



Law Council
OF AUSTRALIA

Climate-related financial disclosure: exposure draft legislation

Treasury

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Executive Summary

1. This submission concerns the *Treasury Laws Amendment Bill 2024: Climate-related financial disclosure* (the **Exposure Draft**).¹ It builds on the Law Council's earlier submissions to Treasury's consultation process, dated 2 March and 2 August 2023.² These earlier submissions identified overarching issues with the Australian Government's reform process, its development of its base proposals, and timeframes.
2. The Law Council supports the introduction of mandatory climate-related financial disclosure (**CRFD**) laws in Australia, drafted to align with the IFRS S2.³
3. The Law Council's Climate Change Policy, adopted in 2021,⁴ endorses rapid and widespread action on the part of governments, regulators, and the private sector, to combat the effects of human-induced climate change. The Policy emphasises that climate action, including the development and implementation of robust mitigation and adaptation measures, must be based on the rule of law and principles of a just transition. It recognises the important role that lawyers have in advising different industries, actors, and clients, on the legal implications of climate-related risks and opportunities, and transition to a zero-carbon economy.
4. CRFD laws must be carefully calibrated to Australia's domestic context to be effective and worthwhile. Pragmatism is needed, considering:
 - (a) the complexity of Australia's existing legal framework for corporate disclosure;
 - (b) the likely impact of the laws (including penalties) on the behaviour of captured entities;
 - (c) the maturity of the systems and processes needed to produce and verify reliable CRFD, including in audit and assurance; and
 - (d) the need to achieve disclosure that is accurate, concise, and consistent with international standards. This will ensure that investors and other users can easily navigate the information made available and that captured entities can comply without undue cost or complexity.
5. This submission identifies three key issues that, in the Law Council's view, require further consideration. They concern:
 - (a) **The scope of the CRFD regime**, and in particular its application to Group 3 entities. The Law Council is concerned that the CRFD regime may capture more entities than the Treasury modelling, described in the Policy Impact Analysis (**PIA**),⁵ shows. If the population of Group 3 entities is larger than intended, Treasury may wish to lift the thresholds to match other reporting regimes: for example, the Payment Times Reporting Scheme and Modern Slavery Reporting.

¹ Australian Government, Treasury, *Climate-related financial disclosure: exposure draft legislation* ([online](#), 12 January 2024) (**Exposure Draft**).

² Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure* ([online](#), 2 March 2023); *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023).

³ International Financial Reporting Standards (**IFRS**) S2 *Climate-related disclosures* (**IFRS S2**) as issued by the International Sustainability Standards Board (**ISSB**) ([online](#), 2023).

⁴ Law Council of Australia, *Climate Change Policy* ([online](#), 27 November 2021).

⁵ Australian Government, Treasury, *Policy Impact Analysis: Climate-related financial disclosures* ([online](#), September 2023) (**PIA**).

- (b) **The form of the directors' declaration.** The Law Council considers that, until the systems and processes needed to produce and verify reliable CRFD mature to the point where the production of an audit report is possible (currently expected in the financial year beginning on or after 1 July 2030), a modified form of directors' declaration should be adopted.
- (c) **The limited immunity.** In order to encourage high-quality CRFD in the early years, the Law Council considers that the limited immunity should be expanded: to cover all forward-looking statements; to apply to each captured entity's first three sustainability reports; to cover statements made in other corporate documents that are derived from the sustainability report; to strict liability criminal offences; and to limit the civil remedies available to the Australian Securities and Investments Commission (**ASIC**) to declarations and injunctions.

Captured entities

Definition of 'entity'

6. The Exposure Draft does not define 'an **entity**', despite this term being essential to the meaning and operation of section 292A.⁶
7. Subsection 1705(2) does define 'an **applicable entity**' for the purposes of section 1705.
8. The definition of 'an **entity**' ought to specify the same types of entities as subsection 1705(2) presently does. That is: 'a company, disclosing entity, registered scheme or registrable superannuation entity'.⁷ This would also align the definition of 'an **entity**' with the wording used in section 285 of the *Corporations Act 2001* (Cth), and elsewhere in Chapter 2M.⁸
9. It would be clearer to define an **entity** in this manner, and then amend section 1705 to refer back to this broader definition.

Recommendation

- **The Exposure Draft should define an *entity* as 'a company, disclosing entity, registered scheme or registrable superannuation entity'.**
- **The same definition of 'an *applicable entity*' in subsection 1705(2) should be removed, and section 1705 should be amended as necessary to refer back to this broader definition of 'an *entity*'.**

The number of captured entities

10. The PIA shows that Treasury expects that approximately 1800 entities will be captured and required to prepare a sustainability report under the new provisions. This is said to include:
 - 729 Group 1 entities;
 - 755 Group 2 entities; and
 - 278 Group 3 entities (out of a possible 4555 Group 3 entities).⁹
11. These estimates are based on 2021 data and are 'a minimum'.¹⁰ Members of the Law Council's Business Law Section expect that the actual number of captured entities may be significantly larger.
12. The PIA assumes 'that only 5 per cent of Group 3 companies (278 entities¹¹) have material climate risk and would be required to report',¹² but does not explain how this estimate was arrived at. Further, it is not correct that only those companies with material risk are required to report. Under the Exposure Draft, the exemption for

⁶ Cf *Corporations Act 2001* (Cth), Ch 2M, Pt 2M.3, s 292(1), which specifically lists: all disclosing entities, public companies, large proprietary companies, registered schemes, and registrable superannuation entities. See also Ch 2M, Pt 2M.2, s 286, which specifies 'a company, registered scheme, registrable superannuation entity or disclosing entity'.

⁷ Exposure Draft, s 1705(2).

⁸ See above n 6.

⁹ PIA, 20, 26, 27.

¹⁰ Ibid, 20, 27.

¹¹ This may be a typographical error in the PIA, as 5 per cent of 4555 is 228 not 278 entities.

¹² PIA, 26, 27.

Group 3 entities with non-material climate risks and opportunities will affect the content of the climate statements in a sustainability report, but not the requirement to provide a report or to keep records.¹³

13. Some entities, including some with non-material climate risks and opportunities, will also not know until the end of the financial year whether they fall into Group 3, or whether they will reach the size threshold for Group 2. This means that all potential Group 3 entities will need to keep records, and some will need to prepare for the possibility of providing the full content of the climate statements. Therefore, a significant compliance burden will still fall on the entirety of Group 3: at least 4555 entities, if Treasury's estimates are correct.

Recommendation

- **The basis on which the number of captured entities has been calculated should be clarified and, if the scope is wider than intended, consideration should be given to raising the reporting threshold to align with other reporting frameworks such as the Payment Times Reporting Scheme and Modern Slavery Reporting.**

¹³ Exposure Draft, 296B(1)(b): 'The climate statements for the year are a statement of the matters mentioned in paragraph (a) of this subsection'. The effect is that the entity still needs to provide climate statements (as well as the other contents of a sustainability report required under section 296A, including the directors' declaration about the statements). But the content of the statements is curtailed to only require the entity to state that it does not face material climate risks and does not have material climate opportunities (s 296B(1)(a)).

Directors' declarations

Declaration in proposed section 296A(6)(a)

14. The declaration proposed by paragraph 296A(6)(a) is inapposite and should be deleted.¹⁴

Declaration in proposed section 296A(6)(b)

15. Under Exposure Draft paragraph 296A(6)(b), directors must declare whether, in the directors' opinion, the climate statements, the statements mentioned in paragraph 296A(1)(c), and the notes to the climate statements, are in accordance with the Act, including sections 296C (compliance with sustainability standards, etc.) and 296D (climate statement disclosures).
16. A statement of opinion carries with it a representation that the opinion is honestly held and that the person expressing it has reasonable grounds for it.
17. Directors are required to make a similar declaration in relation to an entity's financial report. In making that declaration, directors have regard to factors that include the auditor's report and (for listed companies) assurance provided by the CEO and CFO. More broadly, they rely on their own knowledge of the entity's affairs and on the internal and external systems and processes that provide objective assurance as to the robustness of the information reported. These systems and processes are the reasonable grounds upon which directors form their opinion.
18. Under the Exposure Draft, an auditor's report is not required until 1 July 2030 (FY31).¹⁵ The Law Council understands that Treasury heard (during the consultation process) that auditors will not have available to them the systems, staff and processes needed to carry out an audit of the sustainability report until then,¹⁶ and has modified the audit and assurance obligations accordingly.¹⁷ But, despite being dependant on the same or similar systems and processes for CRFD in forming their opinion as auditors are, directors are required to make the declaration in paragraph 296A(6)(b) from a captured entity's first reporting period.¹⁸
19. The Law Council is concerned that the Exposure Draft requires directors to make the declarations without yet having reasonable grounds—in the form of robust systems and processes that would enable the formation of an audit opinion to the same effect—to do so.
20. One option is to require the directors' declaration only when an auditor's report on the sustainability report is available, and the capacity building complete.¹⁹

¹⁴ The Explanatory Memorandum does not explain the intended purpose or operation of paragraph 296A(6)(a). The Australian sustainability standards are intended to align with the international standards (the IFRS S2), as adapted to the domestic legal framework. Proposed paragraph 296A(6)(b) already requires directors to declare compliance with the Australian sustainability standards.

¹⁵ Exposure Draft, s 301A.

¹⁶ See, eg, PIA, 36, 38.

¹⁷ Exposure Draft, s 301B: between FY25 and FY31, auditors only need to conduct a review (a kind of negative assurance, where auditors are attesting whether they are aware of any matter that points to non-compliance (s 309A(3)-(4)) and only in relation to climate statements on scope 1 and scope 2 emissions.

¹⁸ There is little leeway in the content that directors are being asked to certify here. In an entity's first reporting period, unless section 296B applies to the entity, its sustainability report must include all subsection 296D(1) disclosures except those relating to the quantity of scope 3 emissions: Exposure Draft, ss 296D(3)-(4).

¹⁹ See PIA, 38.

21. Alternatively, the Exposure Draft could be amended to require a more limited directors' declaration in the interim. For example, the directors could be asked to make the declaration only in relation to the matters for which review is available under section 301B. Another option (during the interim) is for directors to declare that, in their opinion, the entity has taken reasonable steps to ensure that the sustainability report is in accordance with this Act, including sections 296C (compliance with sustainability standards etc.) and 296D (climate statement disclosures).

Recommendation

- **Paragraph 296A(6)(a) should be deleted from the Exposure Draft.**

Recommendation

- **The directors' declaration in paragraph 296A(6)(b) should be modified to take account of acknowledged capacity constraints.**
 - **Option 1 is not to require the directors' declaration until FY31.**
 - **Option 2 is to amend paragraph 296A(6)(b) to require a declaration for each year before FY31 'whether, in the directors' opinion, the entity has taken reasonable steps to ensure that the climate statements, the statements mentioned in paragraph (1)(c), and the notes to the climate statements are in accordance with this Act, including sections 296C (compliance with sustainability standards etc.) and 296D (climate statement disclosures)'.**

Liability arrangements

22. It is important that the liability settings are carefully calibrated so as to avoid defensive or prolix disclosure.

Limited immunity in proposed section 1705B

23. The limited immunity provision in section 1705B is more narrowly framed than was indicated in consultation. The Law Council considers that:
- (a) The limited immunity should be extended to each entity for the first three sustainability reports, that is:
 - (i) for Group 1 entities for FY25, FY26 and FY27;
 - (ii) for Group 2 entities for FY27, FY28 and FY29; and
 - (iii) for Group 3 entities for FY28, FY29, and FY30.
 - (b) The limited immunity should apply to all forward-looking statements, not just statements 'about' scope 3 emissions or scenario analyses.
24. As drafted, the limited immunity only applies to statements 'made in a sustainability report'. This is confirmed in the Note following the subsection: 'This subsection does not apply to a statement made other than in a sustainability report (even if such a statement is also made in a sustainability report)'.
25. The effect is that communications made outside a sustainability report will not be protected by the limited immunity provision. The Law Council is concerned that this will be unworkable in practice.
26. It will be the case that forward-looking statements made in a sustainability report will trigger related disclosures in other contexts and locations, such as in the case of continuous disclosure or within a prospectus. The rationale for excluding forward-looking statements from liability for a period is that such statements are inherently uncertain, relying on information that entities are not presently equipped to assure.²⁰ This remains the case whether such statements are made solely in a sustainability report, or also elsewhere. It is incongruent that forward-looking statements made in related disclosures, which are required by law, should not receive the same protection as the same statements made in a sustainability report.
27. The limited immunity provision will also not cover public statements made voluntarily in summaries and explanations about the Annual Report, such as on a company's website, in a CEO's address, or in a Chair's address, for example. It would be prudent for entities to not discuss scope 3 emissions or scenario analysis at all outside their sustainability report. But investors may find this an unhelpful and, potentially, unacceptable, state of affairs. (For example, if a CEO felt compelled to refuse to answer questions about forward-looking statements and to instead refer investors to merely read the sustainability report.) This circumstance may also have the undesirable effect of exposing entities to accusations of 'green hushing'.

²⁰ See, eg, PIA, 36, 38.

28. The Law Council recommends that section 1705B be amended in order that forward-looking statements made in a sustainability report within a particular timeframe are also granted limited immunity when made outside the sustainability report in that same timeframe.
29. As the Law Council raised in its submission dated 2 August 2023, clarification is also required as to whether the protection will apply in circumstances where a misleading statement was made within the limited immunity timeframe, but remained uncorrected outside this timeframe. Under subsection 647(2) of the Corporations Act, for example, a failure to correct a misstatement can, in and of itself, constitute a breach of the continuous disclosure obligation where it was likely to influence investor decisions.²¹

Recommendation

- **The limited immunity provision should apply to each entity’s first three sustainability reports.**
- **The limited immunity provision should apply, not only to forward-looking statements made in a sustainability report, but also when those same statements are made outside the sustainability report within the limited immunity timeframe.**
- **Clarification is also required with respect to misleading statements made within the limited immunity timeframe that remain uncorrected once the timeframe ends.**

Civil proceedings brought by ASIC

30. The Law Council maintains the recommendation in its earlier submissions that the law applicable to forward-looking statements should be tested for a period without draconian consequences.²²
31. In the civil jurisdiction, this includes without the potential for pecuniary penalties. ASIC should be restricted to bringing civil proceedings where the only remedy sought in connection with the action is a declaration or injunction.²³
32. The Law Council also considers the construction of subparagraph 1705B(3)(c)(i) to be unworkable in the context of the Corporations Act. Relying on the concept of ‘fault element’ provisions in civil proceedings will be unclear because the Corporations Act does not contain a definition of this concept.
33. One might assume that ‘fault element’ in this context would be interpreted by a court by reference to the list in subsection 1317QB(1) of the Corporations Act or by reference to the Criminal Code.²⁴ But this is not known.
34. Subsection 1317QB(1) of the Corporations Act appears to create a presumption that a civil penalty provision does not have a ‘fault element’ (neither ‘intention’, ‘knowledge’, ‘recklessness’, ‘negligence’, nor ‘any other state of mind’ need to be proved in proceedings for a contravention of such a provision).²⁵

²¹ Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023) 23-24.

²² Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure* ([online](#), 2 March 2023); *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023).

²³ See Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023) 22.

²⁴ *Criminal Code Act 1995* (Cth), Schedule—The Criminal Code (the **Criminal Code**).

²⁵ Corporations Act, s 1317QB(1).

Subsection 1317QB(4), however, preserves this idea of a ‘fault element’ where the provision (or a provision that relates to it) ‘expressly provides otherwise’.²⁶ Determining whether a civil penalty provision has a ‘fault element’, in accordance with subparagraph 1705B(3)(c)(i) of the Exposure Draft, will therefore require an interpretation of the specific wording of the civil penalty provision (or a provision that relates to it), which interpretation can be ambiguous.

35. This ambiguity can be illustrated by using subsection 344(1) of the Corporations Act as an example.²⁷ Whether subparagraph 1705B(3)(c)(i) prevents ASIC from bringing civil penalty provisions for a contravention of subsection 344(1) will turn on whether ‘failure to take all reasonable steps’ is a ‘fault element’. There is a good argument that these words are not a ‘fault element’ because: the conduct (failure to perform an act) is a ‘physical element’ and the provision does not stipulate whether a person, in failing to take the reasonable steps, needed to have acted intentionally, recklessly, dishonestly, or negligently. That conclusion is supported by the fact that subsection 344(2) of the Corporations Act, which is the criminal provision, has added an element that is clearly a ‘fault element’ (dishonesty). On the other hand, it is also arguable that subsection 344(2) does contain a ‘fault element’ in that the ‘failure to take all reasonable steps’ begins to approach the concept of recklessness in Division 5.4 of the Criminal Code. This is because the specific failure to take a reasonable step might compel the conclusion that the person was wilfully blind to the possibility and the substantial risk of non-compliance.
36. Further uncertainties with proposed subparagraph 1705B(3)(c)(i) arise in the context of the Corporations Act’s continuous disclosure obligations. The *Treasury Laws Amendment (2021 Measures No 1) Act 2021* (Cth) requires a review of the changes to continuous disclosure that introduced a ‘fault element’ into those provisions (and the misleading and deceptive conduct provisions where these overlap).²⁸ In the meantime, it is unclear whether these provisions will continue to contain a ‘fault element’.
37. For these reasons, the Law Council recommends that subparagraph 1705B(3)(c)(i) be deleted from the Exposure Draft.
38. This would be the neatest solution. It is more appropriate to apply the concept of a fault element in the criminal jurisdiction. Under subsection 1705B(2) of the Exposure Draft, ASIC (or the Commonwealth Director of Public Prosecutions) retains the ability to bring criminal proceedings.
39. In the alternative, Treasury could attempt to remove the ambiguity from the legislation by amending the Exposure Draft to better define the concept of ‘a provision of a law of the Commonwealth that has a fault element’ within the context of the Corporations Act. This might be achieved through:
 - defining the concept by reference to a description of conduct of a particular character (for example, ‘conduct where there is evidence of fault’), as opposed to reference to a provision; or
 - defining the concept by reference to the Criminal Code; or
 - listing the specific provisions of the Corporations Act under which Treasury is proposing that ASIC will still be entitled to bring civil claims proceedings.

²⁶ Corporations Act, s 1317QB(4).

²⁷ See Corporations Act, Part 2M.7, s 344.

²⁸ See Law See Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023) 23, fn 53.

40. Should such an alternative be preferred, subsection 1705B(3)(c) should be amended to read: '*both* of the following are satisfied'.²⁹ This reflects the Law Council's view that ASIC should be restricted to civil proceedings seeking an injunction or declaration: see above.

Criminal proceedings

41. The limited immunity should preclude criminal prosecutions for strict liability offences.

Recommendation

- **During the limited immunity period, ASIC should only be able to commence civil proceedings where the remedy sought is an injunction or declaration. That is, subparagraph 1705B(3)(c)(i) should be deleted.**
- **Criminal proceedings of strict liability should also be covered by the limited immunity provision. That is, subsection 1705B(2) should only apply to criminal proceedings involving fault-based offences.**

²⁹ Emphasis added. That is, the words 'either or' be deleted from 'either or both of the following are satisfied': Exposure Draft, s 1705B(3)(c).

Other matters concerning disclosure

Standalone sustainability report

42. The Law Council supports CRFD being a standalone component of an entity's annual report.³⁰

Concept of 'Climate Statements'

43. CRFD is built on the concept of 'climate statements'. The Exposure Draft defines 'climate statements' by reference to sections 296A and 296B.³¹ Subsection 296A(2) then states that 'the climate statements for the year are the climate statements in relation to the entity required by the sustainability standards'. However, the exposure draft of the sustainability standards currently contains no reference to 'climate statements'.³²
44. It is therefore unclear whether 'climate statements' mean more than what is currently outlined in sections 296A to 296D of the Exposure Draft. It is particularly unclear whether the disclosures required by section 296D are only a portion of the disclosures that will be required to comply with the sustainability standards per section 296C. This ambiguity needs to be clarified.

Definition of 'Scope 3 Emissions'

45. The Exposure Draft locks the definition of 'scope 3 emissions' to an international standard as it exists when the Australian legislation commences.³³ This international standard may change over time. Presumably, reference to the international standard is used because no definition presently exists under Australian law (the Law Council notes that 'scope 3 emissions' is not defined in the *National Greenhouse and Energy Reporting Act 2007* (Cth) or the *Climate Change Act 2022* (Cth)). Presumably, also, the intention is that the Australian Government will monitor updates to this international standard and determine whether the Corporations Act definition ought to be updated in turn. However, this is unclear. It would be clearer and neater if the Exposure Draft provided a definition without reference to external materials.

Matters concerning environmental sustainability

46. The Exposure Draft would allow the Minister, by legislative instrument, to require that a sustainability report include statements,³⁴ or other specified disclosures,³⁵ relating to environmental sustainability matters. As noted by the Office of Parliamentary Counsel, 'legislative instruments are required to be tabled in Parliament and are normally disallowable',³⁶ which provides some safeguard against Executive overreach. However, it is also accepted that Executive law-making should be carefully controlled and constrained: 'the essential theory of delegated legislation is that while the Parliament deals directly with general principles, the Executive, or other body

³⁰ See Law Council of Australia, Submission to Treasury, *Climate-Related Financial Disclosure: Second Consultation* ([online](#), 2 August 2023) 6, 16.

³¹ Exposure Draft, s 9.

³² Australian Government, Australian Accounting Standards Board, *Australian Sustainability Reporting Standards—Disclosure of Climate-related Financial Information* (AASB Sustainability Reporting Exposure Draft, ED SRI, October 2023, [online](#)).

³³ Exposure Draft, s 9.

³⁴ Exposure Draft, s 296A(3).

³⁵ Exposure Draft, s 296A(5)(c).

³⁶ Australian Parliament, Office of Parliamentary Counsel, *Frequently Asked Questions* ([webpage](#)).

empowered to make subordinate legislation, attends to matters of administration and detail'.³⁷

47. The Exposure Draft is the outcome of a consultation process that considered CRFD. This was in the context of developing an Australian framework aligned with the International Sustainability Standards Board's IFRS S2, which is distinct from its broader IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information (IFRS S1)*.
48. Expanding the reporting requirements beyond climate matters to broader environmental sustainability matters would be a significant change to the character of the mandatory CRFD framework proposed to stakeholders to date. As it would alter the disclosures that entities are required to make under Australian legislation, it is not a mere matter of 'administration and detail' and should accordingly be left to primary legislation.
49. The Law Council accepts that the global direction of corporate and financial disclosures is expanding. But it encourages the Australian Government, should it wish to further expand the scope of Australia's disclosure laws, to conduct a formal consultation process with expert stakeholders. Government should carefully canvass the development of new sustainability standards aligned with the IFRS S1 prior to implementation. As with the current IFRS S2-aligned reforms, such proposals need to be carefully thought through, and implications across Australia's broader corporate and financial services laws carefully mapped.

Recommendation

- **Any expansion of the sustainability reporting and record-keeping requirements beyond climate matters is most appropriately dealt with in primary legislation and should follow a standalone formal consultation process. Subsection 296A(3) and paragraph 296A(5)(c) should therefore be deleted from the Exposure Draft.**

Other matters

50. The Law Council has identified the following typographical errors requiring correction:
 - Item 23 of the Exposure Draft—at the top of page 9 of the Exposure Draft, *(b) the directors' declaration about the statement and the notes* is misnumbered. It should read **(d)**.
 - Repeated throughout the Exposure Draft—several references to 'statements mentioned in paragraph 292A(1)(c)' should read 'paragraph 29**6**A(1)(c)'.

³⁷ 'Chapter 15—Delegated legislation, scrutiny and disallowance' in *Odgers' Australian Senate Practice* (Parliament of Australia, [online](#)).

About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 90,000 Australian lawyers.

The Law Council is governed by a Board of 23 Directors: one from each of the Constituent Bodies, and six elected Executive members. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President who normally serves a one-year term. The Board of Directors elects the Executive members.

The members of the Law Council Executive for 2024 are:

- Mr Greg McIntyre SC, President
- Ms Juliana Warner, President-elect
- Ms Tania Wolff, Treasurer
- Ms Elizabeth Carroll, Executive Member
- Ms Elizabeth Shearer, Executive Member
- Mr Lachlan Molesworth, Executive Member

The Chief Executive Officer of the Law Council is Dr James Pople. The Secretariat serves the Law Council nationally and is based in Canberra.

The Law Council's website is www.lawcouncil.au.

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