Submission in response to Discussion Paper on Review of Tasmania's *Climate Change (State Action) Act 2008*

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***Climate Change (State Action) Act 2008* and State Government response to climate change**

1.
The Premier acknowledges in the Forewords to documents of the Office of Climate Change - *Developing a new climate change action plan for Tasmania* ('Opportunities Paper')[1] and the *Climate Change Action Plan 2017-21* ('Climate Action Plan'),[2] that climate change is an important issue that presents both challenges and opportunities. Climate change is however not simply an important issue, and it is vital that the Government make climate change central to all Government policies and decision-making by all branches of Government. We are already feeling the impact of climate change and if the world is to have any chance of forestalling the catastrophic impacts that are coming our way, we must put climate change front and centre. Tasmania is not immune from the impact of real and anthropogenic climate change; as Alan Finkel notes - air samples from Tasmania's Cape Grim carry a grim message of increasing concentrations of greenhouse gases.[3]

Climate change should be central to development and implementation of all policies and decision-making by all State government agencies and government business enterprises, and also by Local Government. Tasmania's climate change legislation should include a requirement similar to that of s 17 of the *Climate Change Act 2017* (Vic) ('the Victorian Act') requiring all decision-makers under specified Acts to have regard to the potential impacts of climate change and the potential contributions to the state's greenhouse emissions. The relevant considerations should include, as s 17 (3) of the Victorian Act provides, for consideration to be given to direct, indirect and cumulative impacts. The specified Acts should include at least:

Energy Co-ordination and Planning Act 1995
Electricity Supply Industry Act 1995
Environmental Management and Pollution Control Act 1994
Forest Practices Act 1985
Gas Industry Act 2019
Government Business Enterprises Act 1995
Land Use Planning and Approvals Act 1993
Major Infrastructure Development Approvals Act 1999
State Policies and Projects Act 1993
Water & Sewerage Industry Act 2008

[1] Tasmanian Climate Change Office Department of Premier and Cabinet, *Developing a new climate change action plan for Tasmania* (Opportunities Paper, March 2021).
[2] Tasmanian Climate Change Office Department of Premier and Cabinet*, Climate Action 21 Tasmania's Climate Change Action Plan 2017-2021*, 10.
[3] Alan Finkel, 'Getting to Zero - Australia's Energy Transition', (2021) 81 *Quarterly Essay*, 6.

2.

It is vital that the Government both systematically assess, and disclose the risks of climate change. The Government must convey the need the need for action and the sense of urgency to the Tasmanian people so that the reasons for decisions and policies are understood and those decisions and policies in turn respected. An appropriate level of transparency is a fundamental requirement for citizens to participate in shaping the way they are governed, who governs them and what government spending should be prioritised.[4] As noted in the Review of the *Climate Change Act 2010* (Vic), a framework for monitoring, reporting and verification of progress is an important element of response by Government to the challenges of climate change.[5]

3 & 4.

Tasmania's climate change legislation should include provisions for 5-yearly reviews of the Act itself. The Act should include provisions such as those in the Victorian Act – including interim targets (in some cases it may be appropriate for the those targets to be set as annual, bi-annual or 5 -yearly) with the Minister being obliged to report to Parliament on progress towards achievement of those targets. Tasmania's climate change legislation must include a positive duty on the Minister to ensure the objectives of the Act and the targets are met, a system of pledges (as the Victorian Act does), adaptation action plans including gap analysis and an annual greenhouse gas emission report to Parliament (s 52 of the Victorian Act).

5.

Tasmania's climate change legislation should include principles that can provide a flexible framework for decision-making but that are designed to ensure that Government decision-making and policy related to climate change is informed, integrated, takes account of risk management, is equitable and engages with the community. Importantly, decision-making and policy formation must be transparent and accountable. Principles such as those in Part 4 Division 3 of the Victorian Act would be a good start. The Independent Review of the Victorian *Climate Change Act 2010* noted the importance of ensuring principles are integrated into decision-making and that guidance is provided that explains the principles and how they should be incorporated into decision-making.[6] The Review noted the advantages of combining principles with objectives in a Charter as that would have the potential to raise the profile of climate change and promote the need for action in the broader community.[7]

[4] Leeanne Minshull, 'Good Governance in Tasmania' (Discussion Paper, The Australia Institute, November 2020) 4.
[5] Martijn Wilder, Anna Sarbek and Rosemary Lyster, *Independent Review of the Climate Change Act 2010*, (Report, December 2015) 114-115 [6.2] ('The Victorian Review').
[6] Ibid, 60 [4.1.3].
[7] Ibid, 68 [4.5.2].

Global Climate Action & Tasmania

6.

The Premier refers on several occasions in the Forewords to the Opportunities Paper and The Climate Action Plan to Tasmania's position as the first Australian state to have achieved net zero emissions (in 2015) and to the continuing attainment of that goal since. What is disappointing about the Government's climate change credentials is that although net zero emissions have been achieved, that target has not been achieved because of any proactive measures taken by the Government. As Point Advisory and Indufor note in the Background paper,[8] Tasmania's climate change credentials derive from its hydro-electricity resource, and the state's forests - 'a carbon sink, which offsets the majority of the State's greenhouse gas emissions.'[9]

The Tasmanian Government's climate change materials for this Review themselves make clear that the target of net zero emissions has been achieved because hydro-electric power is the source of 90% of the state's electricity,[10] and because the state's forest resources provide bio sequestration opportunities and offsets.[11] It should be noted that even with these advantages, modelling by Point Advisory and Indufor indicates that a plausible scenario will be that Tasmania's emissions remain above net zero between now and 2050.[12]

Neither the hydro-electricity resource nor the offsets provided by forestry is something the Government should or can take credit for. The Samuel Review made the point in the context of its report on the *Environment Protection and Biodiversity Conservation Act (1999)* Cth, that offsets are viewed by some proponents as 'something to be negotiated from the outset, rather than making a commitment to fulsome exploration (and exhaustion) of options to avoid or mitigate impacts.'[13] The attitude demonstrated by those proponents is evident in the response of the Tasmanian Government which seems to have fallen into the trap of relying on offsets with little exploration or exhaustion of other options.

The *Climate Change (State Action) Act 2008* (Tas) is an inadequate response to the arguments for substantive action on climate change; far from being a leader Tasmania lags embarrassingly behind. The summary of legislative provisions in the Jacobs *Discussion Paper* make that clear as Tasmania is the only jurisdiction among those listed with no legislative mechanisms for either climate change mitigation or climate change adaptation.[14]

[8] Point Advisory with Indufor forest intelligence, *Net zero emissions pathway options for Tasmania* (Background Paper, 19 March 2021) 5.
[9] Tasmanian Climate Change Office 'Opportunities Paper' (n 1) 11.
[10] Tasmanian Climate Change Office 'Climate Action Plan' (n 1) 10.
[11] Point Advisory with Indufor forest intelligence (n 8) 5.
[12] Ibid, 6.
[13] Graeme Samuel, *Independent Review of the EPBC Act* (Final Report, October 2020) 19.
[14] Jacobs ANZ Strategic Advisory Climate & Sustainability, 'Discussion Paper on Tasmania's Climate Change Act' (Discussion Paper, March 2021) 5-9 [Table 1].

7.
To be a national or international leader in climate change responses:

Tasmania would have a robust legislative system underpinning a whole-of-Government response to climate change, with climate change being central to all government decision-making and policies.
Tasmania would have a transparent and accountable system of governance with regular reporting to Parliament (and so to the public) on targets and the meeting (or failure to meet) those targets.
Tasmania would have a system that encourages disclosure to and engagement with the public on climate change issues to ensure that the public has all the information it needs to understand risks and government decision-making and spending priorities, and for business and individuals to make their own decisions.

Emissions Targets

8-10.

Net zero by 2050 is too conservative. The Tasmanian government is already claiming net zero emissions without taking any proactive action – a starting point might be for the state to examine its emission status without taking into account the value of the carbon sink and forest offsets. As incentive for the government to take climate change seriously and to start planning for its impacts, the target should be net zero by 2035, whether that is achievable or not is a moot point – the main purpose of nominating the target is that the Government be realistic about the impact of climate change and start planning for it without the buffer effect of the forest offsets.

Low Carbon & Economy and Society

11.

The main risks derive from the Government's failure to date to be proactive in response of climate change, to realise the impact of climate change and how quickly it is happening to us and to take positive action. Examples -

Hydro Electricity

Climate change modelling shows that rain and consequent runoff in the central highland catchments is likely to decrease substantially with potentially a marked impact on power generation.[15] It is only 5 Years since the combined failure of the Basslink cable and low dam storage levels meant fossil fuels were required to supply energy for Tasmania. How will green hydrogen be produced (hydrogen production being a substantial consumer of energy)

[15] Antarctic Climate and Ecosystems Cooperative Research Centre, *Climate Futures for Tasmania water and catchments: the summary*, (2020), <http://www.dpac.tas.gov.au/__data/assets/pdf_file/0006/140199/Water_and_Catchments_Summary.pdf >

if dam storage levels drop? Is the Government expecting the answer to be found in wind turbines? What will be the response of Tasmanians to the infrastructure (such as transmission lines) required? What will be the impact of that infrastructure be on the wilderness and natural values that many people value and that attract income through tourism?

What provision has Tasmania made for the possibility of reduced energy capacity? Tasmania has been touted as the battery of the nation. However, the cost of other forms of battery storage is falling rapidly as technology develops and dam storage levels will drop as the climate changes.

Agriculture
Farmers have been encouraged to invest heavily in irrigation infrastructure, yet the Government' s own modelling shows substantial reduction in rainfall and runoff in catchments in the Central Highlands. What is the future of those farming enterprises if the irrigation water is not available?

Tourism and residential development
As the climate changes, the likelihood of catastrophic fires increases. Tasmania's wilderness, scenic areas and wildlife habitat are major tourist attractions – what planning has the Government undertaken for the risk and impact of such fires on Tasmania's natural values systems, tourism and on residential development?

Climate Resilience & Adaptation

12 & 13.
Government's main roles are to ensure that research and modelling is done and available to the public and private enterprise so that the risk and likelihood of climate change impact is understood and to support businesses that may need assistance in order to be viable or if they can no longer be viable to support transition.

Government needs to take into account climate change impact and risk when making decisions, particularly decisions with long-term impact and financial risk for the state – such as supporting industry that may not be viable if climate change affects the availability of energy or other resources. The Victorian Review noted the high demand from businesses for 'regular, high-quality unbiased information' based on the latest science, and in particular the demand from local government for strengthened Ministerial reporting including as to progress meeting targets, more information, region-specific research.[16] Local government is at the coal-face of climate change impacts and the Tasmanian government role should be to ensure that information is available for local government, that the framework based on principles can be effectively applied by local government to its decision-making and that reporting by the State government on progress towards targets is transparent and timely.

[16] Wilder, Sarbek and Lyster (n 5) 113.

References

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