

Q5.

A banner with a dark background featuring a glowing blue globe on the right side. The text is white and centered. A thin vertical blue line is on the left side.

ASX Corporate Governance Council *Principles and Recommendations* 5th Edition Consultation 2024

The ASX Corporate Governance Council has released the following [consultation materials for a 5th Edition of the Council's *Corporate Governance Principles and Recommendations* \(*Principles and Recommendations*\)](#):

- a communique
- *Background Paper and consultation questions*
- *Consultation Draft* of a proposed 5th Edition of the *Principles and Recommendations*
- a mark-up of the *Consultation Draft*, against the 4th edition of the *Principles and Recommendations*.

The *Background Paper and consultation questions* includes commentary for the individual consultation questions appearing in this online questionnaire.

Council members have been actively engaged, bringing their perspectives on how the 5th Edition might respond to current governance developments and challenges. Members do not hold identical views on all matters; some of those matters are the subject of specific consultation questions. The Council encourages your participation in this consultation process.

How to participate

Submissions to the Council may be made by the end of **Monday 6 May 2024**, via this ASX portal.

This portal will permit you to make a submission as an online questionnaire, or by uploading your submission in PDF or Word.

The online questionnaire includes multiple choice responses. You may also include additional comments for each consultation question (up to approx. 250 words per comment) and at the conclusion of the survey (up to approx. 1,000 words).

Your work in progress will be saved if you return to the survey in the same browser and device. You can download a copy of your submission, when completed.

Please note that you will be asked to confirm that you have not made another submission in this process.

Please press **Next** to participate in this consultation.

Q4. About you

These introductory questions will help us manage submissions.

If you would like your submission to be treated as confidential, please indicate this clearly. The Council may choose to publish submissions (in whole or in part) on the [ASX website](#), but will not do so where a submission is clearly marked confidential.

Q5. A. Is your submission confidential?

(Confidential submissions will be handled as set out above)

- Yes
- No

Q6. B. [Redacted]
(Required fields are marked with *)

[Redacted]	[Redacted]
[Redacted]	[Redacted]
Organisation (if applicable)	Equity JV
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

Q48. C. Please confirm on whose behalf you are making this submission.

- On behalf of my organisation
- On my own behalf

Q7. D. Please choose one category which best describes the capacity in which you are making this submission

- ASX market retail investor
- ASX market institutional investor
- S&P/ASX300 listed entity
- Other ASX listed entity
- Non-executive director: S&P/ASX300
- Non-executive director: other ASX listed entity
- Professional adviser (please specify)
- Industry association
- Academic
- ASX Corporate Governance Council member
- Other ASX market stakeholder (please specify)
- Other stakeholder (please specify)

Q49. E. Please confirm that you have not made another submission in this process.
(Only one submission will be accepted)

Yes, this is my only submission

No, I have made another submission (Note: This will conclude this questionnaire.)

Q9. Submission process

Q10. F. Would you like to complete this online questionnaire or upload your submission?

I would like to complete this online questionnaire

I would like to upload my submission

Q8. Please upload your submission here, in PDF or Word.

(Once you attach your submission and press *Next*, this will conclude and record your response.)

This question was not displayed to the respondent.

Q11. Reducing regulatory overlap

Q13. 1. Do you support deletion of the following 4th Edition Recommendations, on the basis that there is significant regulation under Australian law?

	Support deletion	Mostly support deletion	Do not support deletion	No comment
a. Recommendation 3.4 (disclosure of anti-bribery and corruption policy)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
b. Recommendation 4.2 (CEO and CFO declaration for financial statements)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
c. Recommendation 6.4 (substantive security holder resolutions on a poll)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
d. Recommendation 6.5 (offering electronic communications to security holders)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
e. Recommendation 8.2 (separate disclosure of remuneration policies for non-executive directors, other directors and senior executives)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
f. Recommendation 8.3 (policy on hedging of equity-based remuneration)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Q43. Your comments.

Q17. 2. In particular, the Council encourages feedback on the proposed deletion of Recommendation 3.3 (disclosure of whistleblower policy). Would you prefer to retain this Recommendation?

- Support retention
- Mostly support retention
- Do not support retention
- No comment

Q44. Your comments.

Q15. Board skills

Q51. 3. Recommendation 2.2: The Council already recommends disclosure of a board skills matrix or skills a board is looking for. Do you support disclosure of the following information about board skills?

	Yes	Yes in principle, but...	No	No comment
a. Recommendation 2.2(a): current board skills and skills that the board is looking for?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Recommendation 2.2(b): the entity's process for assessing that the relevant skills and experience are held by its directors?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Q16. Your comments.

Will still find disparity between entities. Stakeholders can look at director biographies and assess if their skills are disclosed. A better aim would be improved detail of director careers in the Annual Report.

Q18. Diversity

Q19. 4. Recommendation 2.3: Women hold approximately 35% of all S&P/ASX300 directorships. This exceeds the existing measurable objective of at least 30% of each gender for those boards.

Do you support raising the S&P/ASX300 measurable objective to a gender balanced board?

- Yes
- Yes in principle, but...
- No
- No comment

Q55. Your comments.

This statistic is positive however: 1) ASX 200-300 boards are typically smaller so this skews their actual commitment to having women on boards: 1 female director on a 3 director board = 30% but this is not the same as 3 female directors who are members of a 10 member ASX 50 board, but is also 30%. 2) AICD Feb 2024 statistics show some ASX 300 boards have no female directors 3) Without more women on boards, especially on those companies with smaller boards, then there will continue to be a small number (12%) of female chairs on ASX 100 boards. 4) Female chairs will play a more distinct role in recruiting further female directors 5) Female chairs will be good role models for aspiring females who aspire to be directors or chairs on non- commercial and unlisted boards as well. 6) It is only recently that this statistic of female directors has been achieved. Requiring a continued increase will send a strong signal to boards that this is not a passing fad of the ASX. ASX 200 and 300 companies are subject to turnover of directors their boards may feel "the pressure is off" given there is no penalty (apart from disclosure) for failing to achieve the current % goal of female directors.

Q20. 5. Recommendation 2.3(c): The Council already recommends disclosure of a board's approach and progress on gender diversity.

Do you support the proposed disclosure of any other relevant diversity characteristics (in addition to gender) which are being considered for the board's membership?

- Yes
- Yes in principle, but...
- No
- No comment

Q56. Your comments.

This information may breach privacy of directors and thus be not uniformly disclosed to be significant.

Q21. 6. Recommendation 3.4(c): The Council already recommends disclosure of an entity's diversity and inclusion policy and disclosure of certain gender metrics.

Do you support the proposal to also recommend disclosure of the effectiveness of an entity's diversity and inclusion practices?

- Yes
- Yes in principle, but...
- No
- No comment

Q57. Your comments.

ASX Governance Principles include Principle 3 to strengthen company culture, and recommendation 3.4 to achieve gender diversity at board level and in the workforce. A review of the quality of reporting conducted by KPMG (Review of company disclosures Jan 2021 - December 2021) indicates regression and stagnation as far as disclosures and proportion of women in the workforce. From WGEA research on the impact of disclosing the gender pay gap (i.e. it forced change), it appears that requirements, goals and metrics will not be monitored and change not achieved if their effectiveness i.e. progress is not to be disclosed. To assess "effectiveness", investors need disclosure. For example, the board must disclose the strategy to achieve these "measurable objectives". Such a disclosure would include details regarding which objectives are monitored by the board, how often progress is reported to the board, what performance indicators are in place to monitor the progress of these objectives, and if these objectives are linked to the remuneration of the CEO and senior executives. Likewise "effectiveness" should be verified in the same way as all statements and numeric measures of performance i.e. the audit committee verifies disclosures regarding gender metrics, and diversity & inclusion, and all statements made in sustainability and annual reports.

Q22. **Independence of directors**

Q23. **7. Recommendation 2.4: Do you support increasing the security holding reference included in Box 2.4 (factors relevant to assessing the independence of a director) from a substantial holder (5% or more) to a 10% holder (10% or more)?**

- Yes
- Yes in principle, but...
- No
- No comment

Q58. Your comments.

Q24. **Corporate conduct and culture**

Q25. **8. Recommendation 3.2(c): The Council already recommends that a listed entity should have a code of conduct and report material breaches of that code to its board or a board committee.**

Do you support the proposed disclosure (on a de-identified basis) of the outcomes of actions taken by the entity in response to material breaches of its code?

- Yes
- Yes in principle, but...
- No
- No comment

Q70. Your comments.

Q26. **Stakeholder relationships**

Q27. **9. Principle 3: Do you support the proposed amendments to Principle 3 (acting lawfully, ethically and responsibly), to include references to an entity's stakeholders?**

- Yes
- Yes in principle, but...
- No
- No comment

Q59. Your comments.

Q28. **10. Recommendation 3.3: Does this new Recommendation appropriately balance the interests of security holders, other key stakeholders, and the listed entity?**

“A listed entity should 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.”

- Yes
- Yes in principle, but...
- No
- No comment

Q60. Your comments.

Q29. **Periodic corporate reports and assurance**

Q30. 11. Recommendation 4.2: Do you support the proposed disclosure of processes for verification of all periodic corporate reports (including the extent to which a report has been the subject of assurance by an external assurance practitioner)?

- Yes
- Yes in principle, but...
- No
- No comment

Q61. Your comments.

Supports investor transparency and good corporate practice

Q31. 12. Recommendation 4.3: Do you support the proposed disclosure of an entity's auditor tenure, when the engagement was last comprehensively reviewed and the outcomes from that review?

- Yes
- Yes in principle, but...
- No
- No comment

Q62. Your comments.

Q32. Management of risk

Q35. 13. Recommendation 7.4: The Council is seeking to enhance the quality of existing reporting of material risks to an entity's business model and strategy, such as in the operating and financial review in its directors' report.

Do you support the proposal that the entity identify and disclose its material risks, rather than identifying specific risks for all entities to disclose against?

- Yes
- Yes in principle, but...
- No
- No comment

Q64. Your comments.

A review of the quality of reporting conducted by KPMG* indicates regression and stagnation as far as disclosures and proportion of women in the workforce. Given Recommendation 3.4 to achieve gender diversity in the entity's board and workforce, we recommend gender equality be specifically identified as a material risk to disclose against. Failure to identify gender equality as a material risk that must be disclosed will impact the achievement of almost all recommendations in the consultation document as well as significantly weaken all Governance Principles, (with possibly less impact on Principle 6). Gender equality is a strategic driver of performance so gender equality must be treated strategically and identified as a material risk. Failure to disclose against the risk of gender inequality can lead to low compliance with workplace regulations, a widening gender pay gap, employment discrimination cases and low productivity due to higher turnover, as well as harassment and bullying due to a poor corporate culture. Through a pure risk lens, inequality materially impacts operational, regulations, and reputational outcomes. All negative outcomes could result in legal liability for directors. The KPMG report* notes the under-reporting of exposure to social and environmental risks. We note "social risks" per-se do not include material Gender Equality risk to an entity and neither does Modern Slavery Reporting. We only support disclosure of ESG risks where gender equality is noted as a specific material risk requiring specific disclosure. This will put gender equality on par with Modern Slavery Reporting even though gender is a universal risk factor for all companies, a risk to governance, to all employees, and to all of society. *<https://kpmg.com/au/en/home/insights/2022/06/asx-corporate-governance-principles-recommendations.html>

Q36. Remuneration

Q37. 14. Recommendation 8.2: This proposed Recommendation reflects and simplifies existing commentary in the 4th Edition.

Do you support this proposed Recommendation that non-executive directors not receive performance-based remuneration or retirement benefits?

- Yes
- Yes in principle, but...
- No
- No comment

Q65. Your comments.

Q40. 15. Recommendation 8.3: Do you support the following proposed clawback Recommendations?

	Yes	Yes in principle, but	No	No comment
a. Recommendation 8.3(a): remuneration structures which can clawback or otherwise limit remuneration outcomes for senior executive performance-based remuneration?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Recommendation 8.3(b): disclosure of the use of those provisions (on a de-identified basis) during the reporting period?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q66. Your comments.

Q41. **Additional Recommendations that apply only in certain cases**

Q42. **16. Do you support the inclusion of the following new Recommendations for entities established outside Australia, on the basis that these Recommendations generally reflect expectations under Australian law?**

	Yes	Yes in principle, but...	No	No comment
a. Recommendation 9.3 (CEO and CFO declaration for financial statements)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Recommendation 9.4 (substantive security holder resolutions on a poll)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
c. Recommendation 9.5 (offering electronic communications to security holders)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Recommendation 9.7 (policy on hedging of equity-based remuneration)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Q71. Your comments.

Q43. **Externally managed entities**

Q44. **17. Should any new or amended Recommendations in the *Consultation Draft* apply differently to externally managed entities, compared to the manner proposed in *The application of the Recommendations to externally managed listed entities*?**

- Yes
- Yes in principle, but...
- No
- No comment

Q68. Your comments.

Q45. **Effective Date**

Q46. **18. Do you support an effective date for the Fifth Edition of the first reporting period commencing on or after 1 July 2025?**

- Yes
- Yes in principle, but...
- No
- No comment

Q69. Your comments.

Q46. **Other comments**

19. Do you wish to provide any other comments on the content of the Consultation Draft, including any other changes you would propose? (**Approx. 1,000 word limit**)

Location Data

[Redacted]

Source: GeoIP Estimation

[Redacted]

