpose of providing flexible, principles-based guidance to listed entities. We look forward to working closely with other Council members and stakeholders towards that end.

If you would like to discuss any aspect of this submission further, please do not hesitate to contact Christian Gergis, Head of Policy, on (02) 8248 8431 or at cgergis@aicd.com.au.

Yours sincerely,



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