11 September 2025

Productivity Commission
GPO Box 1428
Canberra City ACT 2601
By email: 5pillars@pc.gov.au

Dear Commissioners,

Submission: Creating a more dynamic and resilient economy

The Australian Investment Council (the Council) welcomes the opportunity to provide feedback on the Productivity Commission's (PC) interim findings in its *Creating a More Dynamic and Resilient Economy* pillar report.

The Council is broadly supportive of the direction of the draft recommendations, particularly the emphasis on strengthening regulatory practice, including through better embedding of regulatory standards via the work of the Office of Impact Analysis (OIA).

In summary:

- **Corporate tax reform must proceed with caution, with clarity on the destination.** Interim thresholds can help manage transition to a future optimal state, but design choices during the transition must avoid distorting capital away from productive investment. The PC should also outline its view of an optimal end-state for corporate tax reform, which could help bolster support for the transition phase.
- **The PC's proposed regulatory framework embeds best practice, but near-term relief is critical.** Stronger Cabinet oversight and a more empowered OIA are welcome but should be coupled with immediate steps to reduce the current stock of regulation, including options such as a short-term moratorium on new regulations to free up resources for growth.
- **RG97 and Your Future, Your Super are priority candidates for review.** Longstanding ASIC Regulatory Guidance such as RG97 functions like regulation but has lacked government oversight or consideration of its impact on growth and investment. It and Your Future, Your Super should be reassessed on an asset-class agnostic basis to ensure disclosure rules do not divert capital from higher-return areas such as private equity and venture capital (PEVC), which evidence shows deliver outsized productivity gains.

The following sections provide more detailed feedback on the two areas covered in Pillar 1: *Corporate tax reform to spur business investment* and *regulating to promote business dynamism.*

Corporate tax reform to spur business investment

We welcome the Commission's recognition that Australia's high corporate tax rate is a significant constraint on investment and productivity growth. This reflects the Council's earlier submission highlighting how Australia ranks poorly on taxation competitiveness (94th of 125) and how high corporate tax erodes post-tax returns for investors and broader business investment. This is one of the factors that investors, particularly international institutions, weigh up when making capital allocation decisions, bearing in mind that Australia is part of a global or regional allocation 'bucket'.

The Commission's proposal to re-orient the company tax system through a staged approach – reducing the rate to 20 per cent for most firms while adding a net cashflow tax – is a constructive first step towards "a long-term vision of a tax system that encourages greater economic dynamism and resilience." While we recognise the fiscal constraints the Commission is working under, we would urge it to set out what it sees as a sound roadmap of reform. It would be valuable for the Commission to articulate what an optimal end-state for company tax should look like, that is, the settings it believes over time would best incentivise business investment. Such a roadmap (and policy "destination") would help provide government with a clear direction of travel and a benchmark against which future reforms can be assessed when budget pressures allow. Outlining the destination of reform may also garner more support from stakeholders regarding the pathway and transition.

We note that any move towards a new corporate tax system must avoid unintended consequences. The sophisticated structures commonly used in PEVC reflect the realities of scaling high-growth firms, managing roll-ups and consolidation, planning exits, recycling capital into the next generation of businesses and managing diverse forms of capital. Thresholds and baselines should therefore be designed to support rather than inhibit investment. A clear test of successful corporate tax reform will be whether it strengthens PEVC's ability to foster innovation, scale, and productivity.

Finally, we note that the interim report does not reference the Government's Venture Capital Limited Partnerships (VCLPs) and Early-Stage Venture Capital Limited Partnerships (ESVCLPs). While a lower company tax rate would reduce the general tax burden, it does not replicate the value these regimes bring. VCLPs and ESVCLPs remain essential to channelling capital into high-growth firms that would otherwise struggle to attract funding. They should therefore be viewed as complementary, not substitutable, to the broader reform path. Although not budget neutral, given the need to diversify the economy and take full advantage of once-a-generation opportunities from AI and quantum computing, thresholds should also be increased to ensure the programs remain fit for purpose and internationally competitive.

Regulating to promote business dynamism

In broad terms, the Council supports recommendations 2.1, 2.2 and 2.3, which should help instil a stronger regulatory culture across government and better balance the trade-offs between regulation and business dynamism.

The recommendation to adopt a whole-of-government statement on regulation (recommendation 2.1), supported by ongoing PC oversight through a "regular and systematically devised stream of regulatory reviews," aligns closely with the Council's earlier call for coordinated, economy-wide scrutiny akin to the former PC *Annual Review of Regulatory Burdens*, which has been absent since 2011. The Council also welcomes the Commission's proposal for an independent statutory commissioner to oversee the OIA, consistent with our submission's concern that the OIA's best practice guidance on cost measurement and unintended consequences is not being meaningfully applied. In line with our previous submission, we strongly support the recommendation that ministers issue Statements of Expectation to all regulators as a matter of urgency, an approach we argued would be a timely mechanism for encouraging ASIC to review instruments such as RG97 through a productivity lens.

While this proposed new framework will help ensure better scrutiny of *future* regulation, the PC should in its final report emphasise the importance of addressing the existing *stock* of regulation and delivering "immediate concrete reductions in regulatory burden." Doing so would send a strong signal regarding the importance of a best practice future state but also the importance of reducing poorly designed or outdated regulations that are currently constraining investment and productivity. The Council recommends that the PC devise options to systematically assess the current stock of regulations, including consideration of an immediate PC review of high priority areas and a 12-month moratorium on all material new regulations prior to the new system being fully established. A 12-month moratorium would create immediate capacity for firms to divert resourcing away from responding to, and implementing, proposed and new regulations and toward growth-oriented activities.

The Council notes the PC's regulatory framework and taxonomy which rightly states that Government "design" regulation, and that regulators are responsible for "administering and enforcing" regulation. In this context, we draw attention to examples where regulator decisions are having significant economic impacts without proper policy and Cabinet oversight, and appropriate periodic review. For example, the Australian Securities and Investment Commission (ASIC) issues "Regulatory Guides" to the market, which, while not formally legislation, has shaped behaviour and investment in the same way as regulations but without appropriate Government policy scrutiny. As noted in our earlier submission, RG97 has been in place for nearly a decade without adequate review of its broader distortions and economic costs. International evidence shows that PEVC investment delivers outsized gains in firm-level productivity. For that reason, the review of RG97 should be treated as a priority and approached on an asset-class agnostic basis. This should occur alongside an equivalent, asset-class agnostic review of the Your Future Your Super performance test, as both regulatory regimes are currently pushing investment towards cheaper, more passive strategies at the expense of productive capital allocation.

Finally, we encourage the PC to highlight in its final report that the new statutory OIA Commissioner take a holistic approach to oversight and public guidance of Australian Government consultation processes. At any given time, multiple overlapping consultations affect PEVC, some with very short timeframes for response. The PC does allude briefly to "consultation fatigue", with multiple overlapping processes creating a significant administrative burden which reduces the quality of engagement. The independent OIA Commissioner should be tasked with outlining clear best practice consultation processes across government to ensure better coordination, sequencing and resourcing of consultations.

Information requests

Information request 2.1 *"We would like to hear specific examples of regulations that you think align with the categories above, and that could easily be fixed by government"*

- Although it is officially a guidance, RG97 has, in *effect*, acted in the same was as regulation designed rigidly around fee disclosure. Unfortunately, it has locked superannuation funds into prescriptive reporting requirements that prioritise fee focus over net returns. Transparency is entirely appropriate, however the rigidity of RG97 has left little flexibility for funds to account for the long-term, higher-return nature of PEVC, distorting investment decisions and potentially short-changing superannuation fund members, particularly those in accumulation phase. By focusing on minimising the perceived risk of higher fees rather than assessing actual investment performance, RG97 reflects an excessively risk-averse stance at the cost of pushing capital away from high-return, high-productivity investment.
- Given RG97 is not a legislative instrument, this regulator guidance could be addressed immediately through directions from Government. This could be achieved by a Statement of Expectations (an approach recommended by the PC) from the Treasurer to ASIC, directing the regulator to take a more holistic approach to reporting (in particular, that "net returns" replace a pure fee disclosure regime) so that disclosure requirements (including RG97) do not distort investment which comes at the expense of broader returns for superannuation members.

Information request 2.2 "Which quantitative economywide measures of the quality of regulation and the regulatory burden should the Australian Government track? How should it set targets for these?"

- Regardless of the metric used, any measure looking at the quality of regulation should capture the *time* and *cost* of complying with regulations. It should also consider the broader consultation environment, to ensure that consultation fatigue does not undermine thoughtful and considered engagement.

Information request 2.3 "In which sectors or regulatory systems is immediate regulatory review most warranted, and why?"

- The Council considers ASIC's RG97 a priority for immediate review. While intended to improve transparency, in practice it has created a rigid, overly fee-centric disclosure regime that distorts superannuation investment decisions. Given the outsized productivity benefits from PEVC investment, removing these distortions would help ensure private capital flows to its highest value use in the economy. As RG97 is an ASIC Regulatory Guide that has not undergone adequate policy scrutiny, it represents a clear case for review consistent with the PC's taxonomy. where regulators enforce, and government sets policy.
- We note the Government's current proposal to remove stamp duty from superannuation fee disclosure, but it is insufficient to address the broader distortions created by RG97. A more comprehensive review and reform of ASIC guidance is required to ensure it is not impeding long-term investment in high-growth sectors, including important investment to Australian SMEs (as the RBA recently noted "*SMEs are more likely to be throwing the kitchen sink at innovation*")[1].

Information request 2.4 "How should regulators and policymakers balance risk with growth objectives? What guidance should governments give? What are the constraints which impede regulators and policymakers from better balancing risk and growth objectives? What guidance can governments give to help?"

- The Council suggests that regulators and policymakers adopt a transparent, publicly communicated risk-proportionate approach that balances consumer protection with the imperative of fostering investment, innovation and productivity growth. At present, many frameworks reflect an overly risk-averse stance, seeking to "eliminate" all potential harms, but in doing so they impose disproportionate burdens that stifle capital allocation and discourage investment in high-growth sectors. Setting out this approach clearly, for example through Statements of Expectation, that acknowledge some risks will inevitably be realised under a proportionate model could give regulators greater confidence to foster a more investment-friendly environment.
- Consideration should also be given to requiring regulators to report on the investment environment, such as investment flows, how their activities contribute to economic growth, and the quality of consultation processes, so that performance is assessed against broader outcomes, not compliance alone. International precedents, such as the United Kingdom's recent move to embed competitiveness and growth objectives in financial market regulation, provide useful models to draw on[2].

Kind regards

Navleen Prasad
Chief Executive Officer

1 See Financing SME Innovation in Australia – Challenges and Opportunities

2 See Citi_Regulatory_Expectations_Pivot_to_Growth_Article.pdf