AUSTRALASIAN CENTRE FOR CORPORATE RESPONSIBILITY

An association incorporated under
the ACT *Associations Incorporation Act 1991.*
Association number AO 5319;
registered as a charity with
the Australian Charities and Not-for-profits Commission (ACNC);
ABN 95 102 677 417,
Level 5 131 City Walk Canberra City;
GPO Box 1596 Canberra ACT 2601

Mavis Tan
ASX Corporate Governance Council
c/o ASX Limited
PO Box H224
Australia Square NSW 1215

27 July 2018

VIA EMAIL: mavis.tan@asx.com.au

Dear Ms. Tan,

The Australasian Centre for Corporate Responsibility (ACCR) welcomes the proposed changes to recommendations 1.5 (diversity) and 7.4 (sustainability disclosures), as described in 'Review of the ASX Corporate Governance Council's Principles and Recommendations, Public Consultation, 2 May 2018'. We welcome the amendments to recommendation 3.3 (whistleblowing), and suggest strengthening those amendments as outlined below.

ACCR is a not-for-profit association that promotes responsible investment through undertaking and publishing research to evaluate and improve the performance of Australian listed companies on environmental, social and governance (ESG) issues. We have a small portfolio of shares that we hold for the purpose of engaging with companies on ESG issues, including through the filing of shareholder resolutions. We encourage other investors to use our research to engage with companies in their portfolio.

ACCR concerns itself with a range of ESG issues, including but not limited to climate change, environmental protection, gender equality, labour exploitation, human rights, insecure and unsafe working environments, indigenous rights, and the role of corporations in politics.

Please see below our feedback on recommendations 1.5 (diversity), 3.3 (whistleblowing) and 7.4 (sustainability disclosures).

Substantial Changes to Recommendation 1.5 (Diversity)

The ACCR believes that gender diversity at board level, and all levels of management, improves decision-making and a company's overall performance. We also direct you to ACCR's July 2018 report *Gender pay equity and Australian listed companies,* available at https://accr.org.au/gender-pay-equity-report, which documents the extent of the existing gender pay gap across the ASX100. For these reasons, we are pleased to see substantial changes relating to diversity and gender equity in the ASX guidelines.

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Proposal	**ACCR view**
splitting the requirement to have a diversity policy from the requirement to set measurable gender diversity objectives;	We agree with this proposal, particularly as it will focus management on achieving gender diversity objectives independent of other diversity issues.
making it clear that a listed entity's measurable gender diversity objectives should be targeted at achieving gender diversity in the composition of the entity's senior executive team and workforce generally, as well as in the composition of the board;	We agree with this proposal.
stating that if the entity was in the S&P / ASX 300 index at the commencement of the reporting period, the measurable objective for achieving gender diversity in the composition of its board should be to have not less than 30% of its directors of each gender within a specified period;	We agree with this proposal.
requiring the board or a board committee to charge management with designing, implementing and maintaining programs and initiatives to help achieve its measurable objectives and to undertake an annual review with management of the entity's progress towards achieving its measurable gender objectives and the adequacy of the entity's programs and initiatives in that regard;	We agree with this proposal, and trust that the relevant board committee will be charged with oversight of delivery of such objectives.
requiring the entity to disclose in relation to each reporting period whether that review has taken place;	We agree with this proposal, but also with a view to the longer term trend, as it is inevitable that not all companies will make progress in every reporting period.
including in the commentary a suggestion that a listed entity consider disclosing any insights from that review and any changes the entity has made to its gender diversity objectives and programs as a result;	We agree with this proposal.
requiring a listed entity to disclose its diversity policy in full and removing its ability to disclose only a summary of the policy;	We agree with this proposal.

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including in the commentary a suggestion that entities disclose the outcomes and actions taken as a result of any gender benchmarking they do against their peers or gender pay audits they undertake so that security holders and other stakeholders gain an insight into the effectiveness of the entity's gender diversity programs and initiatives;	We agree with this proposal, with a focus on peers within the same or similar industries. We also direct you to ACCR's July 2018 report *Gender pay equity and Australian listed companies,* available at https://accr.org.au/gender-pay-equity-report, the detail of which supports this proposal.
moving the suggestion that the board or a committee of the board consider setting diversity KPIs for senior executives from the suggested contents of a diversity policy in Box 1.5 to the commentary;	We have no view on this proposal.
including guidance in the commentary that a listed entity's diversity policy should express its commitment to embrace diversity at all levels and in all its facets, including gender, marital or family status, sexual orientation, gender identity, age, physical abilities, ethnicity, religious beliefs, cultural background, socio-economic background, perspective and experience; and	We agree with this proposal, and suggest that listed entities consider reviewing and reporting on diversity at all levels on a regular basis, with the understanding that annual reporting may be too onerous for smaller listed entities.
including guidance in the commentary that boards of listed entities should have regard to other facets of diversity in addition to gender when considering their make-up and that having directors of different ages and ethnicities and from different cultural or socio-economic backgrounds can help bring different experiences and perspectives to bear and avoid "groupthink" in decision making;	We agree with this proposal.

Substantial changes to Principle 3 (culture) particularly in relation to recommendation 3.3 (whistleblowing)

Proposal	**ACCR view**
amending the commentary to principle 3 to acknowledge that a listed entity's social licence to operate is one of its most valuable assets and that it can be lost or seriously damaged if the entity or its	We agree with this proposal.

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officers or employees are perceived to have acted unlawfully, unethically or in a socially irresponsible manner;	
A listed entity should: − have and disclose a whistleblower policy that encourages employees to come forward with concerns that the entity is not acting lawfully, ethically or in a socially responsible manner and provides suitable protections if they do;	We agree with this proposal, but, recognising that it is not just employees who may uncover unlawful, unethical or irresponsible conduct by a company, we suggest strengthening the proposal by: (a) requiring that the policy provide for disclosures to come not just from employees but from other individuals and institutions with which the company interacts (for example, customers, suppliers, contractors, stakeholders or community members adversely affected by the company's activities); (b) requiring companies to have some mechanism through which such concerns can be raised, for example a confidential hotline or webform through which individuals can submit information. This mechanism should provide for anonymity; and (c) recommending that companies liaise constructively with relevant human rights commissions and other human rights complaints resolution bodies to adequately address whistleblower concerns (in the event that they are not able to be adequately addressed by the company).

Amendments to Recommendation 7.4 (Sustainability Disclosures)

ACCR believes sustainability reporting - whether it is independent or incorporated into financial reporting - provides necessary information to investors to determine how a listed entity perceives ESG risks, and how it mitigates those risks.

According to the Australian Council of Superannuation Investors', just 104 companies in the ASX200 publish sustainability reporting that is considered 'detailed' or 'leading', though these 104 companies do account for 83 percent of ASX200 market capitalisation (Corporate Sustainability Reporting in Australia, June 2018). 76 companies publish sustainability reporting that is considered 'basic' or 'moderate', while 20 companies produce no sustainability reporting at all.

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We believe it is imperative that the ASX Governance Principles stress the need for sustainability reporting, and that companies are encouraged to continuously improve such disclosures.

Proposal	**ACCR view**
acknowledging that a listed entity's "social licence to operate" is one of its most valuable assets and that the licence can be lost or seriously damaged if the entity conducts its business in a way that is not environmentally or socially responsible;	We agree with this commentary. Social licence to operate is critical to ensure the local community's acceptance of and ongoing support for a company's operations. It is imperative that companies understand the communities in which they operate, that they live up to their commitments, and proactively respond to the community's concerns. Social licence to operate goes beyond a legal contract, it takes time and effort for a company to develop, but ultimately can ensure the ongoing success of a project or business.
replacing the current statement in the commentary that to make the disclosures called for under this recommendation does not require a listed entity to publish a "sustainability report", but an entity that does publish a sustainability report may meet this recommendation simply by cross-referring to that report, with: *"To make the disclosures called for under this recommendation does not require a listed entity to publish an "integrated report" or "sustainability report". However an entity that does publish an integrated report in accordance with the International Integrated Reporting Council's International <IR> Framework, or a sustainability report in accordance with a recognised international standard, may meet this recommendation simply by cross-referring to that report."*	We agree with this commentary.
adding a suggestion that entities that believe they do not have any material exposure to environmental and social risks should consider carefully their basis for	We agree with this commentary, particularly given the myriad views on classifying climate change as a material business risk, even by listed entities within

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that belief and benchmark their disclosures in this regard against those made by their peers;	the same sector. It is also incumbent on auditors to ensure that listed entities are alert to common risks, and that this information is disclosed to investors.
as recommended in the Senate Economics References Committee report on Climate Risk Disclosure, giving greater guidance on the disclosure of climate change risk (also referred to as "carbon risk"), including: - *explaining the different types of climate change risk (physical risks, transition risks and liability risks);* - *noting that many listed entities will be exposed to these types of risks, even where they are not directly involved in mining or consuming fossil fuels; and* - *suggesting that listed entities with material exposure to climate change risk implement the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures;*	We agree with this commentary, particularly given the limited uptake of the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD), since their publication in June 2017. According to the Australian Council of Superannuation Investors (ACSI), just 22 companies in the ASX200 have thus far adopted or committed to implementing the TCFD recommendations (Corporate Sustainability Reporting in Australia, June 2018). Recently, ASIC commissioner John Price said Australian companies should "carefully consider the general information needs of investors" when it comes to disclosing carbon or climate risks. Despite encouraging directors to be "proactive" in their consideration of climate risk, ASIC stopped short of mandating climate risk disclosure. For that reason, it is incumbent upon the ASX guidelines to encourage, if not mandate, listed entities to produce disclosures compliant with the TCFD recommendations. The ASX guidelines may also play a role in determining the assumptions underpinning one of the key pillars of the TCFD recommendations - scenario analysis. It is in the interests of investors and all stakeholders, that scenario analyses are both credible and comparable. For that reason, it is important that listed entities use commonly accepted scenarios, including those consistent with limiting global warming to well below two degrees (of temperature increase). Many of the climate-related disclosures to date, fail to adequately address the physical risks of climate

	change. This is important not simply for investors to understand the direct impacts on a listed entity's operations, but for all stakeholders to understand the broader impacts of unchecked climate change on the economy and the community at large. According to Professor Hans Joachim Schellnhuber, Director of the Potsdam Institute for Climate Impact Research and former climate adviser to the German Chancellor and the EU, the difference between two degrees and four degrees is human civilisation. Yet it is quite clear that few listed entities have confronted this reality, nor disclosed as much to their investors. Finally, it is imperative that climate-related disclosures do not become a "tick a box" exercise. We would like the ASX guidelines to provide commentary that encourages listed entities to show how their review of climate risks and opportunities, and scenario analyses, have impacted upon a companies decision making and capital expenditure, where appropriate.

ACCR welcomes the proposed changes and looks forward to improved disclosure by listed entities which we believe will be mutually beneficial to the company, its investors and the communities in which they operate.

Yours sincerely,

Dan Gocher and Brynn O'Brien, ACCR

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