

Queensland Climate Transition Bill 2023

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Submitted by: Queensland Youth Policy Collective
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5 May 2023

Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: SDRIC@parliament.qld.gov.au

Dear Committee Secretary,

Re: Submission in relation to the Queensland Climate Transition Bill 2023

The following submission has been written and prepared to assist the State Development and Regional Industries Committee ('Committee') in its consideration and reporting on the *Queensland Climate Transition Bill 2023* ('the Bill').

The Queensland Youth Policy Collective are a group of young law and justice students who wish to advocate for a justice system that protects the rights of all children and particularly those who are disproportionately marginalised or vulnerable. It organises young people to be involved in the parliamentary and policy-making process so young people can advocate for a better future. We have three specialist policy areas: the environment, youth justice and human rights.

Australia's international commitments to address climate change are weak. Despite efforts from the current Federal Labor Government, Australia's Nationally Determined Contributions ('NDCs') are still below international expectations and do not support the spirit of the *Paris Climate Change Agreement* ('*Paris Agreement*'). The recent sixth assessment report ('AR6') by the Intergovernmental Panel on Climate Change ('IPCC') highlights the disastrous effects climate change is having on our planet and demonstrates how government inaction is jeopardising the future of children globally.

The proposed Queensland Climate Transition Bill 2023 aims to play a crucial role in Australia's domestic climate change policies by increasing consistency with Australia's NDCs and its obligations under the *Paris Agreement* to limit global warming to below 2°C below pre-industrial levels, setting reduction targets for within the fossil fuel industry and transitioning the Queensland economy away from fossil fuel dependency,¹ and, therefore, we strongly support the intention of this Bill.

¹ *Queensland Climate Transition Bill 2023* (Qld) s 2.

However, we recommend that the Bill is amended to guarantee funding to the Queensland Climate Transition Authority and to provide membership for a youth voice. This will ensure the Authority can adequately discharge its obligations and give young people a seat at the table, in line with principles of inter- and intragenerational equity.

Executive Summary

- Australia and Queensland have international obligations to reduce greenhouse gas emissions and act against climate change.
- Australia and Queensland's action has been exceptionally weak thus far.
- Action on all fronts is now imperative
- This Bill seeks to introduce laws consistent with Australia's NDCs and international obligations and to prepare Queensland for a supported transition away from fossil fuels.
- The Bill will address aspects of inter- and intragenerational inequity that are worsening because of climate change.
- However, the Bill fails to provide for youth representation in the Queensland Climate Transition Authority.
- Young people have a right to, and must, be heard on issues that will affect their survival and future.
- We are concerned about the lack of funding for the Queensland Climate Transition Authority and urge the Government to provide that funding.

Australia's Obligations in Context

Australia, Queensland, and young Queenslanders, in particular, are extremely vulnerable to the impacts of climate change. With so much coastline, islands, biodiversity and tropical weather, it stands to lose so much. If nothing is done, by 2100, Queensland will be predominantly unliveable.² So it is vital that Queensland and Australia take dramatic climate action, consistent with Australia's international obligations, to ensure young Queenslanders, their children, and their children's children survive the climate crisis.

Climate change

Scientists are now describing anthropocentric climate change as the 'sixth mass extinction,' and the Intergovernmental Panel on Climate Change ('IPCC') states that 'some future changes are [now] unavoidable and/or irreversible but can be limited by deep, rapid and sustained global greenhouse gas emissions reduction'.³

The IPCC's report stating the above is the synthesis for the sixth assessment report published by the IPCC ('AR6').⁴ The IPCC is a United Nations body that assesses climate science in a policy-neutral manner. It has three working groups contributing to its assessments, and the

² *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21 ('*Waratah*'), [1593].

³ IPCC, 'Synthesis Report of the IPCC Sixth Assessment Report (AR6) Summary for Policymakers' (Report, 2023) ('AR6') 19.

⁴ Ibid; IPCC, 'AR6 Synthesis Report: Climate Change 2023' (Web Page, 2023)
<<https://www.ipcc.ch/report/sixth-assessment-report-cycle/>>.

methods and data underpinning those assessments are publicly accessible and supported by peer-reviewed scientific literature. AR6 summarises the current state of climate change research, its impacts, and the risks that climate change currently poses to the world. Significantly, this report also assesses of how current efforts to mitigate and adapt to climate change have worked.⁵ At the outset, this report states that human activities have significantly affected climate change, and our unsustainable use of energy, land, water, and our consumption habits have increased GHG emissions, harming the planet.⁶ As a result, between 2011 and 2020, the global surface temperature was 1.09°C degrees hotter than 1850-1900.⁷

Anthropocentric climate change is already causing extreme weather across the globe, which has led to significant loss and damage to the planet, harming the environment and all life on Earth.⁸ Sea levels have risen by 4.2mm per year between 2006 and 2018, and human activities have been the main driver of rising sea levels since the 1970s.⁹ The effects of extreme weather and rising seas are causing irreversible losses to coastal and ocean regions, and food security for much of the globe will likely worsen as weather conditions are exacerbated by severe weather.¹⁰

Significantly, while adaptation actions have progressed across globally, the effectiveness of current action is difficult to gauge due to adaptation gaps and lack of funding towards global efforts to help nations respond to climate change.¹¹ In addition, adaptation issues are exacerbated by a number of factors, including a lack of political commitment, low uptake of adaptation science by governments, and an overall lack of urgency regarding the state climate change.¹²

Despite current efforts to mitigate climate change, current NDCs mean that it is likely that warming will exceed 1.5°C degrees by 2030, which will make it more difficult to limit global temperature to below 2°C degrees below pre-industrial levels by 2050. Continued GHG emissions will continue to warm the planet, and every increment of global warming to intensify the harms associated with climate change,¹³ and make it more difficult to stabilise the Earth's temperature. Some harms associated with climate change are now irreversible and unavoidable.¹⁴ This is due to tipping points already being reached, pushing the climate into a different state. There is also a risk that as time passes, current efforts to mitigate climate change will become less effective as climate change intensifies.¹⁵ As tipping points are reached, feedback processes become self-reinforcing, triggering a tipping cascade that cannot be

⁵ AR6 (n 3) 3.

⁶ Ibid 4.

⁷ Ibid.

⁸ Ibid 5.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid 6-7.

¹² Ibid 7.

¹³ Ibid 12.

¹⁴ Ibid 19.

¹⁵ Ibid 20.

stopped. Significant and sustained reductions in GHG emissions are therefore urgently needed to prevent self-reinforcing cycles from occurring.

The IPCC AR6 Report acts as a frightening call to action for world governments to start treating climate change as a serious issue and to put the necessary infrastructure in place to tackle climate change adequately. The AR6 presents the bleak realities of our future if Australia and other nations continue to advance fossil fuel projects and fail to fulfil global commitments to tackle climate change. Australia *must* do more to tackle climate change, because the AR6 outlines a future that none of us will want to, nor can, live in.

The Paris Agreement

Australia's primary international obligation to act on climate change lies in the *Paris Climate Change Agreement* ('*Paris Agreement*'), a legally binding climate change treaty aiming to limit global average temperatures to well below 2°C below pre-industrial levels.¹⁶ There are several mechanisms within the *Paris Agreement* to assist the planet in responding to climate change. Similarly, there are several principles that underpin these mechanisms that aim to achieve equity in the fight against climate change.¹⁷ For example, the *Paris Agreement* is underpinned by the principles of fairness, justice and historical responsibility.¹⁸ These are founded on the idea that developed nations have contributed to climate change far more than less developed nations, disproportionately affecting and disadvantaging the latter.¹⁹ Thus, developed nations should bear increased responsibility for resolving the climate crisis.²⁰ This principle is enshrined in the *Paris Agreement's* principle of 'common but differentiated responsibilities.'²¹

Under the *Paris Agreement*, Parties must communicate Nationally Determined Contributions ('NDCs') and develop domestic policies to mitigate climate change, which are consistent with their internationally declared NDCs.²² In 2022, Australia updated its NDCs to reduce emissions from 26-28% below 2005 levels to 43% below 2005 levels.²³ Australia has consistently been one of the largest polluters in the developed world,²⁴ in part because its economy is heavily

¹⁶ Conference of the Parties, Adoption of the *Paris Agreement*, December 12, 2015, U.N. Doc FCCC/CP/2015/L.9/Rev/1 ('*Paris Agreement*') art 2; Rhiannon Verschuer, Hannah Melville-Rea and Richie Merzain, 'What is Australia Bringing to COP26?' The Australia Institute (2021) 1, 3.

¹⁷ *Paris Agreement* (n 16).

¹⁸ Verschuer, Melville-Rea and Merzain (n 16) 3; David Schlosberg and Lisette Collins, 'From Environmental to Climate Justice: Climate Change and the Discourse of Environmental Justice' (2014) (Summer) *Wires Climate Change* 359, 365; *Paris Agreement* (n 16) 1.

¹⁹ Sarah Colenbrander, David Dodman and Diana Mitlin, 'Using Climate Finance to Advance Climate Justice: the Politics and Practice of Channelling Resources to the Local Level' (2018)18(7) *Climate Policy* 902, 902; United Nations Conference on Trade and Development, 'Smallest Footprints, Largest Impacts: Least Developed Countries Need a Just Sustainable Transition' United Nations Conference on Trade and Development (Web Page, 1 October 2021) <<https://unctad.org/topic/least-developed-countries/chart-october-2021#:~:text=Despite%20recent%20increases%2C%20in%202019.9%25%20of%20the%20world's%20average>>.

²⁰ Schlosberg and Collins (n 18) 365.

²¹ *Paris Agreement* (n 16) 1.

²² *Paris Agreement* (n 16) art 2.

²³ Australian Government, 'Australia's Nationally Determined Contribution Communication 2022' Commonwealth of Australia 2022, 3.

²⁴ Verschuer, Melville-Rea and Merzain (n 16) 3

dependent on fossil fuel exports.²⁵ In 2018, fossil fuel exports were nearly a quarter of Australia's total export value and Australia is currently the third largest fossil fuel exporter in the world, behind Russia and Saudi Arabia.²⁶ Therefore, Australia has obligations under the *Paris Agreement* to reduce its own dependence on fossil fuels, and help the global transition to renewable energies in the fight against climate change.

Significantly, energy emissions in Australia have been on the rise in the last decade, despite Australia's commitments to climate change.²⁷ This is because the Australian Government has continued to approve new coal mine projects and provide fossil fuel companies with subsidies and tax breaks.²⁸ This includes the former Government's 'gas-fired recovery', which justified opening new gas basins risking a further 100Mt of GHG emissions to the atmosphere.²⁹ The new Federal Labor Government has upheld similar policies with projects such as the Scarborough Gas Project, which is predicted to produce 1.37 billion tonnes of carbon dioxide.³⁰

The Queensland Government has acted similarly, despite the state's particular vulnerabilities to climate change and its commitment to reducing emissions to net zero by 2050, and by 30% below 2005 levels by 2030.³¹ The Queensland Resources Industry Development Plan sets the scene for Queensland's particular economic vulnerability to a sudden, rather than planned, transition. It explains that Queensland has 77,000 mining jobs and the resources industry constitutes more than 8% of the Queensland economy. The time to legislate for a carefully planned transition is now, when Queensland already has sufficient fossil fuel resources to meet demand until 2051.³²

An unplanned transition would be disastrous for the state. The Queensland Government *must* legislate now to transition the economy away from fossil fuels while there is still time to do so, rather than subject the Queensland economy to chaos when time runs out.

Intergenerational equity and intragenerational inequity

In the context of climate change, inter- and intragenerational equity are vital concepts. Because climate change has a temporal element, it will have differing effects among the same and different generations: the very elderly and very young are the most susceptible to the effects of climate change that we feel already. However, those not yet born will suffer more – having to bear the consequences of a global failure to take action on climate change.

²⁵ World Energy Data, 'Australia's Fossil Fuel Exports' (Web Page, 2023) <<https://www.worldenergydata.org/australias-fossil-fuel-exports/>>.

²⁶ Ibid.

²⁷ Verschuer, Melville-Rea and Merzain (n 14) 4.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Australian Conservation Foundation, 'What is Woodside's Controversial Scarborough Gas Project?' (Web Page 2023) <<https://www.acf.org.au/what-is-scarborough-project/>>.

³¹ Queensland Government, *Queensland Climate Action* (Web page, 2022) <<https://www.des.qld.gov.au/climateaction/>>.

³² *Waratah*, [969].

In response to this dire threat, the Committee on the Rights of the Child is drafting General Comment No 26 on children's rights and the environment.³³ The General Comment has a special focus on climate change and recognises the vulnerability of children to environmental harm, and the disproportionate burden of environmental harm on children. It will be published in May 2023. The consideration of submissions for the *Queensland Climate Transition Bill 2023* is therefore timely and submissions should be considered in light of the General Comment because young people today and young people of the future will be the primary bearers of the costs of climate change if strong action is not taken now.³⁴

The Concept Note to the General Comment points out that while all children are exceptionally vulnerable to climate change, those with disabilities, living in poverty, separated from their families and on the move are at particular risk.³⁵ Further, the negative effects of climate change are disproportionate within the populations and countries that have contributed least to climate change, including children part of minority groups, indigenous children and people working in rural areas.³⁶ The Note emphasises that climate change will further exacerbate inequality around the world, oppressing vulnerable children even further.

Intergenerational equity

The concept of intergenerational equity is already part of Australian policy. It forms one of the core principles in the National Strategy for Ecologically Sustainable Development ('ESD'): "decision making processes should effectively integrate both long and short-term economic, environmental and equity considerations".

In the same year the National Strategy was published, so was the Intergovernmental Agreement on the Environment, which defined intergenerational equity as: "The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations".

In *Gloucester Resources Ltd v Minister for Planning*, Preston CJ explained:

"[398] [d]istributive justice is promoted by giving substantive rights to members of the community of justice to share in environmental benefits (such as clean air, water and land, a quiet acoustic environment, scenic landscapes and a healthy ecology) and to prevent, mitigate, remediate or be compensated for environmental burdens (such as air, water, land and noise pollution and loss of amenity, scenic landscapes, biological diversity or ecological integrity). Issues of distributive justice not only apply within generations (intra-generational equity) but also extend across generations (intergenerational equity).

³³ United Nations, 'Draft General Comment No. 26 on Children's Rights and the Environment with a Special Focus on Climate Change' (Web Page, 09 December 2021) <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/draft-general-comment-no-26-childrens-rights-and>>

³⁴ Committee on the Rights of the Child, *Concept Note: General comment on children's rights and the environment with a special focus on climate change* (Web Page: 2023) <<https://www.ohchr.org/en/treaty-bodies/crc/concept-note-general-comment-childrens-rights-and-environment-special-focus-climate-change>>.

³⁵ Ibid.

³⁶ Ibid.

[399] The principle of intra-generational equity provides that people within the present generation have equal rights to benefit from the exploitation of natural resources as well as from the enjoyment of a clean and health environment: *Telstra v Hornsby Shire Council* at [117]. The principle of inter-generational equity provides that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for future generations.”

In *Waratah Coal Pty Ltd v Youth Verdict Limited & Ors*, President Kingham described intergenerational equity as “call[ing] on the present generation to ensure the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations”.³⁷

In *Waratah*, her Honour found that the scope of s 26(2) of the *Human Rights Act 2019*, which provides children’s right, without discrimination, to the protection that is needed by the child and is in the child’s best interests, because of being a child, encompasses protection from climate change impacts and “the disproportionate burden those impacts will have on children today and in the future”.³⁸

The President observed:³⁹

“[t]he principle of intergenerational equity places responsibility with today’s decision makers to make wise choices for future generations. The children of today and of the future will bear both the more extreme effects of climate change and the burden of adaptation and mitigation in the second half of this century. Their best interests are not served by actions that narrow the options for achieving the Paris Agreement temperature goal”.

Intergenerational equity in relation to climate change can only be achieved by leaving the Earth’s environment in the same condition, or better, than the generations alive today have found it. Because some tipping points have already been reached, and global temperatures have already risen 1.09°C, intergenerational equity is increasingly difficult to establish. The Government *must* act now to prevent the intergenerational equity gap widening further.

Intragenerational equity

While the concept of intergenerational equity was not contemplated in the Bill or its passage thus far, concerns about intragenerational equity were evident when Mr Berkman publicly briefed the Committee. Mr JE Madden MP, Member for Ipswich-West, questioned how the Bill would impact jobs for young people and had concerns for young people living rurally in towns like Emerald, Moranbah and Blackwater.

QYPC believes firstly, that this issue is not as live as Mr Madden believes and secondly, that the Bill already seeks to address these concerns. Although young people living rurally may wish to work in near by resource-extraction projects, significant proportions of the workforce

³⁷ *Waratah*, [1836]

³⁸ *Waratah*, [1586]

³⁹ *Waratah*, [1603]

for those locations are already constituted by fly-in-fly-out (FIFO) workers. For example, in 2015, the Bowen Basin's employee workforce was 35% FIFO workers, and the contractor workforce was 56% FIFO workers.⁴⁰ Thus, opportunities for young people living rurally to work on local extractive projects are already limited.

Further, by establishing a stable, planned, structured transition away from fossil fuels, the Bill will support young people through that transition. This will provide them with a level of certainty about their futures. The Bill's provision for the development of a strategic plan would allow young people to engage with the Government and be active participants in those futures because the transition away from fossil fuels in an orderly manner reduces the inevitability and chaos of climate change. This structured transition and certainty is not currently legislated under the Queensland Government. Young Queenslanders should have the ability to choose what to make of their lives. By failing to take adequate climate action, the Government is denying them that choice.

While QYPC supports the Bill's emphasis on urgent and strategic action against climate change, it does not support the Queensland Climate Transition Authority's (discussed below) power to cancel current fossil fuel authorities, effective from when the notice of amendment or cancellation is received.⁴¹ Such sudden cancellations are contrary to the staged transition that is put forward by the remainder of the Bill. Further they do not allow young people to make informed choices about their future or participate in a process that determines what those futures will look like because it removes the opportunity to seek retraining or other work.

It is vital that the intent of Bills like this one receive wholehearted support so that inter- and intra-generational equity can be achieved, and children can be born into a world safe from the devastating impacts of climate change. It will also bring Queensland into line with the commitments Australia has made internationally to the Paris Agreement and form a beginning on the action the IPCC say is required.

The Proposed Queensland Climate Transition Authority

The Bill proposes establishing a Queensland Climate Transition Authority ('QCTA') to develop, publish and implement the Queensland Climate Transition Strategic Plan. While QYPC considers the establishment of this body sensible, the constitution of the board is problematic because the Bill fails to provide for a board member who is a young person and/or represents young people.⁴² Furthermore, article 12 of the UNCRC (to which Australia is a Party) stipulates that:

“(1) States Parties shall assure to the child who is capable of forming [their] own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

⁴⁰ Department of State Development, *FIFO Review Report: An independent review of existing, predominantly fly-in-fly-out resource projects in Queensland* (Report, 2015) 40.

⁴¹ *Queensland Climate Transition Bill 2023* (Qld) s 17.

⁴² *Queensland Climate Transition Bill 2023* (Qld) s 35.



(2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”.

Children therefore have the right to be heard in matters and proceedings concerning them and the Government is obliged to create the opportunity for that right to be exercised. Indeed, young people are already insisting on being heard on climate change.

In 2020, eight school children challenged the federal Minister for Environment for breaching a duty of care to Australian children by approving coal extraction from a mine, thereby exposing Australian children to the increased risk of personal injury, property damage and economic loss.⁴³ Further, in May 2021, 50,000 children of all ages protested for action on climate change at School Strike 4 Climate rallies around Australia.⁴⁴

Children and young people *must* be included in a process that determines their futures. Young people are the largest politically disenfranchised group in Australia. They are excluded from democratic processes until they turn 18 and can vote, yet the decisions made by this Government will affect their lives, often more so than adults because of their acute vulnerabilities and need for special protection.

QYPC, therefore, believes that the Government should create processes for children’s voices to be heard and equip QCTA with membership for a young person or someone able to represent young people’s interests. This is vital to create room for young people’s voices to be heard on climate issues that will affect them for far longer than enfranchised adults.

Lack of financial appropriation

The QYPC notes that the Bill does not propose to make any new appropriations to finance the QCTA. Therefore, unless or until Parliament provides the necessary funding in a future appropriations bill, it will be practically impossible for the QCTA to hire any staff, provide appropriate remuneration to its Director, Board Members and Chair and to action any of its objectives. The result is that, in isolation, this Bill does not have the power to make any material change.

The QYPC is concerned that efforts to secure the required funding will result in the size, scope and authority of the QCTA being watered down during budgetary negotiations if the QCTA receives any funding at all. As a result, an in-detail consideration of the Bill can begin to feel premature at best and futile at worst.

We hope our concerns prove to be unfounded and that the Queensland Government recognises the need to provide the QCTA with the practical resources necessary to achieve the Bill’s objectives in upcoming budgets. And, in any event, the QYPC recognises the value that a bill

⁴³ *Minister for the Environment v Sharma* [2022] FCAFC 35.

⁴⁴ Save the Children, *Children are fighting to Save the Planet*, 24 June 2021

<<https://www.savethechildren.org.au/our-stories/children-are-fighting-to-save-the-planet>>.

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of this kind could have in providing in principle legislative support for the establishment of the QCTA.

However, we remind the Committee that passing this Bill will not, on its own, discharge the onus on Queensland Parliament to protect and preserve our environment for the ongoing use and enjoyment of current and future generations. This Bill is among the first of many steps needed to translate State's broader environmental policies and goals into a more tangible, comprehensive plan-of-action capable of achieving ongoing, sustainable change and transformation. And the real challenge of putting that plan into action has barely begun.

Conclusion

Thank you for considering our submission. Please find our contact details below.

Yours faithfully,

Queensland Youth Policy Collective

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