By email: climaterelateddisclosures@mbie.govt.nz

14 February 2025

Auckland Council's submission on the MBIE's December 2024 Discussion Document, Adjustments to the climate-related disclosures regime

Thank you for providing Auckland Council Group with the opportunity to provide feedback on the MBIE Discussion Document, Adjustments to the climate-related disclosures regime.

We have read the Discussion Document and provided our responses to your questions as detailed in the appendix to this letter.

In summary we are supportive of many of the suggested amendments. In some areas we have provided suggested variations. However, we recommend that any changes should be simple to understand and implement and made with a long term view. The regime has already had significant changes since inception, which creates uncertainty for reporting entities and investors.

We hope our responses and comments are helpful in aiding your decision-making process. Should you have any queries relating to the responses, please do not hesitate to contact us.

Yours sincerely,

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1. **Do you have any information about the cost of reporting for listed issuers?**

   We only have access to the cost of reporting for Auckland Council as a listed debt issuer. Initially, climate reporting costs were quite high because we had to hire several external consultants to assist with the process. Although we still incur some external consultant fees, we are now focusing on developing our internal Climate-related disclosure (CRD) reporting expertise. Over time, we expect these costs to decrease as we rely less on external consultants.

   Our costs are divided into two categories: those related to producing our climate statement and those related to the work underlying the climate statement. The production cost is small compared to the underlying work. To address climate change effectively within our organisation, we would have needed to do the underlying work regardless, though perhaps at a later time.

   As we enter the first year of assurance, we note that the fees for assuring our GHG emissions disclosures for this financial year are higher than we consider reasonable. This includes the time spent with our auditor to agree on the scope of work and fees. We understand this is partly because it is the first year the assurance work is taking place, and our auditor is unfamiliar with our data processes, controls, and calculation methodologies.

2. **Do you consider that the listed issuer thresholds (and director liability settings) are a barrier to listing in New Zealand?**

   If the New Zealand climate reporting regime is more stringent than that of Australia, it may discourage companies from listing on the NZX in favour of an Australian listing. However, we expect that entities seeking a listing will consider several other important factors, such as access to capital, liquidity, and other compliance requirements, and will evaluate these factors over the medium to long term.

   The barriers posed by New Zealand's thresholds and the potential for regulatory arbitrage will reduce with the introduction of the Australian climate reporting regime in 2025. This regime, which will be established between 2025 and 2027, will create a more level regulatory playing field.

   As climate reporting regimes continue to expand globally, developing expertise in managing Climate-related risks and opportunities will provide a competitive advantage for New Zealand businesses over time and help protect their access to global investors.

3. **When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?**

   We have provided our response, noting that the suggested changes to the reporting thresholds will not impact Auckland Council Group. We will be above the reporting threshold, regardless of the decision made.

   Regarding reporting thresholds, we prefer Option 3.

   While we understand the importance of regulatory alignment with Australia, we believe setting the threshold at $550 million (Option 2) is too high. Given the relatively smaller size of New Zealand entities, Option 2 will not include enough entities to significantly impact New Zealand’s transition to a low-carbon, resilient economy. Additionally, under Option 2, New Zealand’s reporting thresholds would not be aligned with Australia.

We note that the proposal in the Discussion Document outlines a staggered start for Option 3, with an interim reporting period from 2026 to 2028, during which entities with a market capitalisation of less than $550 million will not have to mandatorily report. By 2026, entities with a market capitalisation of greater than $60 million will have already reported for two periods, starting from 2024.

Although we consider Option 3 to have the most favourable long-term outcome, we do not support this "stop-start" approach as it creates uncertainty and disruption for reporting entities and is likely to result in reporting gaps, which investors may view unfavourably. Entities that are in the process of resourcing and upskilling climate reporting teams may have to let go of their teams, only to rehire staff a year or two later.

We suggest increasing the market capitalisation threshold to $250 million from January 2026.

4. If the XRB introduced differential reporting, would this impact on your choice of preferred option?

Differential reporting could be beneficial if it reduces pressure on smaller issuers. While having less climate information available for investor decision-making is generally undesirable, it may be acceptable if the entity is tightly held, and the majority investors are part of management. However, as indicated throughout our response, we support a regulatory balance that is mindful of CRD objectives while continuing to support business operations in New Zealand. If differential reporting were introduced, we would support Option 1, retaining the $60 million market capitalisation threshold.

5. Do you think that a different reporting threshold for listed issuers should be considered (i.e., not one of the options above) and, if so, why?

We believe different reporting thresholds could apply to different industries. Reporting thresholds could differentiate between entities based on their industry sector, focusing on New Zealand's largest GHG emitters. Additionally, entities providing lifeline utilities, which New Zealanders rely on to be resilient to climate change impacts, should also be considered. This approach would require the largest emitters and the entities that New Zealanders rely on to be resilient, to report their responses to climate change.

Importantly, by focusing on levels of GHG emissions as a reporting criterion rather than market capitalisation, the reporting requirements would extend to unlisted issuers, some of which are significant GHG emitters.

Under the Australian regime, an entity must report if it meets the size threshold or if it is a National Greenhouse and Energy Reporting (NGER) reporter. We understand that the requirement for NGER-covered entities to report is considered appropriate and proportionate to the risks they face.

The Discussion Document (point 43, page 18) mentions that MBIE considered adopting a minimum emissions threshold but decided against it. This decision was partly because other jurisdictions base their climate reporting regimes on size and because an entity may have low emissions but still face significant climate risks that should be reported to investors. This concept of double materiality is important to consider when setting reporting thresholds.

Overall, we think there is merit in considering alternative reporting thresholds, potentially with a focus on the highest emitting sectors/sub-sectors and those that New Zealanders rely on to remain resilient in the face of climate change.

6. If Option 2 or 3 was preferred, do you think that some listed issuers would still choose to voluntarily report (even if not required to do so by law)? And, if so, why?

We believe many listed issuers would still choose to voluntarily report considering the level of voluntary reporting under the Task Force on Climate-Related Financial Disclosures before the New Zealand climate reporting regime came into force.

Several advantages for New Zealand entities that provide climate-related disclosures are:

- Investor confidence: Providing transparent and useful climate-related information can attract and retain investors who prioritise environmental responsibility. It also gives overseas investors confidence that New Zealand, despite having a small economy, is worth investing in.
- Risk management: Identifying and disclosing climate-related risks can help entities focus on, better prepare for and mitigate potential impacts.
- Enhanced reputation and competitive advantage: Demonstrating a commitment to corporate sustainability reflects positively on an entity's public image and stakeholder trust, which in turn can lead to a competitive advantage.
- Regulatory preparedness: Voluntary reporting can help entities keep up with international reporting requirements and adapt more easily to future changes in New Zealand.

7. What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?

Advantages

We believe there are several advantages, including:

1. Improved investor confidence: Providing clear, standardised information on climate-related risks and opportunities enhances investor confidence in the entity and New Zealand, especially for offshore investors.
2. Better financing terms: It may lead to better financing terms as investors increasingly prioritise sustainable investments.
3. Global alignment: It provides alignment with international counterparts in debt and equity markets, protecting access to global investors.
4. Risk management: It encourages the identification, assessment, and management of climate-related risks and opportunities, leading to more resilient business strategies and better capital allocation. This contributes to greater economic stability in New Zealand and potential competitive advantage.
5. Commitment to sustainability: It demonstrates the issuer’s commitment to sustainability and responsible corporate governance, promoting New Zealand as a safe place to invest.
6. Enhanced stakeholder relationships: The transparency of the regime can improve relationships with stakeholders, including Māori, customers, employees, and the community.

Disadvantages

We also recognise certain disadvantages, including:

1. Increased costs: It increases reporting and compliance costs, which can be burdensome, especially for smaller entities. Many entities will need assistance from consultants until they develop sufficient internal expertise.
2. Operational pressure: It requires significant coordination across multiple business units to ensure accurate and comprehensive reporting, which can strain regular business operations.
3. Negative investor sentiment: It may generate negative investor sentiment if investors perceive risks to be significant or poorly managed. This can happen if the issuer is not managing the risks appropriately or if the climate-related disclosures do not effectively communicate the issuer's management and mitigation of the risks in a way that investors can understand. Such case may lead to under-reporting of environmental practices and greenwashing.

8. Do you have information about the cost of reporting for investment scheme managers?

No.

9. Do you have information about consumers being charged increased fees due to the cost of climate reporting?

We don't have any information on this, however any fees being incurred in this regard would likely be included in consumers rates bills.

10. When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?

As we are not investment scheme managers, we have limited knowledge of the challenges New Zealand investment scheme managers face regarding climate-related disclosures and the associated costs. Therefore, we prefer not to provide an opinion.

The Discussion Documents mention a significant reduction in the number of investment scheme managers required to report under the regime if either Option 2 or 3 are selected. They also highlight the potential opportunities for avoidance that Option 3 could create and the continued demand for climate-related disclosures from investors.

The Discussion Document suggests that further consultation on the specific application of the New Zealand climate standards to investment scheme managers could occur later this year. We believe this further consultation is likely necessary.

11. If the XRB introduced differential reporting, would this impact on your choice of preferred option?

If differential reporting were introduced, we would likely support Option 1, maintaining the status quo, as mentioned in our response to question 4. A differential reporting regime could alleviate some of the burdensome issues that smaller entities face while avoiding a significant reduction in the number of entities required to report. This approach would ensure that investor demand for climate-related disclosures continues to be met.

12. Do you think that a different reporting threshold for investment scheme managers should be considered (i.e. not one of the options above) and, if so, why?

Please refer to our response to question 5 for our thoughts on potentially introducing reporting thresholds based on GHG emissions and sector. Although implementing such an alternative reporting threshold may be more challenging for investment scheme managers, given that most of their emissions are likely Scope 3, it is still worth considering.

13. When considering the location of the thresholds, which Option do you prefer and why?

The FMC Act aims to promote participation in fair, efficient, and transparent markets. If FMC reporting entities continue to be the only participants in the climate reporting regime, it is appropriate for the thresholds to remain in the FMC Act, along with all other duties and obligations of FMC reporting entities. Moving the thresholds to secondary legislation could signal to international investors that the New Zealand government is not prioritising and promoting climate action. However, if the climate reporting regime shifts away from FMC reporting entities and adopts a sector-based approach, it would then be appropriate to move the thresholds from the FMC Act.

14. For Option 2 (move thresholds to secondary legislation) what statutory criteria do you think should be met before a change may be made, e.g., a statutory obligation to consult. What should the Minister consider or do before making a change?

We have proposed maintaining the status quo.

However, if Option 2 were selected, there should be a statutory obligation for the Minister to consult all entities currently required to report under the CRD regime, as well as any additional entities potentially impacted by the proposed change. The Minister should obtain a certain level of support from all concerned entities before making any changes. This could be achieved via a select committee process.

15. When considering the director liability settings, which of the four options do you prefer, and why?

We prefer Option 4, which includes a modified liability provision, and support granting directors protection from civil liability for certain forward-looking statements in the climate statements for a period of time. We believe this would give preparers more time to adjust to the regime and increase directors' confidence in the statements.

We agree that the protection should apply to “protected statements,” such as those about Scope 3 emissions, scenario analysis, or a transition plan, as these topics are the most challenging to disclose. We note that similar provisions apply in Australia for the first three years of the regime, and we support the equal applicability of these provisions in New Zealand.

16. Do you have another proposal to amend the director liability settings? If so, please provide details.

No.

17. If the director liability settings are amended do you think that will impact on investor trust in the climate statements?

Not under Option 4. We consider the period of the modified liability provision will enable the content of the climate statements to develop and improve to a level which will ultimately result in increased investor trust in the long term, once the protection period is over.

Under Options 2 and 3 however, with director liability removed, yes, we think it is possible that investor trust in climate statements may reduce.

18. If you support Option 3, should this be extended so that section 23 is disapplied for both climate reporting entities and directors? If so, why?

N/A.

19. If you support Option 4 (introduce a modified liability framework, similar to Australia) what representations should be covered by the modified liability, i.e., should it cover statements about scope 3 emissions, scenario analysis or a transition plan, and/or other things?

Yes, we support Option 4 – please refer to comments under point 15 above.

20. If you support the introduction of a modified liability framework, how long should the modified liability last for? And who should be covered, i.e. should it prevent actions by just private litigants, or should the framework cover the FMA as well? (Criminal actions would be excluded).

We think the protection period should be consistent with the Australian regime, which applies until January 2028, and should provide protection from civil actions by private litigants in relation to the “protected statements”.

21. Do you think that there would be value in encouraging New Zealand subsidiaries of multinational companies to file their parent company climate statements in New Zealand?

While we fully promote climate-related disclosure information, we think this proposal may create the impression that climate statements are regulated by a foreign jurisdiction rather than New Zealand.

22. Do you think that, alternatively, there would be value in MBIE creating a webpage where subsidiaries of multinational companies could provide links to their parent company climate statements?

There may be some value in creating such a webpage, but it is generally easy to access statements of multi-national companies from the internet.

23. Please use this question to provide any further information you would like that has not been covered in the other questions.

Using Australia as a regulatory benchmark makes sense, especially where there is potential for regulatory arbitrage from an NZX/ASX listing perspective or as a place to conduct business generally. However, many of New Zealand's investors are from the EU and increasingly from Asia. We should be mindful that many of these countries have more stringent reporting regimes than those in Australasia. MBIE should ensure it gives due consideration to these other global climate reporting regimes when proposing and deciding on changes to New Zealand's climate-related disclosures regime.