

Submission to the Climate Change (State Action) Amendment Bill 2021

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Prepared by the
Tasmanian Policy Exchange

ACKNOWLEDGEMENT OF COUNTRY

The University of Tasmania pays its respects to elders past and present and to the many Aboriginal people that did not make elder status and to the Tasmanian Aboriginal community that continues to care for Country.

We acknowledge the profound effect of climate change on this Country and seek to work alongside Tasmanian Aboriginal communities, with their deep wisdom and knowledge, to address climate change and its impacts.

The Palawa people belong to one of the world's oldest living cultures, continually resident on this Country for over 65,000 years. They have survived and adapted to significant climate changes over this time, such as sea-level rise and extreme rainfall variability, and as such embody thousands of generations of intimate place-based knowledge.

The University acknowledges with deep respect that this knowledge represents a range of cultural practices, wisdom, traditions and ways of knowing the world that provide accurate and useful climate change information, observations and solutions.

We likewise recognise a history of truth that acknowledges the impacts of invasion and colonisation upon Aboriginal people, resulting in forcible removal from their lands. Our island is deeply unique, with cities and towns surrounded by spectacular landscapes of bushland, waterways, mountain ranges and beaches.

The University stands for a future that profoundly respects and acknowledges Aboriginal perspectives, culture, language, and history and a continued effort to fight for Aboriginal justice and rights paving the way for a strong future.

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This submission has been prepared by the Tasmanian Policy Exchange (TPE) at the University of Tasmania.

The TPE has been established to enable the University of Tasmania to make timely and informed contributions to key policy debates occurring in Tasmania, with a view to making a positive contribution to the future of our state and its people.

This submission provides analysis of, recommendations for and suggested amendments to the draft *Climate Change (State Action) Amendment Bill 2021* to support comprehensive and ambitious climate action, maximising the long-term benefits for the Tasmanian community and environment.

More information on the University's contribution to the Review of the Tasmanian Climate Change Act is available at www.utas.edu.au/tpe/climate

The TPE is grateful to the many researchers and staff across the University who have collaborated on projects that have informed this submission.

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1. Introduction

The University of Tasmania is deeply committed to aggressive climate action and the long-term social and economic development of the state. The University has internationally recognised expertise in climate research, teaching and engagement and is actively working with governments, industry and the wider community to address climate change and support the transition to a sustainable, zero-carbon future.

Reflecting this commitment and deep expertise, staff and students from across the University have made detailed contributions to the development of Tasmania's future climate strategy:

- *A blueprint for a climate-positive Tasmania* (Submission to the Review of Tasmania's Climate Change Act, April 2021)
- *Towards a climate-positive Tasmania* (Discussion Paper, November 2021)

This submission to the public consultation on the draft *Climate Change Amendment Bill 2021* ('the Bill') draws on this work and presents options for consideration by the Tasmanian Government and Parliament that are designed to strengthen the draft Bill and to contribute to the goal of establishing Tasmania as a world-leading, climate-positive jurisdiction.

The submission presents recommendations and proposes specific amendments to the draft Bill in relation to four broad themes:

1. Potential drafting errors, omissions and ambiguities;
2. Establishing an ambitious emissions reduction target, including an additional absolute emissions reduction target;
3. The scope of Tasmania's *Climate Change (State Action) Act 2008*; and
4. Enhancing accountability and promoting good climate governance

We are facing a global climate emergency which demands urgent and aggressive action. Given this imperative, and Tasmania's unique opportunity to adopt and promote innovative strategies to respond to climate change, this submission argues that serious consideration should be given to including an additional 'absolute emissions reduction target' to complement the net-zero from 2030 target in the draft Bill.

An absolute emissions reduction target would be among the first in the world; it would provide a clear target for the decarbonisation of the Tasmanian economy over the next decade and would help future-proof our industries in markets where investors and consumers are increasingly seeking climate-positive options. Above all, making a clear commitment to reducing absolute emissions would help safeguard Tasmania's ongoing net-zero status and its all-important claim to being one of the few communities on earth that is removing greenhouse gases (in net terms) from the atmosphere.

It is now widely accepted that as a community we must make a deep and genuine commitment to mitigating and adapting to climate change supported by ambitious leadership and policy action and underpinned by a robust legislative framework. Our hope is that this submission helps to ensure that Tasmania's updated *Climate Change Act* can provide a solid foundation for aggressive climate action as the world transitions to a low-carbon future.

2. Potential drafting errors, omissions and ambiguities

Our review of the draft Bill together with the *Climate Change (State Action) Act 2008* ('the Principal Act') has identified some specific areas where the drafting of the Bill could be clarified or refined. Specific issues and amendments that should be considered are outlined below.

2.1 PROVIDING A DEFINITION OF 'CLIMATE CHANGE'

'Climate change' is not defined in the *Climate Change (State Action) Amendment Bill 2021* ('the Bill') or the Principal Act (*Climate Change (State Action) Act 2008* (Tas)). To provide certainty, and to align with international frameworks, a definition of climate change should be inserted into the Bill. The definition in s 3 of the *Climate Change Act 2017* (Vic), which mirrors Article 1(2) of the United Nations Framework Convention on Climate Change (UNFCCC),¹ could be used: 'climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.'

Recommendation 1: Include a definition of 'climate change' in the draft Bill.

Suggested Amendment 1: Insert the following definition below the proposed definition of 'adaptation measures' in s 3 of the Principal Act:

'climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.'

2.2 DEFINING THE TERM 'NET-ZERO EMISSIONS'

Proposed amendment s 5(2) defines 'net zero greenhouse gas emissions' as: 'a balance between the amount of greenhouse gas emitted into the atmosphere due to anthropogenic activities within Tasmania and the amount of greenhouse gas removed from the atmosphere due to anthropogenic activities within Tasmania'. We concur with Climate Tasmania that this definition 'involves significant interpretation'.² The definition is problematic because the scope of 'anthropogenic' emissions and removals is ambiguous and could, for example, be taken to mean that carbon sequestered in Tasmania's forest estate should not be considered as removals because they are not anthropogenic. No other Australian jurisdiction includes the term 'anthropogenic' in their climate change legislation.

A clearer formulation could be modelled on the Victorian Act, which defines net-zero greenhouse gas emissions as meaning 'zero greenhouse gas emissions after – (a) determining the amount of total greenhouse gas emissions attributable to the State, including any removals of greenhouse gas emissions from the atmosphere due to activities within the State; and (b) deducting from the amount described in paragraph (a), any eligible offsets from outside of the State' (s 6(2)).

If the reference to 'anthropogenic' emissions is retained in the Bill, it should be clearly defined. One definition, for example, which may be considered is contained within the International Panel on Climate Change's Special Report on Global Warming of 1.5°C, although, as noted above, only greenhouse gas removals that 'result from deliberate human activities' would be included.³

Recommendation 2: Clarify the definition of 'net zero emissions' and avoid the use of the word 'anthropogenic'.

Suggested amendment 2: Replace proposed amendment at s 5(2) with:

'For the purposes of subsection (1), 'net zero greenhouse gas emissions' means: The amount of total greenhouse gas emissions attributable to Tasmania, including any removals of greenhouse gas emissions from the atmosphere due to activities within Tasmania.'

2.3 DEFINING THE TERM ‘GREENHOUSE GAS EMISSIONS’

The Principal Act defines greenhouse gas emissions as emissions of six specific gases as well as ‘gases prescribed by the regulations’ (s 3). This language should be updated to bring it into line with the national framework and to reflect the fact that a multitude of gases contribute to the greenhouse effect. Section 3, ‘greenhouse gas emissions’, sub-s (g), of the Principal Act should be amended to include ‘any’ gases prescribed by the regulations. This would align with the approach in the Australian Capital Territory (Dictionary, greenhouse gas emissions, sub-s (g), *Climate Change and Greenhouse Gas Reduction ACT 2010* (ACT)). In addition, the words ‘and regulations made under the *National Greenhouse and Energy Reporting Act 2007* of the Commonwealth’ should be inserted into sub-s (g) to ensure that greenhouse gases are determined by reference to the national framework. This would align with the approach in Victoria (s 3, greenhouse gas emissions, sub-s (b) *Climate Change Act 2017* (Vic)).

Recommendation 3: That the Principal Act be updated to reflect that greenhouse gas emissions means any gases prescribed by the regulations and to align with the framework in the National Greenhouse and Energy Reporting Act 2007.

Suggested amendment 3: Replace s 3, greenhouse gas emissions, sub-s (g) of the Principal Act with: ‘any gases prescribed by the regulations and regulations made under the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth’.

2.4 CLARIFICATION OF THE MINISTER’S OBLIGATIONS

The proposed insertion of ss 5A(1),(4), 5B(1)-(2), and 5C(1), and s 18(3) of the Principal Act, respectively, should be clarified. These provisions state that the Minister ‘is to’ take particular actions. To make it clear that these sections impose obligations on the Minister, the provisions should be amended to state that the Minister ‘must’ take the particular action. Such a clarification would also make this provision consistent with language used in proposed ss 5A(2),(3) and 5C(2),(3) of the Bill.

Recommendation 4: In order to be consistent and to provide clarification of the Minister’s responsibilities, the provisions that state that the Minister ‘is to’ take particular actions should be changed to the Minister ‘must’ take particular actions.

Suggested amendment 4: Replace the ‘Minister is to’ with the ‘Minister must’ at proposed ss 5A(1),(4), 5B(1)-(2), and 5C(1), and at s 18(3).

2.5 CLIMATE CHANGE ACTION PLANS AND STATE-WIDE CLIMATE CHANGE RISK ASSESSMENTS

The draft Bill stipulates that the minister is to prepare a climate action plan and a state-wide risk assessment at least every five years (ss 5A(1) and 5B(1)). However, neither the Bill nor the Principal Act provide for reporting or parliamentary oversight of progress towards these aims, despite the proposed s 4(a)(ii) that states that an object of the Act is to provide for ‘reporting and Parliamentary oversight of progress’. The Bill should be amended to require that the climate change action plans and the climate change risk assessments must be tabled in Parliament 10 sitting days after they are completed, and that the first of each of these documents must be completed and tabled in Parliament by a fixed date, such as 31 December 2022. Alternatively, the Government may legislate a deadline after 31 December 2022, but this date must take into consideration the urgency of the climate crisis. A provision should also be inserted into the Bill to require both documents to be published on the Internet site of the Department as soon as practicable after they are tabled in Parliament. The addition of these reporting requirements would align with the approach taken in Victoria (ss 33, 40 *Climate Change Act 2017* (Vic)).

Recommendation 5: The climate change action plans and the state-wide climate change risk assessments should be tabled in Parliament and published online and the initial climate action plan should be completed by a specified date, such as 31 December 2022. The list of groups to be consulted on the development of Climate Action Plans should be broadened to include Tasmanian Aboriginal people.

Suggested amendment 5: *Insert the following new section 5A(5): ‘The Minister must cause a climate action plan to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the plan is prepared, with the initial climate action plan to be completed by 31 December 2022’.*

Suggested amendment 6: *Insert the following new section 5B(3): ‘The Minister must cause a state-wide climate change risk assessment to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the assessment is prepared, with the initial state-wide climate change risk assessment to be completed by 31 December 2022’.*

Suggested Amendment 7: *Insert the following phrase into the list of groups to be consulted on the development of Climate Action Plans at section 5A(4), sub-section (e): ‘Tasmanian Aboriginal people’.*

2.6 SECTOR-BASED EMISSIONS REDUCTION AND RESILIENCE PLANS

A provision should be inserted into proposed s 5C requiring the Minister to prepare sector-based emissions reduction and resilience plans, to table them in Parliament 10 sitting days after they are prepared, and to publish them on the Internet site of the Department as soon as practicable after being tabled. The Act should also require that the initial plans be tabled in Parliament by a fixed date, such as 31 December 2022. Alternatively, the Parliament may legislate a deadline after 31 December 2022, but as stated above, the setting of the date must take into consideration the urgency of the climate crisis.

Recommendation 6: The Minister should be required to table in Parliament and publish online the sector-based emissions reduction and resilience plans, with the initial plans to be tabled and published by a fixed date, such as the 31 December 2022.

Suggested amendment 8: *Insert the following new section 5C(4): ‘The Minister must cause emissions reduction and resilience plans for each sector to be laid before each House of Parliament, and published online, within 10 sitting days of that House after each plan is prepared, and published online, with the initial emissions reduction and resilience plans to be completed by 31 December 2022’.*

2.7 CONSULTATION DURING THE DEVELOPMENT OF SECTOR-BASED EMISSIONS REDUCTION AND RESILIENCE PLANS

Proposed amendment s 5C(1) specifies that the Minister is to consult with business and industry representatives from the relevant sectors when developing sector-based emissions reduction and resilience plans. The requirement should be expanded so that the Minister is required to also consult with the broader community and relevant research organisations. This would uphold the proposed object to ‘support a partnership approach with... the community’ (s 4(e)). Further, it would align with the principles of good climate governance and recommendation 7 of the *Independent Review* which states that ‘[p]lans should be developed in partnership with representatives from each sector, with representation from interested and relevant members of the community’.⁴

Recommendation 7: The Minister should be required to consult with the broader community and research organisations when developing sector-based emissions reduction and resilience plans.

***Suggested amendment 9:** At s 5C(1) replace ‘The Minister is to consult with business and industry representatives from the following sectors to develop sector-based emissions reduction and resilience plans:’ with ‘The Minister must consult with the community, research organisations, Tasmanian Aboriginal people, and with business and industry representatives from the following sectors to develop sector-based emissions reduction and resilience plans:’*

2.8 IDENTIFYING NEW LOW-CARBON INDUSTRIES AND OPPORTUNITIES IN EACH SECTOR

The identification of new low-carbon industries and opportunities is essential to emissions reductions across the entire Tasmanian economy and to capitalise on the global transition to a zero-carbon future. Proposed s 5C(2) should be amended to include the identification of new low-carbon industries and new low-carbon processes within established industries and associated opportunities in each sector. This would align with recommendation 7 of the *Independent Review*, which states that plans should ‘include implementation planning and/or identify research and development projects for emissions reduction opportunities’.⁵

Recommendation 8: In the development of sector-based emissions reduction and resilience plans, the Minister should be required to identify new low-carbon industries and opportunities.

***Suggested amendment 10:** At proposed s 5C(2) a new sub-section (d) should be inserted: ‘(d) the identification of new low- or zero-carbon industries and opportunities in each sector.’*

2.9 STATIONARY ENERGY AND TRANSPORT SECTOR-BASED EMISSIONS REDUCTION AND RESILIENCE PLANS

Stationary energy and transport have very different emissions reduction opportunities and resilience challenges, as the University of Tasmania outlined in its recent Submission and associated *Discussion Paper*.⁶ Similarly, stationary energy and transport are separated into separate sectors in the State and Territory Greenhouse Gas Inventories.⁷

Recommendation 9: Stationary energy and transport should be addressed in separate emissions reduction and resilience plans.

***Suggested amendment 11:** That the proposed amendment s 5C(1)(a) ‘energy (including stationary energy and transport)’ be omitted and replaced with the words ‘energy, including separate plans for – (i) stationary energy, and (ii) transport’.*

2.10 PUBLISHING TASMANIA’S GREENHOUSE GAS EMISSIONS DATA

The Tasmanian Climate Change Office (Department of Premier and Cabinet) currently releases an annual report on Tasmania’s greenhouse gas emissions profile, based on the most recently published State and Territory Greenhouse Gas Inventories (STGGI). However, this is not required by the Bill, the Primary Act, or the Climate Change (Greenhouse Gas Emissions) Regulations 2022 (‘the Primary Regulations’). To improve certainty and transparency, a provision should be inserted into the Bill to require the Minister to: (a) Prepare an annual report on the State’s greenhouse gas emissions based on the most recently published STGGI, in accordance with the regulations, on or before 31 October 2022 and on or before 31 October every following year; (b) Cause a copy of the report to be tabled in Parliament within 10 sitting days after the completion of the report, and; (c) Publish the report on the Internet site of the Department as

soon as practicable after it is tabled in Parliament. If this amendment is inserted into the Bill, the proposed words in r 5(2) of the Principal Regulations 'and may publish in any other manner he or she considers appropriate', will not be necessary and should be deleted. This approach would align with the approach in the Victorian Act (s 52).

Recommendation 10: That the Minister be required to publish an annual report on Tasmania's greenhouse gas emissions.

Suggested amendment 12: *The following sections should be inserted into Part 2 of the Bill and Principal Act: 'The Minister must: Prepare an annual report on the State's greenhouse gas emissions based on the most recently published Greenhouse Gas Inventory, in accordance with the regulations, on or before 31 October 2022 and on or before 31 October every following year; cause a copy of the report to be tabled in Parliament within 10 sitting days after the completion of the report, and publish the report on the Internet site of the Department as soon as practicable after it is tabled in Parliament.'*

3. Establishing an ambitious emissions reduction target

3.1 COMPLEMENTING THE NET-ZERO FROM 2030 TARGET WITH A COMMITMENT TO REDUCE ABSOLUTE EMISSIONS

The draft amendment Bill stipulates an emissions reduction target of achieving net-zero, or lower, greenhouse gas emissions in Tasmania from 31 December 2030 (s 5(1)). This target is laudable in that it is currently the most ambitious net-emissions target in Australia and among the most ambitious in the world. However, given Tasmania's unique emissions profile and high reliance on LULUCF removals to achieve net-zero, consideration should be given to complementing this net-zero target with an additional commitment to reduce absolute (or gross) emissions across Tasmania's gross emitting sectors (excluding LULUCF).⁸

An absolute emissions reduction target would be among the first in the world; it would provide a clear target for the decarbonisation of the Tasmanian economy over the next decade and would help future-proof our industries in markets where investors and consumers are increasingly seeking climate-positive options. Above all, making a clear commitment to reduce absolute emissions would help safeguard Tasmania's ongoing net-zero status and its all-important claim to being one of the few jurisdictions on earth that is removing more greenhouse gases from the atmosphere than it is emitting.

While a growing number of climate strategies both in Australia and beyond advocate a 'reduce emissions first' approach,⁹ we believe that Tasmania would be among the first to legislate an absolute decarbonisation target, further strengthening Tasmania's claim to world leadership in climate change mitigation. The achievement of net-carbon neutrality in 2013 places Tasmania alongside Bhutan, Suriname and the small Danish island community of Samsø (which has a target of becoming fossil-fuel free by 2030) as some of the only jurisdictions on the planet removing more CO₂-e from the atmosphere than they emit, but more remains to be done.

Many of the benefits of an additional target to reduce absolute emissions were identified in the Independent Review and analysed in the University of Tasmania's *Discussion Paper*.¹⁰ This approach would:

- Be consistent with developed jurisdictions' obligations under Article 4 of the Paris Agreement to reduce absolute economy-wide emissions;¹¹
- Establish a clear emissions reduction target for Tasmanian industries and help them to capitalise on opportunities associated with decarbonisation;
- Reduce Tasmania's reliance on the LULUCF sector to achieve net zero (while noting that LULUCF removals are important);
- Improve accountability by focusing the attention of emissions reduction initiatives on actual decarbonisation rather than on offsets or land use and forestry removals, which are themselves vulnerable to the impacts of climate change (from bushfire in particular); and
- Represent 'good' public policy by establishing a clear, measurable goal to inform public and private decision making and assess progress towards achieving this goal.

An additional legislated emissions reduction target for absolute emissions would not, at this stage, include specific sectoral emissions targets given that different industries and sectors have varying abatement costs and options, although we would encourage the Tasmanian Government to establish and promote sectoral targets during the development of industry emissions reduction plans. This is consistent with the approach suggested in the University's *Discussion Paper* whereby sectoral emissions reduction targets are developed through a

collaborative process involving input from industry, academic experts and relevant community using a marginal abatement cost approach.¹²

The exact quantum of an absolute 2030 emissions reduction target should be finalised within 12 months of the enactment of the Bill, and follow detailed consultation with industries and the Tasmanian community.

Some options for an absolute emissions reduction target include:

- A 37% reduction in absolute (gross) emissions by 2030 relative to 2019 as proposed in the *University Discussion Paper*. This approach would ensure that Tasmania is able to maintain its current net-negative profile (-1683 kt CO₂-e GHG) even under the worst-case scenario for LULUCF removals modelled for the Tasmanian Government in the *Emissions Pathways Review*.¹³
- A 50% cut as per leading (net) targets in other Australian states including South Australia, Victoria, NSW and the ACT.¹⁴
- A 60% reduction in absolute emissions (excluding LULUCF), as proposed by Climate Tasmania, which would be 'ambitious but achievable and would demonstrate real leadership'.¹⁵

Recommendation 11: That an additional 2030 target for the reduction of absolute, or gross, emissions (excluding LULUCF) be included in the Bill and that the Minister, based on industry and community consultation and scientific advice, determine and publish this target within 12 months of the enactment of the Bill.

Suggested Amendment 13: *A provision should be inserted into the Bill after proposed s 5(2) that states: 'The Minister must determine and publish a target for a reduction in absolute emissions (excluding LULUCF) within 12 months of this Bill being enacted'. This would create a new s 5(3).*

- *A new subsection (a) should be inserted after the new s 5(3) that states: 'For the purpose of subsection (3) the Minister must table the target in Parliament 10 sitting days after it is finalised', and*
- *A new subsection (b) should be inserted after the preceding subsection that states: 'For the purpose of subsection (3) the target must be published on the Internet site of the Department as soon as practicable after the target is tabled in Parliament'.*
- *A new subsection (c) should be inserted after the preceding subsection that states: 'In determining the target under s (3) the Minister must seek to obtain the advice of relevant independent experts' (see Victoria s 12 and ACT s 5(4)(b)).*

3.1.2 Clarification of reporting period for 2030 net-zero (and absolute emissions reduction) target

The draft Bill s 5(1) states that: ‘Tasmania’s emissions reduction target under this Act is to achieve net zero, or lower, greenhouse gas emissions from 31 December 2030’. It is important to note that it will not be apparent whether this target has been achieved until sometime in the first half of 2033, as the State and Territory Greenhouse Gas Inventories (STGGI) are typically compiled and released approximately two years after the relevant reporting period. Given that the inventory data upon which the target relies refer only to whole calendar years (not individual days of the year), the reference in the Bill at s 5(1) to “31 December 2030” should be removed and replaced either with ‘the calendar year of 2030’ or with a date by which attainment (or not) of the target is to be reported upon by the Minister.

Recommendation 12: That the draft Bill establish the 2030 calendar year as the reporting period for the purposes of the emissions reduction targets established in the Bill.

Suggested Amendment 14: *The words ‘31 December 2030’ should be omitted from proposed s 5(1) and replaced with the words ‘the calendar year of 2030’.*

4. The scope of Tasmania’s Climate Change Act

Climate change demands urgent and comprehensive action from all levels of government, business, and the wider community. In the Australian context, states and territories continue to provide leadership on climate action but the legislative and policy instruments employed vary significantly between jurisdictions, from the comprehensive legislative approach adopted in Victoria (and to a lesser extent South Australia and the Australian Capital Territory) to New South Wales’s largely policy-based Net-Zero Plan. The frameworks and instruments used in Tasmania and other leading Australian jurisdictions, as well as their targets, are summarised in the Table 1 below.

Table 1: Legislated frameworks and instruments in Australian jurisdictions

	Tasmania Climate Change (State Action) Act 2008 (Tas)	Victoria Climate Change Act 2017 (Vic)	South Australia Climate Change and Greenhouse Emissions Reduction Act 2007 (SA)	Australian Capital Territory Climate Change and Greenhouse Gas Reduction Act 2010 (ACT)
Length	11 pages	81 pages	17 pages	34 pages
Emissions reduction target	Current (s 5): 60% below 1990 levels by 2050. Amendment Bill: Net zero or lower by 2030.	Net zero by 2050 (s 6).	60% below 1990 levels by 2050 (s 3(1)(a)(i))	Net zero by 30 June 2045 (s 6).
Interim targets	GHG emissions regulations may prescribe (s 7).	5-yearly interim targets (s 10).	Minister may set interim targets (s 5(3) (c)).	40% below 1990 by 30 June 2020 (s 7(1)).
Sector-based targets	No targets. The Bill removes sector-based targets from the objects clause (s 4) but retains the ability to make sector targets in s 7(d). The Bill provides for sector-based plans (s 6, proposing s 5C).	No targets. However, the Minister must make sector pledges every five years (s 43(2)).	No target. However, the Minister may set sector- based targets (s 5(3) (c) and enter sector agreements (s 16).	No target. Voluntary ‘sector agreements’ (s 23(1)).
Legislated policy documents	The Bill provides for the Climate Change Action Plan, State- wide Climate Change Risk Assessment, and Sector-based transition planning. Although their creation and content are mandated by statute, their enforcement is not.	Climate Change Strategy and Adaptation Action Plans must be prepared every five years (ss 29, 34). Although their creation and content are mandated by statute, their enforcement is not.	No statutory requirement for a plan. The Minister must seek to develop policies for mitigation and adaptation (s 14) and take steps to promote voluntary offset programs (s 15). The Minister must, however, enter into sector agreements on a voluntary basis (s 16).	No statutory requirement for a plan (s 14). The Act does require the Minister to make sector agreements (s 23).

The question of whether effective government action requires a comprehensive legislative basis depends on the issue at hand, prevailing political circumstances and the interaction of new decisions with existing legislation or regulation. As a general rule, however, establishing a strong legislative framework for public policy does increase accountability and certainty. On balance, given the importance and complexity of climate policy and the lack of certainty or consistency that has characterised Australian (and to a lesser extent Tasmanian) climate policy to date, we believe that Tasmania's climate policy would benefit from a more comprehensive legislative approach. Establishing detailed targets, concepts, processes and policies in law would increase certainty and bolster the credibility of Tasmania's claims to world leadership on climate action. To this extent we concur with the analysis presented in Climate Tasmania's submission to this consultation process.¹⁶

In comparison to Victoria, South Australia and the ACT, the Tasmanian Government is proposing a minimalist approach to climate change legislation. The *Independent Review* characterised the role of Tasmania's *Climate Change Act* in its current form as 'not containing mechanisms that drive action on climate change mitigation and adaptation specifically', but rather 'providing a narrative and setting out a framework to promote and support endeavours'.¹⁷ While changes included in the draft Bill do go some way toward creating a more structured and rigorous legislative framework for driving action, some additional elements that should be included in the Tasmanian Act are presented below.

4.1 DEFINITIONS

Each Australian Act defines greenhouse gas emissions. The Tasmanian and Victorian Acts define adaptation, while the Tasmanian and South Australian Acts define emissions offset programs. Every act, except for the SA Act, defines net-zero greenhouse gas emissions. Other notable definitions include climate change (Victorian Act) and inter-generational equity (ACT Act).

See Parts 2.1, 2.2 and 2.3 above for specific recommendations on definitions.

4.2 OBJECTS

Objects clauses assist in statutory interpretation when a court is called upon to determine a matter of uncertainty and provide guidance for government action on climate change.¹⁸ The Bill repeals s 4 of the *Principal Act* and inserts a new objects clause, which aims to consolidate the existing objects of the Act around five themes. However, objects should be included that ensure decision making is transparent, democratic and environmentally focused.

This aligns with South Australia (s 3(1)(c), (g)), which has the most comprehensive objects clause of all Australian jurisdictions.

Recommendation 13: That sub-sections be included in the proposed objects clause to ensure decision making is transparent, democratic and environmentally focused.

Suggested amendment 15: *That new sub-sections (f) and (g) be inserted at s 4:*

- *to promote and facilitate business and community consultation and early action on climate change issues*
- *to promote energy efficiency and conservation*

4.3 GUIDING PRINCIPLES

The *Independent Review* recommended that a set of guiding principles be included in the updated Act, which would 'establish a set of expectations for relevant Government action on climate change, including the development of mitigation and adaptation strategies and relevant policies'.¹⁹ Similarly, the University of Tasmania *Blueprint* and *Discussion Paper* presented a case for the inclusion of a set of guiding principles.²⁰ The Victorian *Climate Change Act 2017* incorporates guiding principles that must be taken into account in government decision making or in the design and implementation of any policy, program, or process where relevant.

The Tasmanian Government did not accept the *Independent Review's* recommendation to include guiding principles in the Act, stating that it would adopt guiding principles in its policy framework instead, thereby providing 'flexibility in the Government's future climate action'.²¹ Including guiding principles in the legislation would send a strong signal that the Government is serious about climate action. Given the Act's minimalist provisions, guiding principles become all the more important as they provide support and guidance for ministerial and government decision making.

The University of Tasmania's *Blueprint* and *Discussion Paper* identified the following guiding principles that should inform a world-leading climate positive strategy:²²

- No harm
- Equity
- Leadership and collaboration
- Accountability
- Integrity in carbon accounting

Recommendation 14: That the Bill include guiding principles to inform climate action to demonstrate the Tasmanian Government's commitment to best practice climate governance while providing guidance for policy and ministerial decision making.

Suggested amendment 16: *That the following guiding principles be inserted in Part 2 of the Bill:*

No Harm - *Where possible, new policies should not increase emissions or exposure to climate impacts and at the same time should promote innovation and economic competitiveness.*

Equity - *The promotion of intra- and inter-generational and distributive equity should be paramount, with all care taken to minimise financial burdens associated with emissions reduction on low-income households and communities.*

Leadership and collaboration - *Tasmania should lead on climate policy and action both through providing a climate-positive example and by contributing to technical and policy innovation that showcases how to reduce emissions across Australia and beyond.*

Accountability - *The outcomes of decisions and actions should be measurable and reported. All significant emissions should be recorded in the correct category of the State and Territory Greenhouse Gas Inventories.*

Integrity in carbon accounting - *Offsets and credits to reduce the balance of greenhouse gas emissions should only be used if they are removing greenhouse gas emissions that would not otherwise have been removed, and they should sequester those greenhouse gas emissions permanently.'*

4.4 CONSIDERATION OF CLIMATE CHANGE ACROSS GOVERNMENT DECISION MAKING

The University *Blueprint* and *Discussion Paper* outlined the benefits of a coordinated approach to addressing climate change across government agencies and policies.²³ This is because most decisions either have the potential to impact our climate or can be made in ways that help us adapt to the effects of climate change, or both. The *Independent Review* recommended including 'the consideration of climate change in the development of relevant government policies, planning, and strategies'.²⁴ Similarly, the Victorian *Climate Change Act 2017* specifies that the Government of Victoria will endeavour to ensure that any Government decision, policy, program or process 'appropriately takes account of climate change if it is relevant' by having regard to the policy objectives and guiding principles of the Act (s 20).

The Tasmanian Government has not, however, included such a provision in the draft Bill, arguing that it would limit the flexibility of decision makers. Instead, a whole-of-government policy framework will be designed to ensure relevant Government plans, policies and strategies are guided by climate change. While the 'mainstreaming' of climate change considerations across all relevant government decision making can be effected in a number of ways, the method that signals the strongest commitment is a legislative approach. Furthermore, in a minimalist legislative framework, including a statutory provision to require climate change to be considered across government decision making (with regard to the objects and guiding principles) becomes all the more important.

Recommendation 15: That the Bill should require climate change to be considered across relevant government decision making.

Suggested amendment 17: *That a new section be added to Part 2 of the Bill: 'The Government of Tasmania will incorporate climate change considerations across decision making and in the development and implementation of any policy, program or process if it is relevant by having regard to the objects and guiding principles' (see below recommendation 17 and suggested amendment 19 on guiding principles).*

5. Measures to enhance accountability and promote good climate governance

Governments play a key role in leading action on mitigating and adapting to climate change on behalf of the communities they serve. Given the complex and historically contested nature of climate action, it is important that appropriate legislative mechanisms exist to ensure government decisions are transparent, accountable, informed, and reviewable. The Principal Act and draft Bill represent relatively minimalist approaches to legislative drafting, leaving critical decisions and policies to the government of the day. It is therefore even more crucial that the Act contains adequate reporting and publication requirements, public participation measures and obligations that key decisions are informed by independent expert advice.

5.1 PUBLIC ACCOUNTABILITY

There is broad consensus that the public has a right to know the impacts and effects of climate change in their communities. The 1998 Aarhus Convention is a globally significant example of the legal consolidation of measures to enhance public accountability,²⁵ establishing a number of rights of the public (individuals and their associations). Its three pillars – the right to participate in environmental decision-making, the right to receive environmental information held by public authorities and access to justice – provide a template for how public participation could be enhanced in Tasmania. This approach presents opportunities to strengthen the Bill and increase public participation, including by:

- requiring draft climate action plans to be published and submissions called for (as is required under the Victorian Act);
- adding an object to the Bill requiring business and community consultation (see suggested amendment 14 above);
- requiring that if a target is not met then the Minister must provide reasons and detail how they will remedy this (see ACT Act s 13(2));
- establishing a new independent climate change advisory body (see Part 5.3.1, recommendation 19 and suggested amendment 20 below) that will prepare annual reports and make these available to the public and facilitate community consultation (see ACT Act (s 19) and SA Act (ss 11-13)); and
- incorporating a set of guiding principles into the Bill (see above, section 4.3, recommendation 18 and suggested amendment 20).

Recommendation 16: Draft climate action plans are required to be published together with a call for written submissions.

Recommendation 17: In the case that a target is not met, the Minister must provide reasons and a statement as to what actions they will take to remedy this.

Suggested amendment 18: *That a new sub-clause 5A(6) be inserted: 'The Minister must publish draft climate action plans online and call for public submissions on them before a date to be determined.'*

Suggested amendment 19: *At s 5 insert a new sub-clause: 'If the targets of either net zero greenhouse gas emissions by calendar year 2030 or the absolute emissions reduction target of [percentage to be determined] by [date to be determined] are not met, or both, the Minister must present to Parliament within 10 sitting days setting out— (a) why the target was not met; and (b) what action will be taken to meet any subsequent target, including how the action will differ from any action that was taken for the target that was not met.'*

5.2 ENHANCING PUBLIC REPORTING AND PARLIAMENTARY OVERSIGHT

5.2.1 Public reporting

Reporting and publication facilitate transparency and accountability. The Principal Act and Bill, however, are limited in their reporting obligations compared to those in other Australian jurisdictions (see Table 2 for legislated reporting obligations in other Australian jurisdictions).

Table 2: Legislated reporting obligations in Victoria, SA and the ACT

	Victoria Climate Change Act 2017 (Vic)	South Australia Climate Change and Greenhouse Emissions Reduction Act 2007 (SA)	ACT Climate Change and Greenhouse Gas Reduction Act 2010 (ACT)
Reports	<p>Five-yearly climate science reports (s 51)</p> <p>Annual GHG emissions report (s 52)</p> <p>Interim target report (s 54)</p> <p>These must be tabled in Parliament within 10 sitting days and published on the Internet site of the Department as soon as practicable</p>	<p>The Minister to prepare:</p> <p>a report every two years on the operation of the Act (s 7);</p> <p>annual report on the progress of sector agreements (s 16)</p> <p>The Premier's Climate Change Council to prepare an annual report (s 13).</p> <p>These must be tabled in Parliament within 6 sitting days.</p>	<p>Minister to prepare an annual report on (a) their actions; (b) the effectiveness of Government actions to reduce GHG emissions; and (c) the findings of a cost-benefit analysis of any government policies or programs implemented to meet the targets (s 15).</p> <p>The Minister must present the annual report to the Legislative Assembly within 6 months of the end of the financial year.</p> <p>Climate Change Council to prepare an annual report (s 19).</p> <p>The Minister must present the report and their response to the Legislative Assembly within 21 days (s 19(3)).</p>
Other	<p>The following must be tabled in Parliament within 10 sitting days and published on the Internet site of the Department as soon as practicable:</p> <p>Independent expert advice on interim targets</p> <p>Interim emissions targets</p> <p>The climate change strategy</p> <p>Adaptation action plans</p> <p>Five-yearly climate science reports</p> <p>Annual GHG emissions report</p> <p>Interim target report</p>	<p>The Minister must establish a register for sector agreements and a scheme for inspection and independent assessment of sector agreements (s 16(6)).</p>	<p>The Minister must present the report and their response to the Legislative Assembly within 21 days (s 19(3)).</p> <p>The Minister must establish a register for sector agreements and make it available for public inspection (s 24).</p>

In Tasmania, under the Act in its current form, the Minister's reporting obligations are limited to tabling the independent report of the four-yearly review of the Act in Parliament within 10 sitting days (s 18(5)). Under the Bill, the Minister is to prepare a climate change action plan, climate change risk assessment and sector-based emissions reduction and resilience plans every five years. The Bill does not prescribe, however, that the documents (nor any independent advice obtained in order to make a determination under section 5) should be tabled in Parliament or published on the internet within a certain time frame (see SA Act s 7(5) for such a provision).

Recommendation 18: That the Minister prepare, table and publish an annual report on actions in relation to the Act and efforts to reduce greenhouse gas emissions in that year, together with a report from an independent entity that assesses the extent to which any determination or target made or set under the Act is being achieved and, if relevant, should be revised.

Suggested amendment 20: To promote transparency and accountability, the following section should be inserted into the Act:

'(1) The Minister must prepare an annual report on - (a) the actions the Minister has taken during the year in relation to the operation of this Act; and (b) the effectiveness of government actions taken to reduce greenhouse gas emissions during the year.

(2) The Minister must cause a copy of the report to be laid before Parliament within 10 sitting days after the report is prepared,

(3) The report must be published on the Internet site of the Department as soon as practicable after the report is laid before Parliament

(4) The report must be accompanied by a report from an independent entity that assesses the extent to which any determination or target made or set under s 5 is being achieved and, if it appears relevant, should be revised.'

5.2.2 Parliamentary oversight

A key parliamentary function is to oversee policy areas through their standing committee processes, which involve inquiries, calls for public submissions and public hearings. A Standing Committee, with representation from all political parties and independent members, should be established to monitor ongoing Tasmanian Government activities in response to climate change. It should have strong powers to request information, summon people for examination and investigate any matter. This aligns with Climate Tasmania's submission.²⁶

Recommendation 19: That the Parliament convenes a Standing Committee on Tasmanian Climate Change Action.

5.2.3 Aboriginal consultation

As the traditional owners of Tasmania, Aboriginal communities across the state embody thousands of generations of accumulated relevant climatic and ecological knowledge. The incorporation of this traditional knowledge, as well as Aboriginal land management practices, should be an essential element of Tasmania's climate change policy and legislation.

Recommendation 20: That consultation with Tasmania's Aboriginal people should inform the development of the state's Climate Action Plan, sectoral decarbonisation plans, and the review of the Climate Change Act.

Suggested amendment 21: A new sub-section (b), reading 'Tasmanian Aboriginal people; and' should be inserted into Section 18 (3). The existing sub-section (b) should become sub-section (c). (See also suggested amendments 7 and 9).

5.3 FORMALISING THE ROLE OF INDEPENDENT, EXPERT ADVICE IN CLIMATE POLICY

The impacts and consequences of climate change are broad and far-reaching and our understanding of it continues to evolve. Requiring governments to consider independent expert advice helps ensure they are making the best decisions underpinned by an evidence-base and the latest knowledge.

5.3.1 An independent climate change advisory body

Two of the three states and territories which, like Tasmania, have enacted climate change laws, have independent climate change advisory bodies established in legislation. South Australia has a Premier's Climate Change Council (s 19(1) of the *Climate Change and Greenhouse Emissions Reduction Act 2007* (SA)), and the Australian Capital Territory has a Climate Change Council (s 16 of the *Climate Change and Greenhouse Gas Reduction ACT 2010* (ACT)). Although Victoria does not have an independent advisory body, the *Climate Change Act 2017* (Vic) requires mandatory consideration and publication of independent expert advice (ss 12-14, 31(c), 42(2)(c), 44(2)(c)).

Recommendation 21: Provisions establishing a new independent climate change advisory body should be inserted into the Bill to provide independent expert advice to the Minister (aligning with the approaches in South Australia and the Australian Capital Territory).

Recommendation 22: A provision should be inserted into the Bill requiring the climate change advisory body to include adequate representation from the climate sciences, business and industry and the wider community.

Recommendation 23: The provisions establishing a climate change advisory body should require the annual reports of that body to be published on the website of the Department as soon as practicable after the reports are tabled in Parliament.

Recommendation 23: The Minister must consider any relevant advice by the climate change advisory body (aligning with the approach in the ACT).

Suggested amendment 22: *A new section should be inserted in Part 2 of the Bill to provide for the establishment of an independent climate change advisory body, regarding:*

- *Number of Members*
- *Facilitating as much of a balance as practicable between members with science, government, business and industry backgrounds, as well as community members*
- *The body's function, reporting mechanisms, and objectives*
- *Whether certain government decisions and strategies should include consideration of the body's advice*
- *Whether the Minister should be required to appoint a member other than a public employee to be the chair of the body*
- *Whether the Minister should be required to consider any relevant advice provided by the body when exercising any function under the Act (a catch all provision, similar to s 18 of the Climate Change and Greenhouse Gas Reduction Act 2010 (ACT)),*
- *Whether the Minister should be required to respond to any advice given, or recommendations made, by the body when the Minister fulfils their reporting requirements under the Act (similar to s 19 of the Climate Change and Greenhouse Gas Reduction Act (ACT)).*

5.3.2 Independent expert advice

The draft Bill and the Principal Act do not require independent expert advice other than in the case of the four-yearly reviews of the Act (s 18). Other jurisdictions require independent expert advice in a variety of other contexts.

The Victorian Act requires expert advice to be obtained for the setting of interim targets (s 12).

In South Australia, if the Minister decides to set sector-based and interim targets, calculate greenhouse gas emissions, or set specific baselines, they must seek to obtain the advice of relevant experts (s 5(4)). Furthermore, A report from CSIRO, or an independent entity designated by the Minister, must be included in two-yearly reports (s 7(5)).

In the ACT, the Minister must ask an independent entity to prepare an annual report about greenhouse gas emissions and targets (s 12(1)), for which there are detailed content requirements (s 12(2)). The Minister must present the report to the Legislative Assembly within 21 days (s 12(4)).

See Part 3.1, recommendation 10 and suggested amendment 12 and Part 5.2.1, recommendation 17 and suggested amendment 19.

6. Summary of recommendations and suggested amendments

Part 2. Potential drafting errors, omissions and ambiguities

Recommendation 1: Include a definition of ‘climate change’ in the draft Bill.

Suggested Amendment 1: Insert the following definition below the proposed definition of ‘adaptation measures’ in s 3 of the Principal Act:

‘climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.’

Recommendation 2: Clarify the definition of ‘net zero emissions’ and avoid the use of the word ‘anthropogenic’.

Suggested amendment 2: Replace proposed amendment at s 5(2) with:

‘For the purposes of subsection (1), ‘net zero greenhouse gas emissions’ means: The amount of total greenhouse gas emissions attributable to Tasmania, including any removals of greenhouse gas emissions from the atmosphere due to activities within Tasmania.’

Recommendation 3: That the Principal Act be updated to reflect that greenhouse gas emissions means any gases prescribed by the regulations and to align with the framework in the National Greenhouse and Energy Reporting Act 2007.

Suggested amendment 3: Replace s 3, greenhouse gas emissions, sub-s (g) of the Principal Act with: ‘any gases prescribed by the regulations and regulations made under the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth’.

Recommendation 4: In order to be consistent and to provide clarification of the Minister’s responsibilities, the provisions that state that the Minister ‘is to’ take particular actions should be changed to the Minister ‘must’ take particular actions.

Suggested amendment 4: Replace the ‘Minister is to’ with the ‘Minister must’ at proposed ss 5A(1),(4), 5B(1)-(2), and 5C(1), and at s 18(3).

Recommendation 5: The climate change action plans and the state-wide climate change risk assessments should be tabled in Parliament and published online and the initial climate action plan should be completed by a specified date, such as 31 December 2022. The list of groups to be consulted on the development of Climate Action Plans should be broadened to include Tasmanian Aboriginal people.

Suggested amendment 5: Insert the following new section 5A(5): ‘The Minister must cause a climate action plan to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the plan is prepared, with the initial climate action plan to be completed by 31 December 2022’.

Suggested amendment 6: Insert the following new section 5B(3): ‘The Minister must cause a state-wide climate change risk assessment to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the assessment is prepared, with the initial state-wide climate change risk assessment to be completed by 31 December 2022’.

Suggested Amendment 7: Insert the following phrase into the list of groups to be consulted on the development of Climate Action Plans at section 5A(4), sub-section (e): ‘Tasmanian Aboriginal people’.

Recommendation 6: The Minister should be required to table in Parliament and publish online the sector-based emissions reduction and resilience plans, with the initial plans to be tabled and published at a fixed date, such as the 31 December 2022.

Suggested amendment 8: Insert the following new section 5C(4): ‘The Minister must cause emissions reduction and resilience plans for each sector to be laid before each House of Parliament, and published online, within 10 sitting days of that House after each plan is prepared, and published online, with the initial emissions reduction and resilience plans to be completed by 31 December 2022’.

Recommendation 7: The Minister should be required to consult with the broader community and research organisations when developing sector-based emissions reduction and resilience plans.

Suggested amendment 9: At s 5C(1) replace ‘The Minister is to consult with business and industry representatives from the following sectors to develop sector-based emissions reduction and resilience plans:’ with ‘The Minister must consult with the community, research organisations, Tasmanian Aboriginal people, and with business and industry representatives from the following sectors to develop sector-based emissions reduction and resilience plans:’

Recommendation 8: In the development of sector-based emissions reduction and resilience plans, the Minister should be required to identify new low-carbon industries and opportunities.

Suggested amendment 10: At proposed s 5C(2) a new sub-section (d) should be inserted: ‘(d) the identification of new low-carbon industries and opportunities in each sector.’

Recommendation 9: Stationary energy and transport should be addressed in separate emissions reduction and resilience plans.

Suggested amendment 11: That the proposed amendment s 5C(1)(a) ‘energy (including stationary energy and transport)’ be omitted and replaced with the words ‘energy, including separate plans for – (i) stationary energy, and (ii) transport’.

Recommendation 10: That the Minister be required to publish an annual report on Tasmania’s greenhouse gas emissions.

Suggested amendment 12: The following sections should be inserted into Part 2 of the Bill Principal Act: ‘The Minister must: Prepare an annual report on the State’s greenhouse gas emissions based on the most recently published Greenhouse Gas Inventory, in accordance with the regulations, on or before 31 October 2022 and on or before 31 October every following year; (Cause a copy of the report to be tabled in Parliament within 10 sitting days after the completion of the report, and publish the report on the Internet site of the Department as soon as practicable after it is tabled in Parliament.’

Part 3. Establishing an ambitious emissions reduction target

Recommendation 11: That an additional 2030 target for the reduction in absolute, or gross, emissions (excluding LULUCF) be included in the Bill and that the Minister, based on industry and community consultation and scientific advice, determine and publish this target within 12 months of the enactment of the Bill.

Suggested Amendment 13: A provision should be inserted into the Bill after proposed s 5(2) that states: ‘The Minister must determine and publish a target for a reduction in absolute emissions (excluding LULUCF) within 12 months of this Bill being enacted’. This would create a new s 5(3).

- A new subsection (a) should be inserted after the new s 5(3) that states: ‘For the purpose of subsection (3) the Minister must table the target in Parliament 10 sitting days after it is finalised’.

- A new subsection (b) should be inserted after the preceding subsection that states: 'For the purpose of subsection (3) the target must be published on the Internet site of the Department as soon as practicable after the target is tabled in Parliament'.and
- A new subsection (c) should be inserted after the preceding subsection that states: 'In determining the target under s (3) the Minister must seek to obtain the advice of relevant independent experts' (see Victoria s 12 and ACT s 5(4)(b)).

Recommendation 12: That the draft Bill establish the 2030 calendar year as the reporting period for the purposes of the emissions reduction targets established in the Bill.

Suggested Amendment 14: The words '31 December 2030' should be omitted from proposed s 5(1) and replaced with the words 'the calendar year of 2030'.

Part 4. The scope of Tasmania's Climate Change Act

Recommendation 13: That sub-sections be included in the proposed objects clause to ensure decision making is transparent, democratic and environmentally focused.

Suggested amendment 15: That new sub-sections (f) and (g) be inserted at s 4:

- to promote and facilitate business and community consultation and early action on climate change issues
- to promote energy efficiency and conservation

Recommendation 14: That the Bill include guiding principles to inform climate action to demonstrate the Tasmanian Government's commitment to best practice climate governance while providing guidance for policy and ministerial decision making.

Suggested amendment 16: That the guiding principles be inserted in the Bill, as follows:

No Harm - *Where possible, new policies should not increase emissions or exposure to climate impacts and at the same time should promote innovation and economic competitiveness.*

Equity - *The promotion of intra- and inter-generational and distributive equity should be paramount, with all care taken to minimise financial burdens associated with emissions reduction on low-income households and communities.*

Leadership and collaboration - *Tasmania should lead on climate policy and action both through providing a climate-positive example and by contributing to technical and policy innovation that showcases how to reduce emissions across Australia and beyond.*

Accountability - *The outcomes of decisions and actions should be measurable and reported. All significant emissions should be recorded in the correct category of the State and Territory Greenhouse Gas Inventories.*

Integrity in carbon accounting - *Offsets and credits to reduce the balance of greenhouse gas emissions should only be used if they are removing greenhouse gas emissions that would not otherwise have been removed, and they should sequester those greenhouse gas emissions permanently.'*

Recommendation 15: That the Bill should require climate change to be considered across relevant government decision making.

Suggested amendment 17: that a new section be added to the Bill: 'The Government of Tasmania will incorporate climate change considerations across decision making and in the development and implementation of any policy, program or process if it is relevant by having regard to the objects and guiding principles' (see below recommendation 17 and suggested amendment 19 on guiding principles).

Part 5. Measures to enhance accountability and promote good climate governance

Recommendation 16: Draft climate action plans are required to be published together with a call for written submissions.

Recommendation 17: In the case that a target is not met, the Minister must provide reasons and a statement as to what actions they will take to remedy this.

Suggested amendment 18: That a new sub-clause 5A(5) be inserted: 'The Minister is to publish draft climate action plans online and call for public submissions on it before a date to be determined.'

Suggested amendment 19: At s 5 insert a new sub-clause: 'If the targets of either net zero greenhouse gas emissions by calendar year 2030 or the absolute emissions reduction target of [percentage to be determined] by [date to be determined] are not met, or both, the Minister must present to Parliament within 10 sitting days setting out— (a) why the target was not met; and (b) what action will be taken to meet any subsequent target, including how the action will differ from any action that was taken for the target that was not met.'

Recommendation 18: That the Minister prepare, table and publish an annual report on actions in relation to the Act and efforts to reduce greenhouse gas emissions in that year, together with a report from an independent entity that assesses the extent to which any determination or target made or set under the Act is being achieved and, if relevant, should be revised.

Suggested amendment 20: To promote transparency and accountability, the following section should be inserted into the Act:

(1) 'The Minister must prepare an annual report on - (a) the actions the Minister has taken during the year in relation to the operation of this Act; and (b) the effectiveness of government actions taken to reduce greenhouse gas emissions during the year.

(2) The Minister must cause a copy of the report to be laid before Parliament within 10 sitting days after the report is prepared,

(3) The report must be published on the Internet site of the Department as soon as practicable after the report is laid before Parliament

(4) 'The report must be accompanied by a report from an independent entity that assesses the extent to which any determination or target made or set under s 5 is being achieved and, if it appears relevant, should be revised.

Recommendation 19: That the Parliament convenes a Standing Committee on Tasmanian Climate Change Action

Recommendation 20: That consultation with Tasmania's Aboriginal people should inform the development of the state's Climate Action Plan, sectoral decarbonisation plans, and the review of the Climate Change Act.

Suggested amendment 21: A new sub-section (b), reading 'Tasmanian Aboriginal people; and' should be inserted into Section 18 (3). The existing sub-section (b) should become sub-section (c). (See also suggested amendments 7 and 9)

Recommendation 21: Provisions establishing a new independent climate change advisory body should be inserted into the Bill to provide independent expert advice to the Minister (aligning with the approaches in South Australia and the Australian Capital Territory).

Recommendation 22: A provision should be inserted into the Bill requiring the climate change advisory body to include adequate representation from the climate sciences, business and industry and the wider community.

Recommendation 23: The provisions establishing a climate change advisory body should require the annual reports of that body to be published on the website of the Department as soon as practicable after the reports are tabled in Parliament.

Recommendation 24: The Minister must consider any relevant advice by the climate change advisory body (aligning with the approach in the ACT).

Suggested amendment 22: A new section should be inserted in Part 2 of the Bill to provide for the establishment of an independent climate change advisory body, regarding:

- Number of Members
- Facilitating as much of a balance as practicable between members with science, government, business and industry backgrounds, as well as community members
- The body's function, reporting mechanisms, and objectives
- Whether certain government decisions and strategies should include consideration of the body's advice
- Whether the Minister should be required to appoint a member other than a public employee to be the chair of the body
- Whether the Minister should be required to consider any relevant advice provided by the body when exercising any function under the Act (a catch all provision, similar to s 18 of the *Climate Change and Greenhouse Gas Reduction Act 2010 (ACT)*),
- Whether the Minister should be required to respond to any advice given, or recommendations made, by the body when the Minister fulfils their reporting requirements under the Act (similar to s 19 of the *Climate Change and Greenhouse Gas Reduction Act (ACT)*).

6. Endnotes

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Appendix 1

This document incorporates the TPE’s proposed amendments to the draft Bill as outlined in the submission above. Suggested changes based on the TPE’s proposals have been added to the relevant sections of the Draft Bill and highlighted in yellow.

CLIMATE CHANGE (STATE ACTION) AMENDMENT BILL 2021

*(Brought in by the Minister for Climate Change, the
Honourable Roger Charles Jaensch)*

A BILL FOR An Act to amend the Climate Change (State Action) Act 2008

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

Part 1 – Preliminary

1. Short title

This Act may be cited as the *Climate Change (State Action) Amendment Act 2021*.

2. Commencement

This Act commences of the day on which this Act receives the Royal Assent.

Part 2 – Climate Change (State Action) Act 2008 Amended

3. Principal Act

In this Part, the *Climate Change (State Action) Act 2008** is referred to as the Principal Act

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition before the definition of emissions offset programs:

adaptation measures means measures taken to moderate harm, or take advantage of opportunities, associated with the process of adjustment to the actual or expected climate and its effects;

climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods

- (b) by omitting the definition of the State's 2050 target and substituting the following definition:

Tasmania's emissions reduction target means the emissions reduction target set under section 5.

- (c) by omitting subsection (g) of the Principal Act and replacing it with:

Greenhouse gas emissions means emissions of–

- (g) any gases prescribed by the regulations and regulations made under the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth.

5. Section 4 substituted

Section 4 of the Principal Act is repealed and the following section is substituted:

4. Objects of Act

The objects of this Act are –

- (a) to support Tasmania to take action on climate change by providing for –
 - (i) the setting of a target for the reduction of greenhouse gas emissions in Tasmania; and
 - (ii) reporting and Parliamentary oversight of progress made towards achieving Tasmania’s emissions reduction target and other targets; and
- (b) to identify, promote and support measures to reduce Tasmania’s greenhouse gas emissions; and
- (c) identify, promote and support measures to help Tasmania adapt to climate change and to manage the risks and opportunities of a changing climate;
- (d) facilitate Tasmania’s contribution to international, national and local government emissions reduction and climate change adaptation measures to support the transition to a low emissions future;
- (e) support a partnership approach with business, industry and the community to reduce greenhouse gas emissions and build resilience to the impacts of climate change;
- (f) to promote and facilitate business and community consultation and early action on climate change issues; and
- (g) to promote energy efficiency and conservation.

6. Part 2, Division 1 substituted

Division 1 of Part 2 of the Principal Act is repealed and the following Division is substituted:

Division 1 – Target and action planning

5. Tasmania’s emissions reduction target

- (1) Tasmania’s emissions reduction target under this Act is to achieve net zero, or lower, greenhouse gas emissions in Tasmania from the calendar year of 2030.
- (2) For the purposes of subsection (1), ‘net zero greenhouse gas emissions’ means: The amount of total greenhouse gas emissions attributable to Tasmania, including any removals of greenhouse gas emissions from the atmosphere due to activities within Tasmania.
- (3) The Minister must determine and publish a target for a reduction in absolute emissions (excluding LULUCF) within 12 months of this Bill being enacted.
 - (a) For the purpose of subsection (3) the Minister must table the target in Parliament 10 sitting days after it is finalised.
 - (b) For the purpose of subsection (3) the target must be published on the Internet site of the Department as soon as practicable after the target is tabled in Parliament.
 - (c) In determining the target under s (3) the Minister must seek to obtain the advice of relevant independent experts.
- (4) If the target(s) of either net zero greenhouse gas emissions by [2030] or the absolute emissions reduction target of [percentage to be determined] by [date to be determined] are not met, or both, the Minister must present to Parliament within 10 sitting days setting out—
 - (a) why the target(s) was not met; and
 - (b) what action will be taken to meet any subsequent target(s), including how the action will differ from any action that was taken for the target(s) that was not met.

5A. Climate change action plan

- (1) The Minister must prepare a climate change action plan at least every 5 years.

- (2) A climate change action plan must include details of the emissions reduction measures that Tasmania will adopt.
- (3) The actions in the climate action plan must –
 - (a) reduce Tasmania’s greenhouse gas emissions; and
 - (b) build climate resilience to the impacts of a changing climate through adaptation measures; and
 - (c) manage climate-related risks and take advantage of potential opportunities from a changing climate.
- (4) In developing a climate change action plan, the Minister must take into account the following matters:
 - (a) the objects of this Act;
 - (b) the emissions reduction target;
 - (c) the latest greenhouse gas accounts for Tasmania;
 - (d) the latest and best available science on the projected impacts of climate change on Tasmania;
 - (e) consultation with industry, business, research institutions, Tasmanian Aboriginal people, and a broad range of the Tasmanian community;
 - (f) evidence on the effectiveness of existing initiatives to reduce Tasmania’s greenhouse gas emissions and adapt to the impacts of climate change;
 - (g) developments in other jurisdictions;
 - (h) any other matter the Minister considers relevant.
- (5) The Minister must cause a climate action plan to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the plan is prepared, with the initial climate action plan to be completed by 31 December 2022.
- (6) The Minister must publish draft climate action plans online and call for public submissions on them before a date to be determined.

5B. Statewide climate change risk assessment

- (1) The Minister must prepare a statewide climate change risk assessment at least every 5 years.
- (2) In developing a statewide climate change risk assessment, the Minister must take into account the following matters:
 - (a) the latest and best available science on the projected impacts of climate change on Tasmania;
 - (b) consideration of economic, social and environmental implications of climate change and assessment of the associated risks to Tasmanian communities, natural environments and ecosystems and economic activity.

- (3) The Minister must cause a statewide climate change risk assessment to be laid before each House of the Parliament, and published online, within 10 sitting days of that House after the assessment is prepared, with the initial statewide climate change risk assessment to be completed by 31 December 2022.

5C. Sector-based transition planning

- (1) The Minister must consult with the community, research organisations, Tasmanian Aboriginal People and with business and industry representatives from the following sectors to develop sector-based emissions reduction and resilience plans:
 - (a) Energy, including separate plans for:
 - (i) stationary energy
 - (ii) transport
 - (b) industrial processes and product use;
 - (c) agriculture;
 - (d) land use, land-use change and forestry;
 - (e) waste;
 - (f) any other sector or sub-sector determined by the Minister
- (2) The development of emissions reduction and resilience plans must support –
 - (a) emissions reduction; and
 - (b) the transition to a low emissions economy; and emissions reduction; and
 - (c) the transition to a low emissions economy; and
 - (d) the identification of new low- or zero-carbon industries and opportunities in each sector
- (3) Emissions reduction and resilience plans for each sector must be updated at least every 5 years.
- (4) The Minister must cause emissions reduction and resilience plans for each sector to be laid before each House of Parliament, and published online, within 10 sitting days of that House after each plan is prepared, with the initial emissions reduction and resilience plans to be completed by 31 December 2022.

7. Part 2, Division 3 added

The following Division is added to Part 2 of the Principal Act, replacing repealed Division 3

Division 3 – General Considerations to Guide Decision Making

10. Mainstreaming of climate change considerations in relevant government decision making

- (1) The Government of Tasmania will incorporate climate change considerations across decision making and in the development and implementation of any policy, program or process if it is relevant by having regard to the objects and guiding principles

11. Guiding Principles for Climate Governance

- (1) The Government of Tasmania will have regard to the following guiding principles in decision making where climate change considerations are relevant:
 - (a) **No Harm** - Where possible, new policies should not increase emissions or exposure to climate impacts and at the same time should promote innovation and economic competitiveness.
 - (b) **Equity** - The promotion of intra- and inter-generational and distributive equity should be paramount, with all care taken to minimise financial burdens associated with emissions reduction on low-income households and communities.
 - (c) **Leadership and collaboration** - Tasmania should lead on climate policy and action both through providing a climate-positive example and by contributing to technical and policy innovation that showcases how to reduce emissions across Australia and beyond.
 - (d) **Accountability** - The outcomes of decisions and actions should be measurable and reported. All significant emissions should be recorded in the correct category of the State and Territory Greenhouse Gas Inventories.
 - (e) **Integrity in carbon accounting** – Offsets and credits to reduce the balance of greenhouse gas emissions should only be used if they are removing greenhouse gas emissions that would not otherwise have been removed, and they should sequester those greenhouse gas emissions permanently.

8. Part 2, Division 4 added

The following new Division is added to Part 2 of the Principal Act, replacing repealed Division 4

Division 4 – Reporting and Transparency

14. Greenhouse Gas Emissions Reporting

- (1) The Minister must:
 - (a) Prepare an annual report on the State's greenhouse gas emissions based on the most recently published Greenhouse Gas Inventory, in accordance with the regulations, on or before 31 October 2022 and on or before 31 October every following year;
 - (b) Cause a copy of the report to be tabled in Parliament within 10 sitting days after the completion of the report, and;
 - (c) Publish the report on the Internet site of the Department as soon as practicable after it is tabled in Parliament.

15. Emissions Reduction Progress Reporting

- (1) The Minister must prepare an annual report detailing:
 - (a) the actions the Minister has taken during the year in relation to the operation of this Act; and
 - (b) the effectiveness of government actions taken to reduce greenhouse gas emissions during the year.
- (2) The Minister must cause a copy of the report to be laid before Parliament within 10 sitting days after the report is prepared.
- (3) The report must be published on the Internet site of the Department as soon as practicable after the report is laid before Parliament.
- (4) The report must be accompanied by a report from an independent entity that assesses the extent to which any determination or target made or set under s 5 is being achieved and, if it appears relevant, should be revised.

9. Section 7 amended (Greenhouse gas emission regulations)

Section 7 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (1);
- (b) by omitting from subsection (2) “actions taken since 1990” and substituting “any previous action taken”.

10. Section 18 amended (Review of Act)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting subsection (3) and substituting the following subsection:

(3) The Minister must take reasonable steps to ensure that the review is carried out in consultation with –

- (a) relevant business, scientific, environment and community bodies;
 - (b) Tasmanian Aboriginal people; and**
 - (c) a broad range of the Tasmanian community.
- (b) by omitting subsection (6).

Part 3 – Climate Change (Greenhouse Gas Emissions) Regulations 2012 Amended

11. Principal Regulations

In this Part, the *Climate Change (Greenhouse Gas Emissions) Regulations 2012** are referred to as the Principal Regulations

12. Regulation 3 amended (Interpretation)

Regulation 3 of the Principal Regulations is amended by omitting the definition of *baseline figure*.

13. Regulations 4, 5 and 6 substituted

Regulations 4, 5 and 6 of the Principal Regulations are rescinded and the following regulations are substituted:

4. Measuring greenhouse gas emissions

Greenhouse gas emissions are to be measured by determining the sum of the carbon dioxide equivalent emission figures for Tasmania for each of the following sectors, as set out in the most recently published Greenhouse Gas Inventory:

- (a) energy;
- (b) industrial processes;
- (c) agriculture;
- (d) waste;
- (e) land use, land-use change and forestry;
- (f) any other sector set out in the Greenhouse Gas Inventory.

5. Minister to publish greenhouse gas emissions

- 1) In this regulation –

relevant year, in relation to a Greenhouse Gas Inventory, means the year in which the most recent financial year to which that Inventory relates ends.

- 2) Within 60 days after a Greenhouse Gas Inventory is published, the Minister is to publish in the Gazette, and may publish in any other manner he or she considers appropriate, Tasmania's greenhouse gas emissions for the relevant year.

Part 4 – Repeal of Act

14. Repeal of Act

This Act is repealed on the first anniversary of the day on which it commences.