

Attention:

ASX Corporate Governance Principles

6 May 2024

Thank you for the opportunity to provide a submission to the ASX Corporate Governance Council's consultation of the proposed fifth edition of the Corporate Governance Council Principles and Recommendations ("the Principles").

This submission responds to two key recommendations: **Recommendation 3.3** and **Recommendation 3.4**.

### About Us

Advisory Street Pty Ltd is an economics, public policy and stakeholder relations firm advising listed corporations, broader corporate, not-for-profit and government organisations.

We have advised a range of organisations in strengthening their stakeholder engagement and public policy position. This includes advising various financial service organisations including ASX listed regional banks such as Bendigo-Adelaide Bank, Bank of Queensland, Suncorp Bank and other organisations through the *Royal Commission into Misconduct in the Banking, Financial Services and Superannuation Industry*.<sup>1</sup>

Our Managing Director, Taleen Shamlian, is also an academic teaching stakeholder engagement and governance and public sector management to leaders in the Australian Public Service Commission and State Public Service Commissions.

As such, we provide our views and opinions having advised across the corporate, not-for-profit, government and academic sectors.

### Recommendation 3.3

We strongly support this recommendation which involves:

***A listed entity to have regard to the interests of the entity's key stakeholders, including having processes for the entity to engage with them and to report material issues to the board.***

We understand from the recent webinar by the ASX Corporate Governance Chair Elizabeth Johnstone that this recommendation represents the "greatest change" to the CG principles in since the fourth edition published 5 years ago.<sup>2</sup>

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<sup>1</sup> The views and opinions in this submission are those of the author and do not reflect the views of clients or employers to which Advisory Street Pty Ltd conducts its advisory services through.

<sup>2</sup> ASX Webinar 19 March 2024.

We support the Principles' broad approach to defining the potential stakeholder groups (such as employees, customers, suppliers, unions, and others) and avoid any prescription to this potential list. We consider each organisation should determine its key group of stakeholders rather than having it prescribed by the Principles or a regulator.

While organisations currently consider stakeholder perspectives as part of complying with Federal and State legislation in the external regulatory environment (for example, employees are protected and regulated under the work health and safety laws) recent organisational and industry crises have demonstrated that overreliance on shareholder primacy has undermined the short, medium and long term sustainability of the organisations by not comprehensively considering stakeholder interests.

Corporate failures including Qantas, Rio Tinto, the major banks, and the aged-care industry are recent examples where boards and management have focused too much on shareholders and profitability. Such organisations have seen shareholder value erode, fines and litigious actions, divestitures, increased regulation, loss of employee trust, boycotting of products, rage on social media and various other stakeholder reactions.

In this way, Recommendation 3.3 would complement, if not further strengthen, the current directors' duties to act in good faith and with the best interests of the organisation.

As the Principles note, an understanding of the stakeholder perspectives can inform decision-making throughout the organisation.

We support this view and emphasise the stakeholder perspectives should be integrated in three key areas:

- Organisational governance (developing the processes, systems, policies, resources and capabilities),
- Organisational strategy (at whole of organisational level), and
- Organisational management (e.g. at business unit level).

In our experience, the key benefits to stakeholder engagement include: understanding the market and operating environment, accessing capital and gaining investor confidence, risk management, generating understanding and trust, getting stakeholder-buy-in, building relationships with key organisations, having greater transparency in business practices, as a form of accountability, maintaining an organisation's 'social license to operate' and creating long-term value.

We consider the AICD's *Elevating Stakeholder Voices to the Board* (2021) as a valuable framework to establishing the governance and engagement with stakeholders. This framework provides both the key foundations, concepts, and process for organisation's to assess their stakeholder engagement progress and whether there are any gaps in their engagement.

Importantly, such frameworks are not inconsistent with the approach undertaken globally, for example in the UK<sup>3</sup>, or by the public sector in Australia. In these environments we see the interplay between stakeholders, relationships, shared and competing interests, limited resources, emergent networks, technologies and co-design are reshaping organisations against the backdrop of rising community or stakeholder expectations. Stakeholder governance challenges leaders to demonstrate and make decisions to address and find creative ways to meet stakeholder needs.

Ultimately, we believe that stakeholder relationships are a strategic asset to an organisation and should be treated in the same way as any other key assets (e.g. geographic footprint, premises, IT systems). As such, we believe that organisations should build the capabilities within their organisations to carry out these responsibilities effectively.

A general scan of the current ASX listings shows that somewhere between a quarter to one-third of the ASX have a stand-alone stakeholder engagement plan and framework. This does not include organisations that may integrate stakeholder engagement within their ESG and/or CSR reporting.

As such, we would advocate for the ASX Council to encourage listed entities to have a stand-alone Stakeholder Policy or Statement that articulates an organisation's stakeholder approach, as part of their corporate governance policies and constitution.<sup>4</sup> This would assist in greater transparency and accountability in applying stakeholder engagement in an organisation's governance.

We are strongly supportive of the Principles suggestion to include stakeholder consideration in board decision-making. We believe such an approach would greatly strengthen the culture and governance of listed entities. We currently believe that stakeholder perspectives in a board's decision-making is undertaken in a piecemeal way, where certain stakeholders are considered through board meetings, sub-committees or as part of regular discussions. We consider that a regular cadence in the board's consideration of stakeholder perspectives, for example, by having a standing agenda item for the board on stakeholder perspectives — would ensure that key decisions are undertaken through the eyes of the stakeholder.

### **Recommendation 3.4**

As a member of the [Race and Culture Coalition](#) we support their submission to the ASX CG Principles in relation to diversity and inclusion policies.

Corporate Australia is missing the opportunity to harness the power of diversity in Boardrooms and senior leadership, where strategic, long-term decisions are made. By not embracing 'diversity in all its forms' we are at risk of inhibiting our organisation's (and Australia's) ability to grow and successfully compete in an increasingly complex and globalised world.

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<sup>3</sup> Such as the UK's Institute of Chartered Secretaries and Administrators (ICSA) and the Investment Association "The Stakeholder Voice in Board Decision Making" or other stakeholder frameworks such as the AccountAbility, AA1000 Stakeholder Engagement Standard 2015 or International Association for Public Participation (IAP2) *Spectrum of Public Participation*.

<sup>4</sup> Examples include: CSL's Stakeholder Engagement and Material Topics

<https://www.csl.com/sustainability/governance/stakeholder-engagement-and-material-topics>

Or NAB's Stakeholder Engagement Plan at [https://www.nab.com.au/about-us/sustainability/reporting-policies-approach/stakeholder-engagement#:~:text=We%20aim%20to%20be%20respectful,our%20colleagues%20and%](https://www.nab.com.au/about-us/sustainability/reporting-policies-approach/stakeholder-engagement#:~:text=We%20aim%20to%20be%20respectful,our%20colleagues%20and%20)

As the evidence of multiple studies conclude, diverse leadership teams enable organisations to better serve and meet the needs of diverse customers, employees, communities and stakeholders. Diverse leadership teams also challenge ‘groupthink’ and blind spots in an organisation’s performance, thereby stewarding an organisation to be more innovative, relevant and resilient in an increasingly complex and globalised world.

Also as a society, Australia values inclusivity and fairness, and diverse leadership demonstrates a commitment to these values, signalling an inclusive culture for employees and enhancing an organisation’s reputation and its social license to operate with broader stakeholders. Without meaningful change, ASX listed entities risk disenfranchising stakeholders, who will increasingly start to hold ASX entities to account for the lack of diversity and meaningful representation in the Boardroom. For example, a study by the Australian LGBTQ+ Board and Executive Inclusion (ALBEI) Forum has revealed that 67 companies in the ASX 200 have a fully inclusive definitions of diversity for their workforce, but have not translated these expectations to their own Board.

Therefore, to realise the benefits of ‘diversity in all its forms’ in the governance of ASX listed entities, we recommend the following changes (which are supported in detail in the Race and Culture Coalition’s submission):

1. **Recommendation 2.3** needs to be more definitive and directive such that board diversity beyond gender is not seen as a convenience but rather as a fundamental requirement of good governance and effective board structure and values; and
2. **Recommendation 3.4** needs to drive the effectiveness of workforce diversity and inclusion practices through the setting of measurable and reportable objectives for diversity in all its forms.

Thank you again for this opportunity to contribute to the latest draft of the ASX Corporate Governance Principles.

Should you have any further points to clarify, please do not hesitate to contact me.

Your sincerely



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