



Climate Tasmania and the Tasmanian Independent Science Council

# Brief for proposed amendments to the Climate Change (State Action) Bill

8 August 2022

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# Overview

## Summary

These drafting instructions are for a set of amendments to the Climate Change (State Action) Amendment Bill 2021 which are intended to strengthen the amended Climate Change (State Action) Act in order to:

1. Increase the extent to which required actions are specified in the Act, rather than left to the discretion of the government of the day;
2. Continuously evaluate how Tasmania is meeting the challenge of climate change by increasing the amount of reporting to the Parliament and the level of detail in the reports relating to actions taken in pursuant of the objectives of the Act;
3. Widen the focus of the Act to specifically include the phasing out of fossil fuel exploration, production and use in Tasmania;
4. Ensure that the government and the Parliament has access to independent advice and evaluation of progress based on science and evidence; and
5. Establish a mechanism through which Tasmanians are encouraged to voluntarily publicly report on the results of their efforts to phase out their use of fossil fuels.

The amendments have been developed from the proposal from Climate Tasmania (CT) and the Tasmanian Independent Science Council (TISC) of 6 March 2022 which was distributed to all members of the House of Assembly and the Legislative Council.

## Definitions

The following definitions are offered in an attempt to make the intentions of these instructions as clear as possible.

**Energy Transition** is the process through which uses of fossil fuels are replaced by the use of renewable energy.

**Fossil Fuels** are fuels which consist of or are derived from geological reserves of coal, petroleum crude oil, natural gas condensate, natural gas, or other hydrocarbons of geological origin.

**Greenhouse Gas Emissions** are emissions including but not limited to carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, sulphur hexafluoride, and other gases from energy production, industrial processes, agriculture, land use and land use change, and waste production which have the property of reducing infra-red radiation from the earth to space.

**Absolute Greenhouse Gas Emissions** are measured or estimated greenhouse gas emissions which do not include any account of carbon sequestration through natural or artificial processes.

**Fossil Fuel User** is a person who purchases a fossil fuel, but does not include fossil fuels purchased for resale or purchased in order to include them in a product where the inclusion prevents their oxidation.

**Fossil Fuel Use** is the purchase of a fossil fuel by a fossil fuel user. The “use” of a fossil fuel occurs when the fuel is delivered to the user, or if the user is purchasing the fuel on behalf of another person, when the fuel is delivered to that other person.

[**Note.** In the situation where a person’s employer pays for the fuel used in a vehicle available to the person, these definitions make the employer the “user” of the fuel, and the “use” occurs when the fuel is put in the vehicle.]

# Overall amendments to the Act

Extend the Objects of the Act to include:

- initiating, encouraging, promoting, and guiding the reduction in greenhouse gas emissions and the energy transition in a way which improves the resilience of the Tasmanian community and protects vulnerable Tasmanians.
- ensuring that public decision-makers in Tasmania take climate change and the objects of the Act into account when making decisions that could increase emissions or could decrease Tasmania's resilience to the impacts of climate change.
- ensuring that palawa people and young people are included in consultations about actions taken in pursuant of this Act.

## 1. Need for urgency (and targets)

### Summary

- The legislated target of net zero emissions should be achieved by the end of 2023.
- Require the minister to set an absolute emissions reduction target (ie excluding land use sequestration) for no later than the end of 2030 with increased targets for each five years after that.
- Prevent any new fossil fuel developments.

### Proposed amendments.

Amend S5(1) so the date by which Tasmania's emissions reduction target is to be achieved is 31 December 2023.

Amend S5 to include a new requirement for the Minister to set an absolute emissions reduction target for Tasmania. The Minister must set an initial absolute emissions reduction target for no later than the end of 2030 within 12 months of the amending Act coming into force. The Minister must thereafter set reduced absolute emissions reduction targets for the end of each 5 year period after 2030 (i.e. targets for 2035, 2040, etc.) The Minister must set the subsequent absolute emissions reduction targets 10 years before they are to come into force.

The Bill should amend the relevant mineral resources legislation to prevent the issuing of any new permits to explore for any fossil fuels.

### Rationale

#### Earlier date for net zero target

Tasmania is already below net zero emissions and is likely to stay that way for the next several years. Therefore delaying the legislated net zero target to 2030 sends the message that climate change is not an urgent problem.

#### Absolute emissions reduction target

The often repeated claim that "Tasmania was the first Australian jurisdiction to achieve net zero emissions, and did so in 2013, 2015, 2016, 2017, 2018 and 2019" has the effect of creating a complacency about the size of the emissions reduction challenge facing Tasmania.

As described in the [Climate Tasmania Fact Sheet](#) and additional resources, the reliance on offsets from sequestration in the forestry sector is not a good basis for a climate policy. In brief:

1. Estimates of LULUCF are very uncertain and the methodology is opaque.
2. It is unclear which parts of LULUCF are natural and which have human causes.
3. Carbon dioxide can move from forests to the atmosphere relatively quickly (for example, during a forest fire).
4. The present draw-down of carbon dioxide is not permanent and its rate will reduce as regrowing forests mature.
5. The present draw-down of carbon dioxide is a direct result of decades of logging, during which Tasmania had among the highest per-capita emissions in the world.

Setting an absolute emissions target will focus on the challenge in reducing emissions and will provide an overall goal to guide the level of ambition in sectoral plans.

## No new fossil fuel development

The International Energy Agency has advised that the expansion of fossil fuel production is incompatible with the objectives of the Paris Climate Agreement and increased production is not required to meet energy needs. Along with renewables, there is already more than enough accessible fossil fuels and fossil fuel facilities to meet any realistic demand.

Existing exploration and production permits and licences would not be impacted, the intention is to stop any new fossil fuel developments from entering the exploration → development → production pipeline.

## 2. Stronger sectoral emissions reduction and resilience plans

### Summary

Strengthen the requirements and shorten the timelines for the production of sectoral plans. Widen the consultation required when plans are developed. Widen the issues considered when the climate change risk assessment is done.

### Proposed amendments

Amend S5A(1) to change 5 years to 3 years.

Amend S5A(2) to add to the “must include” items: numerical estimates of the emissions reductions the climate change action plan will bring about.

Amend S5B(2) to add to the matters to be considered: risks associated with the energy transition, such as social and economic impacts, stranded assets and fuel security risks.

Amend S5C as follows:

- require each plan to include a numerical estimate of the emissions reduction that the plan will bring about;
- require plans to include details of any voluntary agreements made with the larger emitters in the sector;
- widen the consultation requirements to include community and employee representatives;
- require the first plan to be for the transport sector, and to be completed within 12 months of the amended Act coming into force, with the remaining sectors to be completed within 24 months of the amended Act coming into force; and

- set the review period for each of the plans at 3 years (currently 5C(3) has 5 years).

## Rationale

Under the current proposals, the Minister has no obligation to conclude plans within any timeframe and reviews are only every 5 years. This is inconsistent with the urgency of the need to reduce emissions and would mean that the plans would have little impact between now and 2030.

The current proposal does not require emissions reduction plans to say by how much emissions will be reduced because of the plan's implementation. This absence will allow plans to be vague and will make it hard for their level of ambition to be assessed. Inserting a requirement for plans to contain a numerical estimate of the emissions reductions they will achieve will force the plans to be specific and concrete and will aid in assessing the level of ambition embodied in each plan.

The energy transition is likely to bring transition risks, such as the risk of stranded assets. The risk assessments required under the legislation should include consideration of these risks. The [Climate Tasmania Fact Sheet](#) has more information on stranded assets.

## 3. An independent expert advisory body

### Summary

Establish an independent statutory Climate Change Commission to provide the Government, the Parliament, and the public with:

- a) Independent science-based recommendations and evaluation of progress to ensure that the best possible account is taken of emerging climate science.
- b) Reports which create the evidence base on which policy can be developed, including improved understanding of Land Use, Land Use Change, and Forestry; fossil fuel usage in the State; who the main emitters are; and feasible and fair adaptation and resilience options.
- c) Reports on policy issues associated with emissions reduction, adaptation to climate change and social impacts of climate change, including proposed decisions.
- d) Input into and comment on the development of sectoral plans.

### Proposed amendments

Amend the Act to establish an independent Climate Change Commission. The purpose of the Commission is to provide the Government, the Parliament, and the public with:

- Independent science-based recommendations and evaluations of progress to ensure that the best possible account is taken of emerging climate science in the overall program of activities established under the Act.
- Reports which create the evidence base on which policy can be developed.
- Reports on policy issues associated with emissions reduction, adaptation to climate change and social impacts of climate change, including proposed decisions.
- Advice derived from maintaining oversight of energy transition issues and trends, including energy efficiency, as applicable to Tasmania.
- A mechanism through which Tasmanians are encouraged to voluntarily publicly report on the results of their efforts to phase out their use of fossil fuels.

- Advice to the State Government, Government Business Enterprises, and Local Governments on how their purchasing can help reduce emissions and increase resilience.
- Input into and comment on the development of sectoral plans and the climate change risk assessment; and
- Reports and advice on other matters on which the Minister requests advice.

The Commission will have an independent Board and a Chief Executive Officer (CEO).

Members of the Board will be appointed by the Minister.

The support staff of the Commission can be formed from existing public service staff, such as those in ReCFIT.

Membership of the Board should be defined in terms of people with defined expertise to ensure it has the science and energy technology depth to provide advice to the government and people of Tasmania. In addition, there should be a person from the social services sector on the Board to help ensure equity issues are properly considered.

The Commission should be required to produce a public annual report of Tasmania's progress with mitigation, adaptation, and energy efficiency. Requests from the relevant Minister to the Commission are to be made public, as are all of the Commission's reports, unless the Commission itself decides it needs to provide the Minister with confidential advice.

The Board will have a chairperson and at least eight members, all of whom are independent and can demonstrate an understanding of and commitment to act on climate change. The chairperson should be a senior scientist with experience in the development and implementation of policy in one or more areas of science. Other members of the Board include people with expertise in:

- climate science
- the impact of extreme weather events on Tasmania's built infrastructure
- the impact of climate change on economic inequality
- the impact of climate change on habitat loss and the loss of biodiversity
- energy policy and the energy transition
- the knowledge of the palawa people relevant to managing ecosystems subject to climate change
- the impact of climate change on young people and future generations.

State service employees could be temporary or permanent ex-officio attendees at Board meetings as advisors. Such officers might include the Director of Public Health, for example.

## **Rationale**

Independent Climate Change Commissions and committees are being set up around the world to advise governments at this critical time. They typically take a science-based approach, consult widely with the community, business, farmers and others whose interests and experience need to be considered, and provide transparent advice and reports.

Independent science-based bodies are needed to provide long term continuity in data management, evidence accumulation and policy advice as Ministers and governments come and go. Tasmania has a history of climate policy churn: six different policies and plans over about fifteen years, with very little of it implemented in full and no evidence of consequential reduced emissions. Climate change is major long-term issue, and so the Parliament is urged to build a governance framework for the long term.

Examples of reports which could contribute to the evidence base for policy development are in the Appendix.

When passed in 2008 the original Climate Change (State Action) Act made provision for the establishment of a [Tasmanian Climate Action Council](#). This provision was revoked in 2014.

Examples of similar bodies are the Australian [Climate Change Authority](#), the UK [Climate Change Committee](#), the New Zealand [Climate Change Commission](#), the South Australian [Premier's Climate Change Council](#), and the [ACT Climate Change Council](#).

## 4. On-going Parliamentary oversight

### No proposed amendments

#### Rationale

Addressing climate change requires frameworks that involve the whole community and remain effective across decades and across changes of government. A Parliamentary oversight mechanism would provide representation for communities and groups subject to particular climate related impacts, and would be a backstop mechanism if there is systematic failure to address climate risks and opportunities. We have not proposed specific mechanisms for this for two reasons:

- Parliament itself is best placed to decide on the most effective mechanism.
- Such a mechanism might not be legislated as part of a Climate Change Act.

The UK has a House of Lords Select Committee, the [Environment and Climate Change Committee](#).

## 5. Statutory obligation to take climate change into account

### Summary

Legislate for a statutory obligation to take climate change into account by Tasmanian decision makers.

### Proposed amendments

Legislate for a statutory obligation to take climate change into account by Tasmanian decision makers. Those decision makers would include those in state and local governments, statutory authorities and government business enterprises. A fuller Objects clause and Guiding Principles should be included to guide decision makers based on the Objects of the revised Act. The new Commission should provide advice on proposals which it has reason to believe could increase emissions or reduce resilience to climate change.

### Rationale

The last 2 independent reviews of the Act commissioned by the Government recommended that the Act be amended to include the consideration of climate change in the development of relevant government policies, planning, and strategies. Currently, there is no legislated mechanism which discourages the making of decisions which increase emissions or which decrease the resilience of Tasmania's communities, economy, and infrastructure. This proposed amendment is intended to provide such a mechanism.

## 6. Increased multi-year funding for the government's climate work

### Summary

Ensure that the independent Climate Commission and relevant government agencies have sufficient funding to do their work, and that their funding is for multiple years.

### No proposed amendments

### Rationale

While continuity of funding is important, we are advised that Parliament can not make binding commitments on future funding. Legislating the required actions of the government and the Climate Change Commission will hopefully ensure that sufficient funding is made available.

As the example list of reports in the Appendix shows, it will take time to build up the evidence base on which policies can be developed. The bodies involved will need certainty of sufficient funding to develop the data, knowledge and experience required so that Tasmania's policy development will be of the highest quality available.

## Appendix – examples of reports

This appendix has more details on the specific matters the Climate Commission could be expected to report on in order to build the evidence base for climate policy development. The Commission should be encouraged to develop wide and deep connections with available relevant expertise, such as at the University of Tasmania, so the best use is made of on-island expertise and resources.

### Capability inventory

A report inventorying available datasets and Tasmania's capabilities to understand all relevant issues, such as local climate impacts, local opportunities to decrease emissions and increase sequestration, and local adaptation challenges. This **Capability Inventory** is to include an identification of the key gaps that will hinder the development of evidence-based policy in Tasmania. This inventory would start with a list of key issues and for each issue ask the questions: Does anyone have data or expertise relating to this issue? Who are they? How complete is their data? Are there any data gaps that must be filled before a policy response can be formulated to the issue?

### Land Use, Land Use Change, and Forestry

Given the major role this sector plays in Tasmania's net emissions, it is imperative that there is excellent local understanding of the interactions between weather, climate, human activities and the emissions profile of Tasmania's lands, forests, and inshore waters. Nature based solutions for climate change need to be properly understood so they can be deployed with confidence. Land managers who wish to minimise emissions and maximise sequestration from the lands they manage will need authoritative evidence-based advice. A series of reports will likely be required to develop and communicate an improved understanding of these issues.

### Feasible and fair adaptation and resilience options

Adaptation to climate change and the building of community resilience is an area with a wide range of policy choices and issues. In the absence of a coherent approach for prioritising the issues for detailed consideration, the issues impacting those with the loudest voices are likely to be those given the most attention. This difficult area calls out for a policy framework which enables issues to

be grouped and prioritised to better match resources to priorities and to avoid the reinvention of multiple variants of the wheel. Again, a series of reports will likely be required in this area.

## **Fossil Fuel Use Distribution Report**

The Tasmanian government currently has limited knowledge of who the largest emitters are in the state. In particular, since the energy transition is all about fossil fuels, the development of good policy requires information about who the largest users of fossil fuels are.

For each of the fossil fuels used in Tasmania, this report will contain:

- An identification of at least ten of the largest users in Tasmania; and
- An estimate of the number of users in each of the quartiles by annual usage volume.

The report should also include an identification of the 20 largest emitters in Tasmania and policy suggestions for the lowest cost approach to reducing emissions after considering the fossil fuel use distribution data and the availability of substitutes for the energy services provided by the fuels.

## **Stranded Assets Report**

This report will assume the eventual phasing out of all fossil fuels in Tasmania and will provide:

- Estimates of the supply and demand side fossil fuel assets that could be stranded, depending on the fossil fuel phase out trajectory;
- Estimates of the emissions implications of allowing the stock of demand side assets to continue in use for their full economic lives;
- An exploration of the extent to which renewables, biofuels and other low carbon fuels might assist with the stranded assets issue in the short term;
- Some description (perhaps via scenarios) of possible different futures from both the emissions and asset stranding perspective; and
- Some policy options for addressing the stranded assets issue.