



Law Council
OF AUSTRALIA

Legal Practice Section

4 April 2019

Climate Change Authority
GPO Box 787
CANBERRA ACT 2600

By email: enquiries@climatechangeauthority.gov.au

Dear Sir/Madam

AUSTRALIA'S CLIMATE CHANGE POLICIES AT THE AUSTRALIAN AND STATE AND TERRITORY GOVERNMENT LEVELS: A STOCKTAKE

1. This submission has been prepared by the Australian Environmental and Planning Law Committee of the Law Council's Legal Practice Section (the **AEPLG Committee**). The AEPLG Committee welcomes the opportunity to comment on the March 2019 reports of the Climate Change Authority (**CCA**): *Australia's Climate Change Policies at the Australian and State and Territory Levels: A Stocktake* (the **Australian Stocktake**) and *International Action on Climate Change Mitigation: A Stocktake*.
2. The AEPLG Committee welcomes the valuable overview of domestic and international climate action in the reports and the summary of emissions and abatement activity across different economic sectors.
3. However, there appears to be two important omissions in the Australian Stocktake. These omissions appear to undermine the assumption by CCA that emissions are falling and will continue to fall¹ and the conclusion by the Commonwealth Department of the Environment and Energy (the **Department**) that Australia has "a comprehensive set of policies covering every sector of the economy".²
4. According to the Australian Stocktake:

The Australian Government Department of the Environment and Energy's emissions projections estimated emissions reductions of around 695 Mt CO₂-e would be required relative to projected emissions between 2021 and 2030 to meet the 2030 target of 26 per cent below 2005 levels, or 762 Mt CO₂-e to meet the 28 per cent target³

¹ Australian Stocktake, p6

² Ibid, p20, citing 2017 Review of Climate Change Policies, Department of the Environment and Energy, Canberra

³ Australian Stocktake, p6

5. The assumptions in these estimates are addressed by noting the potential for greater emissions reductions:

*These projections are indicative only and are subject to change over time. They assume current trends and existing policies continue. They do not account for the introduction of new emissions reductions policies and measures, such as the Climate Solutions Package announced in February 2019*⁴

6. However, the Department's projections do not consider the potential for *rising* emissions. As the June 2018 quarterly report on Australia's greenhouse gas inventory indicates, those *rising* emissions have already been realised:

seasonally adjusted emissions increased by 1.3 per cent (Figures 1 to 3) and trend emissions increased by 1.2 per cent in large due to a 15 per cent rebound in coal production after a downturn in the March 2018 quarter⁵ [Emphasis added]

7. The omission suggests that higher reductions and/or a contraction in coal production would be required to meet Australia's Paris Agreement commitment, ie to reduce emissions to 26%-28% below 2005 levels by 2030.
8. The second omission is in Chapter 6 of the Australian Stocktake. Section 6.6.2, outlining land management and biodiversity laws, omits mention of existing problems in the design and operation of these laws evident in environmental outcomes detailed in recent inquiries.
9. The Independent Report to the Australian Government Minister for the Environment and Energy (*Australia State of the Environment 2016*) reached the following conclusions:

Although some uncertainties exist, assuming current trends continue and policies or management arrangements are not changed significantly, Australia's environment to 2050 is likely to be characterised by the following:...

- *Ecosystem changes, including*
 - *declining quality of ecosystems in the south-east, south-west and coastal areas that are close to population centres and other development pressures (e.g. port and mine expansion)*
 - *continued loss of biodiversity, including habitat loss and extinction of many species of plants and animals*
 - *ongoing clearing of native vegetation, particularly of regrowth, leading to further habitat fragmentation, loss of connectivity, increased habitat for invasive species, declines in native species and reduced landscape resilience...*
- *Ongoing challenges, including*

⁴ Ibid

⁵ Quarterly Update of Australia's National Greenhouse Gas Inventory: June 2018
<http://www.environment.gov.au/system/files/resources/e2b0a880-74b9-436b-9ddd-941a74d81fad/files/nggi-quarterly-update-june-2018.pdf>, p37

- *increasing threats to the environment (both land and aquatic), agricultural production and potentially human health from invasive species, fires and disease*
 - *ongoing conflicts about land use, with mining and the resources sector, farming and forestry systems, carbon sequestration, urban and infrastructure development, land for offsets and buffers all competing for space with conservation and heritage values*
 - *ongoing incremental damage to, and loss of, areas with natural, historic and Indigenous heritage values...*
10. These conclusions were supported by the Law Council of Australia's submission to the recent Inquiry into Australia's faunal extinction crisis. That submission (copy attached) details numerous inadequacies of Australian land management and biodiversity laws, including the lack of funding for monitoring and enforcement ⁶ and reached the following conclusion:
- The Committee is concerned that the current range of laws and policies designed to address biodiversity loss, conservation and protection have not been adequate to prevent significant detrimental impacts on Australia's fauna. ⁷*
11. The Department has also acknowledged Australia's declining ecological indicators in its recent report on implementation of the Convention on Biodiversity:
- Recent reports on the state of Australia's environment have found that, in general, population size, geographic range and genetic diversity are decreasing in a wide range of species across all groups of plants, animals and other forms of life.⁸*
12. The AEPLG Committee is of the view that Australia lacks a "comprehensive set of policies covering every sector of the economy" to address emissions and urgently needs address that gap.

⁶ Law Council of Australia Submission to the Parliamentary Senate Standing Committees on Environment and Communications Australia's Faunal Extinction Crisis (10 September 2018), p10

⁷ Ibid, p5

⁸ Ibid, p6

Conclusion

13. Given that Australian emissions are increasing due to increased coal production, the assumption that emissions will decline and continue to decline appears untenable. Similarly, Australian land management and biodiversity laws cannot be classed as “climate policies” without making allowances for the inadequacies of those laws and their enforcement.
14. The Law Council would welcome the opportunity to discuss this submission with the Climate Change Authority. In the first instance, please contact AEPLG Committee Chair, Robyn Glindemann on robyn.glindemann@lantegy.com.au

Yours sincerely



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